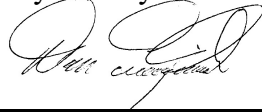


TO: Mayor Kelly and Members of Halifax Regional Council



SUBMITTED BY:

Dan English, Chief Administrative Officer



Mike Labrecque, Deputy CAO - Corporate Services and Strategy

DATE: April 19, 2010

SUBJECT: Road Maintenance Fee for River Bend Road and River Court Home Owners Association

ORIGIN

On January 16, 2007, Regional Council approved the Private Road Maintenance Costs Recovery Policy. 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. The River Bend Road and River Court Home Owners Association has applied for the implementation of area rates under this Policy to fund the maintenance of these two private roads located in Enfield.

RECOMMENDATION

It is recommended that Halifax Regional Council:

- 1. Approve in principle an annual uniform charge of no more than \$350.00 per property to be applied against all properties accessed from River Bend Road and/or River Court, private roads located in the community of Enfield, as depicted in the map shown in Appendix A of this report effective with the 2010-11 fiscal year for the purpose of funding the road maintenance activities of the River Bend Road and River Court Home Owners Association.**
- 2. Approve in principle amending Administrative Order 45, Respecting Private Road Maintenance, by adding Schedule 5, respecting a uniform charge for the River Bend Road and River Court Home Owners Association, attached hereto as Appendix B.**
- 3. Subject to the approval of Schedule 5 of Administrative Order 45, authorize the Mayor and Municipal Clerk to sign on behalf of HRM, the Management and Operating Agreement between HRM and the Association included as Appendix C of this report.**

BACKGROUND

River Bend Road and River Court are accessed via Halls Road, a public road which is located just off of Hwy #2 in the community of Enfield in District 2. These private roads are maintained by the River Bend Road and River Court Home Owners Association. The private roads travel over multiple properties and therefore have multiple ownership.

The Association funds road maintenance expenses through annual fees collected from the owners of each of the 23 properties which must be accessed via River Bend Road and/or River Court. For most properties, the fee is \$350 annually. Two residences located on River Bend Road in close proximity to the public road, one seasonal residence and two vacant lots pay a reduced fee in recognition of their lower usage of the roads. Currently, that reduced fee is \$250 annually. The wording of the Recommendation and Schedule 5 of Administrative Order 45 (“no more than \$350.00 per property”) provides the Association with the flexibility to increase the reduced fee if the seasonal residence and vacant lots become year-round residences. Another property owner who pays \$350 for his residence is exempted from paying a fee on a vacant property which he owns adjacent to his residential property.

In the past, the Association has had some difficulty collecting the road maintenance fees from a few of the property owners. As a result, the Association has applied to HRM through the Private Road Maintenance Costs Recovery Policy to ensure timely collection of road maintenance fees from all property owners.

DISCUSSION

The Private Road Maintenance Costs Recovery Policy outlines the conditions which must be satisfied before a uniform charge for private road maintenance can be implemented. Those conditions and the manner in which they were satisfied with respect to the River Bend Road and River Court Home Owners Association are outlined below.

- 1. A private road eligible for improvement or maintenance financing under this policy shall include any road that is not public and that provides perpetual direct or indirect access to a public road or highway for at least two properties each of which contains a principal residence.*

Staff have verified that River Bend Road and River Court are privately owned (refer to #2 below), provide direct access to a public road (refer to map in Appendix B), and have more than two properties containing principal residences.

- 2. The legal owner(s) of the property on which the private road is situate must consent in writing to the maintenance of the road.*

Staff have identified six parcels of private property over which River Bend Road and River Court traverse. Three of the properties, identified by PID#s 587212, 40384596, and 40455339, were deeded over from the former owner to the Association in December 2009. Owners of two other

properties, identified by PID#s 40578973 and 40609406, have indicated their consent to maintenance of the road by signing the petition and by voting in favour of the road maintenance fee on the ballot sent to them by HRM. With respect to the sixth property, identified by PID# 513564, staff have confirmed that an easement/ right of way has been registered in accordance with the *Land Registration Act*. Legal Services is of the opinion that sufficient consent to maintenance meeting the standards of the policy has been obtained from the owners of the subject private roads.

