

HALIFAX REGIONAL MUNICIPALITY

HALIFAX REGIONAL COUNCIL COMMITTEE OF THE WHOLE July 3, 2007

MINUTES

PRESENT:

Mayor Peter Kelly
Deputy Mayor Sue Uteck
Councillors: Steve Streach
Krista Snow
David Hendsbee
Harry McInroy
Gloria McCluskey
Andrew Younger
Bill Karsten
Becky Kent
Jim Smith
Mary Wile
Patrick Murphy
Dawn M. Sloane
Sheila Fougere
Russell Walker
Debbie Hum
Linda Mosher
Stephen D. Adams
Brad Johns
Robert P. Harvey
Gary Martin
Reg Rankin
Gary G. Meade

STAFF:

Mr. Wayne Anstey, Acting Chief Administrative Officer
Ms. Mary Ellen Donovan, Municipal Solicitor
Ms. Jan Gibson, Municipal Clerk
Ms. Sheilagh Edmonds, Legislative Assistant

TABLE OF CONTENTS

1.	CALL TO ORDER	3
2.	APPROVAL OF THE MINUTES	3
3.	GRAFFITI MANAGEMENT PLAN AND DRAFT GRAFFITI BY-LAW (Revised)	3
4.	GRAFFITI TASK FORCE - TERMS OF REFERENCE	8
5.	GATEWAY PROJECT - GREATER HALIFAX PARTNERSHIP PRESENTATION	8
6.	ADJOURNMENT	8

1. **CALL TO ORDER**

The Chair called the meeting to order at 1:35 p.m.

2. **APPROVAL OF THE MINUTES**

MOVED by Councillor Younger, seconded by Councillor Sloane that the minutes of June 19, 2007 be approved. MOTION PUT AND PASSED.

MOVED by Councillor Sloane, seconded by Councillor Snow that the Order of Business be revised to permit item 5 - Gateway Project - Greater Halifax Partnership Presentation to be the first order of business. MOTION DEFEATED.

Councillor Johns entered the meeting at 1:37 p.m.

3. **GRAFFITI MANAGEMENT PLAN AND DRAFT GRAFFITI BY-LAW (Revised)**
(deferred June 12, 2007)

A revised staff report dated June 14, 2007 was submitted.

A PowerPoint presentation was submitted.

Correspondence pertaining to this matter was submitted by the following:

- C E-mail Correspondence from Shawn Boucher
- C Catherine Thibeault, RN, MN, PhD (c), Assistant Professor, School of Nursing, Dalhousie University
- C Gary O'Hara, Chair, Halifax Regional School Board
- C Jim Underwood, Manager, Delivery Services, Canada Post
- C Michael S. Turner, President, Turner Drake & Partners Ltd.

Ms. Jane Nauss, Acting Manager, Community Response addressed Council and advised that staff were presenting a graffiti management plan and draft graffiti bylaw report that addresses the motion Councillor Mosher put forward in September 2006. Ms. Nauss noted that the report was revised since the item was last deferred, and it better reflects the enhancement of the Community Initiatives. She explained that between Community Development and Transportation and Public Works some programs are going to be put in place to assist the Community with removal of graffiti.

Councillor Hendsbee entered the meeting at 1:45 p.m.

Superintendent Bill Moore, Halifax Regional Police, presented the draft graffiti by-law,

highlighting the following:

- C There is ample evidence that the quick removal of graffiti has a lasting affect and over time is shown to reduce the chances of new graffiti occurring.
- C It is clear that not all citizens and companies will want to remove graffiti in a timely fashion.
- C The thought behind the bylaw is that if HRM wants to have an impact on the overall situation, then timely removal must be a key aspect of the bylaw.
- C The bylaw does not have any 'possession' sections; there is a 'sales' section, which pertains to the sale of implements; it deals with varying times in relation to clean-ups and in relation to whether a public hearing will be permitted before clean-up takes place; there are different clean-up times in regard to vulgar, racist, or hate based graffiti; and it deals with whether there is a zero tolerance zone.
- C The proposed bylaw is based on the Vancouver bylaw with an additional item, i.e. the Bylaw provides a definition of what constitutes graffiti; and, the act of creating graffiti included.
- C Graffiti is a crime and is well covered under the criminal code of Canada as property damage.
- C The Bylaw does include real property owners having to clean their property within 10 days of giving a notice; it provides for a requirement for a 24-hour clean-up for vulgar, racist or hate-based graffiti; it has a provision that, if no action is taken within the time period after the notice, then HRM will clean the graffiti and bill the person back through their taxes.
- C The bylaw includes fines that could be levied
- C In regard to the selling of implements to persons under 18 years of age, there is concern by staff that the Municipal Government Act does not allow for unilateral prohibition of the sale of certain items.
- C This bylaw is clearly focussed on the timely removal of graffiti.
- C Legal staff have concerns that the possession of graffiti implements could constitute a Charter issue; the city of Saskatoon have written to the Minister of Justice to have those items included under the criminal code.

