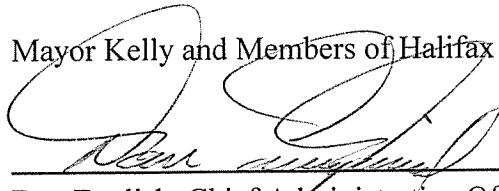


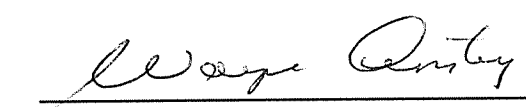
Halifax Regional Council
January 9, 2007

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



Dan English, Chief Administrative Officer



Wayne Anstey, Deputy Chief Administrative Officer - Operations

DATE: December 11, 2006

SUBJECT: Oakland Road Wharf

ORIGIN

A number of issues have arisen around the public wharf and property located at the end of Oakland Road on the North West Arm. Staff have been working to develop a suitable approach to these issues over the last year.

RECOMMENDATION

It is recommended that:

1. HRM proceed with the public process to consider closing the right of way as indicated in this report and to create Oakland Road Wharf Park with the proper zoning.
2. HRM accept the offer to secure an easement for the encroachment of the public wharf at Oakland Road as indicated in this report.
3. Efforts should be made to upgrade the park and the wharf to more useable standards subject to availability of funds and approval through the normal capital budget process.
4. Any damage to the municipal property through construction of the new house at 6400 Oakland Road will be repaired by the owner to the satisfaction of the Municipality and the municipality will accept the owners offer to improve the public wharf and park.

BACKGROUND

The western end of Oakland Road below Rockcliffe Drive is not developed as a street. Instead a set of stairs extend from the roadway to a public wharf on the North West Arm. The wharf has been in existence in one form or another since 1880. The property is treed and is extremely steep. It has been considered by users to be a small public park although legally it is part of the Oakland Road street right of way.

Issues arose around the “park” and public wharf when the adjacent lot was subdivided and a house began to be constructed. The construction of seawalls, wharves and a very large home attracted much public attention and ire. During survey work for the lot it was discovered that the public wharf encroached into the pre-confederation waterlot at 6400 Oakland Road and that the municipal wharf was also not a permitted structure under federal regulation. An application for upgrading of the public wharf by HRM was returned by Navigable Waters to “cleanup the encroachment” prior to any application to permit the existing wharf and any improvements would be entertained.

In the meantime the owners of 6400 Oakland Road had requested an access from the street right of way to their front door. On the surface it is a reasonable request owing to the fact that the HRM Oakland Road property is a public right of way. However it did impact the existing configuration of the “park” and an allowance would need to be granted the owners of 6400 Oakland Road.

During the “toing and froing” around the issues surrounding the public wharf and 6400 Oakland Road, several public and neighbourhood meetings were held and a good deal of correspondence was received by HRM expressing concerns for the future of the “park and wharf”. There was a general call from concerned citizens to officially designate the park and make improvements to the property and a strong sentiment that no special consideration should be afforded to the owners of 6400 Oakland Road .

DISCUSSION

Subject to Council’s approval and formalization of the terms the following is a brief overview of staff’s proposal to resolve the outstanding issues around the Oakland Public Wharf and the property at 6400 Oakland Road.

Encroachment of Public Wharf on Waterlot at 6400 Oakland Road - The survey report indicates that the wharf owned by HRM is encroaching into the water lot owned by Mr. Langille. Mr. Langille does not claim any ownership in the public wharf and is prepared to provide HRM with an easement to encroach, repair or do maintenance to the wharf provided HRM is agreeable that it will not further encroach into the water lot.

Right of Access to ROW from 6400 Oakland Road/ Protection of Public Wharf Park- The public seems to be demanding that the portion of the road allowance leading down to the wharf be officially designated park. There also seems to be a resistance against HRM giving Mr. Langille any rights with respect to this parcel of property. It appears the simplest solution to deal with both

the practical issues and these two political issues would be to create a park and not to give Mr. Langille any additional rights but maintain his existing public right to use the road allowance. It appears that this can be accomplished by maintaining the current travelled road at its present location and applying the current road easement standard of 60 feet wide and then converting the rest of the property held as a road allowance into a park. The effect would be that the public park would be designated and afforded the protections of such. In addition the portion of the present road allowance that remained part of the reconfigured road allowance would provide the front door walkway access to 6400 Oakland Road on the same basis as any other adjoining property.

Damage to HRM property during construction of 6400 Oakland Road/Wharf and Park Improvements

During the course of construction of the Langille house it was necessary to access the property from the road allowance and native trees, bushes and the terrain were damaged. HRM's right of action on this is somewhat suspect because arguably legitimate use was being made of an existing road allowance. Accordingly it would seem appropriate to settle this without proceeding to court. Mr. Langille has indicated he would be prepared to making reasonable restoration of the damaged park area and also significantly contribute financially to the wharf addition and improvements of the proposed park to bring it to a higher standard for public use. Council has already approved \$25,000 for lighting and signage for the park which will also be employed.

Conclusion

In conclusion, staff have been able to put together a package to resolve issues around the Oakland Road Wharf. Staff feel that it is a reasonable approach which addresses the primary concerns. The end result, if council approves staff to proceed along these lines, will; 1) permit the existing encroachment of the municipal wharf upon private property and permit approval of future expansions; 2) designate the Oakland Road Wharf as a municipal park and better ensure its protection; 3) create improvements to Oakland Road Wharf and property to meet community requirements; and 4) mean that no consideration is afforded to Mr. Langille to access his front door other than what is afforded other properties in the neighbourhood.

