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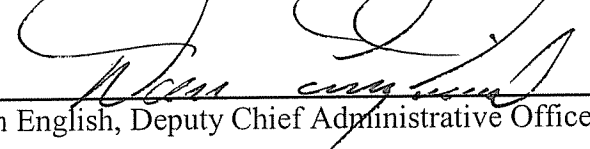
Halifax Regional Council
October 21, 2003

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



 George McLellan, Chief Administrative Officer



 Dan English, Deputy Chief Administrative Officer

DATE: October 16, 2003

SUBJECT: **Proposed Bylaw B-501 (Respecting Building Service Connections) and Policy & Procedures Amendments**

ORIGIN

This report originates from Halifax Regional Council Report, Item 10.1.8 - "Proposed Adjustments - Wastewater/Stormwater Management (Funds Reserve - Q106), dated July 15, 2003.

RECOMMENDATIONS

It is recommended that Halifax Regional Council:

1. Approve in principle the amendment to Bylaw B-501 Respecting Building Service Connections attached hereto, as well as the subsequent policy and procedures statements and direct staff to arrange for the introduction of the Bylaw before Regional Council for formal adoption.
2. Approve an increase in the Wastewater Management Levy component of the Pollution Control Charge of five cents per cubic metre of water effective November 1, 2003.

BACKGROUND

Due to the tremendous growth in the magnitude of expenditures associated with the policy on service lateral replacements, there has been a significant impact on the expenditure activity for the Technical and Underground Services (TUGS) section of Public Works & Transportation. In the Council Report, dated July 15, Council was asked to consider revisiting the procedure respecting maintenance of building service connections as a means of reducing the funding requirements from Reserve Fund Q106. Council endorsement of this recommendation would reduce the current shortfall of \$3,132,691 by \$1,300,000 or 41%.

100% of the operations of the TUGS Section of Public Works & Transportation Services and approximately 80% of the Environmental Services Section of Environmental Management Services are funded from the Wastewater/Stormwater Management (Ww. Mgmt. Reserve Q106). This has been the case since before amalgamation. The current rate of \$0.2324 was set by Regional Council in 1999 as the final rate at the end of a four-year series of annual one cent increases.

Until recently, the Ww. Mgmt. Reserve had sufficient funds to support current operations. This is no longer the case and, as was identified during presentation of the Fiscal 2003/2004 Budget, the Public Works & Transportation business unit is facing a significant budget crisis, attributable to the following factors:

- Growth in the overall scope of operations due to infrastructure expansion
- Increased maintenance and management activities required for older, aging infrastructure
- The change in Policy in 1999 relating to service lateral replacements, which for this activity alone, has grown from a 1998/99 expenditure level of \$350,100 to a 2002/03 expenditure level of \$2,500,000, an increase of 615% over the past four year period.

DISCUSSION

Growth in HRM's sanitary and storm sewer systems, pumping stations, roadside ditches, culverts and associated infrastructure has been progressing steadily in recent years due to a strong development industry and service expansions for in-house projects such as the Beaver Bank area sewer lateral replacements/pumping stations, etc. By the same token, existing infrastructure is gradually deteriorating, necessitating increased maintenance. Added to this have been dramatic increases in fuel and electrical costs over the past two years. However, the greatest impact has resulted from the 1999 Council directed change in policy whereby HRM became responsible for the replacement of deficient sewer laterals within the street right-of-way (Refer to Motion of Council, dated April 6, 1999, Section 10.2.6 under Attachment B).

For the TUGS Section of Public Works & Transportation Services, the above factors have had a dramatic impact on budget expenditures to the point where action is now required to ensure the provision of adequate annual revenues within the Wastewater/Stormwater management reserve to adequately fund the scope of operations as outlined in the approved 2003/04 budget. This situation

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was outlined to Council by staff in various budget status reports and on page 317 of the 2003/04 Operating Budget Document.

The revenue projections for the Wastewater/Stormwater Management Reserve Q106 for 2003/04 has been established at \$9,212,300. Based on the approved 2003/04 Operating Budgets for TUGS and Environmental Services, the required revenue to cover the allocated percentages of operational costs is \$12,344,991, a shortfall of \$3,132,691. Council endorsement of the first recommendation would reduce the shortfall by 41% to a total shortfall of \$1,832,691.

