

**HALIFAX REGIONAL COUNCIL
MINUTES**

March 4, 2008

PRESENT: Mayor Peter Kelly, Chair
Deputy Mayor Stephen D. Adams
Councillors: Steve Streach
Krista Snow
David Hendsbee
Harry McInroy
Gloria McCluskey
Andrew Younger
Jackie Barkhouse
Jim Smith
Mary Wile
Patrick Murphy
Dawn M. Sloane
Sue Uteck
Russell Walker
Linda Mosher
Brad Johns
Robert P. Harvey
Reg Rankin

REGRETS: Councillors: Bill Karsten
Sheila Fougere
Debbie Hum
Gary G. Meade

STAFF: Mr. Dan English, Chief Administrative Officer
Ms. Mary Ellen Donovan, Municipal Solicitor
Ms. Julia Horncastle, Acting Municipal Clerk
Ms. Sheilagh Edmonds, Legislative Assistant
Ms. Shawnee Gregory, Legislative Assistant

TABLE OF CONTENTS

1.	INVOCATION	4
2.	SPECIAL COMMUNITY ANNOUNCEMENTS & ACKNOWLEDGEMENTS	4
3.	APPROVAL OF MINUTES	4
4.	APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS	4
5.	BUSINESS ARISING OUT OF THE MINUTES	4
6.	MOTIONS OF RECONSIDERATION	4
7.	MOTIONS OF RESCISSION	6
8.	CONSIDERATION OF DEFERRED BUSINESS	
8.1	Proposed By-law C-800, Respecting Regional Capital Cost Charges for Solid Waste Facilities	6 & 12
8.2	Future Community Visioning Program	7 & 12
9.	PUBLIC HEARINGS:	
9.1	Case 00762: Amendments to the Bedford Municipal Planning Strategy / Land Use By-Law And Development Agreement	7 & 13
9.2	S-424, An Amendment to By-Law S-400, Respecting Charges for Street Improvements - New Paving O'Connell Drive, Porters Lake	7 & 15
10.	CORRESPONDENCE, PETITIONS & DELEGATIONS:	
10.1	Correspondence	10
10.2	Petitions:	10
11.	REPORTS:	
11.1	CHIEF ADMINISTRATIVE OFFICER	10
11.1.1	Tender 08-211 - Robie Street, Pavement Resurfacing, Sidewalk Renewal, Curb Renewal and Intersection Improvements (Quinpool to Cunard and Quinpool to Jubilee) - West Region	10
11.1.2	Tender 08-004 - One Single Axle Truck with Asphalt Box and Tender 08-005 - Four Trucks with 6-Yard Side Loading Compactors	10
11.1.3	Municipal and School Board Elections - October 18, 2008	11

11.1.4	Modification to Restrictive Covenants on Dalhousie University Owned Property on University Avenue	11
11.2	MEMBERS OF COUNCIL:	
11.2.1	Councillor Smith - Request for Report re: Vacant Building By- Law Update	12
12.	MOTIONS:	12
13.	ADDED ITEMS:	
13.1	Property Matter - Chester Spur Line	7
13.2	Legal Matter - Demand Side Management (DSM)	8
13.3	Legal Matter - Settlement of Claim against Halifax Regional Municipality	8
13.4	Property Matter - Parkland Acquisition - PID#40209868, Boutiliers Point	9
14.	NOTICES OF MOTION:	12
15.	ADJOURNMENT	22

1. INVOCATION

The Mayor called the meeting to order at 3:57 p.m. with the Invocation being led by Councillor Johns.

2. SPECIAL COMMUNITY ANNOUNCEMENTS & ACKNOWLEDGEMENTS

Councillor Sloane advised that the congregation of St. David's Presbyterian Church, Halifax recently published a book about the Church entitled, *The Blue Banner*. Councillor Sloane requested the Mayor, on behalf of Council, send a congratulatory letter to the congregation for printing such a wonderful book.

Councillor McCluskey advised of a Waterfront Development Corporation session on Wednesday, March 5, 2008 at Alderney Landing at 5:00 p.m.; and an *Imagine our Schools* meeting at 6:00 p.m. March, 5, 2008 at Dartmouth High School. Councillor McCluskey congratulated Cole Harbour Soccer Team for winning silver at a competition held yesterday.

3. APPROVAL OF MINUTES

MOVED by Deputy Mayor Adams, seconded by Councillor Wile that the minutes of February 19, 2008 be approved. MOTION PUT AND PASSED.

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

Additions:

- 13.1 Property Matter - Chester Spur Line
- 13.2 Legal Matter - Demand Side Management
- 13.3 Legal Matter - Settlement of Claim
- 13.4 Property Matter - Parkland Acquisition - PID#40209868, 244 Island View Drive, Boutiliers Point

It was agreed that the Added Items would be dealt with immediately following Item 6.1.

MOVED by Councillor Sloane, seconded by Deputy Mayor Adams, that the agenda as amended be approved. MOTION PUT AND PASSED.

5. BUSINESS ARISING OUT OF THE MINUTES - None

6. MOTIONS OF RECONSIDERATION - February 26, 2008

6.1 Councillor Hendsbee

“To reconsider the motion passed on February 26, 2008 that Halifax Regional Council remove the provisions relating to cat legislation from By-Law A-300 and maintain the status quo in regards to a contracted sheltering service with the NSSPCA or other service provider at the end of the contract.”

