

Halifax Regional Council
June 2, 2009
June 16, 2009

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



Dan English, Chief Administrative Officer



Geri Kaiser, Deputy CAO - Corporate Services and Strategy

DATE: May 22, 2009

SUBJECT: Clearwater Drive Bridge (Private Road) - Timberlea

ORIGIN

Owners of property on Clearwater Drive, a private road in Timberlea, approached Councillor Rankin and staff for assistance in financing repairs to an existing privately owned bridge.

RECOMMENDATION

It is recommended that:

1. Staff be directed to provide financial assistance to the property owners for the rehabilitation of the existing bridge on Clearwater Drive, a private road.
2. Approve in principle and begin the formal process for the adoption of By-Law L-131, attached hereto as Appendix A, Respecting Charges to Provide for the Rehabilitation of the Existing Bridge on Clearwater Drive, a Private Road, and the assignment of Local Improvement Charges for full recovery of HRM's financial assistance.
3. Require that the property owners serviced by the bridge form a Society as defined under the Nova Scotia Societies Act and register with the Registry of Joint Stock Companies for the purpose of maintaining the bridge on an on-going basis.
4. Require that the property owners be responsible for all facets of the project including but not limited to relevant design, construction, inspection and permits, and that upon completion of the bridge repairs, require that the property owners provide certification from a professional engineer that the bridge meets the load requirements for the safe passage of heavy firefighting apparatus before full firefighting service is restored.
5. Staff be directed to return to Council at a later date with an analysis of costs, benefits and implications of providing financing assistance for the recapitalization of private roads and bridges, and a proposed policy to establish criteria and process for exceptional circumstances where involvement of the municipality may be warranted.

BACKGROUND

On July 4, 2005, Fire and Emergency Service informed residents of Clearwater Drive by letter that because of the condition of the bridge, heavy firefighting vehicles would no longer be permitted to cross it until adequate repairs to the bridge were completed. A copy of the letter is included as Appendix B to this report. The letter further states that “this could mean a delay in establishing firefighting operations, as equipment and hoses will have to be manually carried to the site of the emergency. When homes are on a private road, it is the homeowner’s responsibility and best interest to address this situation.”

Concerned with the safety implications, the property owners obtained a quote for the cost of completing the repairs. Coastal Restoration and Masonry quoted a price of \$25,387 plus HST. A copy of the quote is included as Appendix C to this report. The property owners then attempted to obtain bank financing but were unsuccessful. They then approached their Councillor and HRM staff for financing assistance.

DISCUSSION

A legal opinion was sought on the legislative authority vested in HRM by the Province to expend funds on private bridges. Section 104(1)(g) of the HRM Charter does allow Council to make by-laws imposing, fixing and providing methods of enforcing payment of charges for constructing, improving and maintaining bridges associated with private roads. However, Section 79(1)(ab) does not provide for HRM to expend money on bridges associated with private roads. Therefore, while Council could engage in passing a by-law to deal with the recovery of local improvement charges for such a bridge, HRM itself cannot fund the bridge.

Notwithstanding the restrictions imposed by the Charter, Council has previously approved two separate by-laws for the repair of two bridges associated with private roads: By-Law L-116 (Kings Road, Wellington), and By-Law L-119 (Rockwood Hills Drive, Timberlea). The situation with respect to Kings Road was very similar to that of Clearwater Drive in that the property owners had been advised by Fire and Emergency Service that heavy firefighting apparatus could no longer cross the bridge because of its condition. The justification for providing financing assistance to the property owners of Kings Road via the Local Improvement Charge process was derived from Section 296(2)(e) of the MGA which states:

“Policies for fire departments and emergency service providers may include such other matters as are necessary and expedient for the provision of emergency services in the municipality.”

This section of the MGA is duplicated in the Charter as Section 307(2)(e).

Some of the owners of the 7 properties affected by the condition of the bridge requested that HRM impose a LIC of \$4,285.71 per property in order to raise the \$30,000 required to complete the

repairs. A formal survey of the property owners was completed in May 2009 to determine if at least two-thirds were in favour of paying a LIC for this purpose. Owners of all 7 properties indicated their approval of the LIC. A copy of the survey sent to the property owners is included with this report as Appendix D.

Because Councillors and staff continue to receive inquiries from residents for financing assistance to repair private roads and bridges, staff will return to Council at a later date with a draft policy for evaluating such requests based on a uniform set of criteria. At that time, staff may also recommend an amendment to the Charter to permit the inclusion of bridges associated with private roads under Section 79(1)(ab).

BUDGET IMPLICATIONS

Provided the Local Improvement Charge is approved, the total cost of this project will be 100% recoverable from the owners of the 7 properties and there will be no net cost to HRM.