The remainder of the shortfall can be eliminated by the second recommendation. An increase of \$.05 in the Wastewater/Stormwater levy will result in an increased cost of approximately \$12.80/year for an average household (based on an average family of two adults and two children using 64 cubic metres of water per quarter.) The current rate per billable cubic metre of water is \$.2324. The recommended increase will result in a rate of \$.2824 effective November 1, 2003.

Cost Summary

Revenue Projections for Q106	\$ 9,212,300
Current Operational Cost	<u>12,344,991</u>
Shortfall	\$ 3,132,691
Savings from Policy Change	\$ 1,300,000
Revenue from Increased Levy	<u>1,900,000</u>
Balance Remaining	\$ 67,309

It is clear that either a significant reduction in some level of service activity area is required or a rate increase must be implemented to the Ww. Mgmt. Levy to avoid an unresolved funding shortfall. Staff presented this information to Council on July 15, 2003, recommending policy changes to the Sewer Lateral Policy. The alternative in that report was to increase the waste water charge to cover the existing costs of complying with the policy. Council approved the recommendation to have staff review the existing policy. In that regard, staff has brought forward the recommendations as outlined in this report.

Staff has reviewed the option of reducing the levels of maintenance service as related to the basic levels of maintenance activity on HRM's sanitary and storm sewer infrastructure. Although much of the current infrastructure is old and deteriorated, the overall functional effectiveness of the network is directly linked to the HRM Corporate Scorecard goal of maintaining healthy communities. Also, because legal and insurance implications are key considerations, significantly reducing the degree of maintenance activity as outlined in the approved 2003/04 Operating Budget is not considered to be prudent. However, staff are reviewing avenues that will streamline operations with a goal to curtail the level of maintenance expenditures as much as possible.

To that end, staff recommends the changes to Bylaw B-500 as indicated in Attachment A of this report. As indicated above, the expenditure level directed toward this one area of activity alone has grown by some 615 % over the past four years. The former municipalities, prior to amalgamation, had policies requiring property owners to be responsible for their lateral replacement costs. Since this policy changed in May 1999, Public Works & Transportation has replaced over 1060 service laterals, 390 alone in 2002/03. Based on the growth pattern for this activity, the budget projection for 2003/04 was increased by 30% over the budget allocation for 2002/03. From staff's perspective, this bylaw should be revised as indicated in Attachment A, in light of its significant budget impact.

BUDGET IMPLICATIONS

The approved Operating Budget for 2003/04 presently contains a funding shortfall as relates to reserve fund Q106 and as outlined above and which must be resolved. A change in policy will significantly offset this shortfall. Added to that, an increase in the Ww. Mgmt levy of five cents should offset the remaining shortfall. However, if a shortfall still exists at the end of Fiscal 2003/04, the shortfall will be funded through a repayable loan from the Variable Operating Stabilization Reserve Q308 (VOSR).

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

The following options were identified and examined by staff in regards to the funding dilemma for reserve fund Q106 for 2003/04:

- **Increase the rate of the Wastewater/Stormwater Management levy by \$0.08 per cubic metre, effective November 1, 2003.**

Currently, the Halifax Regional Water Commission includes two levies on water bills - one for Environmental Protection and the other for Wastewater Management. The recommended rate adjustment relates to the Wastewater Management levy only and would provide additional funding required for operations of the TUGS Section of Public Works & Transportation Services (funded 100% from Q106) and the Environmental Services Section of Environmental Management Services (funded 80% from Q106). The overall scope in operations over the past three year period, has now reached the point where the available annual revenue projected for 2003/04 will not be sufficient to cover required operational

costs. The rate increase would be required to ensure sufficient annual revenues are brought into the Reserve Fund to cover operations for these Sections.

An increase of \$.08 in the Wastewater/Stormwater levy will result in an increased cost of approximately \$20.48/year for an average household (based on an average family of two adults and two children using 64 cubic metres of water per quarter). The current rate per billable cubic metre of water is \$.2324. The recommended increase will result in a rate of \$.3124 effective November 1, 2003.