MOVED by Councillor Hendsbee, seconded Councillor Walker that Regional Council reconsider its motion passed on February 26, 2008 that Halifax Regional Council remove the provisions relating to cat legislation from By-Law A-300 and maintain the status quo in regards to a contracted sheltering service with the NSSPCA or other service provider at the end of the contract. MOTION PUT AND PASSED. (10 in favour, 9 against).

Those voting in favour were: Councillors: Snow, Hendsbee, McInroy, Younger, Smith, Wile, Walker, Mosher, Johns, and Harvey.

Those voting against were: Mayor Kelly, Deputy Mayor Adams; and Councillors: Streach, McCluskey, Barkhouse, Murphy, Sloane, Uteck, and Rankin.

Councillors Karsten, Fougere, Hum, and Meade were absent.

MOVED by Councillor Hendsbee, seconded by Councillor Johns that this matter be deferred to 2010 when the current contract for sheltering service ends.

Councillor Johns indicated that he would withdraw as seconder of the motion.

Councillor Uteck advised that she would second the motion.

The Chair clarified that, with regard to the motion, the time frames can be discussed, but the context of the report that was dealt with In Camera must go back to In Camera for discussion.

In response to a question, the Chair advised that Council has the option of dealing with the whole matter in full context in the public forum rather than In Camera, providing there is a motion approved by two-thirds of the members of Council.

In response to a question by Deputy Mayor Adams, the Solicitor advised that the Bylaw currently reads that implementation is April 1, 2008 and if Council intended to change the date to April 1, 2010 it would require Council to engage in the standard bylaw amending process.

In response to a further question, the Solicitor advised that if the newspaper advertisement for the public hearing only addresses the single issue of a changed implementation date, then the public hearing would be confined to that issue.

Without a vote being taken on the motion to defer, the following motion was put:

MOVED by Councillor Streach, seconded by Councillor Sloane that Council suspend the Rules of Order and deal with this issue at this time.

For clarification, Councillor Streach advised that it was his intent to declassify all reports associated with this issue.

Councillor Uteck indicated that she did not support declassifying this matter, therefore she will withdraw as seconder of the motion to defer.

The Chair called for the question on the motion to suspend the Rules of Order to bring the In Camera information and all other documentation associated with this matter into the public realm and deal with it at this time.

MOTION PUT AND PASSED. (13 in favour; 6 against)

Those voting in favour were: Mayor Kelly, Deputy Mayor Adams; and Councillors: Streach, Snow, Hendsbee, McInroy, Younger, Murphy, Sloane, Uteck, Mosher, Adams, Johns, and Rankin.

Those voting against were: Councillors: McCluskey, Barkhouse, Smith, Wile, Walker, and Harvey

Councillors Karsten, Fougere, and Hum were absent.

Councillor Streach advised that he did not have all relevant information with him tonight and suggested it would be better to defer it until after the March Break.

MOVED by Councillor Streach, seconded by Councillor Sloane that this matter be referred to the March 18, 2008 meeting of Regional Council.

In response to a question of clarification the Chair advised that when the matter comes back to Council, all reports brought forward on this issue and any updated information will be made public.

MOTION PUT AND PASSED (11 in favour, 8 against).

Those voting in favour were: Mayor Kelly, and Councillors: Streach, Hendsbee, McCluskey, Barkhouse, Wile, Murphy, Sloane, Uteck, Johns, and Rankin.

Those voting against: Deputy Mayor Adams, and Councillors: Snow, McInroy, Younger, Smith, Walker, Mosher, Adams, and Harvey.

Councillor Karsten, Fougere, Hum, and Meade were absent.

7. MOTIONS OF RESCISSION - NONE

8. CONSIDERATION OF DEFERRED BUSINESS - February 26, 2008

8.1 Proposed By-law C-800, Respecting Regional Capital Cost Charges for Solid Waste Facilities (deferred Committee of the Whole)

This item was dealt with later on in the meeting, wherein, due to time constraints, it was deferred.

8.2 Future Community Visioning Program

This item was dealt with later on in the meeting, wherein, due to time constraints, it was deferred.

9. PUBLIC HEARINGS - 6:00 p.m.

9.1 Case 00762: Amendments to the Bedford Municipal Planning Strategy / Land Use By-Law And Development Agreement (Southgate Village)

This item was dealt with later on in the meeting.

9.2 By-Law S-424, An Amendment to By-Law S-400, Respecting Charges for Street Improvements - New Paving O'Connell Drive, Porters Lake

This item was dealt with later on in the meeting.

During the approval of the agenda, Council agreed to deal with the Added Items at this time.

13. ADDED ITEMS:

13.1 Property Matter - Chester Spur Line

This matter had been dealt with at an In Camera session held earlier, and was now before Council for ratification.

Councillor Mosher requested a recorded vote on each of the recommendations. She indicated that, should item 4 be approved, that she wanted the correction to the staff report made, as was noted in the In Camera session, before the report is released.

- 1. MOVED by Councillor Mosher, seconded by Councillor Walker that Regional Council allow the abandonment process for the Chester and Lakeside Spur Lines to expire on March 6, 2008 without response. MOTION PUT AND PASSED (16 voted in favour; 3 voted against).**

Those voting in favour were: Mayor Kelly, and Councillors: Streach, Snow, McInroy, McCluskey, Younger, Barkhouse, Smith, Wile, Murphy, Sloane, Uteck, Walker, Johns, Harvey, and Rankin.

Those voting against were: Deputy Mayor Adams, and Councillors: Hendsbee, and Mosher
Councillors Karsten, Fougere, Hum and Meade were absent.

