

HALIFAX

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Item No. 14.1.3
Halifax Regional Council
January 30, 2018

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY:

Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: November 29, 2017

SUBJECT: Road Maintenance Fee for Shag End Lot Owners Association

ORIGIN

On October 6, 2009, Regional Council approved amending Administrative Order 45 by adding Schedule 3 to permit the implementation of private road maintenance fees of \$600 to be collected on the tax billings of all properties abutting the private roads within the Shag End sub-division in the community of Blind Bay in District 11.

On June 12, 2017, staff received notification from Shag End Lot Owners Association that they wish to increase the private road maintenance fee from \$600 to \$900 for all properties abutting the private roads within the Shag End sub-division in the community of Blind Bay.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter clause 104 (1) (g) as follows:

(1) "The Council may make by-laws imposing, fixing and providing methods of enforcing payment of charges for

(g) laying out, opening, constructing, repairing, improving and maintaining private roads, curbs, sidewalks, gutters, bridges, culverts and retaining walls that are associated with private roads, where the cost is incurred

(i) by the Municipality, or

(ii) under an agreement between the Municipality and a person,"

By-Law P-1100, Private Road Maintenance By-Law, Subsection 2(6)

(6) Area Rates or Uniform Charges imposed pursuant to the provisions of this by-law may be adjusted by Council upon application from the Property Owner's Association.

Administrative Order 45, Respecting Private Road Maintenance.

RECOMMENDATION

It is recommended that Halifax Regional Council approve amending Schedule 3 of Administrative Order 45, Respecting Private Road Maintenance, by replacing the flat area rate of no more than \$600.00 annually with a flat area rate of no more than \$900.00 annually, and by replacing the map of the Shag End Lot Owner's Association catchment area with a new map dated November 29, 2017.

BACKGROUND

On January 16, 2007, Regional Council approved the Private Road Maintenance Costs Recovery Policy. The Policy was later amended by Council on June 16, 2015. The purpose of this Policy is to provide owners of property accessed by private roads with the use of area rates or uniform charges to collect the funds required to maintain private roads.

On October 6, 2009, Regional Council approved amending Administrative Order 45 by adding Schedule 3 to permit the implementation of private road maintenance fees of \$600 to be collected on the tax billings of all properties abutting the private roads within the Shag End sub-division in the community of Blind Bay.

The original catchment area included 66 Lot Owners. Since then some lots were subdivided and sold to new owners which increased the total lots to 69 in 2014 with another 4 lots added in 2016. Today there are a total of 73 Lots within the catchment area. (See revised Map – Appendix C)

Shag End sub-division is located just off Prospect Road (Rte. 333) in the community of Blind Bay in District 11. All the private roads in this sub-division are owned by Shag End Development Ltd. and maintained by the Shag End Lot Owner's Association (SELOA). The association funds road maintenance expenses through an annual fee collected from the owners of each of the 73 properties abutting the private roads in the sub-division.

In accordance with the Private Road Maintenance By-law P-1100, Council may adjust the area rates or uniform charges imposed upon application from the Property Owner's Association.

DISCUSSION

On June 12, 2017, staff received notification from Shag End Lot Owner's Association that they wish to increase the private road maintenance fee from \$600 to \$900 for all properties abutting the private roads within the Shag End sub-division in the community of Blind Bay.

The Private Road Maintenance Costs Recovery Policy outlines under Section 11, the conditions which must be satisfied for the approval of a Property Owner's Association Budget and all proposed rate adjustments.

1. *Any changes to the amount of the flat rate shall require majority approval at a special meeting of the Property's Owner's Association called for the purpose of determining the rate increase issue.*
2. *Notice of the special meeting shall conform to the standards set out above for the application meeting.*

(Section 6 – Meeting of Property Owners)

Notice of the meeting shall also be made not less than fourteen (14) days prior to the date of the meeting to all property owners that will be affected by the area rate through prepaid mail to their tax assessment addresses. The notice of the public meeting shall set out the date and time and place of the meeting, the name(s) of the applicant, describe the area to be subject to the application and the nature of the road maintenance proposed, the requested method of area flat rate determination (in conformity with this policy), the road maintenance plan and amount of the area flat rate to be requested in the application, and advise that rate payers will be entitled to vote and the method of voting.