- **Approve in principle the amendment to Bylaw B-501 Respecting Building Service Connections, as well as the subsequent policy and procedures statements, without increasing the Wastewater Management Levy component of the Pollution Control Charge.**

The revenue projections for the Wastewater/Stormwater Management Reserve Q106 for 2003/04 has been established at \$9,212,300. Based on the approved 2003/04 Operating Budgets for TUGS and Environmental Services, the required revenue to cover the allocated percentages of operational costs is \$12,344,991, a shortfall of \$3,132,691. Council endorsement of this recommendation would reduce the shortfall by 41% to a total shortfall of \$1,832,691.

Cost Summary

Revenue Projections for Q106	\$ 9,212,300
Current Operational Cost	<u>12,344,991</u>
Shortfall	\$ 3,132,691
Savings from Policy Change	<u>\$ 1,300,000</u>
Shortfall Remaining	\$ 1,832,691

The challenge from here is to determine how the remainder of the shortfall can be eliminated. Currently, the TUGS section of Public Works & Transportation already has a balance owing of \$400,000 for a loan from the Variable Operating Stabilization Reserve Q308 (VOSR). However, it is unlikely that an allowance of an additional \$1,800,000 from the VOSR account will be feasible. Staff can continue to investigate how to further streamline operations with the goal of curtailing the level of maintenance expenditures, but it is unlikely that cost cutting measures would be able to account for the additional \$1,800,000 that would be required to offset this balance. To that end, staff does not recommend this option, unless it is accompanied by an increase in the Ww. Mgmt. Levy.

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BYLAW RATIONALIZATION

The recommended amendment has been reviewed and approved by the By-Law Rationalization Committee and has been "Approved to Form" by the Municipal Solicitor.

ATTACHMENTS

Bylaw B-500 Respecting Building Service Connections
Motion of Council, Section 10.2.6, April 6, 1999.

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by:	Kathy Smith, Financial Consultant, Financial Services	490-6153
	Nancy Harper, Coordinator - Financial Services	490-6527
	Larry Drew, Manager - Technical & Underground Services, Public Works & Transportation	490-4944
	Liz Kingston, Coordinator - Public Works & Transportation	490-4862

Report Approved by:		
	Dale MacLennan, Director, Financial Services	490-6308

		
	Rick Paynter, P. Eng., Director, Public Works & Transportation	490-4855

Attachment "A"

HALIFAX REGIONAL MUNICIPALITY

BY-LAW B-501

RESPECTING BUILDING SERVICE CONNECTIONS BY-LAW

BE IT ENACTED by the Council of the Halifax Regional Municipality that By-Law B-500, the Building Service Connections By-law be amended as follows:

1. Section 3 of said By-Law 500 is repealed and the following substituted therefore:

3 (1) Every building service connection shall be designed, constructed and maintained at the expense of the owner of the property served by the connection, whether on privately owned property or not.

(2) Notwithstanding subsection (1), if it is determined that an obstruction in the service connection was caused by the penetration of roots from a municipal tree, the municipality will

(a) absorb all costs for the removal of the obstruction; and

(b) reimburse the property owner for any costs incurred for the investigation up to a maximum of \$250.00.

Attachment "B"

 **10.2.6 Building Service Connections By-Law**

- A staff report prepared for Dan English, Deputy Chief Administrative Officer, regarding the above, was before Council for consideration.

MOVED by Councillors Greenough and Sarto that Council approve in principle the adoption of the Building Service Connections By-Law, as attached to the staff report dated March 29, 1999, as Appendix "A", and also give Notice of Motion to begin the formal adoption process.

Councillor Kelly suggested the By-Law should be changed to reflect that the property owners should only be responsible for maintenance to the property line, and the Municipality would be responsible for maintenance from the property line to the connection. The Councillor stated it is his belief there have been problems in the past through tree roots and other aspects that are not the fault of the homeowner, but they have had to bear the brunt of that cost which is unfair.

With respect to trees, Mr. Kulvinder Dhillon, Director, Engineering and Transportation Services, stated it is his understanding if a public tree is causing the blockage in the

service laterals, the homeowner would be asked to do some plumbing first to determine if this is the cause of the problem. If it is, the Municipality would look after the removal of the tree roots or the replacement of that section of the pipe. Under the present policy, Mr. Dhillon stated property owners are responsible from the building to the main sewer in the street, which was the policy in all the former units with the exception of the former County. The former County policy stated the Municipality was responsible to maintain the sewer in the right of way portion. Councillor Kelly stated he believes the former County policy is the proper way to deal with this issue.

