

HALIFAX

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Item No. 15.1.3
Halifax Regional Council
March 26, 2019

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: December 12, 2018

SUBJECT: Road Maintenance Fee for BV Homeowners Society

ORIGIN

On July 24, 2018, staff received a petition from the owners of property abutting Bayview Drive, requesting HRM collect an annual private road maintenance fee via their property tax billings.

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.

2018-003-ADM Administrative Order – Respecting Private Road Maintenance

RECOMMENDATION

It is recommended that Halifax Regional Council

1. Approve an annual uniform charge of no more than \$600.00 per property, to be applied against properties abutting Bayview Drive, Head of St. Margaret's Bay as depicted in the map shown in Attachment A of this report, effective with the 2019-20 fiscal year for funding the road maintenance activities of the BV Homeowners Society.

2. Approve amending Administrative Order 2018-003-ADM, Respecting Private Road Maintenance, by adding Schedule 17, respecting a Uniform Charge for the BV Homeowners Society, attached hereto as Attachment C.
3. Subject to the approval of Schedule 17 of Administrative Order 2018-003-ADM, authorize the Mayor and Clerk to sign on behalf of HRM, an Agreement between HRM and the Association in the form approved by Regional Council on February 11, 2014.

BACKGROUND

Bayview Drive is located off Mason's Point Road in the Head of St. Margaret's Bay in District 13. The BV Homeowners Society (BVHS) funds road maintenance expenses through an annual fee collected from the owners of 12 properties abutting the roads. BVHS owns the private road of Bayview Drive. In the past, the Association has had some difficulty collecting the fee from some of the property owners. As a result, the Association applied to HRM through the Administrative Order – Respecting Private Road Maintenance for a uniform charge to ensure timely collection from all property owners.

DISCUSSION

The Administrative Order 2018-003-ADM outlines the conditions which must be satisfied before an area rate or uniform charge for private road maintenance can be implemented. Those conditions and the manner in which they were satisfied with respect to BV Homeowners Society are outlined below.

1. *Upon application by a person, the Municipality may consider the establishment of a rate under this Administrative Order. The presented petition shall be signed by property owners comprising at least two-thirds (66.7%) of the properties located within the proposed area that would be subject to the rate.*

On July 24, 2018, staff received a petition from the owners of property abutting the private roads, of Bayview Drive, requesting HRM collect their annual road maintenance dues via their property tax billings. Staff reviewed the petition and determined that the signatories represented at least two-thirds of the properties which would be charged the fee under the Administrative Order.

2. *Notice of the meeting shall also be made not less than fourteen (14) days prior to the date of the meeting, and mailing a notice to the tax assessment addresses of all the property owners located within the proposed area that would be subject to the rate, and the notice shall contain the information required by subsection 15(2)
....the date, time and place of the meeting, the name or names of the applicant, a description of the area that would be subject to the proposed rate, a description of the nature of the road maintenance proposed, a description of the type of rate proposed, a description of the road maintenance plan and budget, a proposed rate amount, that the property owners are entitled to vote on the establishment of the rate, the date of the vote, including only ballots received within 7 days of the meeting will be counted, and the method of voting, including that a proxy may vote on a property owner's behalf at the public meeting.*

The meeting notice and ballot mailed out to all affected property owners is included as Attachment D to this report. The meeting notice was developed by staff and included all the information required above as per the Administrative Order – Respecting Private Road Maintenance. Self-addressed return envelopes were included in the mail-out, plus a fax number and email address was also provided.

3. *The Public meeting shall be conducted by the applicant under the supervision of staff of the municipality. At the public meeting, the applicant shall make a presentation setting out the amount*

of the proposed rate and the proposed uses of the funds arising from that rate.

A meeting of the affected property owners was held on Saturday November 24, 2018 at St. Luke's United Church, 5374 St. Margaret's Bay Road, Upper Tantallon. The HRM staff coordinator was present at the meeting to supervise the proceedings and to answer any questions with respect to the Administrative Order – Respecting Private Road Maintenance. The President of the Association explained the amount and use of the uniform charge after which attendees had an opportunity to ask questions.

- 4. For a vote to be successful, owners representing at least two-thirds (66.7%) of the assessed properties that are located within the proposed area that would be subject to the rate must have voted in favour of the rate.*

The owners of 10 of the 12 properties (83.3%) subject to the rate, voted in favour of establishing an annual uniform charge of no more than \$600.00 each to fund the road maintenance activities of the BV Homeowners Society.

