

HALIFAX

P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 14.1.2
Halifax Regional Council
July 17, 2018

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by 

SUBMITTED BY: Jacques Dubé, Chief Administrative Officer

DATE: May 8, 2018

SUBJECT: **Local Improvement Charges 51 Sandy Point Road**

ORIGIN

On April 24, 2018, Regional Council approved the following motion to:

1. direct staff to prepare amendments to By-law A-400, the Streets Improvement By-law to exempt 51 Sandy Point Road from any further charges arising from Schedule Q of the By-law and return to Council for consideration of the resulting amendments; and
2. fund the remaining balance of the Charge for 51 Sandy Point Road arising from Schedule Q of the By-law from the Paving of the HRM owned Subdivision Streets Account CR000002.

LEGISLATIVE AUTHORITY

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

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

(f) laying out, opening, constructing, repairing, improving and maintaining streets, curbs, sidewalks, gutters, bridges, culverts and retaining walls, whether the cost is incurred by the Municipality directly or by, or pursuant to, an agreement with Her Majesty in right of the Province, the Minister of Transportation and Infrastructure Renewal or any person;

By-law S-400, the *Street Improvement By-law*

By-law S-434, an amendment to By-law S-400 Respecting Local Improvement Charges, New Paving Projects Outside Core Area 2010, Joan Elizabeth Way, Mannette Court and Sandy Point Road.

RECOMMENDATION

It is recommended that Halifax Regional Council adopt By-Law S-446, an amendment to By-Law S-400 (Respecting Charges for Street Improvements), to exempt 51 Sandy Point Road from any further charges arising from Schedule Q which relates to Local Improvement Charges for properties fronting or abutting in whole or in part on Joan Elizabeth Way, Mannette Court and Sandy Point Road.

BACKGROUND

Sandy Point Road is located next to Highway 107 and Inspiration Drive, Porters Lake. In 2010, Sandy Point Road, Mannelle Court and Joan Elizabeth Way were paved under the provincial Aid to Municipality Program. Under this program, the Province designs and tenders the paving of gravel roads identified for paving by HRM. The Province and HRM each contribute 50% of total construction costs. HRM recovers its share of the cost by levying Local Improvement Charges (LICs) to the abutting properties pursuant to By-law S-400 Respecting Charges for Street Improvements.

Sandy Point Road, Mannelle Court and Joan Elizabeth Way were gravel roads prior to the asphalt upgrade in 2010. However, there was a paved section on Sandy Point Road that had been previously part of the former highway alignment that abutted civic numbers 37, 41, 45, 49 and a portion of civic 51. Prior to 2010, the total frontage of civic 51 Sandy Point Road was approximately 294 feet with 236 feet being asphalt and the remaining 58 feet gravel. It is noted the Province repaved (at their expense) the former highway alignment that abutted civic numbers 37, 41, 45, 49 and a portion of civic 51 in 2010.

Prior to approving By-law S-434 to implement the LIC for this project, Council decided that four of these properties (civic numbers 37, 41, 45, and 49 Sandy Point Road) had existing pavement along their frontage as noted above and therefore should be excluded from the Charge. The reduction in the number of lots for consideration from 48 to 44 resulted in a shortfall of \$14,821.16 in LIC revenue. Council made the decision to recover this shortfall from the Paving of HRM Owned Subdivision Streets account (refer to Regional Council meeting dated July 10, 2012).

During the Bylaw adoption process, the property owners at civic 51 Sandy Point Road advised they believed the gravel portion in front of their property had been at one time paved and converted to gravel when construction of surrounding residential streets occurred. As a result, they requested that their property be exempt from paying LIC's. HRM staff reviewed this claim with the Province and concluded there was no evidence to support this. The property owners at civic 51 Sandy Point Road were also requesting that their portion of property that had fronted existing asphalt (236 feet) be exempt, similar to the other four properties on Sandy Point Road (civic numbers 37, 41, 45, and 49), and that only the gravel portion in front of their property (58 feet) be considered for an LIC. This was not an option as HRM Regional Council was approving the Bylaw based on a lot charge, and a portion of road in front of civic 51 Sandy Point Road was gravel prior to 2010.

On April 24, 2018, Council directed staff to amend By-Law S-400 to exclude civic 51 Sandy Point Road from any further charges. Council also directed that the resulting shortfall be recovered from the New Paving Streets – HRM Owned Roads Account CR000002. This is consistent with how the funding shortfall was handled for the four properties excluded from S-434 in January 2012.