In concluding his presentation, Supt. Moore referred to the recommendations in the submitted staff report and advised that staff were now recommending one of the alternatives outlined in the report, which provides for the following:

- C Paragraphs 10 and 11 (pertaining to sales issues) of the draft bylaw be removed, until such time that the Municipal Government Act has been verified and ratified that the issue actually becomes the purview of Council.
- C Regional Council write to the Province on the sales issue and Municipal Government Act.
- C Regional Council write to the Federal Government in support of the City of Saskatoon's position on possession issues.
- C As a practice, the use of additional penalties not be used on a regular basis.

MOVED by Councillor Mosher, seconded by Councillor Snow that Regional Council:

1. Amend the attached draft by-law of the revised June 14, 2007 staff report by removing:

Sections 2 (ii) - 2 (vi) (Definitions);
Section 10 (Supplying to Minors), and
Section 11 (Placement of Signage).

Further, Council approve in principle the revised draft by-law in accordance with Administrative Order Number 32 Respecting the Procedures for Developing By-Laws as it pertains to the draft Graffiti By-Law. Further, that Council request correspondence be directed to the Province to request appropriate changes to the Municipal Government Act to allow the Graffiti By-law to cover the sale of articles. Further, that Council direct a letter to the Federal government requesting consideration of the possession of graffiti implements being included as a section of the Criminal Code.

2. The Graffiti Management plan be amended by the elimination of reference to the “No Tolerance” Zones definition.

Councillor Mosher spoke in support of the draft bylaw, advising that there is evidence that links graffiti to other crimes and if the graffiti is not removed then other issues arise, such as littering, transients, public drunkenness, and street level prostitution. She went on to add that data from Toronto states that 80% of graffiti vandals steal supplies, 1/3 perform other crimes, and the offenders move on to other crimes than what is considered as lower level nuisance crime. Councillor Mosher pointed out that there is an existing cost to business with graffiti, and that if Regional Council did not address the issue more forcefully, it would spiral out of control. She suggested that if graffiti is not removed from private property, it then moves to public property, and taxpayers end up paying to remove it. In addition, she advised that people tend to avoid places of high levels of graffiti and this negatively impacts on business; it negatively impacts on property values; and residents feel unsafe in their own communities.

For Council’s information, Councillor Mosher presented photographs depicting recent graffiti vandalism.

Councillor Mosher indicated that in order to be successful and effective when it comes to fighting graffiti the private sector needs to be onside with this issue.

A discussion ensued with staff responding to questions. The followings points were noted:

- C The School Board have been participating in the Graffiti Task Force meetings, and they have one individual who is specifically dealing with staff on this matter.
- C Ensure that the message gets out that there are programs in place to help seniors and anyone else who would need assistance in the removal of graffiti.
- C Concern was expressed that the bylaw, in its present form, ends up punishing the victim.

Councillor Streach entered the meeting at 2:16 p.m.

- C This issue presents an opportunity for HRM to involve the Union of Nova Scotia Municipalities and the Federation of Canadian Municipalities, as this is a national epidemic.

Councillor Martin entered the meeting at 2:17 p.m.

- C Concern was expressed that the bylaw was asking private property owners to meet a 10 day time frame, but yet HRM in some cases can not meet this deadline.
- C Some corporations are good citizens in regard to their approach to graffiti, but others are not, and the bylaw is not going to change this.

Mayor Kelly left the meeting at 2:28 p.m. and Deputy Mayor Uteck assumed the Chair.

- C Suggestion that the term 'unsightly accumulation' of graffiti needs to be defined or have that section removed because it is open to interpretation.

MOVED by Councillor Kent, seconded by Councillor Younger that this matter be referred back to staff to provide more information on the gaps and inconsistencies in the bylaw.

Noting that there was a motion on the floor to refer the bylaw back to staff, the Chair advised Councillors who wanted to address this, to put forward their comments as to what they feel the bylaw should address.

On the motion to refer the matter back to staff, the following comments were noted:

- C Would like item (b) under Background of the staff report, i.e. Enhancement of Community Initiatives included in the bylaw
- C It was noted that Nova Scotia Power gives permission to some people to do graffiti painting on their property on Lower Water Street, and staff was requested to respond to how the bylaw would affect a situation like this.
- C Suggestion that staff find funds for various business units and put the money toward a one-time clean-up.
- C A question was put forward as to what happens, under the bylaw, to individuals who are caught.