- 2. MOVED by Councillor Mosher, seconded by Councillor Walker that Regional Council request that CN agree to provide Halifax Regional Municipality with first right of refusal on the full corridor for a period of three months. MOTION PUT AND PASSED UNANIMOUSLY.**

Councillors Karsten, Fougere, Hum and Meade were absent.

- 3. MOVED by Councillor Mosher, seconded by Councillor Walker that Regional Council direct the Mayor and Clerk to sign a confidentiality agreement with CN related to their determination of net salvage value. MOTION PUT AND PASSED UNANIMOUSLY.**

Councillors Karsten, Fougere, Hum and Meade were absent.

- 4. MOVED by Councillor Mosher, seconded by Councillor Walker that the Private and Confidential staff report dated February 25, 2008 not be released until all transactions have closed. MOTION PUT AND PASSED. (18 voted in favour; 1 voted against).**

Those voting in favour were: Mayor Kelly, Deputy Mayor Adams, and Councillors: Streach, Hendsbee, McInroy, McCluskey, Younger, Barkhouse, Smith, Wile, Murphy, Sloane, Uteck, Walker, Mosher, Adams, Johns, Harvey, and Rankin.

Those voting against: Councillor Snow.

Councillors Karsten, Fougere, Hum and Meade were absent.

13.2 Legal Matter - Demand Side Management (DSM)

This matter had been dealt with at an In Camera session held earlier, and was now before Council for ratification.

MOVED by Councillor Younger, seconded by Councillor McCluskey that Halifax Regional Council:

- 1. Approve the terms of a settlement Agreement between NSPI and their Interveners including HRM, for the resolution of NSPI's application to the Nova**

Scotia Utility and Review Board (UARB) for approval of its Demand Side Management plan as attached to this report.

- 2. The Private and Confidential staff report dated February 28, 2008 not be released to the public until the UARB has addressed the proposed Settlement Agreement as part of its hearing process.**

MOTION PUT AND PASSED.

13.3 Legal Matter - Settlement of Claim against Halifax Regional Municipality

This matter had been dealt with at an In Camera session held earlier, and was now before Council for ratification.

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

- 1. Settle this claim brought by the Plaintiff in the amount of \$75,000.00, to achieve a full and final settlement of the plaintiff's action, upon obtaining a full Release from the Plaintiff and her litigation guardian from any further claim arising out of the accident on April 8, 1998, and**
- 2. The Private and Confidential staff report dated February 25, 2008 not be released to the public.**

MOTION PUT AND PASSED. (15 voted in favour; 4 voted against)

Those voting in favour were: Mayor Kelly, and Councillors: Streach, Hendsbee, McInroy, Younger, Barkhouse, Smith, Wile, Murphy, Uteck, Walker, Mosher, Johns, Harvey, and Rankin.

Those voting against were: Deputy Mayor Adams, and Councillors: Snow, McCluskey, and Sloane.

Councillors Karsten, Fougere, Hum and Meade were absent.

13.4 Property Matter - Parkland Acquisition - PID#40209868, Boutiliers Point

This matter had been dealt with at an In Camera session held earlier, and was now before Council for ratification.

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

- 1. Approve the acquisition of PID#40209868, Boutiliers Point, as per the Terms and Conditions of the December 17, 2007 report with funding as per the budget implications section of the report.**

2. **Withdraw \$43,528 from Q107 Parkland Reserve.**
3. **Increase the budget of Capital Account CP300845, New Park development in the amount of \$43,528.**
4. **Not release the Private and Confidential staff report dated December 17, 2007 until the transaction has been completed.**

MOTION PUT AND PASSED.

At this point in the meeting the Mayor noted that Council was originally scheduled to adjourn at this time, and he asked Council if they wished to continue on with the agenda or adjourn.

MOVED by Councillor McCluskey, seconded by Councillor Walker that Council continue with the meeting until 5:00 p.m. MOTION PUT AND PASSED.

It was agreed that Council would start with item 10 and then onward and, if time permitted, Council would then deal with Items 8.1 and 8.2.

10. CORRESPONDENCE, PETITIONS & DELEGATIONS:

10.1 Correspondence - None

10.2 Petitions:

Councillor Sloane submitted a petition, signed by 41 residents of civic # 5881 Spring Garden Road. The petition requests consideration of opening the Public Gardens earlier in the spring and closing later in the fall; as well, they are requesting consideration of limited access during the winter months.

11. REPORTS:

11.1 CHIEF ADMINISTRATIVE OFFICER:

- 11.1.1 **Tender 08-211 - Robie Street, Pavement Resurfacing, Sidewalk Renewal, Curb Renewal and Intersection Improvements (Quinpool to Cunard and Quinpool to Jubilee) - West Region**

A staff report dated February 15, 2008 was submitted.

MOVED by Councillor Johns seconded by Councillor Sloane that Halifax Regional Council award Tender No. 08-211, Robie Street, Pavement Resurfacing, Sidewalk Renewal, Curb Renewal, and Intersection Improvements (Quinpool to Cunard and Quinpool to Jubilee) - West Region, to Dexter Construction Company Limited for a Total Tender Price of \$1,647,520.54 (net HST included) with funding from Capital

Accounts No. CZU00782 - Resurfacing Program, CZU01082 - Resurfacing Program, CKU00783 - Sidewalk Renewals, CRU00683 - Curb Renewals, CTU01086 - Intersection Improvement and CTU00419 Traffic Signal Rehabilitation, as outlined in the Budget Implications section of the February 15, 2008 staff report. MOTION PUT AND PASSED.