3. *An application for private road maintenance financing assistance under this policy shall be commenced by presenting a petition to the HRM Council. The presented petition shall be signed by property owners comprising at least two-thirds (66.7%) of both the principal residences and the road frontage on that portion of the private road for which the application is made.*

In January 2010, the Association served a petition to staff on behalf of the residents of River Bend Road and River Court requesting HRM collect their annual road maintenance fees via their property tax billings. Staff reviewed the petition and determined that the signatories represented at least two-thirds of both the principal residences and the road frontage along these two roads.

4. *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 mail notice shall contain regular postage pre-stamped self return envelopes, proxy forms and ballots approved to form by the HRM staff co-ordinator.*

The meeting notice and ballot mailed out to all affected property owners is included as Appendix D to this report. The meeting notice was developed by staff and included all the information required above as per the Private Road Maintenance Costs Recovery Policy. Self-addressed return envelopes were included in the mail-out, and a fax number was also provided.

5. *The meeting shall be conducted by the applicant under the supervision of the HRM staff co-ordinator. The applicant shall make a presentation to the meeting setting out the reasons and proposed purposes for the use of the area rate fund and the amount of the flat rate.*

A meeting of the affected property owners was held on Monday, March 29, 2010 at 7:00 p.m in a separate reserved meeting room located at Shooter's Lounge, 194 Hwy# 2, Enfield. The HRM staff coordinator was present at the meeting to supervise the proceedings and to answer any questions with respect to the Private Road Maintenance Costs Recovery Policy. A short presentation was made by the President of the Association explaining the use of the uniform charges after which attendees had an opportunity to ask questions.

6. *The support for the proposed area flat rate shall be the owners of at least two-thirds (66.7%) of the affected properties.*

Owners of 17 of the 23 properties (73.9%) voted in favour of having HRM collect their annual road maintenance fees via their property tax billings in order to fund the road maintenance activities of the Association. On a road frontage basis, owners in favour represented 4,283 feet of a total 5,925 feet of frontage, or 72.3%.

7. *The application for the establishment of an area flat rate shall define the proposed area to which the flat rate is to apply with sufficient clarity to allow for proper implementation of the flat rate for billing purposes.*

The uniform charges would be applied against all properties which must be accessed via River Bend Road and/or River Court as depicted in the map shown in Appendix B of this report.

8. *An application shall include a budget in support of the proposed area flat rate.*

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

9. *The Applicant shall form, under the Societies Act, an incorporated association of the owners of the subject properties.*

Staff have verified with the Registry of Joint Stock Companies that the River Bend Road and River Court Home Owners Association, Registry ID 3233686, is currently in good standing (ie. not lapsed).

10. *The administration fee shall be a set up charge of \$200.00 for each area rate.*

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

BUDGET IMPLICATIONS

The \$200 administration fee will be credited to an operating account in Finance. The uniform charges would take effect in the 2010/11 fiscal year. As all funding is from the uniform charges (ie. no transfers from the general tax rate), there would be no impact on the HRM General Operating Budget at any time in the future. As with all property taxes, these charges would be lienable.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

Council could either (1) change the amount of the uniform charges or (2) deny approval of the uniform charges altogether. Neither alternative is recommended because (1) the amount of the uniform charges are based on a budget approved by the Association's membership and verified by staff, and (2) over two-thirds of owners of the affected properties voted in favour of paying the uniform charges.

ATTACHMENTS

- Appendix A: Map of Catchment Area for Proposed Uniform Charge
- Appendix B: Draft of Administrative Order 45 Schedule 5
- Appendix C: Management and Operating Agreement between HRM and the Association
- Appendix D: Copy of Meeting Notice and Ballot mailed to Property Owners
- Appendix E: Proposed Budget for 2010/2011

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.


