

Item No. 9.1.1
Audit & Finance Standing Committee
December 20, 2013

TO: Chair and Members of Audit & Finance Standing Committee
Original Signed

SUBMITTED BY: _____
Greg Keefe, Director, Finance & ICT/CFO

DATE: December 11, 2013

SUBJECT: Framework for Area Rates – Stormwater Right-of-Way Costs

ORIGIN

Regional Council, August 6, 2013:

- Regional Council directed staff “to return with a report on funding stormwater right-of-way system costs in the context of a broader discussion on tax structure issues.”

Regional Council, October 22, 2013:

- Regional Council adopted “the Framework for Area Rates as outlined in Attachment 1 of the October 15, 2013 staff report” and directed staff “to prepare a report(s) applying the Framework for Area Rates on the following outstanding issues:
 - a. The Suburban-Rural Tax Boundary,
 - b. Recreation Facilities,
 - c. Right-of-way Stormwater,
 - d. Deep Stormwater, and
 - e. Condominiums and Density.”

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, excerpts below.

Section 93 (Estimates of Required Sums)

(1) The Council shall make estimates of the sums that are required by the Municipality for the fiscal year.

(8) The tax rates must be those that the Council deems sufficient to raise the amount required to defray the estimated requirements of the Municipality.

Section 94 (Tax Rates)

The Council shall set separate commercial and residential tax rates for the area of the Municipality determined by the Council to be

- (a) a rural area receiving a rural level of services;
- (b) a suburban area receiving a suburban level of services; and
- (c) an urban area receiving an urban level of services.

Section 96 (Area Rates and Uniform Charges)

(1) The Council may spend money in an area, or for the benefit of an area, for any purpose for which the Municipality may expend funds or borrow.

(2) The Council may recover annually from the area the amount required or as much of that sum as the Council considers advisable to collect in any one fiscal year by an area rate of so much on the dollar on the assessed value of the taxable property or occupancy assessments in the area.

(3) The Council may provide

- (a) a subsidy for an area rate from the general rate in the amount or proportion approved by the Council;

RECOMMENDATION

It is recommended that the Audit and Finance Standing Committee forward a recommendation to Halifax Regional Council to:

1. Levy a new Stormwater Charge for Right of Way costs of \$39 per Property on those properties that pay the Halifax Water Stormwater Charge, and,
2. Request that Halifax Water collect the new Stormwater Charge for HRM through the Halifax Water billing process, commencing with the 2014-15 fiscal year.

BACKGROUND

Stormwater System Funding

In HRWC's Compliance Filing to the NSURB dated June 26, 2013, the stormwater charges to HRM are outlined in section 7(2) which states "Effective July 1, 2013 HRM shall pay annually to the Commission for the fiscal year commencing April 1, 2013, for stormwater service associated with the HRM owned Street Right of Way (ROW) the amount of \$3,561,766, which amount is pro-rated from July 1, 2013 to be \$2,671,324. This amount is calculated based on the impervious area within the HRM owned ROW. Effective April 1, 2014 HRM shall pay annually to the Commission for stormwater service associated with the HRM owned Street Right of Way (ROW) the amount of \$3,881,408."

On August 6, 2013, Regional Council directed that the uncommitted surplus from fiscal 2012-13 be used to fund the 2013-14 cost of the stormwater system within the HRM-owned right-of-way, and that staff "return with a report on funding stormwater right-of-way system costs in the context of a broader discussion on tax structure issues."

Framework for Area Rates

On October 22, 2013, a tax structure report, including a Framework for Area Rates, was presented to Regional Council at Committee of the Whole. The Framework was accepted by Regional Council and will be used to evaluate the options for funding the 2014-15 stormwater costs.

The Framework is not intended to provide an immediate answer as to the funding of specific services. Rather, it provides guidance as to the key factors to be considered and interpreted when making such taxation decisions.

As its chief principle, the "service standards and levels" should determine the tax status for a service, rather than the reverse. Where Council is introducing a new service or evaluating an existing service, details of that service need to be well understood before trying to establish its tax status

DISCUSSION

Storm sewers are an essential part of a city's draining system. While rural areas frequently use ditches or natural drainage to control rainwater and prevent flooding, more dense urban areas require more extensive infrastructure. In a city the large amount of impervious surface such as road networks, creates a higher standard for a stormwater system. Piped systems are commonly integrated into the road network. It is for this reason that the NS Utility and Review Board ruled HRM should pay for stormwater costs attributable to the run off from HRM owned and maintained roads.