11.1.2 Tender 08-004 - One Single Axle Truck with Asphalt Box and Tender 08-005 - Four Trucks with 6-Yard Side Loading Compactors

A staff report dated February 18, 2008 was submitted.

MOVED by Councillor Murphy, seconded by Councillor Sloane that Halifax Regional Council:

- 1. Award Tender No. 08-004, for One (1) 2008 Single Axle Truck with Asphalt Box to Saunders Equipment Ltd. for a Tender Price of \$171,089.00 (net HST included) with funding from Capital Account No. CVD00413 as outlined in the Budget Implications section of the February 18, 2008 staff report.**
- 2. Award Tender No. 08-005, for Four (4) Trucks with 6 yard Side Loading Compactors to Joe Johnson Equipment for a Tender Price of \$358,870.00 (net HST included) with funding from Capital Account No. CVD00413 and CVD01087 as per the Budget Implications section of the February 18, 2008 staff report.**

MOTION PUT AND PASSED.

11.1.3 Municipal and School Board Elections - October 18, 2008

A staff report dated February 27, 2008 was submitted.

MOVED by Councillor McCluskey, seconded by Councillor Wile that Regional Council:

- 1. Approve the appointment of Linda Grant as Returning Officer to conduct the Municipal and School Board elections on October 18, 2008.**
- 2. Set the date of Saturday, October 11, 2008 as the first Advance Poll Day. The second Advance Poll Day of Tuesday, October 14, 2008 is mandatory under the Municipal Elections Act.**
- 3. Approve the use of the most up-to-date Provincial Voters List.**

Ms. Geri Kaiser, Deputy Chief Administrative Officer responded to questions regarding

school board election, electronic voting, and enumeration. She pointed out that as it gets closer to the election and staff get more into the details these matters, they can come back to Council with an information report or to Committee of the Whole.

MOTION PUT AND PASSED.

11.1.4 Modification to Restrictive Covenants on Dalhousie University Owned Property on University Avenue

A staff report dated February 27, 2008 was submitted.

MOVED by Councillor Sloane, seconded by Councillor Wile that Halifax Regional Council authorize the Mayor and Clerk to execute an Agreement to amend the restrictive covenant on the subject parcel conveyed to Dalhousie University by deed dated April 2, 1912 and recorded on June 19, 1912 in Book 420 at Page 586 to replace “for the purposes of education” to “for university and related research and development uses, which related research and development uses shall be consistent with the then current standards and practices of the university sector, and all ancillary uses thereto”. MOTION PUT AND PASSED.

11.2 MEMBERS OF COUNCIL:

11.2.1 Councillor Smith - Request for Report re: Vacant Building By-Law Update

Councillor Smith advised that he spoke with staff recently and his questions were answered. He noted that staff are moving forward with the bylaw and are working on the five or six properties Council identified to be test cases.

Councillor Sloane suggested that Council should receive regular updates on this item

The Chair advised that the Chief Administrative Office has indicated staff will provide quarterly reports to Council.

12. MOTIONS: None

13. ADDED ITEMS:

These items were dealt with earlier in the meeting.

14. NOTICES OF MOTION:

Councillor Rankin:

Take Notice that at the next regular meeting of Halifax Regional Council to be held on

Tuesday, the 18th Day of March 2008, I propose to introduce for first reading By-Law Number C-800, the purpose of which is to collect a Capital Cost Charge for Solid Waste Facilities.

8. CONSIDERATION OF DEFERRED BUSINESS - February 26, 2008

8.1 Proposed By-law C-800, Respecting Regional Capital Cost Charges for Solid Waste Facilities (deferred Committee of the Whole)

Due to time constraints, it was agreed that this item would be deferred to the March 18, 2008 meeting of Regional Council.

8.2 Future Community Visioning Program

Due to time constraints, it was agreed that this item would be deferred to the March 18, 2008 meeting of Regional Council.

The meeting adjourned at 4:43 p.m.

The meeting reconvened at 6:02 p.m.

9.1 Case 00762: Amendments to the Bedford Municipal Planning Strategy/Land Use By-Law and Development Agreement (Southgate Village)

- C A staff report dated January 8, 2007 was before Council.
- C A Power Point presentation was submitted.

Andrew Bone, Senior Planner, provided the presentation on Case 00762: Amendments to the Bedford Municipal Planning Strategy/Land Use By-Law and Development Agreement (Southgate Village). A discussion then ensued with Mr. Bone responding to questions. The following points were noted:

- C Visible parking has been minimized with the provision of underground parking. Parking is permitted by the Bedford South and Bedford plan and staff are satisfied that this development is compliant with the policy;
- C The 2000 unit threshold is still in place. The additional units will not be occupied until the Larry Uteck interchange is operative;
- C The policy in the Regional Plan allows for a fifty (50) foot set back rather than a sixty-six (66) foot one for pre plan agreements.

Deputy Mayor Adams reviewed the Rules of Procedure for Public Hearings. He called for those wishing to speak for or against the proposed amendments to the Bedford Municipal Planning Strategy/Land Use By-Law and Development Agreement.

Ms. Gloria Lowther advised that she was in favour of the development, however, any amendments must be site specific. She did not believe that Southgate Village, once

completed, would impact Bedford highway traffic. However, she noted that the 2000 unit threshold cap should remain in place as the service level of the Bedford highway was of utmost importance. Ms. Lowther also advised that MS 6 and 7 must remain in place. She stated that developments were being created that included hundreds of homes, yet, there was still only one exit on to the Bedford Highway. She advised that a second exit was necessary as residents would be trapped if any emergency occurred on the Bedford Highway. She also noted that the proposed interchange would take construction traffic off of the Bedford Highway and that water service could also be looped.