- 5. The request for the establishment of a rate shall include the following information – the area where the proposed rate would apply, and whether the proposed rate is an area rate or uniform charge, and if a uniform charge is proposed, the request shall indicate whether the proposed uniform charge will apply to each taxable property assessment or each swelling unit in the area.*

There are a total of 16 assessed properties within the catchment area of Bayview Drive, under the ownership of 11 individuals or families. The Society only charges one fee per family, unless they own multiple homes, in which case each property with a home would be charged. One family falls under this caveat, of owning two homes, and is therefore charged for each assessed property. Therefore, the area flat rate (uniform charge) would be applied to 12 properties abutting the private roads of the Bayview Drive, as depicted in the map shown in Attachment A of this report.

- 6. The request for the establishment of a rate shall include the following information – a detailed proposed maintenance budget to support the proposed rate.*

The budget in support of the proposed area flat rate (uniform charge) is included in Attachment D on page 8 of this report. Staff have reviewed the budget and determined that it is sufficient to justify the amount of the area flat rate.

- 7. If Council establishes a rate, the applicant shall incorporate a Property Owner's Association in the form of a society under the Societies Act.*

Staff has verified with the Registry of Joint Stock Companies that the BV Homeowners Society, Registry ID 3287777, is currently in good standing (i.e. not lapsed).

- 8. A one-time administration fee of \$200 is set by the By-law, and shall form part of the maintenance funding for the first year the rate is levied.*

The administration fee will be collected if Council approves the implementation of the uniform charge.

FINANCIAL IMPLICATIONS

If approved, the uniform charge would take effect in the 2019-20 fiscal year. As all funding is from the uniform charge (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 uniform charge of \$600.00 per property is based on an operating budget of \$7,200, divided by the number of properties in the catchment area, which is 12. Details of the budget are provided in Attachment C of this report.

RISK CONSIDERATION

HRM's role with respect to the Administrative Order – Respecting Private Road Maintenance is outlined in detail in the service agreement between HRM and the private road maintenance association, and in the meeting notices mailed out to all affected property owners. The agreement specifies that HRM's role is restricted only to collecting the road maintenance fees on property tax bills and turning those funds over to the private road maintenance association. HRM does not have any responsibility to monitor or oversee how the Association spends the funds, nor does HRM provide any other services such as maintenance, engineering, technical or legal services or advice, and takes no responsibility for private roads or their condition. In this way, liability risk to HRM is minimized. Since the road maintenance fees are collected on property tax bills, HRM may impose a lien on properties for which the fees are past due. Therefore, bad debt risk is minimized.

COMMUNITY ENGAGEMENT

The Community Engagement process is outlined in detail in the Discussion section of this report. All property owners were mailed or emailed a formal ballot which included information regarding the purpose and amount of the uniform charge, and the date, time and location of a public information meeting. The purpose of the meeting was to provide additional information and address questions and concerns raised by property owners.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications resulting from the recommendations in this report.

ALTERNATIVES

Council could deny approval of the uniform charge. This alternative is not recommended because owners of more than 66.7% of the affected properties voted in favour of paying the uniform charge which is the minimum required under the Administrative Order – Respecting Private Road Maintenance.

ATTACHMENTS

- Attachment A: Map of Catchment Area for Proposed Uniform charge
- Attachment B: Draft of Administrative Order 2018-003-ADM Schedule 17
- Attachment C: Amending Administrative Order
- Attachment D: Meeting Notice and Ballot mailed to Property Owners, including proposed budget