Report Prepared by: Gordon Roussel, Financial Consultant 490-6468

Report Approved by:

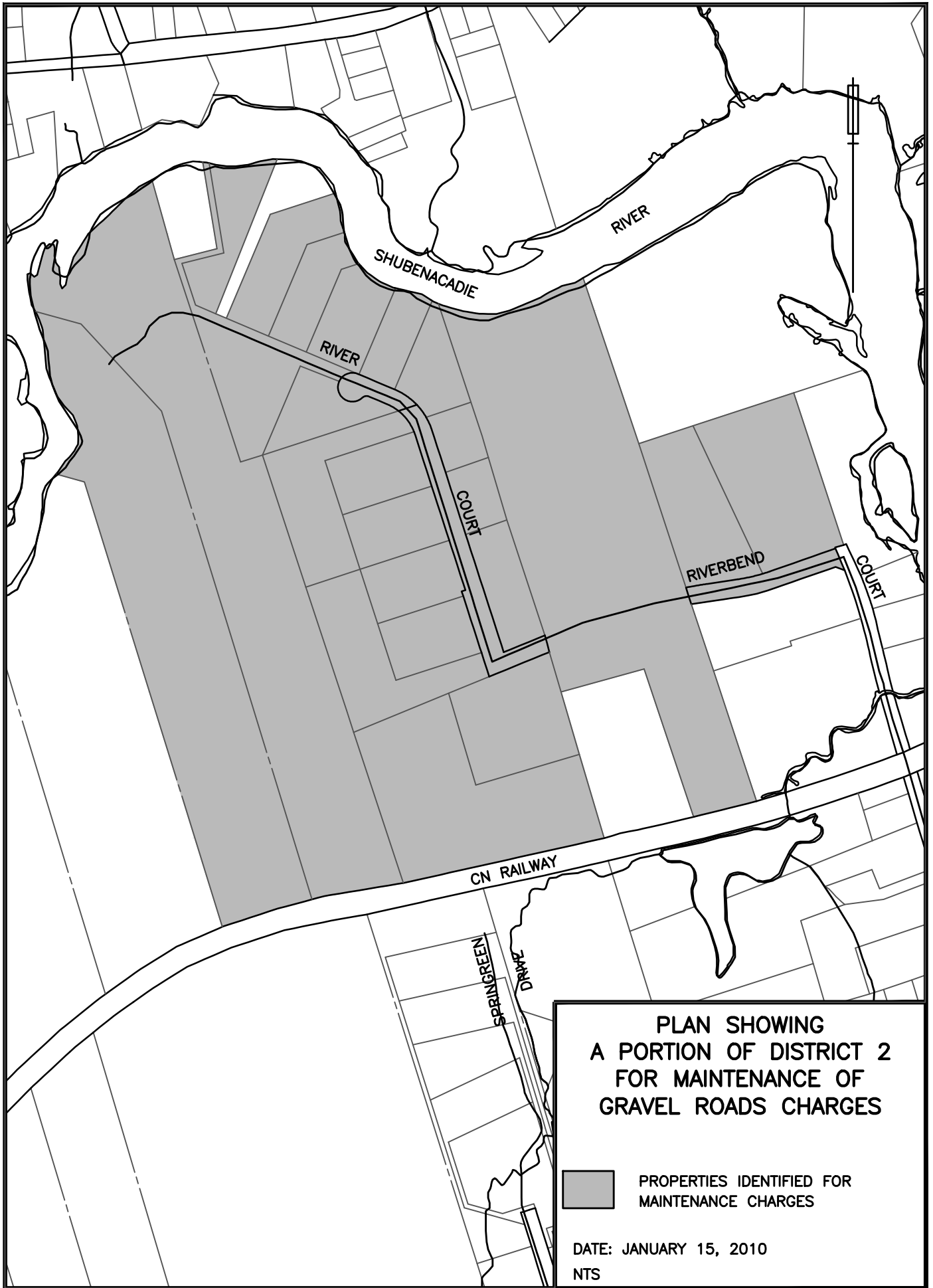


Paul Fleming, Manager, Budget & Financial Analysis 490-7203

Report Approved by:



Cathie O'Toole, Director of Finance and Chief Financial Officer 490-6308



**PLAN SHOWING
A PORTION OF DISTRICT 2
FOR MAINTENANCE OF
GRAVEL ROADS CHARGES**

 **PROPERTIES IDENTIFIED FOR
MAINTENANCE CHARGES**

**DATE: JANUARY 15, 2010
NTS**

Appendix B

Halifax Regional Municipality ADMINISTRATIVE ORDER NUMBER 45 Respecting Private Road Maintenance

1. Area Rate Charges pursuant to By-Law Number P-1100 Respecting Charges for Private Road Maintenance are hereby imposed in those areas described in the attached Schedules as is more particularly set out in the Schedules.

Schedule 5

1. An Area Rate Charge for properties fronting or abutting in whole or in part on River Bend Road or River Court, private roads located in the community of Enfield as identified on the map dated January 15, 2010 attached hereto, shall be a flat area rate of no more than \$350.00 annually.
2. The Charges collected under this By-Law shall be used by the River Bend Road and River Court Home Owners Association for the maintenance of River Bend Road and River Court, 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

MANAGEMENT AND OPERATING AGREEMENT

THIS AGREEMENT is made as of the 4th day of May, 2010

BETWEEN:

Halifax Regional Municipality, a body corporate pursuant to the *Municipal Government Act* (“the Municipality” or “HRM”)

OF THE FIRST PART

- and-

River Bend Road and River Court Home Owners Association, a society incorporated under the *Societies Act* of Nova Scotia (“the Association”)

OF THE SECOND PART

WHEREAS the Municipality is committed to facilitating public road access for municipal residents whose principal residences are accessed from Private Roads which do not form part of the HRM municipal street system;

AND WHEREAS the Municipality recognizes that facilitating the maintenance of Private Roads is a necessary municipal service that will ensure the safety and long term usability of roads situated on privately owned land;

AND WHEREAS authority to fund work on Private Roads is pursuant to clause 79(1)(ab) of the *Halifax Regional Municipality Charter*.

THEREFORE the parties hereto covenant and agree as follows:

**ARTICLE ONE
DEFINITIONS**

1. **Definitions**

When used in this Agreement, the following terms shall have the following meanings:

- (a) **“Area Rate”** means the annual charge to property owners for the maintenance of the Private Road referred to in this agreement, and which is included as part of their property tax invoices;
- (b) **“Association”** means a Private Road resident's Association which is party to this agreement. The Association must during the effective period of this agreement or renewal period maintain its status as a not for profit society incorporated under the Societies Act of Nova Scotia;
- (c) **“Council”** means Halifax Regional Council;
- (d) **“Fiscal Year”** means the annual period ending on March 31 of each year or such other period as the Municipality may establish upon notice to the Association;
- (e) **“Municipality”** means Halifax Regional Municipality;
- (f) **“Revenues”** means all monies collected by the Municipality from the Area Rate;
- (g) **“Private Road”** means that portion of road described in Schedule “A” attached hereto, provided that the road (a) is not public and remains so do during the effective period of this agreement or renewal Terms, and (b) provides year round direct or indirect access to a public road or highway for at least two properties each of which contains a principal residence. The Private Road includes the portion of the road and right of way which is not used for vehicle traffic and is available for installation of services or is shoulder, ditch or buffer;
- (h) **“Term”** has the meaning set forth in Section 18.

ARTICLE TWO
APPOINTMENT OF ASSOCIATION AND ANNUAL BUDGETS

2. **Appointment of Association**

The Municipality hereby appoints the Association for the Term of this Agreement to maintain the Private Road as an independent non-profit Association, on the terms and conditions set out in this Agreement, and the Association hereby accepts such appointment.