Mr. Kevin Riles, Cachmin Consulting updated Council with the following highlights:

- C Cachmin Consulting has had twelve (12) meetings with the public and their participation has lead the development before Council;
- C The public had concerns regarding parking for the sixteen (16) proposed townhouses and, therefore, the developer had agreed to reduce the amount to only twelve (12) to alleviate the amount of curbside parking;
- C The commercial building went through a lot of work to fit in with the character of Bedford. It resembles an old train station;
- C Regarding parking, a great deal of treatment has been done in front of the developments and there is a retaining wall and trees as well as parking closer to the side of the building rather than directly in front;
- C Staff was tough on the developer in minimizing the shopping centre effect;
- C It was called "village" because of the mix of use and architectural design. Cachmin Consulting felt confident that it was an exceptional development.

Ms. Anita Drabek stated that she had recently moved to Glenmount. Her concern was for increased traffic and a lack of parking spaces that the developer may not have considered. She advised that there was already a parking issue on her street which impacted emergency vehicles and snow removal. She indicated that she would like to see the Bedford Highway beautified also noting that it was no longer a highway due to the amount of traffic travelling on it.

Mr. Doug Kolmer stated that he had three concerns regarding the development:

1. That the duration of construction occur in a timely manner.
2. That any damage caused by construction would be properly remediated by the developer.
3. That any restaurants in the commercial space not be fast food as the grease gets in the air.

Mr. Tom Collins stated that he was in favour of the project as it would beautify the surroundings.

Mr. Yousef Almisleh stated that he was in favour of the development as the current housing situation was terrible and did not look nice along the Bedford Highway.

Mr. Riles made closing comments stating that the key in the end was the design. He noted that

it had taken three (3) years to approve the design and that Cachim Consulting would like to get underway as soon as possible. He also stated that HRM had very strict blasting regulations regarding any resident concerns in that area of construction.

Deputy Mayor Adams called three times for any additional speakers. Hearing none, the following motion was placed:

MOVED by McCluskey, seconded by Councillor Johns, that the public hearing be closed. MOTION PUT AND PASSED.

Mr. Bone clarified that policy MS 7 referenced by Ms. Lowther was a completely different planning case which had been amended only a few weeks prior. He advised that the Southgate Village proposal did not oppose policies six (6) or seven (7) noting that the only amendment had been to allow the commercial building and townhouses to proceed and not be part of the 2000 unit cap.

MOVED BY Councillor Harvey, seconded by Councillor Uteck that Halifax Regional Council approve the proposed amendments to the Bedford MPS and LUB as provided in Attachment A and B. MOTION PUT AND PASSED.

9.2 By-Law S-424, An Amendment to By-Law S-400, Respecting Charges for Street Improvement - New Paving O'Connell Drive, Porters Lake

- C An extract of the January 22, 2008 Regional Council minutes was before Council.
- C A staff report dated January 10, 2007 was before Council.

Mr. Dave Hubley, Manager, Design & Construction, provided a presentation.

Prior to the commencement of the public hearing Ms. Mary Ellen Donovan, Municipal Solicitor, Ms. Geri Kaiser, Deputy Chief Administrative Officer and Ms. Cathie O'Toole, Director of Infrastructure and Asset Management, clarified that regarding the right to wave petition the Municipal Government Act states that it is the ultimate decision of Council rather than of the local area Councillor. They advised that Council may look to the local area Councillor for influence and input, however, they do not have the individual right to wave petition.

Deputy Mayor Adams reviewed the Rules of Procedure for Public Hearings. He called for those wishing to speak for or against the amendment to By-Law S-400.

Please note that the first four (4) speakers, Ms. Rose Mosher, Ms. Lisa Daley, Mr. Lloyd Ruelland and Mr. Alan Stevens provided a chronological history of the events leading up to the public hearing.

Ms. Rose Mosher displayed a map for reference. She advised that approximately ninety five

(95) percent of traffic on O'Connell Drive comes off of Trunk 7 and veers off at the school. She stated that in October 2006, stakes went up and alerted residents that paving was about to commence; noting that the road needed paving due to the presence of a public school rather than because of residential traffic. Ms. Mosher asserted that the residents on the HRM owned portion of O'Connell drive were not upset that their end was not being paved as they realized that it was only the provincially owned portion that required it. She submitted a copy of an e-mail from Councillor Hendsbee beseeching the provincial government to halt paving yet she indicated that he was telling his constituents opposing information. She noted that in December of 2006 stakes went up on the HRM portion of O'Connell Drive, however, residents were assured that it was being paid for by the provincial government as well. Eight months later the residents were charged and Ms. Mosher stated that not one resident other than Mr. Harlow had received notice. She was incensed to learn that Councillor Hendsbee had taken their right to petition away. She was concerned that Council was lead to believe that the residents were on side with the right to wave petition and she was shocked that they passed the motion.

