

HALIFAX

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Item No.14.1.6
Halifax Regional Council
August 1, 2017

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by 

SUBMITTED BY:

Jacques Dubé, Chief Administrative Officer

DATE: July 24, 2017

SUBJECT: Review of the Approach to Grants, Non-Profit Taxation and the District Capital Fund Policy

ORIGIN

Motion passed by Committee of the Whole on Budget, March 7, 2017, during the 2017-18 review of the Consolidated Accounts for the Budget, "That the Committee of the Whole recommend that Halifax Regional Council direct staff to ...2. Review the approach to Grants during the 2017-18 year".

Motion passed by Regional Council, November 22, 2016, "That Halifax Regional Council request a recommendation report regarding flexibility in the application of district capital funds on properties owned by other levels of government."

The Auditor General's Report on "Corporate Grants, Donations and Contributions" (January 2011) recommended "... a comprehensive policy on the expending of all funds deemed to be donations, contributions, grants and sponsorships to not-for-profit organizations to align with corporate strategic objectives within a clearly defined and budgeted amount." (Recommendation 2.4).

The District Capital Fund Policy states that a review should be done every 3 years, this review is overdue. In addition, there have been exceptions to the policy approved by Council, and Councillors have expressed an interest in reviewing the current restrictions and refreshing the policy.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, S.N.S. 2008, c. 39

Power to expend money

79 (1) The Council may expend money required by the Municipality for

...

- (av) a grant or contribution to
 - (i) a society within the meaning of the Children and Family Services Act,
 - (ii) a mental health clinic in receipt of financial assistance from Her Majesty in right of the Province,
 - (iii) an exhibition held by an educational institution in the Municipality,

- (iv) a club, association or exhibition within the meaning of the Agriculture and Marketing Act,
- (v) any charitable, nursing, medical, athletic, educational, environmental, cultural, community, fraternal, recreational, religious, sporting or social organization within the Province,
- (vi) a day care licensed under the Day Care Act,
- (vii) a registered Canadian charitable organization;

Tax exemption by-law for organizations

89 (1) The Council may, by policy, exempt from taxation, to the extent and under the conditions set out in the policy

- (a) property
 - (i) of a named registered Canadian charitable organization, and
 - (ii) that is used directly and solely for a charitable purpose;
- (b) property of a non-profit community, charitable, fraternal, educational, recreational, religious, cultural or sporting organization if, in the opinion of the Council, the organization provides a service that might otherwise be a responsibility of the Council;

....

(2) The Council may, by policy, to the extent and under the conditions set out in the policy, provide that the tax payable with respect to all or part of the taxable commercial property of any non-profit community, charitable, fraternal, educational, recreational, religious, cultural or sporting organization named in the policy be reduced to the tax that would otherwise be payable if the property were residential property, inclusive of area rates.

RECOMMENDATION

It is recommended that Halifax Regional Council

1. Direct the CAO to continue with a review of Grants and Tax relief, using the Guiding Principles outlined in Attachment One; and
2. Adopt Administrative Order Number 2017-009-ADM, *Respecting District Discretionary Funds*, as set out in Attachment Two, to establish the District Discretionary Fund and repeal the District Capital Fund and the District Activity Fund Policies.

BACKGROUND

HRM operates a number of grant programs through a combination of Administrative Orders and Council resolutions. The major programs include the Community Grants Program (\$500,000), Marketing Levy Special Events Reserve Grants, Regional Event Grants, Professional Arts Organizations, Rural Transit, Seniors Snow Removal and Volunteer Search and Rescue. In addition, HRM provides grants for non-profit tax relief. There are a number of other grant programs as well as individual grants, payments in kind, and contribution agreements.

In addition, Councillors have direct access to funds that can be used for grants, capital projects or other purposes through the Councillors' District Capital Fund (\$94,000 each for a total 1,504,000) and Council Activity Fund (\$4,300 each for a total of \$69,000). These programs are intended to allow Councillors to respond quickly to events and circumstances in their communities that might otherwise not get municipal attention. The expenditure of all such funds is fully disclosed in the quarterly projections submitted to Regional Council through the Audit and Finance Committee.

