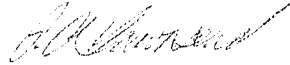


**Transportation Standing Committee
March 24, 2011**

TO: Chair and Members of the Transportation Standing Committee

SUBMITTED BY:



Phillip Townsend, Director, Infrastructure and Asset Management

DATE: February 11, 2011

SUBJECT: Non-Accepted/Private Roads and Keefe Road, District 17

ORIGIN

This report originates from the February 2, 2010, Regional Council meeting.

RECOMMENDATIONS:

It is recommended that Halifax Regional Council:

1. Approves Option No. 5 as outlined in the Discussion section of this report;
2. Directs staff to review and present to Council a possible funding plan for capital improvements to non-accepted roads for future Capital Budget Programs;
3. Continues to apply the Private Road Takeover Policy and recognizes that any capital improvements for private roads be initiated through this policy only; and
4. Directs staff to review the service equity relationship in more detail relative to maintenance activities, and report back to Council with a resolution at a later date.

BACKGROUND

At the February 2, 2010 Regional Council meeting, the following motion was passed:

1. Request a staff report to assess providing an appropriate asphalt surface on Keefe Drive;
2. Request that the Provincial Department of Natural Resources and Transportation and Federal Governments contribute to this project;
3. Request to Federal Department of Fisheries and Oceans for appropriate seawall and/or shoreline protection with a cc to the Member of Parliament for that area.

This report speaks to item number 1, and includes a broader discussion of private and non-accepted roads. Council was also interested in understanding the number of non-accepted and private roads within HRM, the cost to repair and maintain them, and the efforts required to upgrade these roads to the current standard. It was also suggested during this Council meeting there needs to be a minimum service standard for all roads.

Roads can be categorized by type of ownership and whether they are open to public use or not. In some cases, there could be overlapping categories. In order to assess the issues surrounding the varying types of roads within HRM, it is important to understand the definition of each:

HRM Roads - These roads are owned, maintained and serviced by the municipality. They have clear title to HRM by having been deeded or established through the acceptance of official street lines. Currently HRM owns and maintains approximately 1750 kilometers of public roads.

Non-Accepted Roads - The former City of Halifax (post 1969 amalgamation) discovered that within the mainland south area, there were a significant number of streets that were being utilized as public streets; however, they had not been accepted as municipally owned. These "public" streets functioned as part of the transportation system for large areas of mainland south but had been constructed to a different set of standards. During this period, City officials recognized that by accepting these locations as municipal streets, it would represent significant costs to upgrade to the acceptable standard. It therefore adopted a compromise whereby the City agreed to provide minimal maintenance to maintain the road passable, and adopted a takeover policy which placed the responsibility of the total cost of upgrading to the abutters. Over time, these non-accepted streets received a level of service which included snow and solid waste removal, minor pavement maintenance (pothole filling), and minor capital improvements (chipseal).

Non-Accepted roads are "public", having been used and driven on by the public for many years. However, there appears to be no party claiming title to these roads even though some level of municipal funds have been expended over the years. These non-accepted roads have never been deeded to HRM and true title can be obscure.

Each year staff receives numerous inquiries from residents and elected officials regarding the state of the non-accepted roads. Since these roads have not received major capital improvements, the condition of the asphalt and underlying granulars in some cases, is very poor. As well, there are roads that have drainage problems, and lack other infrastructure components such as sidewalks, curb and gutter, stormwater systems, etc. Interest is being expressed to have HRM takeover these streets, or as a minimum, to have HRM provide a more comprehensive capital improvement.

Some of the non-accepted and private streets are serviced with water and wastewater. Although a complete review has not been done at this time, Halifax Water has been maintaining water and wastewater systems in some of these streets. Having said this, a preliminary review suggests that easements may not have been provided with respect to these services. A more thorough review is required to be more certain as to which of the non-accepted and private streets have water and wastewater and which may require easements, to provide Halifax Water with more certain authority with respect to operation and maintenance of these services.

As indicated above, some non-accepted streets have stormwater systems but many do not. The Transfer Agreement between HRM and Halifax Water, transferred responsibility for stormwater systems located within municipal rights-of-way to Halifax Water. Because non-accepted and private streets have no municipal right-of-way, the wording of the Transfer Agreement indicates that Halifax Water is not responsible for stormwater systems in these streets. Pursuant to this Agreement, a committee of HRM and Halifax Water staff is in place to resolve issues of uncertainty related to the merger. That committee will review the issue of stormwater service in non-accepted and private streets.