The meeting notice was developed by staff and included all the information required above as per the Private Road Maintenance Costs Recovery Policy. A letter was mailed, to all property owners impacted by the increase detailing what their current rate is and the proposed revised rate, the meeting time and place and a description of the voting process and ballot (Appendix D). The Board of SELOA also included a letter with the ballot to explain the rate increase, with a version in German, as many lot owners reside in Europe

(Appendix E).

The purpose of the ballot was to determine whether enough property owners representing a majority (50% + 1) of the properties voting were in favour of amending the rates from \$600 to \$900 starting in 2018-19. There was one vote per property, with a ballot to be submitted to staff at the meeting, or via email, fax or mail by August 28, 2017.

The special meeting of the affected property owners was held on Monday, August 28, 2017 at 4:00 p.m. at the Prospect Road Community Centre, 2141 Prospect Road, Hatchet Lake. HRM staff were present at the meeting to supervise the proceedings, and answer any questions with respect to the Private Road Maintenance Costs Recovery Policy. A short presentation was made by the Chairman of the Association to explain the rationale used to develop the revised budget and fee schedule, after which attendees had an opportunity to ask questions.

During the meeting HRM staff tabulated all the ballots and proxies received, and provided the Chairman with the results prior to the meetings end. The Chairman was able to advise the attendees that the final vote was 85.7% of those in attendance or voting by proxy were in favour of the amended fees and increased budget. The vote count was 42 in favour and 7 opposed.

FINANCIAL IMPLICATIONS

The revised uniform charges would take effect in the 2018-19 fiscal year. As all funding is from the uniform charges (i.e. no transfers from the general tax rate), there would be no impact on the HRM General Operating Budget at any time in the future. The Association would receive an additional \$21,900 in funding annually as a result of these changes, for a total of \$65,700. A copy of the Association's budget is included on page 2 of Appendix D.

RISK CONSIDERATION

There are no significant risks associated with the recommendations in this Report. The risks considered rate is Low.

COMMUNITY ENGAGEMENT

As explained in the Discussion section of this report, information and a ballot was mailed to every property owner in advance of the vote, and a special meeting was held on August 28, 2017 for all property owners impacted by the fee adjustment and budget increase.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with the Recommendation in this report.

ALTERNATIVES

Council could decide not to approve the requested changes to Schedule 3 of Administrative Order 45. This is not recommended because a majority of the property owners, who voted, voted in favour of the changes.

ATTACHMENTS

Appendix A: Administrative Order amending Administrative Order 45
Appendix B: Showing Proposed Changes to Administrative Order 45
Appendix C: Map – SELOA catchment area
Appendix D: Notification Letter and Ballot
Appendix E: SELOA letter to members

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Barb Wilson, Senior Financial Consultant, 902.490.4280

**Appendix A
(Amending Administrative Order 45)**

**Halifax Regional Municipality
ADMINISTRATIVE ORDER NUMBER 45
Respecting Private Road Maintenance**

BE IT ENACTED by the Council of the Halifax Regional Municipality that Administrative Order 45, Respecting Private Road Maintenance, is further amended as follows:

1. In section 1 of Schedule 3, strike out "\$600.00" after the statement, "shall be a flat area rate of no more than", and before the word "annually"; and replace it with "\$900.00";
2. In section 1 of Schedule 3, strike out "September 10, 2009" after the statement "as identified on the map dated" and before the words "attached hereto"; and replace it with "November 29, 2017";
3. In section 1 of Schedule 3, strike out the word "or" after the statement "abutting in whole", and before the words "in part"; and replace it with the word "or"; and
4. Delete the map of the Shad End subdivision dated September 14, 2009 attached to the Administrative Order and replace it with the map of the Shag End Lot Owner's Association Catchment Area dated November 29, 2017, attached as Appendix C to the November 29, 2017 staff report.

Done and passed this day of , 20 .