Lastly, Council has the authority to award grants outside of a formal program. In the 2017-18 budget Council approved a number of one-time grants, some of them larger than many of the approved grant programs.

DISCUSSION

Grants can be an effective tool to achieve specific outcomes whether it is to support alternative service delivery of municipal services, support community initiatives, or simply to provide sustainable funding for community organizations. Used properly grants can better leverage outcomes. To be used as effectively as possible, however, it is important to continue to view grants as a tool for outcomes, versus as an entitlement for those desiring funding.

In the last year there has been a sharp rise in the request for grants and contributions outside of the established grant programs. Presumably this has occurred for a combination of reasons. Possibly some grant programs may simply need to be refocused. Hence it is critical that grant programs be reviewed to ensure that they tie closely into Council's strategic outcomes. In addition, some potential applicants may prefer to avoid Council's Grant programs and seek funds directly from Council. Ultimately, regardless of the reason, "one-off" grants can be seen as unfair to other grant applicants and, should that trend continue, risks the credibility of those programs. Regardless of the reason, it is extremely important to define when it is appropriate to provide grants outside of established grants programs.

To proceed, staff are following a three-pronged approach:

- 1) Approve guiding principles for grants and taxation;
- 2) Approve immediate changes to replace the District Capital and District Activity Grants; and
- 3) Proceed to review existing grant programs using the guiding principles.

Guiding Principles for Non-Profit Taxation and Grants

Staff believe that much greater focus needs to be brought to the whole area of non-profit taxation and grants. Existing practices represent a mixture of different approaches that make it difficult to provide quality service, and ensure value for the taxpayer's dollar, while also frustrating applicants.

Non-profit taxation

Tax relief is distinct from grants in that the Municipality has extraordinary powers to require its citizens to pay tax. The municipality has specific authority to impose taxes, a power which distinguishes it from many other statutory bodies. Along with the power to impose taxes, the municipality has the power to provide relief from taxes by an exemption or partial exemption, whereby taxes are never collected. Full tax exemptions may be provided to properties that are either owned by a registered charity and used for a charitable purpose, or owned by a non-profit that is providing a service that, in the opinion of Council, might otherwise be a responsibility of Council. Partial tax exemptions (from the commercial to residential rate), may be provided to non-profits who do not meet the criteria for a full exemption.

The current formulas for non-profit tax relief are excessively complex and have many inconsistencies. Three premises guide staff's thinking in how they approach the reform of non-profit tax relief:

- 1) Taxpayers can be expected to request treatment comparable to similar organizations or circumstances. As such, "special" tax treatment for any one taxpayer will almost always be extended to others. Consistency becomes critical with many non-profits expecting comparable treatment to their peers. Hence, "one off" special tax deals should be avoided.
- 2) Non-profits have a limited ability to pay property taxes, especially since they are often classified under the Assessment Act as "commercial", and must pay the much higher commercial tax rates. Non-profits also need predictability as to future tax bills. While non-profits should be expected to pay some amount of tax, these levels should be modest and in

- keeping with their ability to afford taxation. Taxing appropriately means that requests for “special” tax treatment should decline.
- 3) Property tax incentives provide Council with very little discretionary power. If Council wishes to provide non-profit incentives, it is more effective to create a grant program (that allows Council flexibility to choose recipients and vary amounts) than a tax incentive (which may be both more complex and formula based).

Currently some non-profit organizations are 100% tax free while others have tax bills that likely exceed their ability to pay. Instead, it is staff’s recommendation that taxation for non-profits should be set at very modest levels with strongly defined categories. Non-profit taxation has been examined extensively by the Grants Committee and there is a request in to the Province for legislative amendments to the *HRM Charter*, which would permit Council much greater flexibility in its approach to tax relief for non-profit organizations and charities.

