

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by



SUBMITTED BY:

Jacques Dubé, Chief Administrative Officer

DATE: January 24, 2019

SUBJECT: Road Maintenance Fee for St. Margaret's Bay Heights Subdivision Resident's Association

ORIGIN

On June 23, 2015, Regional Council approved private road maintenance fees of \$240 to be collected on the tax billings of all properties abutting the private roads within the St. Margaret's Bay Heights sub-division in the community of Head of St. Margaret's Bay in District 13.

On August 17, 2018, staff received notification from St. Margaret's Bay Heights Subdivision Resident's Association that it wishes to increase the private road maintenance fee from \$240 to \$280 for all properties abutting the private roads within the St. Margaret's Bay Heights sub-division in the community of Head of St. Margaret's 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.

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

RECOMMENDATION ON PAGE 2

RECOMMENDATION

It is recommended that Halifax Regional Council adopt the amendments Schedule 13 of Administrative Order 2018-003-ADM, Respecting Private Road Maintenance, as set out in Attachment A of this report, to replace the uniform charge of no more than \$240.00 annually, with a uniform charge of no more than \$280.00 annually for the subject properties located within the St. Margaret's Bay Heights sub-division.

BACKGROUND

On January 16, 2007, Regional Council approved the Private Road Maintenance Costs Recovery Policy. The purpose of this Policy was 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 June 23, 2015, Regional Council approved (via Administrative Order 45, Schedule 13) the implementation of private road maintenance fees of \$240 to be collected on the tax billings of all properties abutting the private roads within the St. Margaret's Bay Heights Subdivision in the community of Head of St. Margaret's Bay.

On October 30, 2018, Regional Council approved adoption of Administrative Order 2018-003-ADM – Respecting Private Road Maintenance which repealed and replaced the 2007 Private Road Maintenance Costs Recovery Policy and Administrative Order 45, including the Schedules Thereto which retained the same numbering.

Regional Council approved amendment to the Administrative Order, (October 30, 2018) after the St. Margaret's Bay Heights Subdivision Residents Association held their vote (October 3, 2018). The review and approval processes contemplated under the new Administrative Order are, however, substantially similar to the processes contemplated under the previous Policy and Administrative Order. St. Margaret's Bay Heights sub-division in the community of Head of St. Margaret's Bay in District 13. All the private roads in this sub-division are owned by St. Margaret's Bay Heights Residents Association and maintained by the St. Margaret's Bay Heights Subdivision Residents Association (SMBHRA). The association funds road maintenance expenses through an annual fee collected from the owners of each of the 43 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 August 17, 2018, staff received notification from St. Margaret's Bay Heights Subdivision Resident's Association that it wished to increase the private road maintenance fee from \$240 to \$280 for all properties abutting the private roads within the St. Margaret's Bay Heights sub-division in the community of Head of St. Margaret's Bay.

The Administrative Order outlines under Meeting of the Association – Section 31 (3-4), 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 rate requires majority approval at the annual general meeting, or at a special meeting of the Association that is called to determine the level of support for the rate increase.*
2. *Notice of the special meeting or of the general meeting where a proposed rate increase will be considered shall comply with the public meeting notice requirements set out in section 15.*

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 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 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 \$240 to \$280 starting in 2019-20. There was one vote per property, with a ballot to be submitted to staff at the meeting, or via email, fax or mail by October 3, 2018.

The special meeting of the affected property owners was held in combination with the Association's AGM on Wednesday, October 3, 2018 at 7:00 p.m. at the Tantallon Library, 3646 Hammonds Plains Rd, Upper Tantallon. 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 96.3% of those in attendance or voting by proxy were in favour of the amended fees and increased budget. The vote count was 26 in favour and 1 opposed.

FINANCIAL IMPLICATIONS

The revised uniform charges would take effect in the 2019-20 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 \$1,720 in funding annually as a result of these changes, for a total of \$12,040. 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 October 3, 2018 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 13 of Administrative Order – Respecting Private Road Maintenance. This is not recommended because a majority of the property owners, who voted, voted in favour of the changes.

