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**Item No. 15.1.4**  
**Halifax Regional Council**  
**June 4, 2024**

**TO:** Mayor Savage and Members of Halifax Regional Council

**SUBMITTED BY:** Original Signed

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Cathie O'Toole, Chief Administrative Officer

**DATE:** May 27, 2024

**SUBJECT:** **Port Wallace Utility Corridor - Cost Sharing Agreement**

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**ORIGIN**

On March 4, 2014 Halifax Regional Council approved the public participation program for the Master Infrastructure Plan Study and Secondary Planning Strategy for Port Wallace; and, adopted the Port Wallace Secondary Plan Area Boundaries.

On March 24, 2022, the Minister of Municipal Affairs and Housing for the Province of Nova Scotia under Section 15 of Chapter 21 of the Acts of 2021, the Housing in the Halifax Regional Municipality Act designated the Lands as a Special Planning Area for the purpose of accelerating housing developments in the Municipality;

On January 31, 2023, the Minister of Municipal Affairs and Housing for the Province of Nova Scotia approved a request to enter into a development agreement, referenced as Municipal Case Number 22384

**LEGISLATIVE AUTHORITY**

The *Halifax Regional Municipality Charter*, S.N.S. 2008, c. 39, s. 35(2)(d)(i) provides:

35 (2) The Chief Administrative Officer may

(d) subject to policies adopted by the Council,

(i) make or authorize expenditures, and enter into contracts on behalf of the Municipality, for anything required for the Municipality where the amount of the expenditure is budgeted or within the amount determined by the Council by policy, and may delegate this authority to employees of the Municipality,

**RECOMMENDATION ON PAGE 3**

The *Halifax Regional Municipality Charter*, S.N.S. 2008, c. 39, s. 284, 285 and 286 provide:

284 (1) A municipal planning strategy may authorize the inclusion of provisions for infrastructure charges in a subdivision by-law.

(2) Infrastructure charges for

- (a) new or expanded water systems;
- (b) new or expanded wastewater facilities;
- (c) new or expanded stormwater systems;
- (d) new or expanded streets;
- (e) new or expanded solid-waste management facilities;
- (f) new traffic signs and signals and new or expanded transit facilities;
- (g) new or expanded parks, playgrounds, trails, bicycle paths, swimming pools, ice arenas, recreation centres and other recreational facilities;
- (h) new or expanded fire departments and other fire facilities;
- (i) new or expanded public libraries and other library facilities,

may be imposed in a subdivision by-law to recover all, or part, of the capital costs incurred, or anticipated to be incurred, by the Municipality by reason of the subdivision and future development of land and infrastructure charges for land, planning, studies, engineering, surveying and legal costs incurred with respect to any of them.

(3) The subdivision by-law must set out the infrastructure charge areas in which infrastructure charges are to be levied, the purposes for which infrastructure charges are to be levied and the amount of, or method of calculating, each infrastructure charge.

(4) Infrastructure charges may be set at different levels related to the proposed land use, zoning, lot size and number of lots in a subdivision and the anticipated servicing requirements for the infrastructure charge area.

(5) Infrastructure charges may not be imposed if an infrastructure charge has been paid with respect to the area of land, unless further subdivision of the land will impose additional costs on the Municipality.

(6) An infrastructure charge may only be used for the purpose for which it is collected.

(7) Final approval of a subdivision may not be granted unless the infrastructure charges are paid or the applicant has entered into an agreement with the Municipality securing the payment of the infrastructure charges.

(8) Infrastructure charges are a first lien on the land being subdivided and may be collected in the same manner as taxes.

(9) A by-law in effect on the date this Act comes into force that provides for a trunk sewer tax imposed on each lot in a new or existing subdivision is deemed to be a by-law made pursuant to this Section.

(10) Notwithstanding the Public Utilities Act and for greater certainty, any by-law made pursuant to this Section and any charge set, levied or imposed pursuant to this Section do not require the approval of the Board.

285 (1) An applicant and the Municipality may enter into an infrastructure charges agreement that may

- (a) provide for the payment of infrastructure charges in instalments;
- (b) permit the applicant to provide certain services or extended services in lieu of

- the payment of all, or part, of the charge;
- (c) provide for security to ensure that the infrastructure charges are paid when due;
- (d) provide for any other matter necessary or desirable to effect the agreement.

