


**Item No. 10.1.1**  
**Halifax Regional Council**  
**November 22, 2011**

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

Original signed by 

**SUBMITTED BY:** \_\_\_\_\_

Richard Butts, Chief Administrative Officer

Original Signed by 

Mike Labrecque, Deputy Chief Administrative Officer

**DATE:** September 2, 2011

**SUBJECT:** Request for Encroachment – Main Street Banners

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**ORIGIN**

Application from the Main Street Dartmouth and Area Business Improvement Association

**RECOMMENDATION**

It is recommended that Halifax Regional Council **approve** the request to allow banners to be installed on light standards within the HRM right of way, subject to the attached encroachment agreement.

## **BACKGROUND**

Several Business Improvement Districts (BID's) within HRM currently maintain side-mounted banner brackets on utility poles and light standards within their boundaries. This activity is encouraged by HRM as part of the service agreements between HRM and the BID's as part of their Beautification Programs. Some business improvement districts use the banners to help define their commercial district; the banners display a standard message or theme throughout (example: Downtown Dartmouth banners). Other districts use the banners to advertise major events, such as Natal Day Celebrations, Tall Ships Festivals, and IIHF Hockey Championships (example: Downtown Halifax Banners).

## **DISCUSSION**

The banners proposed by the Main Street Dartmouth Business Improvement Association would be installed within the geographic limits of the Business Improvement Association along Main Street Dartmouth. They will serve to identify the commercial district and complement the new "Main Street" signage recently installed near the intersection of Main Street and Woodlawn Road / Caledonia Road. It is part of an initiative by the Association to raise the profile of area as a place to do business. The banners will display the Main Street and Area Business Improvement Association's Brand, as shown on Schedule B.

## **BUDGET IMPLICATIONS**

The applicant is required to pay a one-time license fee of \$60.00, and an annual encroachment fee proportional to the area of the encroachment. The areas of the encroachments are negligible. As such, the banners would be subject to the minimum charge of \$10/year, as per Administrative Order 15. This new annual revenue will be directed to cost centre R112-4912.

## **FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN**

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

## **COMMUNITY ENGAGEMENT**

The Main Street Dartmouth and Area Business Improvement Association is driving this request as a service to its members. The board of the Association which represents the members (comprised of the business owners adjacent to Main Street in the affected area) supports this initiative. As a result, HRM staff has not conducted an independent engagement process.

## **ALTERNATIVES**

Council could choose not to allow the proposed banners to be installed on the light standards along Main Street. This is not recommended by staff, as the request to identify the Business

Improvement Area with banners is consistent with existing banner programs in many other areas of HRM.

**ATTACHMENTS**

1. Schedule A – Proposed Banner Locations
2. Schedule B – Main Street Brand
3. Encroachment Agreement

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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: Christopher Davis, P.Eng., Right of Way Engineer, 490-7462

Report Approved by: \_\_\_\_\_  
Phillip Francis, P.Eng., Manager of Right of Way Services, 490-6219

Report Approved by: \_\_\_\_\_  
Taso Koutroulakis, P.Eng., Manager, Traffic & Right of Way Services, 490-4816