At 2:59 p.m. Mayor Kelly returned to the meeting and assumed the Chair.

Mr. Andrew Whittmore, Acting Manager, Community Development, addressed Council and pointed out that in regard to some of the programs Council was asking for, such as assistance for members of the public and education, these are being addressed in the overall context of graffiti management by Community Development partnering with Public Works and Transportation. He noted that the graffiti bylaw is only one component of the Graffiti Management Plan.

Additional Comments on the Motion of Referral are as follows:

- C The current bylaw does not provide for the instant removal of graffiti.
- C Staff explore the possible avenue of putting the unsightly accumulation of graffiti as part of the MGA amendments to the Dangerous and Unsightly Premises Act.
- C Staff explore in more detail payment issues, such as the length of time it takes people to pay, and the number of instances in terms of the fact that they have been hit with graffiti and the cost associated in covering it over.
- C Concern was expressed as to what would be included in terms of 'owner of real property, and that there be no arbitrary provisions in the bylaw and be applicable to everyone.

The Solicitor clarified that the bylaw would not be applicable to the Province or Federal Government. She added that there has been contact with some government agencies and it appears there will be a high level of cooperation on their part.

The Solicitor advised that the bylaw is applicable to the Municipality, and with respect to School Boards, she advised that if staff are requested to come back with a further report on this matter, it would be addressed in the report.

In response for clarification between the main motion and the motion to refer, the Solicitor advised that if the main motion were approved, it along with the comments provided by Council this afternoon, would go to the Bylaw Rationalization Committee to review and rationalize any inconsistencies, and then the matter would come back to Council. She noted that the matter would come to Council prior to it going to public hearing. The Solicitor added that should the motion to refer pass, then presumably a supplementary report would be prepared further to the staff report submitted today, and this would come back to Committee of the Whole for continuation of today's discussion.

THE MOTION TO REFER WAS DEFEATED.

Councillor Mosher requested Council's concurrence to allow Detective Constable James Bennett, Halifax Regional Police Department to speak about his experience in dealing with graffiti

The meeting recessed at 3:45 p.m. and reconvened at 4:00 p.m.

The Chair advised that Cst. Bennett would address Council.

Cst. Bennett addressed Council and advised that for the past two years he has been the Police Department's representative in dealing with graffiti. Cst. Bennett spoke in support of a graffiti bylaw, and noted that data shows that graffiti which is not removed within 10 days, has a 100 percent chance of returning. He indicated that there were some Councillors who seemed resigned to the fact of increasing graffiti and he suggested it was time to take a different approach and he believed the proposed bylaw will be another tool to help HRM in combatting graffiti.

At this time, the Chair advised that due to the late hour, it was unlikely Council would be able to deal with the remaining agenda items unless debate on this matter stopped at this time.

It was generally agreed that Council would continue debate on this matter and the remaining items on the agenda would be deferred.

Councillor Adams suggested it would be beneficial for Council if Cst. Bennett could provide a written summary of his research.

Councillor McCluskey advised that she had a concern about the words 'chalk' and 'sidewalk' being included in the definition of graffiti, and noted that children write on sidewalks and driveways with chalk. She suggested that those terms should be removed.

MOVED by Councillor McCluskey, seconded by Councillor Karsten that in the definition of 'Graffiti' of the proposed bylaw, the words, 'chalk' and 'sidewalk' be removed. MOTION PUT AND PASSED.

The main motion was now before Council:

MOVED by Councillor Mosher, seconded by Councillor Snow that Regional Council:

1. **Amend the attached draft by-law of the revised June 14, 2007 staff report by removing:
Sections 2 (ii) - 2 (vi) (Definitions);
Section 10 (Supplying to Minors), and
Section 11 (Placement of Signage).**

Further, Council approve in principle the revised draft by-law in accordance with Administrative Order Number 32 Respecting the Procedures for Developing By-Laws as it pertains to the draft Graffiti By-Law. Further, that Council request correspondence be directed to the Province to request appropriate changes to the Municipal Government Act to allow the Graffiti By-law to cover the sale of articles. Further, that Council direct a letter to the Federal government requesting consideration of the possession of graffiti implements being included as a section of the Criminal Code.

2. **The Graffiti Management plan be amended by the elimination of reference to the "No Tolerance" Zones definition.**

MOTION PUT AND PASSED.

4. GRAFFITI TASK FORCE - TERMS OF REFERENCE

Deferred due to time constraints.

5. GATEWAY PROJECT - GREATER HALIFAX PARTNERSHIP PRESENTATION

This matter was deferred due to time constraints.

6. ADJOURNMENT

The meeting adjourned at 4:30 p.m.

Jan Gibson
Municipal Clerk