One of the essential questions to be considered in deciding how to tax for the run-off from the Right of Way is whether Council considers those costs to be a part of the road system or whether they see stormwater as a separate service provided by HRM. This is complicated by the fact that Halifax Water is the entity that provides and maintains storm sewers and because the broader storm drainage system (for example, ditches, culverts, etc...) exists across all of HRM. As a

result Council could view the service in three fashions:

1. Stormwater is part of the transportation and road service provided by HRM
2. Stormwater is a service provided all across HRM (through ditches, culverts, and payment to HW for ROW costs);
3. Stormwater pipes and ROW costs represent a higher level of service than other stormwater approaches (eg ditches and culverts).

1. Stormwater is part of the transportation and road service

Service Description:

HRM provides and maintains local, collector and arterial roads. To keep this service operational, stormwater must be managed within road right of ways. In areas of denser development, the service may include piped (or underground) services, but in many parts of the Region, including parts of the Halifax Water service area, services are above-ground.

Applying the Framework to this service description:

1. **Where is the service and where will it be available?**

Answer: Mostly within the municipal road service boundary, see Attachment 1. In addition, 41 km of HRM-owned roads are maintained by HRM outside of this boundary.

2. **Who will benefit, either directly or indirectly, from the service?**

Answer: All those who use HRM-owned roads, e.g. most of those who reside within the “commutershed,” i.e. same boundary as used for the Regional Transportation area rate, see Attachment 2.

3. **Who have caused a need for the service?**

Answer: Those who live or work along these HRM roads, as well as those who travel on the roads.

4. **Is the standard or level of service different than that provided elsewhere?**

Answer: No. Technical solutions will differ across HRM depending on topography and the amount of development, i.e. land availability and amount of impervious surfaces.

Using this definition of the HRM roads/stormwater service, “a significant minority of taxpayers has no practical access to a service” applies, i.e. those outside the commutershed do not benefit – would not regularly access – the HRM road network. Therefore, HRM could use an area rate to fund the service.

Taxation solution for this service: **create a stormwater area rate using the commutershed boundary to collect the charge.** All residents and businesses from within the “commutershed” benefit from HRM-owned roads.

One of the complicating factors of this approach is the current delivery model. Unlike most other municipal services, stormwater and road services has a shared responsibility between Halifax Water and Transportation and Infrastructure Renewal (TIR), Province of Nova Scotia. This later responsibility is linked to the Provincial – Municipal Service Exchange agreement for road maintenance under which HRM assumed responsibility for some provincial roads in the

core while the Province assumed responsibility for what would otherwise be municipal roads in the rural area.

2. Stormwater is a Service provided all across HRM

Service Description:

Stormwater is a service provided all across HRM but in differing ways. In areas of denser development, the service may include piped (or underground) services, but in many parts of the Region, including parts of the Halifax Water service area, services are above-ground, e.g. ditches and culverts.

Applying the Framework to this service description:

1. **Where is the service and where will it be available?**

Answer: Across all of HRM.

2. **Who will benefit, either directly or indirectly, from the service?**

Answer: All those who use public roads in HRM (roads will be drained of stormwater).

3. **Who have caused a need for the service?**

Answer: Those who use public roads.

4. **Is the standard or level of service different than that provided elsewhere?**

Answer: No. Technical solutions will differ across HRM depending on topography and the amount of development, i.e. land availability and amount of impervious surfaces.

Taxation solution for this service: **general rate across HRM**. All residents and businesses benefit from some level of stormwater service in HRM, and stormwater service standards don't vary by geography. Rather, different approaches are used depending on local need and circumstances.

As described in Option 1, the current delivery model for stormwater and road services complicates this approach.

3. Stormwater pipes and ROW costs represent a higher level of service

Service Description:

In denser areas the underground stormwater system is required whereas in rural areas more low cost approaches can be implemented. Halifax Water (HW) provides underground stormwater utility functions within their stormwater service area. Most of Halifax Water's stormwater customers are also water and/or wastewater customers. However, approximately 18,000 properties within the stormwater service area benefit from HW stormwater services, without being water or wastewater customers. The piped stormwater system is enormously expensive and functions in a far different fashion than other stormwater approaches.

Applying the Framework to this service description:

1. **Where is the service and where will it be available?**

Answer: Mostly within the stormwater service boundary, see Attachment 3.

2. **Who will benefit, either directly or indirectly, from the service?**

Answer: Often times, the direct benefit of the stormwater service can be local in nature: it benefits the street abutters most significantly, especially on smaller, local streets.