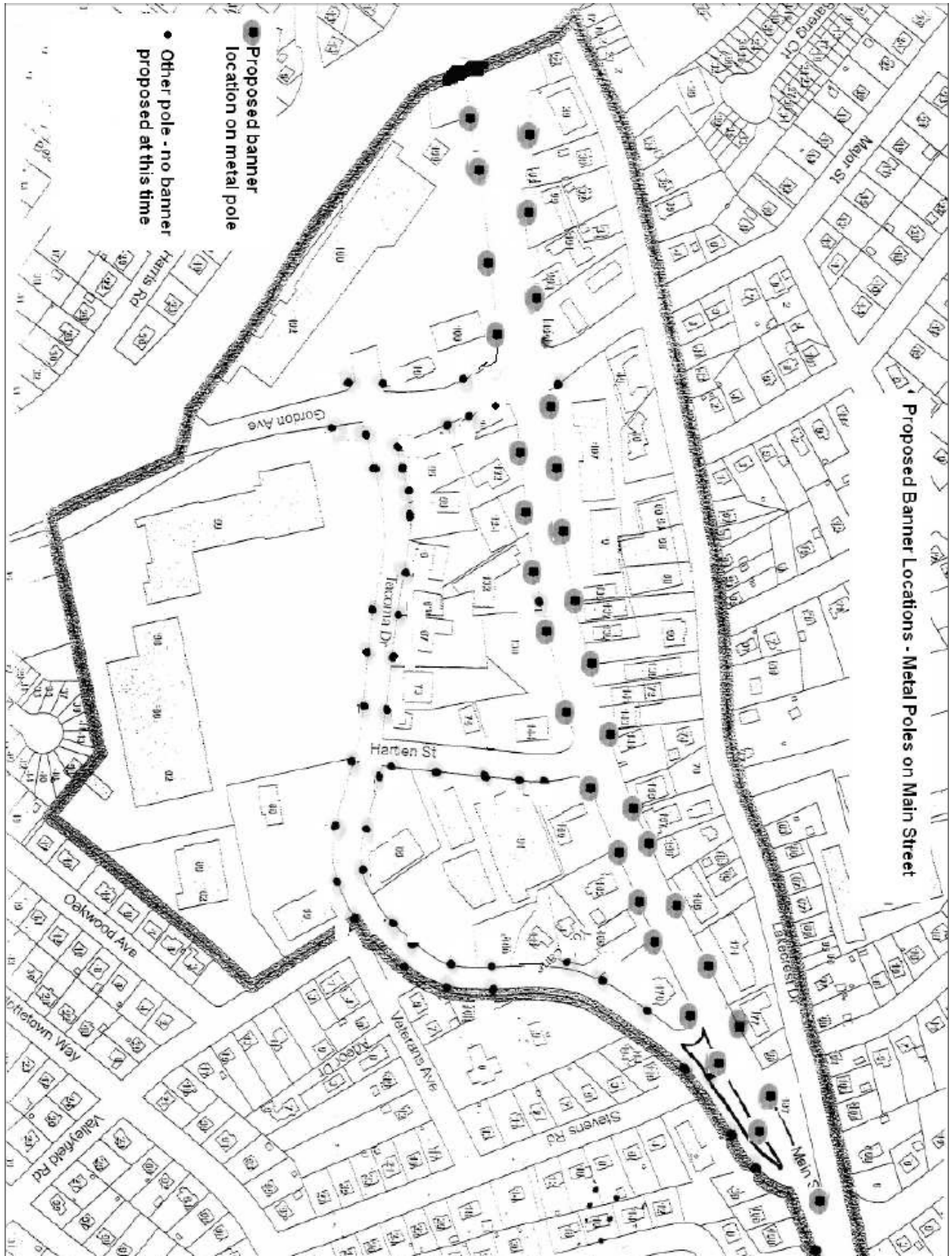
Financial Approval by: \_\_\_\_\_  
James Cooke, C.G.A., Director, Finance/CFO, 490-6308

Report Approved by: \_\_\_\_\_  
Mary Ellen Donovan, Director, Legal Services, 490-1562

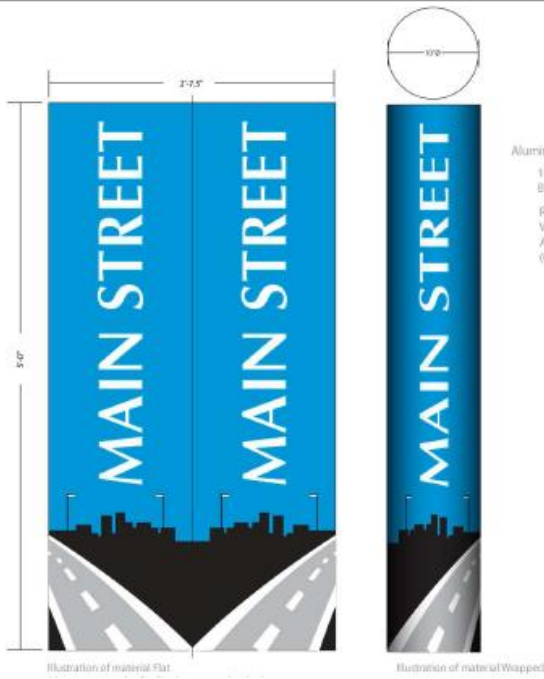
Report Approved by: \_\_\_\_\_  
Ken Reashor, P.Eng., Director, Transportation and Public Works, 490-4855

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Schedule A – Location of the proposed banners along Main Street, Dartmouth



Schedule B – Sample of proposed banners



Aluminum Pole Wrap

- 10" diameter x 5'(h) x 0.060"(t) Aluminum pole cover
- Background closest match to PMS4300c (blue)
- Road graphic closest match to PMS#7544
- White area of road and Main Street Text
- Avery A6001 - 0 white vinyl graphics
- (Option also available for white reflective)

This **Encroachment License Agreement** made this      day of      , 2011

BETWEEN:

**HALIFAX REGIONAL MUNICIPALITY**

Of the One Part

and

**MAIN STREET DARTMOUTH AND AREA BUSINESS IMPROVEMENT ASSOCIATION**

Of the Other Part

**Recitals**

1. (1) Whereas MAIN STREET DARTMOUTH AND AREA BUSINESS IMPROVEMENT ASSOCIATION wishes to install banners on light standards along Main Street, Dartmouth;

(2) And Whereas by resolution of the Halifax Regional Municipal Council on \_\_\_\_\_, 2011, the Halifax Regional Municipality agreed to give MAIN STREET DARTMOUTH AND AREA BUSINESS IMPROVEMENT ASSOCIATION an encroachment license in accordance with the terms and conditions set out in Halifax Regional Municipality Bylaw E-200, being the Encroachment Bylaw, and as contained in this license agreement.