Ms. Lisa Daley stated that regarding the right to wave petition Councillor Hendsbee told residents that he did not have enough time to poll them as he only had four (4) days notice. She noted that given the topic and impact that all residents would have attended a meeting even on short notice. She stated that this was an excuse from Councillor Hendsbee and that he had violated the residents' democratic rights. Ms. Daley submitted another e-mail in which Councillor Hendsbee admitted that he knew that there would be fallout after the road was paved. She stated that the residents did not ask for their street to be bumped up on the paving list. She was given the explanation that it would allow for the use of only once piece of snow removal equipment, however, she noted that this was untrue as there were still two (2) dirt roads that were only accessible via O'Connell Drive. She was also given the explanation that the paving was for the benefit of the recreation facilities in the school ,yet, she noted that there was a difference between public recreation facilities and a public school that offers HRM recreation programs. In closing, Ms. Daley stated that before this incident occurred her son had told her that it wasn't her right to vote; it was her responsibility, however afterwards he asked her what the point of voting even was.

Mr. Lloyd Ruelland stated that the Municipal Solicitor had given the explanation that paving provided better access to the park at the end of O'Connell Drive, yet, he noted that prior to this a park had never been mentioned. He believed that this was HRM looking to justify their actions. Mr. Ruelland also noted that there had already been a park in the area for ten (10) years and that it did not even have a garbage can yet. He indicated that the Solicitor had also stated that HRM owed no explanation to residents. He then advised that if HRM could provide some reasonable explanation that they would accept it yet nothing had been done in normal procedure.

Mr. Alan Stevens indicated that he had an e-mail in which Mr. Hubley stated that he was uncomfortable with going forward with a misleading report. Mr. Steven's wondered if, in the event of an audit, Council's approval of right to wave petition would be upheld. He noted that in January Mayor Kelly insisted that paving was still being cost shared with the province yet Mr. Stevens also had an e-mail from Mr. Doug Stewart at the Department of Transportation stating that no cost sharing had taken place. Mr. Stevens also noted that Councillor Hendsbee

had attempted to inform residents in his Christmas newsletter about the paving but Mr. Stevens believed that an official letter from HRM was warranted in this case as it was the holiday season and residents were preoccupied. In closing, he stated that HRM cannot just put a sign at the beginning of a road alerting residents that they are being charged for paving.

Mr. Mike Harlow encouraged Council to read the submitted e-mails advising that they were damaging. He stated that Councillor Hendsbee was elected to represent their voices but he ignored them as the paving was not asked for; it was unwanted and unnecessary. He noted that there were no safety issues involved and asked if HRM wanted it paved and residents did not then why didn't they incur the costs? He stated that people cannot afford luxury paving today and that they had no issues with the provincial portion being paved as that was needed. Mr. Harlow indicated that residents were not out for vengeance; they just wanted Council to take responsibility. He hoped that Council would take the submitted information, analyse it and correct the situation. In closing, he referenced Winston Churchill stating that the price of greatness was taking responsibility.

Council recessed at 7:19 p.m.

Council reconvened at 7:35 p.m.

Mr. Paul Tulk stated that he had moved to Porter's Lake with retirement in mind. He was disappointed to find higher prices for water and sewage in a rural setting. He indicated that the lower school portion of O'Connell Drive was in deplorable condition from school busses and that residents were very pleased with that area being paved. However, he also noted that residents did not want the upper HRM owned portion paved as it was in fine condition. Mr. Tulk stated that he had to renegotiate his mortgage because of this and asked Council to please quash this issue and do the right thing.

Mr. Tim Tanner stated that he lived on the provincially owned section of O'Connell Drive. He advised that this section was in terrible condition, however, the upper section was great. He wondered why this unnecessary paving was being done when other gravel roads were in greater need and now those residents would have to pay more for paving as costs go up each year. He did not think that he should be responsible for paving the HRM portion of the road that he didn't even use or live on. He asked Council to do the right thing and amend the motion by taking the financial burden off of the residents.

Ms. Kay Bonang stated that she had been a senior resident of O'Connell Drive for the past fourteen (14) years. She advised that the road had been in great condition until the school was built and traffic increased. She indicated that Keith Caldwell, MLA, had done studies on the road and had to pave it for safety reasons. She noted that O'Connell Drive was paved for the benefit of the school more so than the residents and it was her opinion that it was a public access road to the school and not the residents responsibility. Ms. Bonang also stated that the HRM section was in excellent condition and that maintenance requirements were nil compared to the provincial section. She thought that as an elected official Councillor Hendsbee had created stress and distrust in residents and found it hard to believe that he would make this decision when he knew the money was not there. In closing, Ms. Bonang advised that she was a senior resident with a fixed income and could not afford this bill. She

asked for Council's consideration on the matter as it would relieve her financial burden.

Mr. Bernard Bonang stated that he had been a senior resident of O'Connell Drive for the past fourteen (14) years. He noted that as a senior with a fixed income he could not afford another bill imposed on him. He advised that he had not asked for the HRM portion of O'Connell Drive to be paved as it was in fine condition.

Ms. Margaret Horton stated that she had lived on O'Connell Drive since 1990. She advised that until 1995 when the school was built the road had been in fine condition. She noted that Councillor Hendsbee had made this decision without the residents' input and as a senior she could not afford the extra burden of the paving bill.

Ms. Crystal White stated that she was a stay at home mother with two (2) small children living on a small unpaved cul-du-sac. She advised that she had only found out three (3) days before the meeting in January of 2008 that she too needed to pay for the paving of O'Connell Drive.

Ms. Tammy Moir indicated that she lived on the provincial portion of O'Connell Drive. She stated that the grader never went past the entrance to the school. She had received a letter stating that the road would be paved at no cost to her so she was not concerned when the upper HRM portion was paved. She advised that she would have voted no on a petition as she does not drive up the road or even past the school. She noted that Councillor Hendsbee did not have time to petition residents and that they have not heard a good reason as to why the street was paved. She felt that her rights had been violated and noted that she could not afford to pay a bill that she had not asked for.