3. Who have caused a need for the service?

Answer: Those living and travelling along the HRM streets/rights-of-way.

4. Is the standard or level of service different than that provided elsewhere?

Answer: No. Technical solutions will differ across HRM depending on topography and the amount of development, i.e. land availability and amount of impervious surfaces.

Using this definition of the Halifax Water stormwater services, “a significant minority of taxpayers has no practical access to a service” applies, i.e. those outside the stormwater service boundary do not directly benefit.

Taxation solution for this service:

Although, HRM could establish a separate area rate for the stormwater service area, such an area rate could lead to confusion, with both HW water bills and HRM tax bills citing “stormwater services.” Collecting for both on-site and right-of-way stormwater on the utility bill would eliminate potential confusion. Levying the ROW costs on the exact same customers and in the same manner as other stormwater costs is within the spirit of the area rate framework. It suggests Council should not tax “various parts of a service in a way that are inconsistent”. Although it is collected by HW, the new levy would remain a cost of HRM and would be fully included in its budget and financial statements

Summary of Options

Option	Service	Tax Solution	Rate Impact	Pros	Cons
1.	Part of Transportation and Road Service	Wide area rate (same boundary as Regional Transportation)	Residential & Resource \$0.006 (approx.) Commercial \$0.027 (approx.)	<ul style="list-style-type: none"> • Consolidates service as part of HRM roads 	<ul style="list-style-type: none"> • Stormwater is seen by many as a service in itself.
2.	Stormwater is a Service available all across HRM	General rates	Residential & Resource \$0.006 (approx.) Commercial \$0.027 (approx.)	<ul style="list-style-type: none"> • Recognizes uniqueness of this service • Consistent with taxation of HRM roads 	<ul style="list-style-type: none"> • Stormwater in piped areas can be seen as a significantly higher level of service.
3.	Stormwater pipes and	Wide area rate (HW service)	Approximately \$39 per	<ul style="list-style-type: none"> • All stormwater 	<ul style="list-style-type: none"> • Doesn't recognize

	ROW costs represent a higher level of service.	boundary) or flat charge on utility bill	property per year.	billing would appear on the Utility Bill	benefits to all those using HRM roads.
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Review of Other Considerations (from Framework)

- Council should define each service broadly and not tax various parts of a service in ways that are inconsistent;

Response: The services are defined broadly in all three options although Option 3 recognizes a difference in the level of service.

- Exceptions to service standards should not be made, solely on the basis of willingness to pay additional taxes;

Response: The services are currently in place, and are not expected to vary based on the funding source or tax approach.

- Special taxes should not be created for amounts that are immaterial in nature or as a guarantee for local fund raising.

Response: The service cost will be \$3.9 million in 2013-14, not immaterial, yet less than 1% of total tax revenues.

Conclusion

The third option is the most appropriate for HRM taxpayers and Halifax Water (HW) customers. The most efficient approach to collecting the stormwater charge for all properties within the HW stormwater service boundary, is through the utility bill. This includes the additional 18,000 properties currently receiving stormwater benefits, even though they are not water or wastewater customers. HRM will need to notify Halifax Water of its intentions by mid-January 2014 to facilitate 2014-15 billing.

FINANCIAL IMPLICATIONS

The June 2013 UARB decision requires that Halifax Water collect an amount – approximately \$3.9 million in 2013-14 – for right-of-way stormwater services from the HRM. For HRM this is a new cost which has previously not been built into any tax rates. Without offsetting reductions there will be higher municipal taxes and costs.

COMMUNITY ENGAGEMENT

The level of community engagement may vary for each services and taxation method. General-rated services typically require less community consultation than new area rates or local improvement charges. The level of any community engagement will be outlined with the specific taxation approaches, as they are developed.

ENVIRONMENTAL IMPLICATIONS

No environmental implications.

ALTERNATIVES

1. Council may select Option 1, to fund the Halifax Water stormwater costs across the HRM general rates.
2. Council may select Option 2, to introduce a new area rate to cover this incremental cost.

ATTACHMENTS

Attachment 1 – HRM Road Maintenance Area

<http://www.halifax.ca/snow/documents/WinterMaintenanceResponsibilitymap.pdf>

Attachment 2 – Regional Transportation Boundary

http://www.halifax.ca/revenue/TaxBill/documents/Regional_Transportation_Area.pdf

Attachment 3 – Halifax Water Service Boundary

<http://www.halifax.ca/hrwc/documents/HalifaxWaterServiceableBoundary.pdf>

Attachment 4 – Area Rate Framework

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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