3. **General**

- (1) This agreement provides for the maintenance of Private Roads but does not provide for the construction or capital improvement of Private Roads.
- (2) The Association shall have full responsibility for maintaining the Private Road, including culverts, retaining walls, sidewalks, curbs and gutters that are associated with the Private Road. 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 in accordance with and subject to the terms and conditions of this Agreement during the Term of this Agreement unless and except to the extent otherwise determined by the Municipality in writing to the Association. The Association shall perform its duties and exercise the powers and authority set out in the Agreement in a competent, efficient and economical manner and in accordance with the terms of this Agreement, subject to the direction from time to time of the Municipality, which direction shall not be in contradiction with the terms of this Agreement or with the terms of the Memorandum of Association of the Association.

4. **Annual Plans and Budgets**

The Association shall maintain the Private Road strictly in conformance with the annual operating budget approved from time to time by the Municipality pursuant to this Agreement.

5. **Preparation of Annual Operating and Capital Budgets**

- (1) The Association shall prepare and present for consideration by Council an annual proposed operating budget (the "Operating Budget") for the maintenance of the Private Road. The Operating Budget shall be prepared and presented within the time frames established from time to time by the Municipality for the submission of operating budgets by its various departments.

- (2) The Operating Budget shall be prepared in accordance with the methodologies, frameworks, policies, guidelines, directives, and instructions of the Municipality from time to time relating to annual budgets.
- (3) The Association shall prepare and present to the Municipality annually a maintenance plan for the road for the subsequent twelve month period. The maintenance plan shall be prepared and presented within the time frames established from time to time by the Municipality for the submission of business plans by its various departments.

6. **Operating Deficit or Surplus**

In the event the Association sustains, in any Fiscal Year, an operating deficit or surplus, the Association shall prepare a written report setting out the magnitude of the operating deficit or surplus, the reason or reasons for the operating deficit or surplus and the recommendations of the Association for dealing with the operating deficit or surplus, as the case may be, in the ensuing Fiscal Year. The report is to be submitted to Council at the time the Association submits its operating budget for the ensuing Fiscal Year.

**ARTICLE THREE
DUTIES AND RESPONSIBILITIES OF THE ASSOCIATION**

7. **Licences and Permits**

The Association shall obtain and renew as necessary all licences, permits and approvals which may be required in connection with the maintenance of the Private Road. This includes obtaining written permission from the legal owner(s) of the Private Road to provide maintenance if the documentation creating the Private Road access does not permit the property owners to implement the maintenance work. The Association shall at all times comply with the conditions of such licences, permits and approvals and shall comply with and observe all applicable laws, and by-laws.

8. **Annual Meeting**

The Association shall have an annual general meeting prior to the end of September in each year, at which meeting the simple majority of a quorum present shall review and approve the road maintenance plan and budget for the following year.

9. **Special Meeting**

Any changes to the amount of the Area Rate shall require majority approval at a special meeting of the Association called for the purpose of considering the rate increase issue. For the purposes of this

Section, majority approval means property owners representing at least two-thirds (66.7%) of the residential properties abutting the Private Roads. Notice of the special meeting shall conform to the standards outlined in Section 6 of the Private Roads Maintenance Costs Recovery Policy. An application to increase the Area Rate shall include a budget and maintenance plan in support of the proposed increase, and a declaration setting out the fulfilment of the public notice and public meeting process required under the policy. The Association may also by special meeting elect to terminate the financial assistance agreement with HRM and upon the termination of the agreement the Area Rate will discontinue after the payment of all outstanding amounts.

**ARTICLE FOUR
DUTIES AND RESPONSIBILITIES OF THE MUNICIPALITY**

10. **Scope of Responsibility**

- (1) Pursuant to the provisions of the HRM Charter, the Municipality has the authority to impose, fix and provide methods of enforcement of charges or Area Rates for maintaining Private Roads, curbs, sidewalks, gutters, bridges, culverts and retaining walls that are associated with Private Roads where the cost is incurred under this agreement between the Municipality and the Association.
- (2) The Municipality's responsibilities will be limited to the administration of the charge or Area Rate.
- (3) The Municipality will review the plan and budget approved at each Annual General Meeting of the Association to ensure it complies with the purpose of the Area Rate and that sufficient funding can be raised through the Area Rate to fund it.
- (4) Any special meeting at which an increase to the Area Rate is proposed shall be under the supervision of a staff coordinator designated by the Municipality.
- (5) All proposed Area Rate increases are subject to approval by the Municipality.
- (6) The Municipality will not be involved in the provision of engineering, technical or legal services or advice in respect of the Private Road maintenance.