(2) A subdivision by-law may prescribe the circumstances in which an infrastructure charges agreement may be entered into and the general terms that such an agreement shall contain.

286 An infrastructure charges agreement

- (a) is binding on the land that is subdivided;
- (b) must be registered in the registry or, in the case of land registered pursuant to the Land Registration Act, must be recorded in the land registration office in the register of each parcel created or altered by the subdivision, and shall be indexed as a conveyance to and from the owner of the land that is subdivided; and
- (c) is binding on each individual lot in a subdivision, to the extent specified in the agreement.

*Housing in the Halifax Regional Municipality Act, S.N.S. 2021, c. 21*

### **RECOMMENDATION**

It is recommended that Halifax Regional Council:

1. Direct the Chief Administrative Officer to negotiate, finalize and execute a cost sharing agreement with Halifax Water, containing the key terms and conditions in Attachment A

### **BACKGROUND**

*Port Wallace Master Plan:*

The Regional Municipal Planning Strategy (Regional Plan) identifies the Port Wallace community as an area for new urban (serviced with water and sewer) growth. On March 25, 2022, the Minister of Municipal Affairs and Housing for the Province of Nova Scotia, on the recommendation of the Executive Panel on Housing, identified a number of areas within the municipality to become “Special Planning Areas” to address housing availability in the Region, including the Port Wallace area.

The Port Wallace Secondary Planning Strategy (PWSPS) was approved by the Minister of Municipal Affairs and Housing pursuant to the *Housing in the Halifax Regional Municipality Act*. The PWSPS enables the development of a new mixed-use community following a process that involved extensive public engagement and detailed study, including the Shubenacadie Lakes Subwatershed Study (AECOM: April 2013), Land Suitability Analysis (WSP: February 2016), and the Port Wallace Master Plan Infrastructure Study (CBCL: January 2018). The PWSPS’s development was informed by multiple public engagement initiatives and guided by a public participation committee.

The PWSPS and by-law amendments for Port Wallace require a Capital Cost Contribution to be adopted by Regional Council vis-à-vis an amendment to the Regional Subdivision By-law.

The PWSPS establishes a land use policy framework that is intended to support the development of a complete community consisting of primarily residential land uses with supporting commercial and institutional uses. The PWSPS also protects sensitive environmental features, supports transit use, and ensures new development is integrated with the established surrounding community. Upon completion, the PWSPS Area is planned to contain up to 4,900 residential units, which represents a population of approximately 11,000 people.

*The Capital Cost Contribution (CCC) Policy:*

Regional Council approved the CCC Policy in July 2002, to replace existing cost sharing policies funded from the general tax rate. In 2006, the Regional Plan recognized the CCC policy as a tool to fairly allocate infrastructure costs of planned developments between developers and the HRM. The CCC Policy strives to take advantage of areas that have remaining capacity, and upgrades or expansions to these service systems often have a shared benefit between existing residents and a new development.

The Port Wallace Master Plan Infrastructure Study (CBCL, January 2018) was commissioned to evaluate the cost of providing municipal services to the Port Wallace Master Plan area. The study reviewed available background information which incorporated predesign baseline reports, various stakeholder development plans, reports, and preliminary servicing system designs.

The infrastructure baseline study addresses land-use and infrastructure components. Identifying opportunities and constraints relating to capacity allocations, development sequence, and conflicts between systems. The study completed a detailed analysis of the water, wastewater, storm, and transportation systems. A CCC program is needed to fund new and oversized infrastructure such as collector roads, transit facilities, cycling/multi-use paths and interchanges needed for master plan areas.

A CCC program is developed in close collaboration with stakeholders to answer three fundamental questions:

1. What is needed? What infrastructure is required to service the masterplan;
2. When is it needed? Provide the right infrastructure at the right time; and,
3. Who pays? What are the developer and municipal shares for the identified infrastructure;

The Infrastructure Master Plan also investigates synergies and integration opportunities between the developer, HRM and other utilities.

