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HALIFAX

Date Oct. 22, 2019

P.O. Box 1749
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Item No. 1

**Halifax Regional Council
September 17, 2019
In Camera (In Private)**

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY:

Original Signed by

John Traves, Director of Legal, Municipal Clerk, and External Affairs

Original Signed by

Jacques Dub , Chief Administrative Officer

DATE: August 8, 2019

SUBJECT: Legislative Requests Update – Spring 2019

PRIVATE & CONFIDENTIAL INFORMATION REPORT

ORIGIN

Spring 2019 sitting of the Provincial Legislature.

LEGISLATIVE AUTHORITY

The relevant Acts for each amendment request are outlined in the Legislative Amendments tracking tables included in this report.

The *Halifax Regional Municipality Charter*, (HRM Charter) subsection 18 (2) "The Council or any committee appointed by the Council may meet in closed session to discuss matters relating to intergovernmental affairs."

BACKGROUND

During the Spring 2019 Legislature sitting, four Bills were passed that impact HRM:

- Bill 92 HRM Charter - Powers to Spend
- Bill 99 Assessment Act
- Bill 101 Tourist Accommodations Registration Act
- Bill 108 Coastal Protection Act

Fall 2018 also saw two Bills that impact HRM and address some of Council's outstanding legislative

requests:

- Bill 58 HRM Charter – Minimum Planning Standards
- Bill 80 Traffic Safety Act

The details of these six Bills are outlined below. Prior to the spring sitting HRM had fifteen legislative requests before the Province for consideration, as well as an overarching review of the HRM Charter which has been ongoing since 2013. Four of those requests are dealt with under the Bills listed above. For the rest, several have been active for some time and/or [REDACTED]

[REDACTED] Some additional information on these specific requests is also included below.

DISCUSSION

Bill 92 HRM Charter – Powers to Spend

Bill 92 gives the Municipality greater flexibility in its powers to expend. Previously, section 79 of the HRM Charter use to list the specific areas in which HRM could spend money. The new Section 79A provides general authority to spend money for municipal purposes, on anything that is in the Council adopted capital or operational budget. The legislation also removes the list of types of non-profits to which a grant may be provided, as well as the requirement to annually publish a list in the newspaper of all the charities and non-profits which receive a grant from the Municipality. The amendments now require Council to develop a policy around disclosing to the public a list of recipients of grants made by the Municipality and the amounts of those grants. HRM already has a practice of making all its grants publicly available by posting them on the HRM website, which will apply to any further grants to non-profits enabled by these new powers. The restriction on tax concessions and direct financial assistance to business or industry remains in place.

This legislation may be considered comparable to HRM's request for municipal natural person powers (NPPs), which were the key ask under the HRM Charter Review. NPPs take a permissive approach to legislation, allowing municipalities the power to do what an ordinary individual can do under the law (as such, it does not apply to bylaw and taxation powers). Therefore, with NPPs, there is a general grant of power to spend and borrow money followed by a list of any restrictions on those powers. Bill 92 does not specifically give HRM full NPPs but uses an approach that may be viewed as comparable for municipal spending. These changes will reduce administrative red tape and the need to identify legislative authority for all spending.

These new spending powers provide Council with greater flexibility respecting the provision of grants to non-profits. With the restrictions around grants to non-profits removed, Council may provide a grant to non-profit organizations in the amount of their annual property tax bill. This is not the same as providing a tax exemption as the money must be collected and then granted back. A tax exemption would not require the money to be paid in the first place.

Bill 99 Assessment Act and Bill 101 Tourist Accommodations Registration Act

These two Bills provide greater clarity around the shared economy for accommodations (e.g., Airbnb). Bill 99 defines "small-scale residential tourist accommodation establishment" as "a residential tourist accommodation establishment on the assessed property" which includes a primary residence, with a cottage, cabin, bed and breakfast, inn or other similar type lodging that is fully or partially rented to provide accommodation to the travelling or vacationing public. It does not include a hotel, motel or apartment hotel. The exact size (i.e., number of bedrooms) of such an establishment will be defined via regulation. The changes to the *Assessment Act* exempt these small-scale residential tourist accommodations from being taxed as a commercial property.