Ms. Chantelle White-Evans indicated that she lived on an unpaved cul-de-sac with only three (3) houses on it in the provincial portion of the area. She advised that she had only found out three (3) days before the meeting in January 2008 that she too needed to pay for paving. As her street was still gravel, Ms. White-Evans was concerned that she would end up paying for paving twice.

Ms. Marjorie Power indicated that she had lived on the provincial portion of O'Connell Drive for eighteen (18) years. She advised that residents had been lobbying to have the road paved since the school was built as it was impassable at some times. She noted that no one wanted the upper portion of the road paved. Regarding Councillor Hendsbee's explanation of lack of time, Ms. Power advised that all residents would have made it to the meeting even given the time frame and noted that he would have met with resistance. She indicated that some residents were single income families and fixed income seniors that would be particularly burdened with the paving bill and thanked Council for allowing them to give their side.

Ms. Laura Edwards indicated that she had been a resident of O'Connell Drive for eleven (11) years. She advised that by paving the road there were actually more safety concerns than before because of speeding in the residential area. She stated that she had four (4) children to support and could not afford to pay the bill. She wished that Councillor Hendsbee had taken the time to hear from residents as she thought Councillors were there to protect their constituents.

Mr. Brian McLeod stated that he lived on the upper HRM owned portion of O'Connell Drive and that his speech included what others had already said. He advised that if Councillor Hendsbee had done his job and represented residents and their best interests that he would have known very quickly that they only wanted the lower portion of the road to be paved.

Ms. April Graham stated that she should not have to pay for paving as the four hundred (400) plus students and staff as well as bus and school traffic made paving necessary. She did not believe that the afore mentioned reasons held up. She noted that ninety five (95) plus residents attended the meeting after only four (4) days notice.

Mr. Robert Graham stated that he was very upset that Council waved his right to petition as we live in a democratic society. He noted that the excuse of not having enough time did not hold up. He advised that this was a financial burden he could not afford as the HRM portion of O'Connell Drive did not require paving. He referenced a letter from a Lake Echo resident that encouraged O'Connell Drive residents to be grateful that their road had been paved but Mr. Graham noted that he should not be grateful for something he did not want.

Mr. Brian Jewers stated that he lived on the upper HRM owned portion of O'Connell Drive. He advised that he did not want to pay for something that he had not asked for and that Councillor Hendsbee should have contacted residents. He wondered if this was going to become a common practice with Council.

Ms. Alma Harlow stated that she lived on the upper HRM owned portion of O'Connell Drive. She was disappointed to have such a large debt on her family and her fellow residents. She noted that her daughter was competing in the Rope Skipping World Championship in Cape Town, Africa, and that she and her husband could not accompany her as they could not longer afford it. Ms. Harlow found it ironic that Councillor Hendsbee thought the cat bylaw should go to public plebiscite yet he did not feel the need to give the same consideration to the residents of O'Connell Drive. In closing, she thanked Councillor Hendsbee for bringing her neighbourhood together with this issue.

Mr. Bernie Chiasson advised that it was almost impossible to be a homeowner without two (2) incomes and that another monthly lump sum payment would have a devastating impact on his family. He stated that Councillor Hendsbee was never approached by any resident asking for paving of the upper portion of O'Connell Drive and that he understood waving right of petition sometimes to avoid red tape or in matters of safety but that it wasn't the case in this instance. Mr. Chiasson noted that on November 9, 2006 he sent an e-mail to Councillor Hendsbee stating that he was happy about the road being paved and that the Councillor replied back saying that more information would come regarding paving. Mr. Chiasson also noted that even though he lived on the upper HRM owned portion of O'Connell Drive that he was not in favour of his section being paved. In closing, he remarked that he had received one (1) raise in eleven (11) years and deserved the right to choose where he spent his money.

Mr. Ronnie O'Connell stated that he was a twenty two (22) year resident of the subdivision. He advised Council that residents had lobbied for ten (10) years to have the road leading up to the school paved noting that he knew the whole history as his brother had started the subdivision and later sold it to a contractor. He stated that he did not want the proposed BMX

park that HRM was using as an explanation for paving as some roads in the area did not even have ditches yet let alone being paved. He wondered if the pavement broke up because it was done in the cold December weather if he would have to pay for repairs again. Mr. O'Connell stated that he had been kept in the dark by Councillor Hendsbee and that he knew Council had been as well.

Mr. Rob Roberts indicated that he had lived on the provincial portion of O'Connell Drive for fourteen (14) years. He informed Council that residents had been previously petitioned for cost share paving and that they had said no as they could not afford it. He referred back to the explanation for paving being that it was for the safety of the school children yet he noted that busses did not travel to the upper portion of the road and now safety was more of a concern due to speeding. He stated that two pieces of snow equipment including a grader still travelled up the road and that no park had been opened as of yet. Mr. Roberts noted that Councillor Hendsbee listed these reasons as being for the betterment of the community but he felt as a resident that they have been for the worse. He advised that he and his wife both worked full time and did not have the money for this bill as they had seen their taxes double over the last fourteen (14) years.

Council recessed at 8:26 p.m.

Council reconvened at 8:38 p.m.

Mr. Kevin Dzwolak indicated that he lived on the provincial portion of O'Connell Drive. He stated that Canada was a democracy and that he had joined the military to fight for it in other countries yet he returned home only to find that his rights had been taken away. He noted that no one on O'Connell Drive had their rights considered. In closing, Mr. Dzwolak stated that what occurred went against everything that Canada stood for and that he was disappointed that Council agreed to take away the rights of the individual.