Staff have now prepared the amendments to By-Law S-400 for Council's consideration.

DISCUSSION

The table below indicates the future payments of principal for civic 51 Sandy Point Road under Schedule Q of By-Law S-400. As per Council's direction, the proposed amending By-Law S-446 attached to this report would eliminate these future charges which total \$1,482.08. This amount will instead be funded from the New Paving Streets – HRM Owned Roads Account CR180006 (formerly CR000002).

Due Date	Principal Due
November 28, 2018	\$ 370.52
November 28, 2019	\$ 370.52
November 28, 2020	\$ 370.52
November 28, 2021	\$ 370.52
Total:	\$ 1,482.08

Currently, there are 3 payments of principal in arrears for this property totaling \$1,111.56 (3 X \$370.52). These payments were due November 18, 2015, 2016 and 2017 respectfully. As of May 7, 2018, there was also \$442.78 in interest charges for a total of \$1,554.34 past due. This amount will continue to accrue interest until paid in full by the property owner.

FINANCIAL IMPLICATIONS

As per Council's direction, the funding required to cover the \$1,482.08 in local improvement charges eliminated under proposed amending By-law S-446 will be provided from the New Paving Streets – HRM Owned Roads Account CR180006 (formerly CR000002).

Budget Summary: CR180006 – New Paving Streets – HRM Owned Roads

Cumulative Unspent Budget:	\$1,035,000
Less: Funding required for Proposed By-Law S-446:	<u>\$ 1,482</u>
Balance:	\$1,033,518

2018-19 HRM Funding	\$ 0
2018-19 LIC Funding	\$ 345,000
Carry Forward from Previous years	<u>\$ 690,000</u>
Unspent budget	\$1,035,000

RISK CONSIDERATION

There are no significant risks associated with the recommendation in this report. The risks considered rate is low.

COMMUNITY ENGAGEMENT

In accordance with Administrative Order 32, the *By-law Development Administrative Order*, a public hearing is not required unless Council directs otherwise.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

ALTERNATIVE

Council could refuse to adopt By-law S-446. If this option is selected, the future charges respecting the property located at 51 Sandy Point Road will continue to apply to the property until the property owners pay the full amount of \$1,482.08.

ATTACHMENTS

Attachment 1 Showing Proposed Changes to Schedule Q of the *Street Improvement By-law*

Attachment 2 By-law S-446, amending the *Street Improvements By-law*

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: Gordon Roussel, Senior Financial Consultant, Finance & Asset Management
902.476.0118

**ATTACHMENT 1
(Showing Proposed Changes)**

SCHEDULE Q

1. The Local Improvement Charges for properties fronting or abutting in whole or in part on Joan Elizabeth Way, Mannette Court and Sandy Point Road, identified on "Plan No. 1", dated October 5, 2011, attached hereto, shall be assessed as a per lot charge, calculated on the basis of \$34.07 per foot times the recoverable frontages on those streets divided by the number of properties subject to the assessment.
2. The Local Improvement Charge shall be assessed to each of the 44 properties at a uniform lot charge of \$3,705.29.
3. The Local Improvement Charges imposed under this Schedule may be paid over a 10 – year period with interest. Notwithstanding Section 4 of By-Law Number S-400, the unpaid balance is subject to an interest rate based on the maximum of the prime rate as set by the Royal Bank of Canada plus 2% at time of notification.
4. **Notwithstanding subsections 1 and 2, upon the coming in force of this section the property located at 51 Sandy Point Road shall be exempt from the remainder of the charge under this Schedule.**

HALIFAX REGIONAL MUNICIPALITY
BY-LAW NUMBER S-446
RESPECTING CHARGES FOR STREET IMPROVEMENTS

BE IT ENACTED by the Council of the Halifax Regional Municipality that By-Law Number S-400, the *Street Improvement By-law*, is hereby further amended as follows:

1. Schedule Q is amended by adding section 4 after section 3 and before Schedule R as follows:
 4. Notwithstanding subsections 1 and 2, upon the coming in force of this section the property located at 51 Sandy Point Road shall be exempt from the remainder of the charge under this Schedule.

Done and passed by Council this day of 2018.

MAYOR

MUNICIPAL CLERK