Bill 101 replaces the *Tourist Accommodations Act* with a more modern piece of legislation that reflects current customer demand and expectation around accommodations booking and amenities. It complements the *Assessment Act* changes by removing the requirement to register for a license if property

owners are offering short-term accommodations in their primary residence. A short-term rental is a period of 28 days or less. This is meant to encourage the small-scale sharing economy and meet increasing market demand for accommodation, in line with Nova Scotia's goals around increasing tourism.

Provincial analysis estimates the financial impact of these changes for HRM to be approximately \$12,000 per year. The Province is currently consulting with municipalities and tourism stakeholders to develop regulations, including implications for the *Hotel Marketing Levy*.

Bill 106 Coastal Protection Act

This Act establishes a Coastal Protection Zone that will protect the Province's coast by preventing development and activity in locations adjacent to the coast. Specifically, the Bill seeks to:

- Prevent damage to the environment by interfering with the natural dynamic and shifting nature of the coast
- Reduce risks to public safety from sea-level rise, coastal flooding, storm surges, flooding, and coastal erosion
- Reduce the risk of property damage to future homes, cottages, businesses, public infrastructure

The Act's focus is restricting future development, although the regulations may provide for exemptions. It prevents municipalities from issuing building and development permits in coast protection zones, unless a designated professional certifies that the proposed structure is in compliance with the Act. Existing approvals will be grandfathered.

Municipal Affairs staff consulted with HRM in summer 2018 on this legislation. Much of the Act supports existing policies in HRM's Regional Plan recognizing the impacts of sea level rise and storm surges on human safety, infrastructure and community economic development. The Regional Plan includes mitigation policies regarding development near shorelines and its land use by-laws require that development abutting watercourses adhere to minimum setbacks and elevations.

Bill 58 HRM Charter – Minimum Planning Standards

In fall 2018 the Province passed legislation requiring every municipality to develop and adopt a municipal planning strategy (MPS) to govern planning throughout the municipality and fulfill minimum planning requirements which are being developed through regulation. Municipalities must also establish a program for engaging with abutting municipalities when the Council is adopting or amending a municipal planning strategy. Councils will determine the content for such a program, subject to any content requirements prescribed by the regulations. This legislation was passed to bring some consistency and certainty to land use across Nova Scotia. It will take effect once regulations are approved by the Minister.

Municipal Affairs staff met with HRM staff in February and May 2019 to discuss a potential approach to regulations:

- The minimum contents of an MPS that all MPSs must contain including goals and objectives, a generalized future land use map, statements of policy on certain items, and the time frame for periodic reviews;
- Engagement with abutting municipalities that prescribes the process that municipalities must follow to engage abutting municipalities when considering MPS amendments; and
- Discretionary Statements of Policy, which identify matters that may be addressed in the MPS.

Municipal Affairs is undertaking further staff level discussions on the regulations, after which they will be soliciting Council feedback. HRM staff will be drafting a subsequent stand-alone report on minimum planning regulations with recommendations for Council's consideration.

Bill 80 Traffic Safety Act

In Fall 2018 the new Traffic Safety Act (TSA) was passed, which will replace the *Motor Vehicle Act*. The legislation will not be proclaimed until the regulations are written, and the Province is engaging stakeholders, including HRM, to gather feedback about the proposed changes. This process is expected to take up to two years.

HRM had a number of outstanding requests related to the MVA. The new TSA addresses one of them:

- Restriction and control of motor vehicle noise – Council asked for the ability to regulate decibel levels and noisy mufflers. The TSA gives Council the authority to make bylaws respecting on excessive noise related to the driving of vehicles or other conveyances on, highways within the boundaries of the municipality. It also allows Council to define “excessive noise.” This power will come into effect once the TSA is proclaimed. Therefore, this request has been granted and removed from Council’s list of outstanding requests.

HRM staff continues to meet with Transportation and Infrastructure Renewal regularly to discuss regulations for the new Act.

Outstanding Legislative Requests

Fourteen requests for legislative change remain on HRM’s tracking sheet. Below are five requests that staff are not currently pursuing as priorities because they have been on the list for a significant period and/or [REDACTED]. These requests will remain on HRM’s list for potential future action should circumstances change.