Mayor

Municipal Clerk

Appendix B
(showing proposed changes to Administrative Order 45)

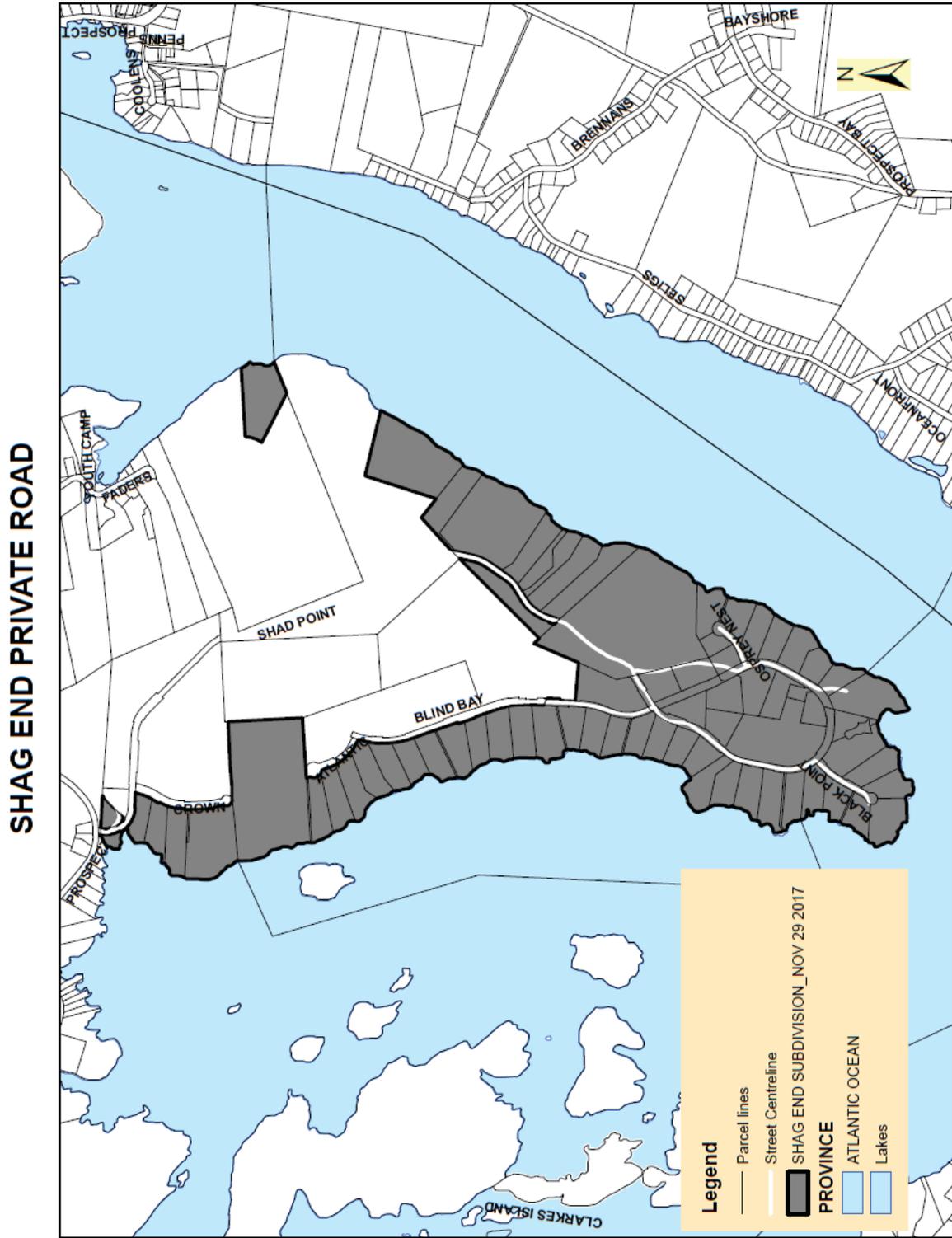
Halifax Regional Municipality
ADMINISTRATIVE ORDER NUMBER 45
Respecting Private Road Maintenance

Schedule 3

1. An Area Rate Charge for properties fronting or abutting in whole or in part on the private streets located within the Shag End Sub-division, Blind Bay as identified on the map dated November 29, 2017 attached hereto, shall be a flat area rate of no more than \$900.00 annually.
2. The Charges collected under this By-Law shall be used by the Shag End Lot Owner's Association for the maintenance of the private roads located within Shag End Sub-division, including culverts, retaining walls, sidewalks, curbs and gutters that are associated with the roads. Road maintenance includes all work required to maintain the road in a serviceable condition year round and may include snow removal, grading, ditch and culvert and bridge repair and brush clearing.