In addition to a mobility CCC adopted by HRM, Halifax Regional Water Commission (HW) is developing a CCC in respect of water and wastewater related assets, which extends water and wastewater from Dartmouth Crossing/Burnside to Port Wallace. Additionally, Eastward Energy is planning to install a gas main in the same utility corridor. Building on this co-location of utilities, the transportation master plan proposes a multi-modal path (MUP) constructed in the same corridor.

**This report deals with funding the MUP in advance of the formal adoption of a CCC for Port Wallace.**

**DISCUSSION**

The Port Wallace Master Plan Infrastructure Study identified major development constraints. One is related to capacity in the wastewater collection system while others are related to Highway 107 (100-Series Provincial Highway). These constraints are explained below:

Only 336 residential units can be connected to the existing wastewater system, before a connection to the North Dartmouth Trunk Sewer is made. This represents Phase 1 of the development and involve a mix of both ground based and multi-unit construction.

After Phase 1, another 882 units (Phase 2) can be accommodated before the twinning of Highway 107 is identified in the 5-year capital plan by the Province of Nova Scotia. The twinning project was announced as part of the 2024 - 2025 Five Year Highway Improvement Plan.

Beyond Phase 2, a maximum of 3,190 dwelling units can be accommodated until a second access to Highway 107 is provided. The development agreement limits the development to 2,081 units prior to the new access being identified. Once it has been identified, a maximum number of 3,190 is then allowed to

be developed within the medium to high density zones. The project has not been identified as of the time of writing this report.

**Key to this discussion is that after the utility corridor project is completed by Halifax Water, 1,182 units will be permitted in Phase 1 & 2.**

Port Wallace is a unique special planning area as it's been approved prior to finalizing the CCC program. On June 16, 2022, the Nova Scotia Minister of Municipal Affairs and Housing approved amendments to the Regional Plan, the Dartmouth Land Use By-law, and a development agreement allowing for early tree removal, blasting and earthworks within the first proposed phase of the Port Wallace development.

The subsequent development agreement approved by the Minister on January 31, 2023 allows for subdivision and development to occur, requires CCCs to be paid in accordance with the provisions of the Regional Subdivision By-law, or in advance of a CCC being established in the Regional Subdivision By-law, interim CCCs are to be paid in the amount determined by the Development Engineer or a Security in a form acceptable to the Development Engineer in lieu of payment. Pursuant to this provision, an interim rate (Attachment B) of \$24,550 per acre was established for Phase 1 (51.13 acres).

In broad terms, the Port Wallace transportation CCC program can be categorized into three major project components (Attachment C):

1. Intersection improvements including turning lanes and traffic signals;
2. Multimodal transportation including multi-use pathways (MUPs) and transit capital costs; and,
3. Provincial infrastructure improvements along Highway 107.

This is the first CCC that recovers costs in respect of Active Transportation and Transit assets. Staff have been working diligently to finalize the CCC program, however, more time is needed to finalize the Provincial infrastructure component relating to upgrades at Highway 107.

Prior to completing the HRM CCC program, HW completed the detailed design for the Port Wallace Utility Corridor. This corridor is required to enable development beyond 336 units. As previously mentioned, the utility corridor includes wastewater and water mains, a gas main, multi-use path and intersection improvements. The corridor begins at the intersection of Countryview Drive and Wright Avenue, runs along Wright Avenue and crosses Highway 118, moves into Shubie Park via a route that's been heavily investigated, enters the HRM right-of-way at John Brenton Drive, turns into Jaybe Drive, turns into Waverly Road and runs north along Waverly Road and ends at the newly constructed road Terrastone Ridge. The total cost of the utility corridor is \$36.83M (Including Net HST), broken down as follows:

- Halifax Water - \$17.68M
- Eastward Energy - \$1.56M
- Developer CCC paid to Halifax Water - \$13.08M
- HRM - \$4.51M

Approximately 50% of the HRM share identified above will be recovered from Developer CCC's. While there is a growing confidence that an agreement with the Province can be reached, it will not be reached in time for Regional Council to adopt a formal CCC which will allow Halifax Water to issue a tender call for the utility corridor.

Should the Utility Corridor construction be completed prior to an agreement with the Province being reached, the developer portion will be reimbursed by the interim CCC already established for Phase 1 and extended to Phase 2.

## **FINANCIAL IMPLICATIONS**

Funding for this project is included in the 2025/26 Capital Plan, Project CT220002 – Port Wallace Roadway Oversizing.