Request and Act	Rationale
<i>Heritage Property Act</i> Request sunset clause of 90 days for the impact clerical errors have on heritage registration	This request has been outstanding since 2008. HRM staff have held numerous discussions with Communities, Culture & Heritage. In 2017 CCH staff confirmed the department does not support this change to legislation, nor would it consider a grandfathering provision.
<i>Municipal Elections Act</i> Include permanent residents as qualified electors to vote in municipal elections	The Province had indicated it viewed the ability to vote as inseparable from the ability to nominate candidates and run in elections. The question of permanent resident voting was considered, at various stages, of the administrative review of the elections process which took place from February to May 2019. Although there were several discussions, the Municipal Elections Review Advisory Committee did not recommend amendments to the Municipal Elections Act at this time to allow permanent residents to vote, nominate, and run. The Committee pointed out that it would require significant revisions to other sections of the Municipal Elections Act, including changes to the voter identification requirements and election processes. As the committee was comprised of administrators, most proposed amendments were administrative in nature. The Committee's recommendations are with the Minister for review.

<p><i>HRM Charter - Commercial Tax Options</i></p> <ol style="list-style-type: none"> 1) Request that the Province make changes to legislation governing the assessment process so that (a) the annual valuation is averaged over a three-year period, or (b) the full assessment roll is updated every 3-4 years as is the current policy in Saskatchewan and Ontario. 2) Request amendments to the HRM Charter that would provide Council with greater legislative authority in setting taxes and charges respecting the general tax rate and area rates for both residential and commercial properties. 3) Request to work with Service Nova Scotia and the Property Valuation Services Corporation (PVSC) to change the commercial tax assessment so it is based on 3 past years of assessment rather than one year. This would increase predictability in annual commercial tax bills by evening out increases. 	<p>This has been addressed in a staged fashion. Bill 52, passed in 2016, grants Council additional powers to let taxes and rates. It also provides for an up-to-10-year phase in for commercial tax increases in a Commercial Development District designated by municipal bylaw. This power enables 3-year phase-ins.</p>
<p><i>Motor Vehicle Act – Speed Limits</i> Request ability to reduce the speed limit in residential districts to 40 km/hour.</p>	<p>NS Transportation & Infrastructure Renewal (TIR) asked the NS Road Safety Advisory Committee (RSAC) to study the issue of reduced speed limits. RSAC did not recommend a speed limit of 40 km/hour in all residential areas, but suggested that municipalities make requests for specific areas, supported by engineering analyses. The Minister endorsed this approach when introducing the new Traffic Safety Act in Fall 2018.</p>
<p><i>Motor Vehicle Act – Traffic Control Persons for Special Events</i></p> <ol style="list-style-type: none"> a) Request that the Government of Nova Scotia amend the Nova Scotia Motor Vehicle Act to permit Traffic Control Persons to direct the movement of traffic for special events. b) Request that the Government of Nova Scotia modify the Province's training and accreditation processes to reflect special events-related roles for Traffic Control Persons and Temporary Workplace Signers. c) Request that the Government of Nova Scotia revise the Province's TC Manual to include standards, principles and guidelines applicable to special events-related traffic control scenarios. 	<p>The Minister responded that he is not prepared to move this request forward, but suggested staff discuss other options. Further conversations with Halifax Regional Police indicated that having police act as traffic control persons provided addition benefits such as crowd control and public safety.</p>

Staff will continue to actively pursue the following legislative requests:

Request and Act	Rationale
<p><i>Motor Vehicle Act – Crosswalk Penalties</i> Request for Province to consider increasing non-monetary penalties for crosswalk violations.</p>	<p>HRM staff are consulting with the Province on regulations for the new Traffic Safety Act. Regulations are expected to be finalized within 2 years. Until that time staff recommend keeping MVA requests which could become part of the new Act.</p>
<p><i>Heritage Property Act - Heritage District Development Suspension</i> Request the authority for Council to adopt a by-law that would suspend specific types of development, for a period not more than one year, within the boundaries of an area that council has identified as part of a background study to establish a Heritage Conservation District.</p>	<p>HRM's built heritage is at risk due to high levels of redevelopment. This risk is increased when a potential Heritage Conservation District (HCD) is identified, leading property owners to consider redeveloping properties before HCD restrictions are put into place. A temporary development suspension would preserve heritage properties while Council determines whether to proceed with an HCD. This request would benefit from more discussion with Municipal Affairs and Communities, Culture & Heritage staff.</p>
<p><i>HRM Charter – Code of Conduct</i> Request ability to sanction/censure Members of Council for Code of Conduct breaches by remitting remuneration.</p>	<p>In November 2018 an information report went to Council outlining the work of Nova Scotia Federation of Municipalities (NSFM) in developing a working paper with recommendations for the Provincial government. These recommendations will include the process to address inappropriate behavior and complaints. HRM has had input into this process both via NSFM and the Association of Municipal Administrators (AMA), which is supporting NSFM. Staff will continue pursuing this request until Code of Conduct provisions are set by the Province or HRM.</p>
<p><i>HRM Charter – Inclusionary Zoning</i> Request the power for Council to require a certain number of affordable units in new residential developments.</p>	<p>Access to affordable housing is a growing problem throughout HRM. Inclusionary zoning is an increasingly common tool for Canadian municipalities to mandate some affordable units in new buildings. Municipal Affairs indicated openness to further discussion on this request.</p>
<p><i>Motor Vehicle Act - Parking Fines</i> Allow increases to fines related to the winter parking ban, parking in fire lanes or accessible spaces where not permitted, and a series of other violations such as parking in an intersection or within 5 m of a crosswalk. This request does not include parking meter violations.</p>	<p>HRM staff are consulting with the Province on regulations for the new Traffic Safety Act. Regulations are expected to be finalized within 2 years. Until that time staff recommend keeping MVA requests which could become part of the new Act.</p>
<p><i>Motor Vehicle Act – Dooring</i> Request to amend the Motor Vehicle Act to prohibit people from opening their vehicle doors until it is reasonably safe to do so.</p>	<p>HRM staff are consulting with the Province on regulations for the new Traffic Safety Act. Regulations are expected to be finalized within 2 years. Until that time staff recommend keeping MVA requests which could become part of the new Act.</p>

<p><i>Motor Vehicle Act - Bicycle Traffic Signals and Crossrides</i> Request that the use of bicycle traffic signals and cross-rides be enabled and introduce a Regulation under Section 307 of the Motor Vehicle Act to permit Halifax Regional Municipality to conduct a project of not greater than five years to test and evaluate bicycle traffic signals and cross-rides at various locations in the municipality.</p>	<p>HRM staff are consulting with the Province on regulations for the new Traffic Safety Act. Regulations are expected to be finalized within 2 years. Until that time staff recommend keeping MVA requests which could become part of the new Act.</p>
<p><i>HRM Charter - Green Network Plan</i> (a) enable the Municipality to acquire sensitive environmental lands (e.g. riparian areas, wetlands, steep slopes, etc.) as an environmental reserve through the land development and subdivision process, in addition to existing parkland dedication provisions; and (b) enable a greater range of legislative abilities, such as the ability to enact parkland dedication requirements based on density to address development that does not include the subdivision of land.</p>	<p>The Minister has expressed interest in exploring approaches to environmental protection that involve both provincial and municipal governments. In February 2019 he asked Municipal Affairs staff to pursue this conversation with HRM.</p>
<p><i>HRM Charter - Accessible Taxi Incentives</i> Request the ability for the Municipality to provide business grants for vehicle purchase or conversion and to provide a subsidy, per trip fee, to all accessible taxi license holders</p>	<p>This is a new request (February 2019) that HRM has not yet discussed with Municipal Affairs. Staff has been actively working with the NS Accessibility Directorate and the Department of Communities, Culture and Heritage</p>

FINANCIAL IMPLICATIONS

None

COMMUNITY ENGAGEMENT

No community engagement was required or undertaken in developing this report.

ATTACHMENTS

None

If the report is released to the public, a copy can be obtained by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

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