Grants and Contributions

Grants are much more flexible than tax incentives. Grants can be provided in various amounts regardless of a property assessment. Grants, however, can come to be seen as entitlements. It can be easily forgotten that other taxpayers (residential and commercial) must pay higher taxes to allow grants to go to others. For individual grants to be successful there are several key success factors:

- 1) clearly articulated purposes for a grant, grant program, or contribution agreement;
- 2) a clear link to Council’s objectives to ensure taxpayer funds are well spent;
- 3) funds should be provided in the expectation they will alter behavior and the recipient will undertake an activity that it otherwise would not;
- 4) recipients should be capable of achieving the outcome and it must be a sustainable result; and
- 5) administrative burden and overlap should be reduced as much as possible

Based on these premises the Guiding Principles in Attachment One are a blueprint for how to move forward to review Tax Relief and Grants programs. One-off grants by Council will always be possible but through a better-defined process. These grants should be limited to those circumstances which are either “urgent” or “unique”. By “unique”, staff refers to those potential grants which are of a scale and type that they could never qualify under any existing grant program. It is not enough that the request is ineligible for, or has been turned down by, a grant program. Instead, staff proposes that only if the request does not and could not meet the broad purposes and requirements of the programs would it be considered as a one-off. The request may be urgent in the sense that there is a clear time-sensitivity to what is being sought and that an opportunity will be lost. It is not a matter of simply being anxious to have something approved. Such potential grants should be reviewed by the Grants Committee using the Guiding Principles in Attachment One. That Committee would make recommendations to Council. Ultimately, however, it is Council’s decision as to what is “urgent” and “unique” and to how the principles are interpreted and applied.

In examining current grant programs staff intend to utilize the guiding principles in Attachment 1. In particular, staff want to ensure that grant programs are geared towards Council objectives and are achieving sustainable outcomes. Finding ways to build or enable capacity within the non-profit sector might also improve sustainability. In addition, the administration of these programs should be streamlined so they are customer focused and don’t overlap or compete with other municipal grant programs. The review of any programs will occur through the Grants Committee and will take place over an extended time frame. In 2017-18 staff intend to look at the Community Grants program and its relationship to Council objectives and other grant programs.

Replacement of District Capital and District Activity

Adopted by Regional Council in 2007, the District Capital Fund Policy merged the District Capital Fund and Building Communities Fund. The two stated primary goals were to complete small scale projects not included in the annual budget and provide modest donations and grants in support of local neighbourhood volunteer initiatives. The District Activity Fund Policy was to provide small grants to community groups and special events.

A program review has identified three main issues:

First, the two programs have similar objectives and there appears to be no rationale for treating the two as separate programs. Rather than help achieve policy objectives, this simply overcomplicates the administration of the program. In line with the guiding principles of the review to “Minimize complexity, administrative costs and overlap amongst similar Programs”, it makes more sense to combine the two programs into one, streamlined program.

Secondly, the restriction on providing funds for non-HRM assets has frustrated attempts to support community initiatives. In a number of cases Councillors have wanted to support community initiatives but have been unable to without seeking a policy exemption from the full Council. This includes situations where the service or asset would reside on property owned by other levels of government (e.g. Park benches on provincial land).

Lastly, roughly 40% of all Councillor Funds are used to support capital projects within a district. While this is clearly a goal of the program, the use of those funds has not been properly planned for in the Capital Budget. Many requests for capital enhancements come outside the full budget process and make it difficult for staff to deliver both the full capital budget and the ongoing requests from the Capital District Fund. As such, it makes far more sense to formalize Councillors requests from these funds and ensure they enter the Capital Budget process at the same point as most other projects, therefore allowing all projects (District Capital or otherwise) to be delivered in a reasonable fashion.

Based on this, staff have developed a new, simplified program that should help eliminate these three issues. A revised program provides Councillors with broad discretion to provide grants to non-profit organizations and registered Canadian charities, fund capital projects, and continue to enhance operating services. It should eliminate most if not all of the need to seek exemptions from Regional Council. The remaining restrictions would be:

- 1) Land purchases remain the prerogative of the full Council;
- 2) Grants are for non-profits organizations and registered Canadian charities but not other levels of governments, school boards or business. (The purchase of assets and services, however, would not be prohibited under the policy simply because they occur on Federal or Provincial property.)
- 3) Grants for business would not be allowed as they are prohibited by the Charter.
- 4) There would be a deadline for inclusion of proposed projects in the Capital Budget, including those funded by the new District Discretionary Fund.

In addition, the CAO remains responsible for all administrative aspects of the program including any required negotiations or contractual arrangements. Forms and deadlines will be supplied separate from the Administrative Order.