Based on HRM staff's investigation, there are approximately 89 non-accepted streets (Note: there are additional streets where HRM provides a level of maintenance through service level agreements - refer to Private Road section below) within HRM, with many located in districts 17 and 18. Non-accepted roads are also located in districts 12, 13, 14, 15, 16 and 21. It would be a significant task to estimate the total cost to upgrade these streets to the acceptable standard and in many cases, achieving the standard is not feasible. Staff reviewed several streets, and as an example, some locations have insufficient right-of-way width and cannot support the recommended standard because of the residential homes' proximity to the existing boundaries. Nonetheless, many of these streets are not receiving an acceptable level of capital improvements as do the municipally owned streets. As a result, the level of deterioration is increasing and at some point the accessibility may become an issue. Continued deterioration of these streets impacts HRM's ability to maintain the surface condition to a satisfactory level; however, increasing resource requirements to stabilize non-accepted streets comes at the expense of maintenance funding for HRM owned streets.

The minimum maintenance standards for non-accepted streets are: On gravel roads, service is limited to Fall roadbase preparation for winter snow and ice control, and a roadbase clean up in the Spring to repair any plowing damage from the previous winter. Other periodic maintenance is limited to spot repair of deep potholes that would jeopardize safe vehicular passage. On paved, microsealed or chip sealed roads, maintenance is limited to potholes and maintaining the surface

treatment where required. As a number of these non-accepted streets were not constructed with roadside drainage systems, maintenance efforts are further challenged by recurring drainage concerns which contribute to further road base deterioration as well as complaints from abutters of road runoff onto adjacent properties.

As a note, Keefe Road is deemed to be a non-accepted road. It is located in District 17 and connects to Purcells Cove Road (see attached Map). The road has an average travelled width of 3.0 metres and has no shoulder area. It provides access to several homes and a portion of the road is situated in proximity to the local shoreline. Armour stone has been placed along this section as a means to protect this infrastructure. However, the amount and size of stone is inadequate to provide the necessary protection during specific storm events. The most recent significant damage occurred in January 2010 when a portion of the road was impacted by the storm, making it impassable for a short duration of time. HRM Municipal Operations acted expediently and repaired the section of damaged road.

Private Roads - Private roads are roads that are owned by an individual or group. Its title can be easily traced to a particular party and are known to be not owned by HRM. These roads generally do not meet HRM standards, with some locations receiving limited services (i.e. snow removal).

There have been several reports presented to the Private Roads Committee and Regional Council on this topic. Following are some key issues highlighted in the reports:

- May 13, 2003 - "It was recommended Regional Council requires that all new roads constructed in HRM be built to municipal standards and taken over by HRM and that new private roads no longer be permitted."
- February 16, 2006 - Information Report to Private Roads Committee - An information report provided an overview of Bill 70 (Municipal Law Amendment (2004) Act, as it relates to Private Roads) and how it would impact on HRM.
- November 7, 2006 - "It was recommended Regional Council consider the draft Maintenance Cost Recovery Policy as attached to the staff report to the Private Roads Committee dated October 24, 2006. The Maintenance Cost Recovery Policy is in accordance with provisions outlined in the former MGA amendments as per Bill 70, which allows for a mechanism for private road abutters to share the costs of ongoing minor road maintenance works such as road grading and snow removal."
- In the February 16, 2006 Information Report, it was indicated "to date, staff has identified 1056 private or non-accepted roads within HRM, of which 358 are located within the core, and 698 are located outside the core. All statistics thus far should be considered as soft numbers, subject to revision, as staff continues to research the records. Staff is working with NSTPW on the verification of the outside core listing, as well as attempting to determine actual road lengths for the inventory."

Inside the core, staff has determined that HRM currently provides year round maintenance provision to 49 private roads, and only winter snow & ice control to an additional 88 private roads. This inventory of service provision on private and non-accepted roads represents the legacy obligations of the former municipal units. Given HRM currently provides some level of service to approximately 38% of the private roads inventory within the core (and financed through the general tax rate), we must explore the service equity relationship if HRM is to consider service provision on a user pay basis for the potential 62% balance of private roads within the urban core.