ATTACHMENTS

Appendix A: Proposed Changes to Schedule 13 of Administrative Order 2018-003-ADM

Appendix B: Amended Schedule 13 of Administrative Order 2018-003-ADM

Appendix C: Map – SMBHSRA catchment area

Appendix D: Notification Letter and Ballot

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 2018-003-ADM)**

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

BE IT ENACTED by the Council of the Halifax Regional Municipality that Administrative Order 2018-003-ADM, Respecting Private Road Maintenance, is further amended as follows:

1. In section 1 of Schedule 13, strike out "\$240.00" after the statement, "shall be a Uniform Charge of no more than", and before the word "annually"; and replace it with "\$280.00";

Done and passed this day of _____, 20 .

Mayor

Municipal Clerk

**Appendix B
(Incorporating proposed changes)**

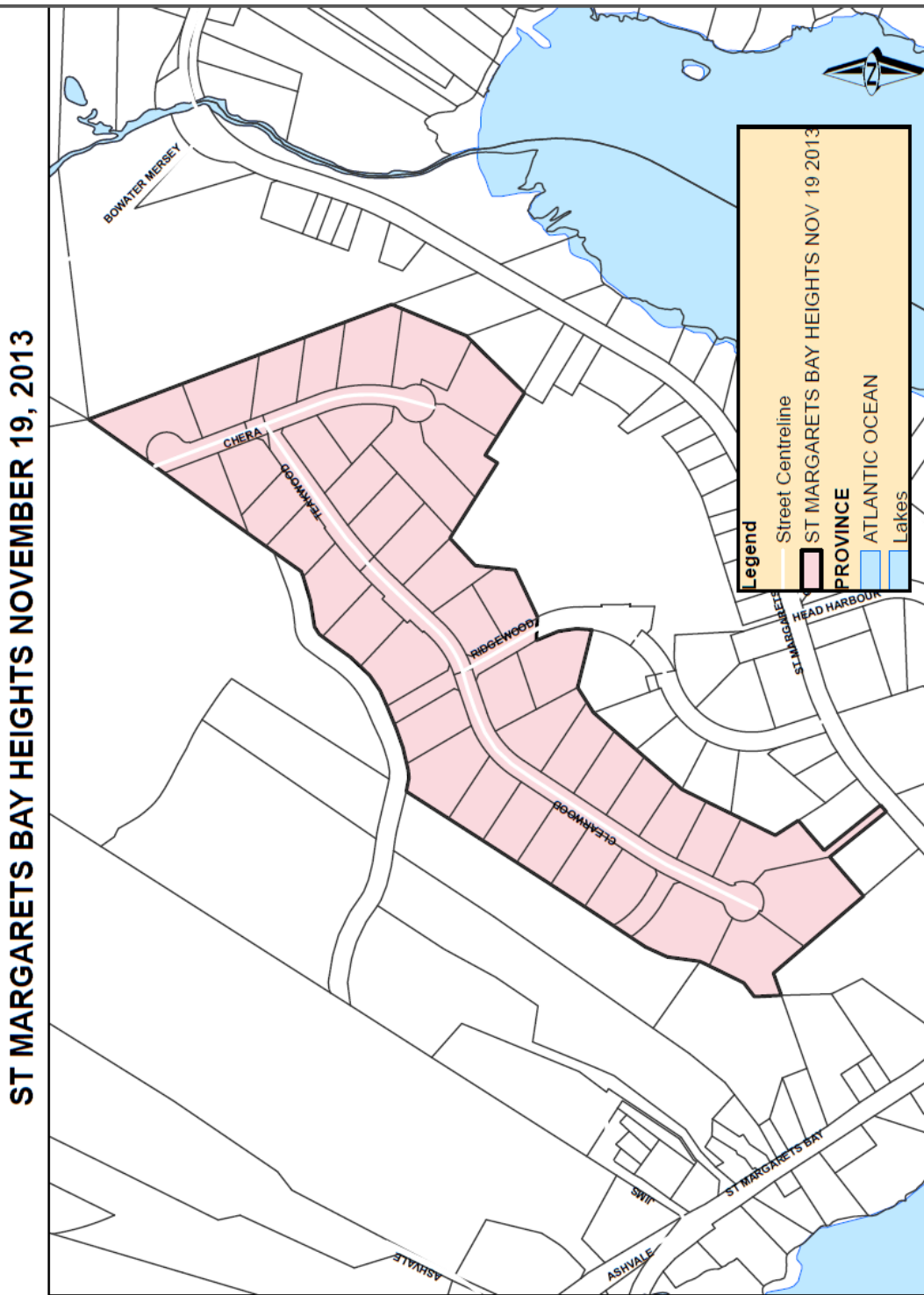
**Halifax Regional Municipality
ADMINISTRATIVE ORDER NUMBER 2018-003-ADM
Respecting Private Road Maintenance**