FINANCIAL IMPLICATIONS

This report does not change the amount of funds that can be expended. Rather it alters which program(s) the funds may be spent from.

RISK CONSIDERATION

Low

COMMUNITY ENGAGEMENT

None

ENVIRONMENTAL IMPLICATIONS

None

ALTERNATIVES

Regional Council could choose to maintain the current District Capital and District Activity Funds, or maintain them and request amendments thereto.

ATTACHMENTS

Attachment One - Guiding Principles for Review of Non-Profit Taxation and Grants

Attachment Two - Administrative Order Number 2017-009-ADM Respecting District
Discretionary Funds

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

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Guiding Principles for Review of Non-Profit Taxation and Grants

Non-Profit and Charity Taxation

- (1) Non-Profits and charities with similar characteristics will be grouped into mutually exclusive “Categories”.
- (2) Each Category will be provided tax relief based upon a Council-established formula.
- (3) Each Category should be taxed consistently according to the best estimate of their ability to pay taxes.
- (4) Individual non-profits or charities will not be given additional tax reductions. Should Council choose to, it could create “Grant Programs” or “Tax Incentive Programs” for a specified purpose.

Grants

- (1) All Grants and Tax Incentives to non-profit organizations and charities will be made through a Council-approved program that has clearly articulated purposes and is open to all eligible non-profits to apply.
- (2) The Goals of any municipal Grant or Tax Incentive Program is to
 - Support public benefit, especially that which targets Council’s Strategic Outcomes;
 - Achieve viable results that are incremental and would otherwise not occur;
 - Sustain those results over time; and,
 - Minimize complexity, administrative costs and overlap amongst similar Programs.
- (3) Council may award Grants (but not Tax Incentives) outside of an approved Grant Program where
 - It is of a “Unique” or a time-sensitive “Urgent” nature; and,
 - The Grants Committee assesses the Business Case and its purpose, against the Guiding Principles, including the above Goals.

**ADMINISTRATIVE ORDER NUMBER 2017-009-ADM
RESPECTING DISTRICT DISCRETIONARY FUNDS**

WHEREAS the Council of the Halifax Regional Municipality wishes to provide financial support to non-profit organizations in the community through discretionary grants provided by district Councillors and to supplement funds that are provided for in the Halifax Regional Municipality Operating and Capital Budget;

BE IT RESOLVED AS AN ADMINISTRATIVE ORDER of the Council of the Halifax Regional Municipality under the authority of the *Halifax Regional Municipality Charter*, S.N.S. 2008, c. 29, as amended, as follows:

Short Title

1. This Administrative Order may be known as the *District Discretionary Funds Administrative Order*.

Interpretation

2. In this Administrative Order,

- (a) “Council” means the Regional Council of the Halifax Regional Municipality;
- (b) “Municipality” means the Halifax Regional Municipality;
- (c) “registered charity” means a charitable organization registered pursuant to the Income Tax Act (Canada) and the regulations made pursuant to that Act.
- (d) “registered non-profit organization” includes:
 - (i) a society incorporated pursuant to the *Societies Act*, R.S.N.S. 1989, c. 435;
 - (ii) a non-profit co-operative incorporated pursuant to the *Co-operative Associations Act*, R.S.N.S. 1989, c. 98;
 - (iii) a non-profit corporation incorporated pursuant to the *Canada Not-for-Profit Corporations Act*, S.C. 2009, c. 23; or
 - (iv) a non-profit organization otherwise incorporated under an Act of the Nova Scotia Legislature or Parliament of Canada;

Purpose

3. The purpose of this Administrative Order is to enable members of Council to better support the community through:

- (a) the provision of grants to non-profit organizations and registered charities; and
- (b) the allocation of funds to HRM capital projects or to goods or services the Municipality may provide.

Establishment of District Discretionary Fund

4. There is hereby established a District Discretionary Fund.

5. The District Discretionary Fund budget shall be established by Council annually as part of the municipal budget process.

6. The total budget allocation for the District Discretionary Fund budget shall be distributed equally among the 16 districts of Council annually.

7. (1) Funds in the District Discretionary Fund may be expended on the provision of grants to non-profit organizations and registered charities.