Staff receives concerns from residents on an annual basis with the level of service and/or condition of some private roads. In most cases, these roads are not constructed to the current HRM standard and to upgrade to an acceptable municipal standard in many situations, would be cost prohibitive. It is noted though that HRM does have a private road takeover policy. This policy enables private road owner(s) to apply for municipal takeover. The owner must upgrade the road to the municipal standard (at their cost) prior to consideration. As a note, private roads can no longer be created as part of the subdivision process.

DISCUSSION

Non-Accepted Roads

Staff has determined there are 89 non-accepted streets within HRM (with an additional amount of private roads, as noted above, that could be considered non-accepted since they are receiving some level of service). It is noted that title to private and non-accepted roads can be difficult to determine. What HRM maintains as a non-accepted road may turn out to be a private lane and it may have untraceable ownership, a broken title, or simply an unclear title.

Many of these roads are constructed as narrow streets (some with widths as narrow as 3.0 meters). The dimensions, type, and amount of construction material varies from street to street and are substandard relative to today's requirements. Many cannot be constructed to the current standard widths due to physical constraints, thus making it impossible to widen to the standard 9.0 metres (for local streets), add new sidewalks, medians, and curb and gutters. As well, storm drainage systems vary from street to street with some areas having no system at all.

In order to confirm the requirements to upgrade to the current standard, along with providing an estimated cost, staff estimates it would require significant time and resources. Each road would necessitate a site visit(s), testing to determine subsurface conditions, legal and surveying reviews to ascertain property boundaries, review of water/sanitary/storm conditions, preliminary design, etc. As a means to provide some level of financial requirement (and assuming all non-accepted roads require new paving), it is estimated that over \$2,000,000 must be earmarked to provide 50 mm of asphalt over the existing travelled portion of the roads. Significant funding amounts would be required to build these roads to the current standard (if at all possible), or to an improved modified standard. Upgrading to within the existing travelled way and boundaries would be the most cost effective approach.

It is noted that in keeping with past practice, a level of capital improvements continues to be directed towards a number of non-accepted streets (and private roads where service agreements exist) on an annual basis. The locations include the districts identified in the Background section of this report. The levels of improvements typically involve slurry, micro or chipseal applications but do not include more extensive rehabilitation programs that involve asphalt. Staff is suggesting that this practice continues.

Options

There are several options for consideration regarding non-accepted roads:

1. HRM may wish to abandon the current policy (of no significant capital upgrades) and provide an increased level of capital improvement to the fullest extent of the standard. Where possible, the road could be considered for an upgrade consistent with the current standard. However, this will be cost prohibitive under the current fiscal environment and in many situations, unfeasible due to existing restrictions. Significant time and effort would be required to review this issue in more detail.
2. HRM may consider providing an increased level of capital improvements within the confines of the existing right-of-way. As an example, the roadway right-of-way may not allow for a 9.0 meter wide road surface combined with a 16 metre right-of-way with new sidewalk, curb and gutter. However, the road asphalt surface could be improved with the removal of the existing asphalt and granulars and replacement with new materials. This would improve the rideability without compromising the existing road boundaries. The feasibility and level of improvement would be assessed on a case by case basis. However, there is still a cost associated with this option and to date, annual operating and capital budgets fall well short of the current infrastructure demands on a street network that is municipally owned.
3. HRM may examine the option whereby the property owners are financially responsible for a portion of the major capital considerations (similar to the policy with respect to installation of new sidewalks or paving of gravel roads). Under the Local Improvement Policy, residents are responsible for 50% of the total construction costs of the betterment. The remaining 50% is paid through the capital program. The downside to this option is similar to option no. 2 noted above. There are insufficient funding levels to address the existing inventory of municipally owned street assets.
4. HRM may contemplate full execution of the current policy. However, it is believed many property owners are reluctant to cover the full costs for repairs made to the road. As a result, the non-accepted roads will continue to deteriorate.
5. HRM may implement a combination of option nos.2 and 3. Under this scenario, both the residents and the municipality would equally share in the capital construction costs, pursuant to other HRM cost shared programs such as New Sidewalks and Paving of Gravel Subdivision Roads (**Note: this process is currently under review by HRM**)

staff), and the level of improvements would be assessed on a case by case basis. The increased level of improvements would be conducted within the confines of the existing boundaries. Staff envisions creating a new capital account along with a priority rating system as a means to prioritize the long list of non-accepted streets. A new funding source for HRM's 50% must be created in order to introduce this program, and while this will have an impact on HRM's ability to address the extensive backlog of municipally owned and maintained streets, failure to act on these non-accepted streets may result in long term hardships. The past practice of applying surface sealing applications would continue at no cost to the residents.