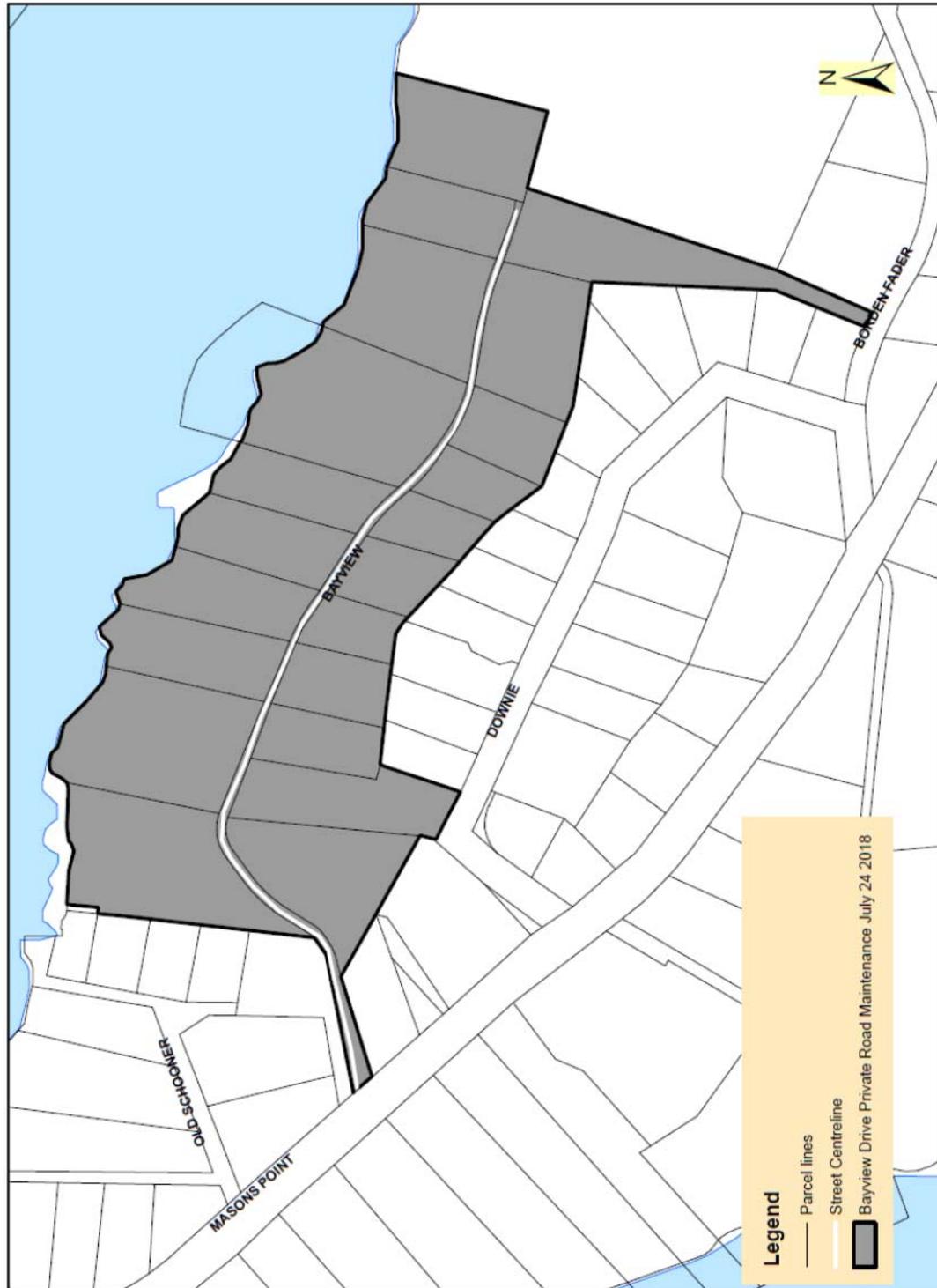
A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Barb Wilson, Senior Financial Consultant 902 490.4280

Attachment A

Map of Catchment Area for BV Homeowners Society

BAYVIEW DRIVE PRIVATE ROAD MAINTENANCE



Attachment B

Halifax Regional Municipality
ADMINISTRATIVE ORDER NUMBER 2018-003-ADM
Respecting Private Road Maintenance

1. Area Rates or Uniform Charges are hereby imposed in those areas described in the attached Schedules as is more particularly set out in the Schedules.

Schedule 17

- (a) A Uniform Charge for properties fronting or abutting in whole or in part on the private road Bayview Drive located in the community of Head of St. Margaret's Bay as identified on the map dated July 24, 2018 attached hereto, shall be a uniform charge of no more than \$600.00 annually.
- (b) The Charges collected under this Schedule shall be used by the BV Homeowners Society for the maintenance of the private road of Bayview Drive 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.

Attachment D

BALLOT FOR PRIVATE ROAD MAINTENANCE TAX

October 18, 2018

OWNER1
OWNER2
ADDRESS
CITYPROV PC

Property ID # AAN#
PROPERTY DESCRIPTION

Dear Property Owner:

The Halifax Regional Municipality has been petitioned by the owners of property abutting the private road on which you own the above referenced property. The petition concerns the possible implementation of an area property tax rate to fund the maintenance of the private road of Bayview Drive. Since those signing the petition represent at least 66.7% of the properties along this private road, a formal vote of all property owners must be held in accordance with the Municipality's Private Road Maintenance Costs Recovery Policy.