**ARTICLE FIVE
FINANCES, RECORDS AND INFORMATION SERVICES**

11. **Revenues**

HRM Council will establish an Area Rate for Private Road maintenance services to be applied on a per dwelling unit basis or adjoining property basis. Payment of the Area Rate Revenue collected will be made only to the Association. All work performed under Private Road policy financing arrangements will be under the control and direction of the Association and the Association shall be wholly responsible for the application of the funds provided.

12. **Full Banking and Bookkeeping Package**

(1) Operating Account

Except as otherwise provided herein, all Revenues received by the Association from time to time shall be deposited into an Operating Account.

(2) Bookkeeping

The Association is required to maintain a complete and proper set of books following general accounting and bookkeeping practices, as set out in the Generally Accepted Accounting Principles as established from time to time by the Canadian Institute of Chartered Accountants.

13. **Financial Reports**

The Association shall provide to the Municipality a copy of the annual financial statements prepared by or on behalf of the Association for the Association's Annual General Meeting within 30 days of presenting such statements to the Annual General Meeting.

14. **Other Reports**

The Association shall, if and when requested from time to time by the Municipality, prepare and furnish to the Municipality, such other reports or statements as the Municipality may reasonably require.

15. **Right to Review and Audit**

The Municipality reserves to right to review and audit the books and financial statements and all corporate records (including by-laws) of the Association from time to time, and the Association shall furnish these documents to the Municipality if and when requested.

**ARTICLE SIX
ASSOCIATION MEMBERSHIP**

16. **Board of Directors**

The Board of Directors of the Association shall be made up of representatives as outlined by the by-laws of the Association.

17. **Members**

Any property owner required to pay the Area Rate is as of right a member of the Association and entitled to all rights and privileges as outlined by the by-laws of the Association including the right to attend and vote at all general and special meetings of the Association.

**ARTICLE SEVEN
TERM/TERMINATION**

18. **Commencement and Initial Term**

This Agreement shall be for an initial one year Term (the "Term") as set out in Schedule "B" attached hereto, and continue in force, unless earlier terminated as set out in Section 19. The agreement will automatically renew for periods of one (1) year each unless either party shall notify the other that it elects not to renew this Agreement at least three (3) months prior to the end of the initial Term or any subsequent renewal Term.

19. **Termination by Either Party for Any Reason**

This Agreement may be terminated at any time by either of the parties hereto for any reason whatsoever on three (3) months notice in writing. Upon termination of the Agreement, the Area Rate will be discontinued upon payment of all outstanding amounts.

**ARTICLE EIGHT
INDEMNIFICATION & INSURANCE**

20. **Indemnification**

The Association shall indemnify and hold harmless the Halifax Regional Municipality, its Mayor and Councillors, agents and employees from and against all claims, demands, losses, costs, damages, actions, suits or proceedings arising out of, or resulting from the performance of this agreement, provided that any such claim is caused in whole or in part by the negligent act or

omission of the Association, any Subcontractor, supplier, licensee, anyone directly or indirectly employed by any one of them or anyone for whose acts any of them is liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such indemnity shall not be limited by time.

21. **Property and Liability Insurance**

The Association is solely responsible for obtaining and maintaining at its own expense any and all insurance protection required to administer this Agreement, including, but not limited to, general liability insurance, and directors and officers liability insurance.

22. **Suits and Claims**

The Association shall notify the Municipality in writing as soon as possible after the Association becomes aware of any claim or possible claim against the Association and/or Municipality which involves the Private Road. The Association shall notify the Municipality in writing as soon as possible after it becomes aware of any injury or property damage occurring in, on or about the Private Road, which could reasonably be expected to result in a claim being made against the Municipality or the Association and of all claims against the Municipality and/or the Association which involve the Private Road. The Association shall take no steps (such as the admission of liability) which would operate to bar the Municipality from obtaining any protection afforded by any policies of insurance it may hold or which will operate to prejudice the defence in any legal proceedings involving the Municipality or the Association, or otherwise prevent the Municipality from protecting itself against any such claim, demand or legal proceeding. The Association and the Municipality shall cooperate fully with each other in the defence of any claim, demand or legal proceeding.