Schedule 3

1. A Uniform Charge for properties fronting or abutting in whole or in part on any of the private roads located in the St. Margaret's Bay Heights sub-division in the community of Head of St. Margaret's Bay, as identified on the map dated November 19, 2013 attached hereto, shall be a Uniform Charge of no more than \$280.00 annually.
2. The Charges collected under this Schedule be used by the St. Margaret's Bay Heights Subdivision Resident's Association for the maintenance of the private roads located in the St. Margaret's Bay Heights 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

Catchment Area



APPENDIX D

BALLOT FOR PRIVATE ROAD MAINTENANCE TAX

10 September 2018

OWNER1
OWNER2
MAILINGADDRESS
CITYPROV PC COUNTRY

Assessment # AAN#
LEGAL DESCRIPTION

Dear Property Owner:

The Halifax Regional Municipality (HRM) has been notified by the St. Margaret's Bay Heights Resident's Association (SMBHRA) 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 St. Margaret's Bay Heights subdivision in the community of Head of Saint Margaret's Bay.

The Association is proposing to increase the per property charge by \$40 annually from \$240 to \$280. On the reverse side of this letter is a budget from which the proposed annual per property charge was determined. This proposed rate increase was tentatively voted on at the last SMBHRA AGM held on October 4, 2017 to cover the increased costs of road maintenance.

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:

Wednesday October 3, 2018 @ 7:00 p.m.
Tantallon Library
3646 Hammonds Plains Rd, Upper Tantallon

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 \$280, then it will go into effect starting in 2019 for all properties abutting the private roads within the St. Margaret's Bay Heights subdivision. The charges collected will be turned over to SMBHRA which is responsible for maintaining the private roads.

Completed ballots and proxy forms will be counted at the above meeting, with the results communicated at the meeting. 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 Executive of the Association, Chris Milligan, at 902-xxx-xxx, Paula Calnen at 902-xxx-xxxx, Jessica Ledoit at 902-xxx-xxxx or Joanne Gerrish at xx@gmail.com.

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.

SMBH 2019-20 Proposed Road Maintenance Budget

2019-20 Budget	Planned
Snow & Ice Control	\$ 6,405.00
Road Maintenance	\$ 3,490.50
Directors Insurance	\$ 716.98
Legal Costs	\$ 500.00
Misc. Expenses	\$ 300.00
NS Registry of Joint Stocks	\$ 31.15
Property Tax (Roads & Reserve Roads)	\$ 4.42
Liability Insurance	\$ 589.40
Contingency	\$ 2.56
Total Expenses	\$ 12,040.00
Total Revenue (\$280 x 43)	\$ 12,040.00
Net Income	\$ 0.00

BALLOT FOR PRIVATE ROAD MAINTENANCE TAX

YES, I am in favour of increasing the fee for private road maintenance from \$240 to \$280 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.

Assessment # 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.