Mr. Greg Smith stated that his children had grown up on O'Connell Drive and that he now wanted to help them after a divorce. He advised that he could not afford this bill and urged Council to consider the facts.

Ms. Lisa Sanford advised that the community on O'Connell Drive was very diverse and came from very different economic situations. She noted that she was a mother of three (3) boys and that she would hate to tell them that they could not participate activities based on the paving bill. She wondered how she would explain to them that their father was in the military fighting for democracy when what had occurred on their road was not a democracy. She stated that she had been able to petition the entire community in one (1) night, therefore, the excuse that Councillor Hendsbee did not have enough time to petition did not hold up. Ms. Sanford implored Council to read the submitted information and see the injustice.

Ms. Wendy Jewers stated that she lived on the upper HRM owned portion of O'Connell Drive. She noted that the residents had never asked for this payment and that they felt their rights had been violated. She also stated that property assessments had been raised to \$ 20,000 and that property taxes had also been raised. She asked Council to resolve the issue so it would not happen again as residents of O'Connell Drive should not have to pay for

someone else's mistake.

Mr. Max White indicated that he lived on Exeter Court which was a small gravel road. He noted that his road should have been paved as well if he was paying for it on O'Connell Drive anyway. He advised that he had just been informed in January of 2008 that he would be paying as well and he hoped that Council would correct the problem.

Deputy Mayor Adams called three times for any additional speakers. Hearing none, the following motion was placed:

MOVED by Councillor Johns, seconded by Councillor Sloane, that the public hearing be closed. MOTION PUT AND PASSED.

Councillor Hendsbee had the opportunity to address Council. He made the following points:

- C Council had decided to re evaluate petitions; instead of seniority it was now necessity based;
- C He was the one who had given all of the e-mails to the residents which they submitted;
- C On March 18, 2004 the MLA at the time asked about HRM's petitioning project and at that time it was seniority based;
- C Mr. Max White brought the paving to his attention as he knew about the number seven (7) highway but not O'Connell Drive. Staff did not know about it either;
- C He came back from his honeymoon in October of 2006 and O'Connell Drive was being paved;
- C O'Connell Drive is a unique, J - class street which could not have been left only half paved;
- C It was an opportunity to pave the whole street at a fair and reasonable price;
- C The HRM portion of O'Connell Drive is on an elevated incline and the rest is flat. Hilly streets cause maintenance problems and a newer section of subdivision was also being put in. Therefore, Councillor Hendsbee had to look beyond the driveway and look at the full road;
- C Regarding winter paving, there was a mild fall in 2006 with no storms until December and minimal frost, therefore, construction was able to go beyond the regular November 15 cessation date;
- C Regarding the proposed park; HRM has a concept plan for a portion of property to be used as parkland. The park located by the school is very wet and is being used as a nature reserve, however, the proposed park at the opposite end of O'Connell Drive has thirteen (13) acres of ideal terrain which will possibly be used for a BMX park;
- C Councillor Hendsbee apologized for the fact that residents did not see his December 2006 newsletter. However, he stated that as a Councillor he insisted that the road be paved all the way to the end as it had to be done to ensure fairness and equity among everyone on O'Connell Drive.

MOVED BY Councillor Hendsbee, seconded by Councillor McCluskey that Halifax Regional Council approve the adoption of By-Law S-424, respecting charges for new paving of the HRM portion of O'Connell Drive, Porters Lake.

A discussion ensued with Mr. Hubley and Ms. Donovan responding to questions. The following points were noted:

- C Several Councillors suggested that Councillor Hendsbee use his funding from building communities or capital to help further lower the paving bill;
- C What was most unique about this case was that the province paid one hundred (100) percent of their portion rather than the usual fifty (50) percent;
- C If a resident decides to sell their property over the next ten (10) years there will be a lien caused by the outstanding paving bill. The lien will go with the house, if sold, rather than follow the residents;
- C In 2006, the paving rate for areas outside of the downtown core was twenty eight (28) dollars a foot and the per foot charge for O'Connell Drive was substantially decreased to twelve (12) dollars a foot.

MOVED BY Councillor Walker, seconded by Councillor McCluskey to defer the motion pending a staff report and circulation of submitted resident e-mails.

A discussion ensued and the following pointed were noted:

- C It was unclear as to what other options staff would be able to offer as they had already given Council six (6). No new option would fundamentally change what staff had already recommended;
- C Concerns were raised regarding the deferral as it would take even more time for the already lengthy issue.

Council recessed at 9:36 p.m.

Council reconvened at 9:47 p.m.

MOTION PUT AND PASSED.

Council was adjourned at 9:49 p.m.

Julia Horncastle
Acting Municipal Clerk

INFORMATION ITEMS**March 4, 2008**

1. Proclamation - International Women's Day - March 8, 2008
2. Memorandum from Director, Business Planning & Information Management Services dated January 27, 2008 re: Harbour Solutions Project - 3rd Quarter Report - October to December 2007 / 2008
3. Memorandum from Director, Community Development and Chief of Police dated February 19, 2008 re: Youth Advocate Program Update
4. Memorandum from Director, Infrastructure & Asset Management dated February 20, 2008 re: 2008 National Sustainable Cities Rankings
5. Memorandum from the Acting Municipal Clerk dated February 29, 2008 re: Requests for Presentation to Council - None