BUDGET IMPLICATIONS

The wharf and "park" require up grades to accommodate use by boaters and persons who just want to access the North West Arm. This agreement would provide for private contributions to those improvements. In 2006/07 Regional Council approved \$25,000 towards lightning and signage upgrades for the property. It is expected that this combination would see an improved walkway, natural landscaping and an extension to the wharf.

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

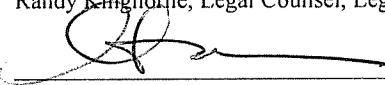
Council could choose not to proceed with the designation of park and lifting of required street lines. This would mean that the status quo would remain and HRM would solve its issues through court action if necessary. HRM would also provide for the capital improvements as monies are able to be approved by Council.

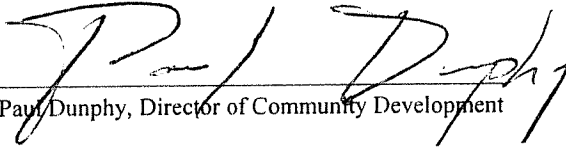
ATTACHMENTS

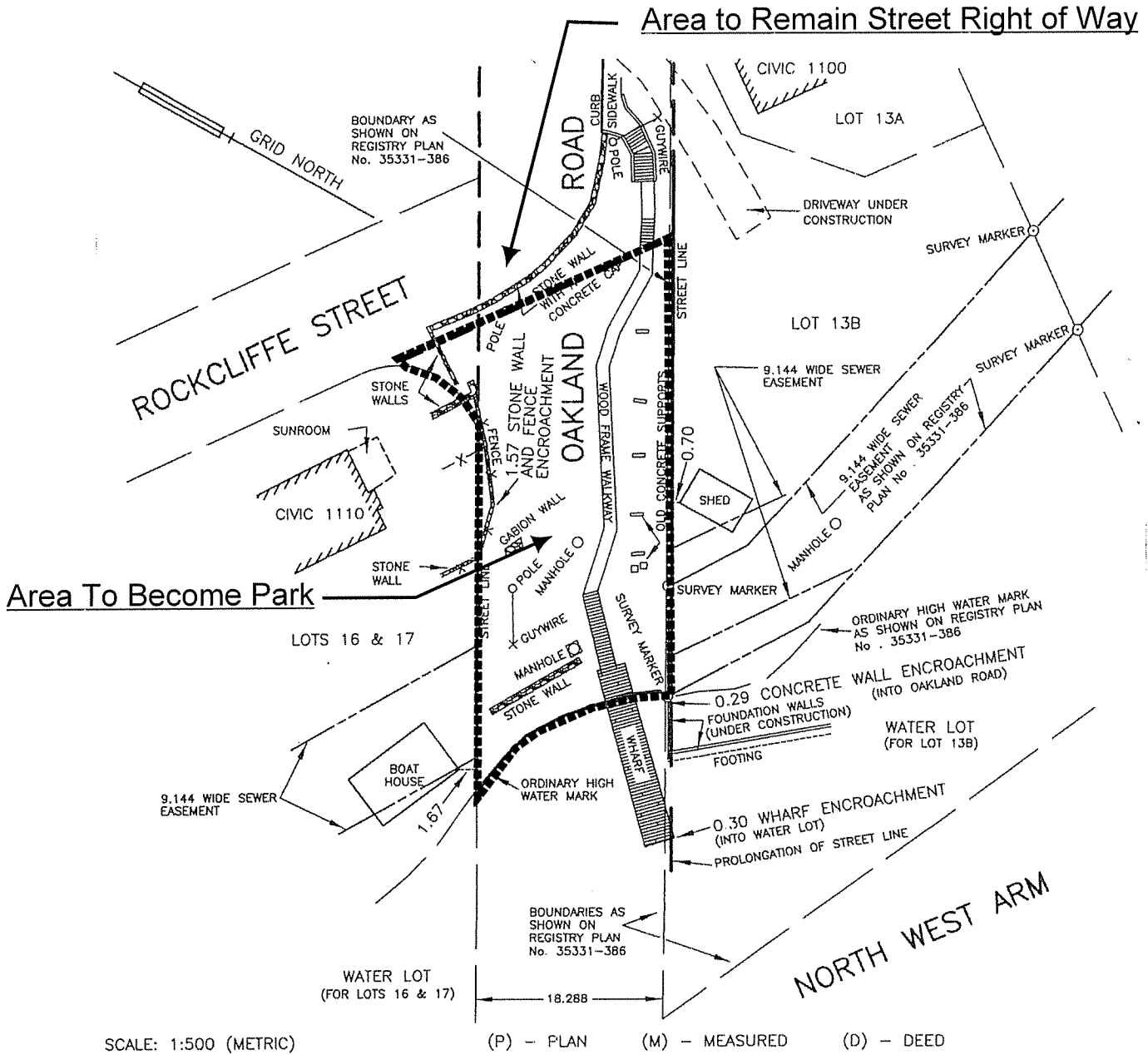
Attachment A - Map of Proposed Changes to Oakland Road Right of Way

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

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Proposed Changes to Oakland Road Right of Way (Attachment A)