APPENDIX C

Shag End Lot Owners Association Catchment Area



APPENDIX D

BALLOT FOR PRIVATE ROAD MAINTENANCE TAX

14 August 2017

OWNER1
OWNER2
MAILINGADDRESS
CITYPROV PC

Assessment # AAN#
LEGAL DESCRIPTION

Dear Property Owner:

The Halifax Regional Municipality (HRM) has been notified by the Shag End Lot Owners Association (SELOA) about a proposed change to their annual private road maintenance fee. You are being notified as the owner of the above referenced property as it would be affected by this proposed change. The fee is collected on the property tax bills for all properties abutting the private roads within the Shag End sub-division in the community of Blind Bay.

The Association is proposing to increase the per property charge by \$300 annually from \$600 to \$900. On the reverse side of this letter is a budget from which the proposed annual per property charge was determined. Enclosed with this letter is an explanation from the SELOA as to why the increase is required.

As required by HRM's Private Road Maintenance Costs Recovery Policy, a meeting will be held to provide additional information, give property owners an opportunity to ask questions or raise concerns, and to vote on the proposal. The meeting will be held on:

Monday August 28, 2017 @ 4:00 p.m.
Prospect Road Community Centre
2141 Prospect Road, Hatchet Lake

If you plan on attending the meeting, please bring the ballot at the bottom of this letter with you to vote at the meeting as it uniquely identifies your property by assessment number. Also, please bring photo ID with you in case we need to confirm your identify.

If you cannot attend the meeting to vote, you may still vote by proxy. The enclosed proxy form must be fully completed and signed, and must be put forward at the meeting by either the President of the Association or a substitute. If your proxy is submitted by a substitute, that person must be named on the form and be present at the meeting.

Please note that only one vote will be counted for each property, regardless of whether or not the property is owned by one or more persons.

If at least a simple majority (50%+ 1) of property owners voting either in-person or by proxy at the meeting are in favour of increasing the road maintenance fee to \$900, then it will go into effect starting in 2018 for all properties abutting the private roads within the Shag End sub-division. The charges collected will be turned over to SELOA which is responsible for maintaining the private roads.

Completed ballots and proxy forms will be counted at the above meeting, with the results communicated [REDACTED] If you have any questions regarding the process, please contact Barb Wilson at 902-490-4280 or wilsonba@halifax.ca. For other questions, including the maintenance services provided and how the increased fee was determined, please contact the President of the Association, Fred Voegeli, at 902-852-4849.

Please note that the voting procedure outlined above is the only means to vote. Ballots and proxy forms must be submitted at the meeting and cannot be submitted by any other means.

SELOA 2018-19 Proposed Road Maintenance Budget

Revenue

73 lots @ \$900 each	\$65,700
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Expenditures

Road Repair & Maintenance	\$40,900
Snow Clearing and Removal	\$17,250
Road Maintenance Contract Administration	\$3,600
Road Liability Insurance	\$2,000
Road Security Patrol	<u>\$1,950</u>
Total Expenditures:	<u>\$65,700</u>

BALLOT FOR PRIVATE ROAD MAINTENANCE TAX

YES, I am in favour of increasing the fee for private road maintenance from \$600 to \$900 and paying the annual fee on my property tax billing.

NO, I am not in favour of increasing the current fee for private road maintenance.

NOTE: Only one vote per assessment number will be counted. Ballots with written-in, typed-in, or altered assessment numbers will not be accepted.

APPENDIX E

Hello lot owners,

After a number of bad winters and expensive road repairs the Board of Directors has no choice but to increase our annual dues. As you know the annual dues are collected by the Halifax Regional Municipality (HRM) as part of your tax bills. We have not requested an increase since this program started in 2010. Since that time our costs for road maintenance labour and materials have increased significantly and the number of residents using the roads has increased. We are expecting with the budget increase to place more effort on sections of the main road that have repeated potholes each year.