Councillor Barnet expressed concern with the wording of the recommendation in the staff report, particularly with approving the proposed by-law in principle, as the public's comments on this issue are not yet known. Mr. Wayne Anstey, Municipal Solicitor, stated a definite proposal needs to be put forward to the public before a Public Hearing is held. By approving it in principle, does not preclude Council from changing the by-law after hearing from the public.

Councillor Barnet stated the Province realized there were property owners who would be negatively impacted by this, and during review of municipal legislation, it examined this issue and, as a result, changed it. The Councillor stated the services the residents are being requested to be responsible for may have been damaged by traffic, and, in some cases, HRM maintenance equipment. The residents are also required to pay street opening and closing fees. He suggested it would be more prudent to state that Council "may adopt" this by-law when it is advertised. Mr. Anstey suggested the advertisement could state that Council intends to consider the adoption of the by-law. Councillor Barnet replied he agreed with this change in wording for the advertisement, but still expressed concern with Council approving the by-law in principle.

Councillor Hendsbee stated he believes the property owners should only be responsible for maintenance of the service connection to the property line and not beyond.

Responding to a question of Councillor Harvey inquiring what would happen in a situation of a sewer line collapsing today, Mr. Anstey stated HRM's position would depend on what form of the By-Law Council decides to send to a Public Hearing. Once a by-law is adopted, it would tend to be applied retroactively.

Councillor McInroy suggested that, generally speaking, if the Municipality owns the street right of way, it should be responsible for that as much as the property owner would be responsible for everything on their property.

Councillor Greenough noted he served a Notice of Motion last week with respect to First Reading of this By-Law which will come before Council on April 13, 1999. The Councillor noted most blockage problems that have occurred in the past have been generally caused

by the homeowners use of the lateral rather than any fault of the Municipality. When it was identified that it was the fault of the Municipality, the necessary repairs were generally conducted by the Municipality.

If the problem occurs in the street line, Councillor Schofield suggested the maintenance costs should be shared fifty-fifty between the property owner and the Municipality.

Councillor Stone stated there is some need for the Municipality to take some responsibility for the service connections in the street. The Councillor suggested the advertisement in the paper needs to be clear to the public that the by-law is referring to the sewer laterals from their property to the centre of the street or the sewer connection, so they know this is the time to come before Council to discuss this issue. Councillor Stone agreed with Councillor Barnet that Council should not be approving this in principle at this time.

Responding to a question of Councillor Downey, Mr. Anstey stated up until March 31, 1998, the HRM Act stated the homeowner was responsible for maintenance to the lateral.

In response to concerns expressed by several Councillors regarding the wording "approve in principle", Mr. Anstey suggested this phrase could be replaced with "approve the form of the by-law, as attached to the staff report dated March 29, 1999, as Appendix "A", for consideration at First Reading." The Mover and Secunder of the motion agreed to this amendment. The vote was taken on the amended motion which now read as follows:

MOVED by Councillors Greenough and Sarto that Council approve the form of the Building Service Connections By-Law B-500, as attached to the staff report dated March 29, 1999, as Appendix "A", for consideration at First Reading.

Councillor Kelly requested a Recorded Vote. **MOTION DEFEATED (8 For, 15 Against)**

The following members of Council voted in favour of the motion: Deputy Mayor Uteck, Councillors Greenough, Hetherington, Schofield, Cunningham, Blumenthal, Downey, Read.

The following members of Council voted against the motion: Councillors Dooks, Snow, Hendsbee, Cooper, McInroy, Sarto, Fougere, Walker, Stone, Adams, Barnet, Harvey, Kelly, Rankin, Mitchell

MOVED by Councillors Kelly and Walker that Council proceed with the adoption of the Building Service Connections By-Law with the revision that the property owner serviced by the connection be responsible for the maintenance of that portion of the building service connection between the building and the street line and that the

municipality be responsible for that portion between the street line and the sewer main. MOTION PUT AND PASSED.

Later in the meeting, Councillor Kelly served a Notice of Motion respecting First Reading of the revised By-Law (see Item 13.1).