(2) Funds in the District Discretionary Fund may be allocated to:

- (a) HRM capital projects; and
- (b) the provision of goods or service the Municipality may provide.

8. Funds shall remain within the fund until spent or rescinded by Council, and may be carried forward to the following fiscal year.

9. Individual Councillors may authorize expenditures from the funds allocated to them, subject to the requirements established by this Administrative Order.

Grants

10. (1) An applicant for a grant under this Administrative Order shall be a registered non-profit organization or registered charity.

(2) A non-profit organization shall be:

- (a) a nursing, medical, athletic, educational, environmental, cultural, community, fraternal, recreational, religious, sporting or social organization within Nova Scotia; or

(b) a body corporate with the purpose of promoting or beautifying a business district.

(3) Notwithstanding subsection (1), a non-profit organization that is not registered may apply for a grant of five hundred dollars (\$500.00) or less.

11. A grant may be given for either capital or operating purposes.

12. A grant may include a grant in-kind.

HRM Capital Projects

13. (1) Councillors may expend funds from the District Discretionary Fund on a municipal asset that is part of a project in the HRM Capital Budget.

(2) Notwithstanding subsection (1), District Discretionary Funds may not be used for the acquisition of land.

14. Expenditures intended for projects in the HRM Capital Budget must be committed in sufficient time so that:

(a) the HRM Capital Budget can be prepared in a timely manner; and

(b) the project in the HRM Capital Budget to which the funds are being directed can be delivered without unexpectedly affecting the delivery of other projects in the HRM Capital Budget.

Municipal Goods or Services

15. The allocation of funds to the municipality for the provision of goods or services the municipality may provide shall be done in consultation with the Director of the department of the municipality that will be using the goods or providing the service.

Elections

16. The authorization of expenditures from the District Discretionary Fund shall be suspended for councillors offering as a candidate in a municipal, provincial, or federal election as follows:

(a) for an ordinary or special municipal election, from the date the councillor files his or her nomination papers to the date the councillor is sworn into office;

(b) for a provincial by-election or general election, from the date the writ is issued until the return on the writ is completed; and

(c) for a federal by-election or general election, from the date the writ is issued until the return on the writ is completed.

17. Notwithstanding section 16, where an incumbent councillor is acclaimed in an ordinary municipal election, the councillor may resume making expenditures from the District Discretionary Fund as of the date of his or her acclamation.

18. Nothing in section 16 shall be taken to limit the ability to carry out expenditures already authorized prior to that date.

Administration

19. The District Discretionary Fund shall be managed by the Finance Department and administered jointly with the Councillors' Support Office.

20. The Chief Administrative Officer, or designate, shall develop procedures to support the timely and transparent administration of this Administrative Order, which shall include, but is not limited to:

- (a) accounting and authorization procedures and requirements;
- (b) reporting procedures that ensure all commitments and expenditures are fully transparent and publicly available;
- (c) deadlines for the inclusion of proposed items in the HRM Capital Budget; and
- (d) all forms and application requirements, both for Councillors and non-profit organizations.

21. This Administrative Order does not authorize a Councillor to:

- (a) negotiate the terms of a contract;
- (b) enter into an employment contract on behalf of the municipality;
- (c) commit the municipality to fund the future operating costs of new assets; or
- (d) undertake any administrative function that would otherwise be the responsibility of the Chief Administrative Officer.

Transition and Repeal

22. This Administrative Order shall come into effect on September 1, 2017.

23. All expenditures authorized in accordance with the District Capital Fund Policy and District Activity Fund Policy and Procedures prior to September 1, 2017, but not paid by the time of the coming into force of this Administrative Order shall continue to be processed and paid in accordance with the District Capital Fund Policy or District Activity Fund Policy, whichever they were authorized pursuant to.

24. The District Capital Fund Policy adopted by Council on July 31, 2007, and the District Activity Fund Policy and Procedures adopted by Council on December 12, 2002, and all amendments thereto are repealed.

Done and passed by Council this XX day of XXXXXXXX, 2017.

Mayor

Municipal Clerk

I, Kevin Arjoon, Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above noted Administrative Order was passed at a meeting of Halifax Regional Council held on XXXXXXXXXXXXX, 2017.

Kevin Arjoon, Municipal Clerk