**ARTICLE NINE
AUTHORITY OF THE ASSOCIATION**

23. **Authority of the Association**

The Association is hereby authorized to act solely for the purpose of carrying out the authority and responsibilities set forth in this Agreement, subject, however, to any limitations set forth in this Agreement or in any notice in writing at any time delivered to the Association by the Municipality pursuant to this Agreement. The Municipality shall execute and provide to the Association any documents or other evidence which may be reasonably required by the Association to demonstrate to third parties the authority of the Association set out in this Agreement.

24. Limitation of Authority

The Association is not an agent of the Municipality and shall not pass off or represent that it is an agent of the Municipality. Unless expressly authorized in this Agreement, or by prior written direction or approval of the Municipality, the Association shall not have the authority to do any of the following:

- (a) cause the Municipality to extend credit or to make any loans or become a surety, guarantor, endorser or accommodation endorser for any person, firm or Association;
- (b) cause the Municipality to enter into any contracts;
- (c) release, compromise, assign or transfer any claim, right or benefit of the Municipality; or
- (d) allow a default judgement to be entered against the Municipality.

**ARTICLE TEN
GENERAL PROVISIONS**

25. Notices

All notices, demands, requests, approvals or other communication of any kind which a party hereto may be required or may desire to serve on the other party in connection with this Agreement shall be served personally or sent by registered mail. Any such notice or demand so served by registered mail shall be deposited in the Canadian mail with postage thereon fully prepaid, registered and addressed to the party so to be served as follows:

- (a) if to the Municipality:
Attention: Director
Finance
Halifax Regional Municipality
P. O. Box 1749
Halifax, NS
B3J 3A5
- (b) if to the Private Road Association:
River Bend Road and River Court Home Owners Association
23 River Court
Enfield, NS B2T1C4.

Except in the event of a postal service strike or lockout (in which event the parties hereto agree to temporarily utilize other reasonable methods of communicating any notices), service of any notice or demand so made by mail shall be deemed complete on the date of actual delivery as shown by the registry receipt or at the expiration of the seventh business day after the date of mailing, whichever is earlier in time. Either party may from time to time, by notice in writing served upon the other party as aforesaid, designate a different mailing address or different or additional persons to which all such notices or demands are thereafter to be addressed.

26. **Validity of Provisions**

In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein and this Agreement shall be enforceable to the fullest extent permitted by law.

27. **Waiver and Modification**

No consent or waiver, express or implied, by a party of any breach or default by the other party in the performance by such other party of its obligations hereunder shall be deemed or construed to be a consent or waiver of any other breach or default hereunder. Failure on the part of a party to complain of any act, or failure to act, on the part of the other party or to declare the other party in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder. Neither this Agreement nor any provision hereof may be amended, waived, modified or discharged except by an instrument in writing executed by the party against whom enforcement of such amendment, waiver, modification or discharge is sought.

28. **Successors**

The provisions of this Agreement shall, subject to the terms and conditions hereof, be binding upon and enure to the benefit of the successors and assigns of each of the parties hereto, provided, however, that this Agreement shall at all times remain personal to the Association and may not be assigned by the Association without the prior written consent of the Municipality.

29. **Remedies**

Both parties shall, in addition to all rights provided herein or as may be provided by law, be entitled to the remedies of specific performance and injunction to enforce their rights hereunder.

30. **Headings**

The heading used in this Agreement are inserted solely for convenience or reference and are not a

part of the Agreement and are not intended to govern, limit or aid in the construction of any term or provision hereof.

31. **Interpretation**

Where the context so requires, words used in the singular shall include the plural and vice versa.