**Definitions**

2. In this agreement, unless the context otherwise requires:

(a) "HRM" means the Halifax Regional Municipality established by S.N.S., 1995, c.3 succeeding and incorporating the former municipal units of the Town of Bedford, the City of Dartmouth, the City of Halifax and the Halifax County Municipality;

(b) "Engineer" means the Engineer as defined by the Halifax Regional Municipality Charter.

(c) "Main Street BIA" means MAIN STREET DARTMOUTH AND AREA BUSINESS IMPROVEMENT ASSOCIATION.

**License**

3. Subject to the terms of this encroachment license agreement, HRM hereby grants to Main Street BIA the non-exclusive right by its officers, servants, agents and contractors at all times to enter on, over and under that portion of Main Street, Dartmouth identified on Schedule "A" to install and maintain **32** aluminum 'Main Street' banner signs as shown in Schedule "B".

**Relocation**

4. If necessary for municipal purposes, the banners must be relocated within the street if requested by HRM, which relocation will be at the expense of the Main Street BIA. Should the Main Street BIA wish to relocate any banners, such shall be done only upon receipt of the written consent of HRM, which consent shall not be unreasonably withheld, and said relocation shall be at the expense of the Main Street BIA.

### **Permits**

5. (1) A contractor, on behalf of the Main Street BIA, agrees to comply with all municipal bylaws including the Streets bylaw, S-300 for the original construction of the works and all subsequent work within the street. This includes, but is not limited to, obtaining a Streets and Services Permit from HRM Traffic and Right of Way Services for the installation and maintenance of the banners.
- (2) The final location of the Banners shall be subject to the approval of the Engineer.
- (3) For the purposes of the construction of the original works, the Carnival Committee agrees to arrange a preconstruction meeting with HRM staff.

### **Indemnity**

6. The Main Street BIA agrees to indemnify and save HRM harmless from all claims, liabilities and expenses of any kind in any way related to or connected with the grants of the rights set forth in this license agreement or from the existence or operation of the banners however caused, except to the extent that the loss arises out of the gross negligence of HRM.

### **Fees**

7. The Main Street BIA shall pay the fees set out in Encroachment Bylaw E-200, and for the purpose of the calculation of said fees, it is agreed that the space occupied by the lines is 0.0409 square metres.

### **Occupational Health & Safety Act**

8. The Main Street BIA agrees to comply with the requirements of the Occupational Health & Safety Act and all regulations enacted pursuant thereto. Specifically the Main Street BIA agrees to exercise the due diligence required by the Act in ensuring that to the extent possible the requirements of the Occupational Health & Safety Act and its regulations are followed by its contractors or agents.

### **Termination**

9. (1) Either party may terminate this license agreement at any time.
- (2) Upon termination of the license agreement, the Main Street BIA shall at HRM's option either:
  - (a) Remove the banners and repair any damage the light standards on Main Street.
  - (b) Abandon all claims to title in the banners to HRM.
- (3) Should HRM adopt a policy by resolution of Council with respect to banners and banner brackets within the right of way, this agreement shall automatically be considered terminated, and the existing banner brackets shall be governed by the new policy.

### **Notices**

10. Any written notice or communication relating to the administration of this agreement to be given or delivered by one party to the other shall be deemed to be duly given or delivered by hand, by fax or by courier to the following addresses or such other address that may subsequently be provided:

Halifax Regional Municipality  
Director of Transportation & Public Works  
P.O. Box 1749  
Halifax, N.S. B3J 3A5

and

MAIN STREET DARTMOUTH AND AREA BUSINESS IMPROVEMENT ASSOCIATION  
208 - 175 Main Street  
Dartmouth, N.S. B2X 1S1

Legal notices in respect of HRM must be given in compliance with the Halifax Regional Municipality Charter.

11. This agreement shall ensure to the benefit of and be binding upon the parties hereto, their respective successors and permitted assigns.

IN WITNESS WHEREOF the parties hereto have executed this license agreement as of the day and year first above written.

**HALIFAX REGIONAL MUNICIPALITY**

\_\_\_\_\_  
Mayor Peter Kelly

\_\_\_\_\_  
Municipal Clerk

**MAIN STREET DARTMOUTH AND AREA  
BUSINESS IMPROVEMENT ASSOCIATION**

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