A ballot is provided at the bottom of this page. The purpose of this ballot is to determine whether at least 66.7% of the 12 owners who use the road, with property abutting Bayview Drive wish to implement a property charge of \$600 annually to maintain their road. There will be one uniform charge per family, unless they own multiple homes, then one charge/vote per home. If the 66.7% minimum is attained, then all property owners balloted would be required to pay the charge starting in 2019. The charges collected would be turned over to the BV Homeowners Society which is responsible for maintaining the private roads.

Following Regional Council approval of the new property charge, a service agreement must be executed between HRM and the BV Homeowners Society. On the reverse side of this letter is a summary of the responsibilities of both parties under the service agreement. This letter also includes a budget which outlines how the total estimated cost of services was determined and how the annual per property charges were calculated.

As required by the Private Road Maintenance Costs Recovery Policy, a meeting of the owners of property abutting the private roads will be held to provide additional information and to give property owners an opportunity to ask questions or raise concerns. The meeting will be held:

Saturday November 24, 2018 @ 10am
in the Upper Hall of St. Luke's United Church
5374 St Margaret's Bay Rd, Upper Tantallon

Completed ballots may be dropped off at the meeting, faxed to 490-6030, or mailed in the enclosed self-addressed envelope. You may also scan and email the completed ballot to wilsonba@halifax.ca. If you have any questions regarding the process, please contact Barb Wilson at 490-4280. For questions regarding road maintenance services, please contact Peter Scott at 902- xxx-xxxx or Kevin Bezanson at 902-xxx-xxxx.

Please note that all ballots must be received by Dec 03, 2018. If you are mailing in your ballot, please allow adequate time for delivery. Results of the ballot will be communicated by the BV Homeowners Society.

- YES**, I am in favour of implementing the area rate for private road maintenance and paying an annual area rate of \$600 on my property tax bill.
- NO**, I am not in favour of implementing the area rate for private road maintenance.

Property ID # AAN#

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

BV Homeowners Society		
2019 Road Maintenance Budget		
Revenue		
Membership Service Fees - Annual Fees (\$600 x 12)		\$ 7,200
Maintenance		
Maintenance of Road Surface	5,000	
Snow Removal (road only, not including private driveways)	900	
Total Maintenance		\$ 5,900
Contingency		
Reserve		\$ 300
Operating Expenses		
Administration Fees (book keeping, bank fees, registered agent fees etc.)	368	
Insurance (liability and director's insurance)	400	
HRM Administration Charge	200	
Registry of Joint Stock Companies Fee, Annual property tax for the road	32	
Total Operating Expenses		\$ 1,000
Total Expenses		\$ 7,200

The Responsibilities of the Municipality under the Service Agreement:

- HRM's responsibilities are restricted only to collecting the road maintenance fees on property tax bills and then turning those funds over to the Association.
- HRM does not have any responsibility to monitor or oversee how the Association spends the funds.
- HRM also does not provide any other services such as maintenance, engineering, technical or legal services or advice, and takes no responsibility for private roads or their condition.
- Therefore, HRM provides a fee collection service for the Association and nothing more. However, HRM does review the budget and year-end financial statements provided each year by the Association to ensure that the funds are spent in accordance with the purpose of the Area Rate.

The Responsibilities of the Association under the Service Agreement:

- The Association is required to provide to HRM each year a budget that has been approved at the Association's Annual General Meeting (AGM). It must include the amounts to be spent on each type of road maintenance work and the costs for administration, insurance, etc.
- At the end of the year, the Association is to provide HRM with a copy of its financial statements for the year, also approved by the membership at the AGM. These financial statements must detail all expenditures made from the Area Rate funds.
- Maintenance of the road(s) and proper expenditure of the area rate funds is entirely under the control and direction of the Association.
- The area rate funds must be kept separate from other funds.
- While the Association is expected to seek competitive prices before hiring a third party to undertake Road Maintenance, HRM does not monitor compliance.
- Liability insurance is also the responsibility of the Association.
- The Association must maintain an active status with the Registry of Joint Stock Companies at all times.
- All property owners who are required to pay the Area Rate are members of the Association and are entitled to all rights and privileges as outlined in the Association By-Laws including the right to attend and vote at all general and special meetings of the Association.