

Item No.
Audit & Finance Standing Committee
July 17, 2013

TO: Chair and Members of Audit & Finance Standing Committee

SUBMITTED BY:

Original Signed

Richard Butts, Chief Administrative Officer

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Greg Keefe, Director of Finance & ICT/CFO

DATE: July 11, 2013

SUBJECT: Stormwater Right-Of-Way Costs

ORIGIN

Decision of the Nova Scotia Utility and Review Board (NSURB) dated June 24, 2013 regarding an application by the Halifax Regional Water Commission (HRWC) for new rates and charges.

LEGISLATIVE AUTHORITY

Charter Section 79 (1) which states "The Council may expend money required by the Municipality for (a) wastewater facilities and stormwater systems ...".

Charter Section 104 (1) which states "The Council may make by-laws imposing, fixing and providing methods of enforcing payment of charges for (a) wastewater facilities or stormwater systems, the use of wastewater facilities or stormwater systems and connecting to wastewater facilities or stormwater systems ...".

RECOMMENDATION

It is recommended that the Audit and Finance Standing Committee recommend to Regional Council to:

1. Use uncommitted surplus from fiscal 2012-13 to fund the 2013-14 cost of the stormwater right-of-way system, and
2. Direct 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.

BACKGROUND

In 2007, HRM transferred its wastewater and stormwater operations, including the Aerotech/Airport wastewater facilities, to HRWC which resulted in HRWC becoming the first regulated water, wastewater and stormwater utility in Canada.

In 2011, HRWC filed a Cost of Service Study with the Nova Scotia Utility and Review Board (NSURB) seeking approval for a cost of service and rate design for each of the water, wastewater, and stormwater services. In its decision dated January 16, 2012, the NSURB directed that a Cost of Service Manual be submitted to the Board for approval.

Prior to July 1, 2013, the stormwater and wastewater charges were combined for rate determination purposes. The Cost of Service Manual filed by the HRWC with the Board on October 31, 2012 proposed to decouple the two charges because the current methodology does not provide a direct relationship between the amount of stormwater entering the system and the recovery of operating costs for the system.

The new charge for stormwater was proposed to be based upon the impervious area of a property. Impervious surfaces do not absorb water and therefore increase run-off into the stormwater system. It was determined there are a large number of residential properties with relatively small variations in impervious area. Therefore, HRWC proposed a flat quarterly charge for residential customers. All other customers would be charged based on actual impervious area.

In addition to this Site Generated Flow Charge, it was proposed by HRWC that all customers pay a Street Right of Way (ROW) Charge, based on the ROW impervious area, to recognize the benefit provided by stormwater management on street right of ways. Under the proposal, HRM, the owner of the streets was not to be charged.

During NSURB hearings held in April 2013 to consider HRWC's application for new rates and charges effective July 1, 2013, some interveners questioned the validity of the ROW Charge. The Investment Property Owner's Association of Nova Scotia argued that charging customers instead of HRM who owns the streets violates cost of service principles. The Association stated that HRM recognizes that stormwater removal protects and extends the life of street and road infrastructure, and reduces icing and street flooding which is a public safety concern. The HRWC countered that all property owners have access to municipal streets and roads to be able to travel to and from their properties and therefore benefit from the stormwater services.

Another issue raised at the hearing was that there are 3,547 residential properties which do not generate any site flows but, since they are in the stormwater area, would be subject to the ROW Charge.

On June 24, 2013, the NSURB released its decision on HRWC's application. In its decision, the Board determined "that normal cost of service principles require that HRM, who is the owner of the streets and who receives the benefit of the service, must pay for the cost that it incurs with respect to HRWC's services, like any other customer" (paragraph 190). "The Board therefore

finds that the ROW costs should be charged to HRM” (paragraph 191).

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.”

DISCUSSION

The NSURB decision imposes an unbudgeted cost pressure on HRM for fiscal 2013-14 of \$2,671,324. It also establishes an additional expense to be budgeted in future years starting in 2014-15. Therefore, two decisions are required: (1) how to cover the unbudgeted cost for 2013-14, and (2) how to fund the cost in future years.

With the 2013-14 budget already approved and the tax rates set, it is necessary to determine what capacity HRM has to absorb the cost this year without impacting service delivery. A surplus of \$9.3 million was carried forward from 2012-13, of which approximately \$4.5 million remains unallocated. Therefore, there is sufficient capacity in the 2013-14 budget to absorb this additional cost.

As requested, staff will be returning to Council later this year with a report and recommendations regarding a number of tax structure issues raised by Council. The stormwater ROW issue will be considered within the context of that debate.

FINANCIAL IMPLICATIONS

The June 24, 2013 decision of the NSURB imposes an additional unbudgeted cost to HRM of \$2,671,324 for 2013-14. Unallocated surplus carried forward from 2012-13 provides sufficient capacity in the 2013-14 budget to absorb this additional cost. Starting in 2014-15, an increase in tax rates may be required to cover the estimated \$4 million annual cost unless costs are reduced in other areas of the Operating Budget.

POLICY IMPLICATIONS

HRM transferred its wastewater and stormwater operation to HRWC on the basis of arrangements which provided for reciprocal favourable treatment in respect of the provision of stormwater services to HRM and the tax and other financial treatment of HRWC. The NSUARB in regulating HRWC as a public utility, has altered that arrangement by introducing a rate structure which requires payment by HRM for stormwater services on a cost of service basis. As a consequence, Council may consider revisiting the remaining aspects of the reciprocal arrangement which are not subject to NSUARB regulation.

COMMUNITY ENGAGEMENT

Not applicable.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications resulting from the recommendations in this report.

ALTERNATIVES

Alternatives for funding stormwater ROW costs will be discussed during a debate later this year on a number of tax structure issues raised by Council.

ATTACHMENTS

None

A copy of this report can be obtained online at <http://www.halifax.ca/boardscom/SCfinance/index.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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