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

1. Council could decide not to provide financing assistance to the property owners. If this is Council's decision, an explanation should be provided to the property owners as to why their request was denied despite the approval of such assistance in two other previous cases.
2. Council could direct staff to complete the repairs and not obtain recovery from the property owners. This is not recommended because of the precedent it could set. HRM does not have the capacity to take on responsibility for the hundreds of private roads located within HRM.

ATTACHMENTS

Appendix A: By-Law L-131, Respecting Charges for Local Improvement Projects, and map of plan area entitled "Clearwater Drive, a Private Road, By-Law L-131 dated April 30, 2009"

Appendix B: Letter dated July 4, 2005 from Fire & Emergency Service to Residents of Clearwater Drive

Appendix C: Quote from Coastal Restoration and Masonry Limited for the Replacement of the Bridge on Clearwater Drive

Appendix D: Survey mailed to the owners of the 7 properties affected by the condition of the bridge

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.

Report Prepared by: Gordon Roussel, Financial Consultant

Report Approved by:




Paul Fleming, Manager, Budget & Financial Analysis

Report Approved by:



Cathie O'Toole, CGA, Director, Finance

Report Approved by:



Catherine Sanderson, Sr. Manager, Financial Services, 490-1562

Appendix A

HALIFAX REGIONAL MUNICIPALITY

**BY-LAW NUMBER L-131
RESPECTING CHARGES FOR LOCAL IMPROVEMENT PROJECTS**

Be It Enacted by the Council for the Halifax Regional Municipality that By-Law L-100, the Local Improvement By-Law, be amended as follows:

1. Schedule "A" of By-Law L-100 is amended by adding the following:
 - (a) The project provides for the rehabilitation of the existing private bridge located on Clearwater Drive, Timberlea, thereby allowing for the reestablishment of full fire service located within the boundaries identified on a plan entitled "Clearwater Drive, a Private Road, By-Law L-131 dated April 30, 2009" as attached,
 - (b) The project will be funded by Local Improvement Charges based on the entire cost of the project,
 - (c) The Local Improvement Charge will be imposed at an interim rate of \$4,285.71 per property for those identified in the attached plan,
 - (d) The interim Local Improvement Charge will be adjusted at the completion of the project, and will be calculated on the basis of the total actual cost of the project at the adjustment date.

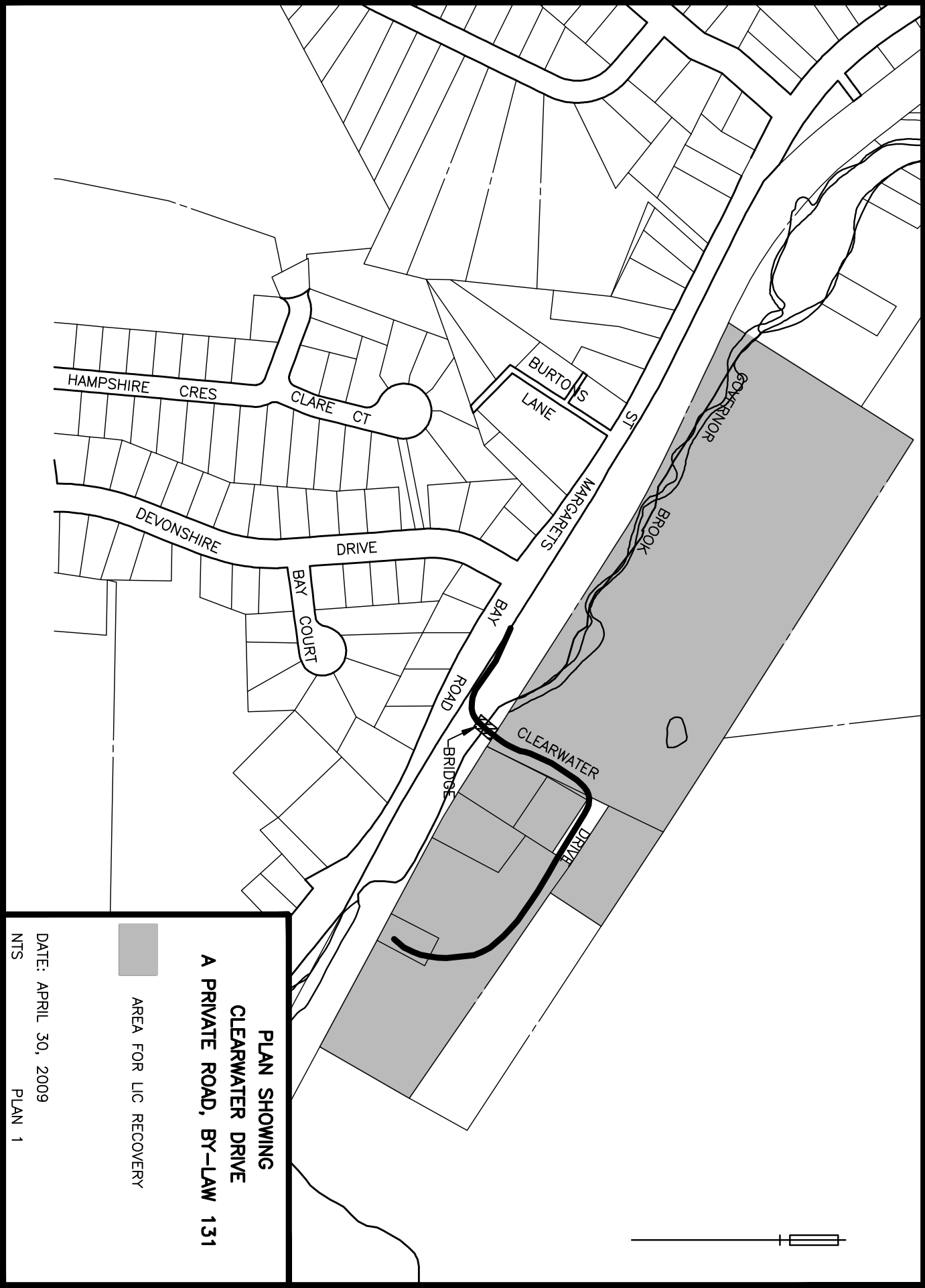
Done and passed by Council this day of , 2009