The Phase 1 transportation CCC that will be paid to HRM via the interim rate is \$1.26M. Phase 2 is approximately 53 acres yielding an additional \$1.30M to be paid. Total CCCs generated from Phase 1 and Phase 2 would be \$2.56M. This amount covers the developer CCC portion of the MUP within the utility corridor. Should development stall after the utility corridor project, the developer portion of the MUP is fully funded by the interim rate.

HW will take the lead on tendering for the Port Wallace Utility Corridor project. HW will invoice HRM for reimbursement of the amount related to the municipal share of the project per the Key Terms and Conditions outlined in Attachment A. The municipal share of the project is funded and approving the Cost Sharing Agreement is a contractual commitment to be met in the 2025/26 Capital Budget.

### **RISK CONSIDERATION**

Economic Risks:

Based on received bid pricing. This is mitigated by including a clause in the Cost Sharing Agreement stating that should pricing be more than 10% of the estimates, HRM has the right to reevaluate its contribution in the Utility Corridor.

Financial Risk:

- Approving this expenditure ahead of a CCC program could result in HRM over collecting above its \$2.255M share by \$305,000.
- The \$305,000 represents the developer's CCC share of a \$610,000 project contingency. This is a 14% project contingency, which may be needed to cover higher than expected construction costs.
- Withdrawing from the Utility Corridor arrangement will result in significantly increasing the infrastructure upgrade costs planned along the corridor.
- Without approving funding for the MUP, all transportation assumptions made to date will be invalid. This will require new transportation studies and will delay bringing much needed residential units to market, or construction of the MUP after-the-fact at a much higher cost.

### **COMMUNITY ENGAGEMENT**

No community engagement was required.

### **ENVIRONMENTAL IMPLICATIONS**

No environmental implications were identified.

### **ALTERNATIVES**

Regional Council could choose not to approve the recommendation

### **ATTACHMENTS**

Attachment A – Key Terms and Conditions  
Attachment B – Port Wallace Interim CCC Rate

Attachment C – Transportation CCC Program Projects

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Youssef Habboush, Program Engineer, Planning & Development, 902-292-1490

## Attachment A

The Terms & Conditions for the Cost Sharing Agreement are identified as:

<b><i>Project Name</i></b>	<b>Port Wallace Utility Corridor</b>
<i>Project Location</i>	Waverley Road right-of-way, Jaybe Drive right-of-way, John Breton Drive right-of-way, PID 00258285, PID 40174468, Province of Nova Scotia owned PID 40039091, PID 00258814.
<i>Vendor</i>	Halifax Regional Water Commission
<i>Purchaser</i>	Halifax Regional Municipality
<i>Project Components</i>	<b>Waverly Road: 3.0-Meter Multi-use Trail. Jaybe Drive: 3.5-Meter Multi-use Trail. Johne Brenton Drive: 3.5-Meter Multi-use Trail. Shubie Park: 3.5-Meter Multi-use Pathway, Shubi Beach Access and Bridge Crossing the Shubenacadie Canal.</b>
<i>Total Purchase Price</i>	\$5,117,622.06 (Incl. Net HST)
<i>Payment Terms</i>	Multi-year project invoiced annually. Payment within 30 days of receipt.
<i>Special Terms</i>	If the bid pricing associated with this project exceeds the estimated cost by more than 10%, Halifax Regional Water Commission shall notify the Halifax Regional Municipality. Halifax Regional Municipality shall, within 10 business days, elect to either (i) pay the incremental costs, or (ii) withdraw from the project.  All assets to be owned by HRM to be designed and constructed to HRM standards.



# Attachment B



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## MEMORANDUM

TO: Ashley Blissett, Manager, Development Engineering  
Paolo Mont, Program Engineer, Development Engineering

CC: Peter Duncan, Executive Director, Planning & Development  
Melinda Francis, Principal Planner, Planning & Development

FROM: Youssef Habboush, Program Engineer, Development Engineering

DATE: July 17, 2023

**SUBJECT: Port Wallace Interim Transportation Capital Cost Contribution Charges – Phase 1A & 1B**

The Regional Plan identified Port Wallace as one of six green field developments suitable for future growth serviced by central sewer and water. In 2014 Regional Council initiated the comprehensive planning process for this site. The process included an infrastructure study in advance of establishing the Port Wallace Capital Cost Contribution (CCC) charges program.