32. **Entire Agreement**

This Agreement, together with any written agreements executed in connection herewith or modifications or amendments to this Agreement entered into by the parties hereto shall constitute the entire agreement between the parties hereto relative to the subject matter hereof and shall supersede any prior agreement or understanding, if any, whether written or oral, which either party may have had relating to the subject matter hereof.

33. **Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of Nova Scotia.

34. **Time of Essence**

Time is of the essence in the performance of the obligations of this Agreement and of each provision hereof.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto, as of the day and year first above written.

Halifax Regional Municipality

Per: _____

Witness

Per: _____

River Bend Road and River Court Home
Owners Association

Witness

Per: _____

Per: _____

SCHEDULE "A"

Description of Roads: The portions of the following roads which are privately owned: River Bend Road and River Court, both located in the community of Enfield.

SCHEDULE "B"

Term of the Agreement: April 1, 2010 to March 31, 2011

BALLOT FOR PRIVATE ROAD MAINTENANCE TAX

March 10, 2010

FIELD(OWNER1) FIELD(OWNER2)
FIELD(CIVIC) FIELD(STR NAME) FIELD(STR TYPE)
ENFIELD, NS B2T 1C4

Assessment # FIELD(AAN)
FIELD(CIVIC) FIELD(LOT) FIELD(STR NAME) FIELD(STR TYPE)

Dear Property Owner:

The Halifax Regional Municipality has been petitioned by the owners of property accessed by the private road on which you own the above referenced property. The petition concerns the possible implementation of area property tax rates to fund the maintenance of the following private roads located in Enfield: River Court and Riverbend Road. Since those signing the petition represent at least 66.7% of the properties accessed by these private roads, 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 enough property owners representing at least 66.7% of the properties accessed by these private roads wish to implement annual per property charges to maintain them. If the 66.7% minimum is attained, then all owners of property which are accessed by these two roads would be required to pay the charges starting in 2010. The annual charges would be divided equally between the two property tax billings mailed to property owners each year. The charges collected would be turned over to the River Bend Road and River Court Home Owners Association which is responsible for maintaining the private roads.

The annual charges per property for the 12 month period ending March 31, 2011 are based on the Budget shown on the reverse side of this letter. The total annual fees applicable to your property would not exceed a maximum of \$350.

As required by the Private Road Maintenance Costs Recovery Policy, a meeting of the owners of property accessed by 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:

Monday, March 29 at 7:00 p.m.
Shooter's Lounge (down Stairs)
194 Hwy # 2, Enfield

Completed ballots may be dropped off at the meeting, faxed to 490-5622, or mailed in the enclosed self-addressed envelope. You may also scan and e-mail the completed ballot to rousseg@halifax.ca. If you have any questions regarding the process, please contact Gordon Roussel at 490-6468. For other questions, including the maintenance services provided and how the annual charges were determined, please contact John Godley at 883-7606 or godlej@staff.ednet.ns.ca or Troy DeVenne at 883-7338 or Troy.DeVenne@gmail.com.

Please note that all ballots must be received by April 5, 2010 (Sorry, but No exceptions!). If you are mailing in your ballot please allow adequate time for delivery. Results of the ballot will be communicated by the River Bend Road and River Court Home Owners Association.

-
- YES**, I am in favour of implementing area rates for private road maintenance and paying annual area rates to a maximum of \$350 on my property tax bill.
- NO**, I am not in favour of implementing area rates for private road maintenance.

Assessment # FIELD(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.

Appendix E

River Bend Road & River Court Home Owner's Association

Budget for April 1, 2010 to March 31, 2011

Income	
Total Annual Fees	\$7,550.00
Other Income	\$0.00
Total Income	\$7,550.00
Expenses	
Snow Plowing	\$3,500.00
Sanding	\$500.00
Gravel	\$850.00
Grading	\$600.00
Dust Control	\$0.00
Ditching & Road Upgrades	\$200.00
Office Expenses	\$200.00
Association Fees	\$50.00
Insurance	\$1,450.00
HRM Fee for Cost Recovery	\$200.00
Other	
Total Expenses	\$7,550.00