Since these streets are currently not deeded to the municipality, some assessment will be required to determine if the road should be expropriated, a quit claim from the Province should be processed or if the ownership should remain status quo. Regardless of the decision, this issue should be resolved prior to moving forward with any capital improvements.

Staff is recommending option no. 5 which would include any improvements contemplated for Keefe Road.

Upgrades to Keefe Road would include the addition of new granular material and asphalt layers at an estimated cost of \$140,000 (from Purcells Cove Road to the end). However, enhancements to the existing shoreline protection must be considered prior to any capital upgrade to the existing road. Failure to do so will result in further damage to the road infrastructure during specific storm events. Appropriate analysis must be conducted to assess the type and amount of protection required.

If Council approves option no. 5, staff does not anticipate undertaking major capital improvements to the non-accepted roads for at least 1-2 years. It will take considerable time and effort to create a priority rating system, determine the level of capital improvement for the higher rated roads, assess the road ownership issue with respect to possible expropriation, quit claim or other, determine a funding source, confirm issues surrounding stormwater systems, and finalize HRM's approach with respect to the local improvement charge process.

Private Roads

As with the non-accepted roads, significant time and resources would be required to provide a preliminary estimate to upgrade to the current modified or full standard. Also, many locations may be restricted in such a manner that the road cannot be upgraded to the HRM standard.

Options 1-5 as described in the Non-Accepted section of this report, were also considered for private roads. However, staff's recommendation for future private road capital considerations is to continue with the current takeover policy. As outlined in the Background section of this report, HRM has a private road takeover policy which enables private road owner(s) to apply for municipal takeover, provided the owner upgrades the road to the appropriate municipal standard

(at their cost). Therefore capital considerations will not be contemplated by the Municipality, and will solely rest with the property owner(s).

As well, new requests for minor road maintenance works such as road grading and snow removal will continue to be addressed through the former Legislative Bill 70 (which is now outlined in the Charter). It is recommended that staff undergo a more comprehensive review of those private roads that currently receive year round maintenance from HRM as a result of legacy obligations and to consider minimum service standards for all roads.

Existing HRM Streets and Sidewalk Infrastructure

The following are statistics that outline the quantity, the cost to upgrade and the average annual capital expenditure regarding the publically owned and maintained HRM streets/sidewalks:

- Streets and Roads - HRM owns and maintains approximately 1750 kilometers of streets and roads. Of this total, roughly 800 kilometers requires some form of rehabilitation. The estimated cost to rehabilitate these streets is \$300,000,000. The annual paving capital budget has ranged in recent years between \$15,000,000 - \$20,000,000.
- Existing sidewalks - HRM owns and maintains 840 kilometers of existing sidewalks. Approximately 150 kilometers must be upgraded through the capital program. This equates to an estimated total cost of \$75,000,000. Each year HRM spends approximately \$2,000,000 - \$2,400,000 on sidewalk renewals. This amount enables 4-5 kilometers to be upgraded.
- New Sidewalks - There are approximately 225 requests to be considered. The estimated cost is \$100,000,000. Each year HRM allocates \$2,000,000 - \$2,400,000 on new sidewalks. This enables HRM to construct 8-10 new sidewalks annually.

BUDGET IMPLICATIONS

If Council approves the recommendations outlined above, additional funding source will be required to offset the required costs for major capital improvements. The improvements will be based on a case by case basis, and may simply require a surface seal treatment. It is recognized though that a more significant and costly capital improvements may be required on some streets. If approved, there will be impacts on future budgets as additional funding will be required to implement annual capital improvements to a specific number of non-accepted streets. The additional funding for this initiative will come from general tax rated revenues, local improvement charges or through reduction of other programs and services.

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

N/A

ALTERNATIVES

There are several recommended alternatives to this course of action as outlined in the Discussion section of this report. Since the non-accepted streets have acted as "public" streets for many years, staff does not recommend Option Nos. 1 through 4. With respect to "private" roads, there is typically a known owner (other than HRM) and HRM has not expended public funds on many of these private roads to date. Therefore, staff does not recommend expending capital funds on privately owned roads.


ATTACHMENTS

- Map - Keefe Road, District 17

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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Non-Accepted Private Roads and Keefe Road Council Report - A1