Port Wallace was designated a “Special Planning Area” in March 2022 by the Nova Scotia Minister of Municipal Affairs and Housing on the recommendation of the Executive Panel on Housing of the Province of Nova Scotia to address housing challenges in the Capital Region. The Special Planning Area delegates development approval authority to the Minister as outlined in the Housing the Halifax Regional Municipality Act<sup>1</sup>.

The Port Wallace development agreement (DA) was executed in February 2023 with the registered landowners. Per the executed DA, CCC payments are required in accordance with the provisions of the Regional Subdivision By-law. The DA allows the Development Engineer to set an interim CCC rate in advance of a CCC program approved by Regional Council. The CCC policy allows for credits against future CCCs to balance the program once it receives Council approval.

As the Port Wallace CCC program is still in process and to advance Provincial and Municipal housing efforts, the Development Engineer can move forward with an interim CCC rate for Phase 1A and 1B. Port Wallace Holdings Limited (PWHL), the sole developer for Phase 1A and 1B, acknowledges that the HRM CCC policy allows for credits against future CCC’s to balance the program once approved.

The Port Wallace CCC program is planned to be presented to Regional Council in Fall 2023. Should Regional Council approve the program, a review of the interim CCCs will be completed to determine the credits, if any, for future PWHL CCCs.

Per the below financial summary output, the interim rate for Port Wallace Phase 1A and 1B should be set at **\$24,550 per acre**.

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<sup>1</sup> Special Planning Areas: <https://www.halifax.ca/about-halifax/regional-community-planning/regional-plan/special-planning-areas>

<u>Areas</u>	<u>Acres</u>
Port Wallace East	489.95
Port Wallace West	54.80
Port Wallace Industrial	242
<b>Total</b>	<b>786.75</b>
<u>CCC Calculation</u>	
	<u>HRM</u>
	<u>Transportation</u>
Total Cost of Oversized Infrastructure	\$ 30,504,937.67
Interest During Construction (AVG 1-YR Construction)	\$ 1,150,615.54
Total Cost of Infrastructure Installed	\$ 31,655,553.21
Portion Benefitting HRM	\$ 10,702,247.06
<b>Subtotal</b>	<b>\$ 20,953,306.15</b>
Interest/Inflation Adjustment	-\$ 1,633,208.00
<b>Net Cost to Developers</b>	<b>\$ 19,320,098.15</b>
Gross Area of Land (acres)	786.75
<b>Development Charge per Acre - July 2023</b>	<b>\$ 24,556.78</b>

# Attachment C

## Port Wallace Transportation CCC Program Projects

<b>1.0 - Intersection Improvements Including Turning Lanes</b>	
1.1	Waverley at Breeze - Left-Turn Lane on Breeze Dr. & Southbound Left-Turn Lane on Waverly Rd.
1.2	Waverley at Montebello - Northbound Right-Turn Lane on Waverley
1.3	Waverley/Montague/Charles Keating - Intersection & Signals Upgrades
1.4	Main at Caledonia - Signal Optimization & Additional Turning and Through Lanes
1.5	Portage/Caledonia/Montebello/Breeze - New Traffic Signals
1.6	Cono Drive - Municipal Share of Provincial Project

  

<b>2.0 - Regional Multi-Use Pathways (MUPs) &amp; Transit Capital Costs</b>	
2.1	Montague/Keating Intersection to Access point A - New MUP
2.2	MUP Improvements within HRM Shubie Park Including New Bridge
2.3	MUP Improvements from John Brenton to Breeze
2.4	MUP Improvements from Breeze to 390 Waverley Pump Station
2.5	MUP Improvements from 390 Waverley Pump Station to Terrastone Rg.
2.6	MUP Improvements from Terrastone to Access A
2.7	MUP Improvements from Charles Keating/Montague to PWE Access E
2.8	Avenue Du Portage Oversizing - Bi-Directional MUP & Concrete Sidewalk
2.9	Transit Route 54 & 55 Service Extensions

  

<b>3.0 - Provincial Infrastructure Improvements - Highway 107</b>	
3.1	Portage Connector to Hwy 107