In order to raise the HRM area rate we must have a vote which will be administered by the HRM. It is important that you vote YES to the increase or we will not have enough to maintain the roads and clear the winter snow. Our alternative is to go back to the old system where we bill each lot owner annually for their share of the total expenses. The old system was problematic because (besides the high administrative effort) there were always some people who initially did not pay their bills, resulting in additional legal effort. With the existing tax collection system, everyone pays their fair share.

A meeting will be held for discussion of the details on the same day as our Annual General Meeting Aug 28th, 4:00 pm at Prospect Road Community centre. A representative from HRM will be present at the meeting.

For those of you that cannot attend the meeting you can still E-Mail your proxy to:
shagend@outlook.com

It is important that you respond **before** the meeting, we need your YES vote to continue our work for you in an efficient manner.

IMPORTANT:

- If you attend the meeting, please bring the HRM Ballot document with you – it is the legal document for your personal vote.
- If you intend to vote via Proxy, please scan and send the filled-out and signed document to the email address listed above.

Fred Voegeli, President SELOA

(Deutsche Fassung – ACHTUNG, der rechtsverbindliche Text ist immer die englische Originalversion!)

Liebe Grundstücksbesitzer,

Nach einer Reihe harter Winter und teurer Straßenreparaturen hat Ihr Board of Directors keine andere Wahl als unsere Jahresbeiträge zu erhöhen. Wie Sie wissen, werden die Jahresbeiträge von der Halifax Regional Municipality (HRM) zusammen mit Ihrer Steuerrechnung eingezogen. Wir haben seit der Einführung dieses Programms im Jahr 2010 keine Erhöhung beantragt. Seit damals sind unsere Kosten für die Straßeninstandhaltung (Arbeit und Material) erheblich gestiegen und die Anzahl der Anwohner, die diese Straßen nutzen, hat zugenommen. Mit der Erhöhung des Budgets wollen wir unter anderem einen Schwerpunkt auf die Verbesserung der Straßenabschnitte legen, in denen bisher regelmäßig jedes Jahr Schlaglöcher auftreten.

Um den HRM-Beitrag anheben lassen zu können, benötigen wir eine durch HRM durchgeführte Abstimmung. Es ist wichtig, dass Sie mit YES (Ja) für diese Anpassung stimmen, ansonsten hätten wir nicht genügend Geld zur Straßeninstandhaltung und Schneeräumung. Unsere Alternative wäre die Rückkehr zum alten Verfahren, bei dem wir jedem Grundstücksbesitzer eine eigene jährliche Rechnung für ihren Anteil an den Gesamtausgaben stellen. Das alte Verfahren war (neben dem hohen Aufwand) problematisch, weil es immer einige Personen gab, die zunächst ihre Rechnungen nicht beglichen haben, was einen zusätzlichen Aufwand für den Rechtsweg bedeutete. Mit dem jetzigen Steuereinzugssystem zahlt jeder seinen angemessenen Anteil.

Für die Detaildiskussion wird ein Meeting stattfinden am gleichen Tag wie unsere Jahreshauptversammlung (Annual General Meeting) am 28. August, 16:00 im Prospect Road Community Centre. Ein Vertreter von HRM wird bei dem Treffen anwesend sein.

Diejenigen von Ihnen, die die Versammlung nicht persönlich besuchen können, können Ihre Abstimmungsvollmacht mit Weisung per E-Mail senden an

shagend@outlook.com

Es ist wichtig, dass Sie in diesem Fall **vor** dem Versammlungstermin antworten – wir brauchen Ihr YES, um unsere Arbeit für Sie effizient fortführen zu können.

WICHTIG:

- Wenn Sie die Versammlung besuchen, bringen Sie das HRM Ballot Dokument mit – es ist das rechtsgültige Dokument für Ihre persönliche Stimmabgabe.
- Wenn Sie per Bevollmächtigung abstimmen wollen, scannen Sie das ausgefüllte und unterschriebene Proxy-Formular und senden es an die oben angegebene Email-Adresse.

Fred Voegeli, President SELOA (Shag End Lot Owners Association)