

Item No.10.2.3

Request for Consideration		
<input checked="" type="checkbox"/> Agenda Item (Submitted to Municipal Clerk's Office by Noon at least 5 working days prior to the meeting)	<input type="checkbox"/> Added Item (Submitted to Municipal Clerk's Office by Noon at least one day prior to meeting)	<input type="checkbox"/> Request from the Floor <input type="checkbox"/> Notice of Motion
Council or Committee: Halifax Board of Police Commissioners:		
Date of Meeting: March 21, 2022		
Subject: Staff report intended to develop a new, statutorily compliant review and approval process for the annual HRP budget		
Motion for Committee to Consider:		
That the Board of Police Commissioners request a staff report from HRM Financial Services for the purpose of developing a new budget review and approval process for the 2023/24 fiscal year which is in compliance with the <i>Police Act</i> .		
1. Rationale		
a. The problem right now		
At present, the Halifax Board of Police Commissioners reviews and approves the operating budget for HRP, but plays no role vis-à-vis the HRP's capital budget, which is instead reviewed and approved by Regional Council. This approach is not in keeping with the requirements set out under the <i>Police Act</i> . Section 53 reads:		
Annual budget of police department		
53 (1) The board shall annually cause the chief officer to prepare a budget for the police department.		
(2) The board shall ensure that the budget prepared pursuant to subsection (1) is consistent with those matters referred to in subsection 55(3).		
(3) The budget prepared pursuant to this Section shall be submitted to council by the board for approval.		
Section 53 refers merely to the "budget for the police department" and makes no distinction between capital and operating budgets. The word "budget" is not defined in the <i>Police Act</i> . As a result, according to principles of statutory interpretation, it must be read in its entire context and in its grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of the Legislature. According to the <i>Oxford English Dictionary</i> , the word "budget" refers to "the money that is available to a person or an organization and a plan of how it will be spent over a period of time."		
This interpretation is also in keeping with the scheme of the <i>Act</i> and the intention of the Legislature to the extent that municipal boards of police commissioners have broad authority under paragraph 55(1)(b) to provide "the administrative direction, organization and policy required to maintain an adequate, effective and efficient police department."		
As noted, currently, only Regional Council reviews the HRP's capital budget as part of the overall capital budget for the city. I believe this is the case because, given that HRP is a business unit of the HRM, it is administratively more convenient to include their capital costs within the larger capital budget for the city.		

However, this approach may not be in compliance with the *Police Act*. This is because, under paragraph 55(2)(a), Regional Council may, with the approval of the Minister of Justice, prescribe “additional or more specific roles and responsibilities of a board” by means of a by-law. On the other hand, Regional Council has no authority to take roles and responsibilities away from the board, including those under section 53 dealing with the review and approval of the annual “budget for the police department.” **This suggests that Regional Council may have been acting outside of its jurisdiction, which creates the risk that its motions regarding the capital budget have historically been out of order, and thus a nullity.**

b. What is being requested

This motion is requesting a staff report from HRM Financial Services which will lay out a proposal for the Board’s approval regarding how to reform the budget review and approval process to bring it into compliance with the *Police Act*. This report should be received by the Board ahead of the beginning of its budget deliberations for fiscal 2023/24 in December 2022.

c. Rationale

As noted, under paragraph 55(1)(b), the Board is tasked with providing “the administrative direction, organization and policy required to maintain an adequate, effective and efficient police department.” Public confidence in the Board and its decision-making risks being undermined if there is a lack of clarity regarding the extent of the Board’s authority vis-à-vis the HRP budget, or if the process for budget review and approval prescribed under the *Act* is not followed.

Further, the current approach risks providing Regional Council with an undue degree of control over the HRP budget, which risks having the process become overly politicized. In this way, the current approach is inconsistent with the spirit and intent of the *Police Act* and the recommendations from the *Royal Commission on the Donald Marshall, Jr., Prosecution*, both of which seek to insulate policing as much as possible from political interference. For example, though Council’s decision to cancel the HRP Armored Vehicle purchase in 2020 was laudable, this decision likely should have rested with the Board, not Council, for the reasons noted above.

Outcome Sought: Noted above

Commissioner Harry Critchley

Submitted March 16, 2022