MAYOR

MUNICIPAL CLERK

I, Cathy Mellett, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above noted By-Law was passed at a meeting of the Halifax Regional Council held on ,2009

Cathy Mellett, Municipal Clerk



**PLAN SHOWING
CLEARWATER DRIVE
A PRIVATE ROAD, BY-LAW 131**

AREA FOR LIC RECOVERY

DATE: APRIL 30, 2009
NTS PLAN 1

Appendix B

FIRE AND EMERGENCY SERVICE
Chris Charron *District Chief*

July 4, 2005

25 Clearwater Drive
Timberlea NS

Dear Resident:

Halifax Regional Fire & Emergency have noticed significant deterioration on the bridge connecting your property and are concerned that the bridge may not be adequate to carry the weight of our fire vehicles. Fire vehicles typically weigh 16,500 kg (37,000 pounds) or more. Bridges must be designed and installed to carry this weight to ensure they do not collapse and disable the responding vehicles, or access to your property.

Safety is our greatest concern and until we are confident the bridge is safe, we will not allow our heavy fire vehicles to cross the bridge. However, we do have a contingency plan in place to provide limited fire protection to your residence. We have obtained two smaller quick response vehicles (1 ton) to be used on a temporary basis - **maximum six (6) months. From June 2005 to November 2005.** These vehicles will have the necessary equipment to handle most emergencies. Our larger units will respond to transport personnel and equipment, but will not be able to cross the bridge. After 6 months, the smaller units will not be available and we will return to our normal response protocols. This means stopping at the bridge if the bridges have not been verified to handle the weight of our apparatus. This could mean a delay in establishing firefighting operations, as equipment and hose lines will have to be manually carried to the site of the emergency.

When homes are on a private road, it is the homeowner's responsibility and best interest to address this situation. We require that you ensure the bridge is safe by providing us with information stating the bridge is structurally sound, ie. an engineers certificate.

Should you have a fire, the presence of barriers to an effective response may also affect your insurance coverage. We suggest you contact your agent for more information regarding your specific policy.

If you require a copy of the full contingency plan, or have any questions, please contact Chief James Belanger at 430-3882, or District Chief Chris Charron at 430-3840.

Sincerely,



Chris Charron, District Chief

cc Councillor Reg Rankin
Bill Estabrooks, MLA

COASTAL RESTORATION & MASONRY LIMITED

PH: 876-8333 FAX: 876-5072

Appendix C
October 27, 2008

Halifax Regional Municipality
PO Box 1749
Halifax, NS
B3J 3A5

Attention: Anne Reid

RE: Replacement of Bridge on Clearwater Drive

Dear Madame:

We are pleased to submit our quotation of 25,387.00 + HST to supply labour, materials and equipment to complete the following scope of work at the above noted location.

- Complete bridge work as per drawings SSK-2 and SSK-3 by BMR Structural Engineering, dated January 17, 2006.
- Clean up and reinstate site.

Note: Bridge will not be accessible for vehicular traffic for 4-5 days. Heat and weather protection are not included in our price.

If you have any questions regarding the above information, please do not hesitate to contact the undersigned.

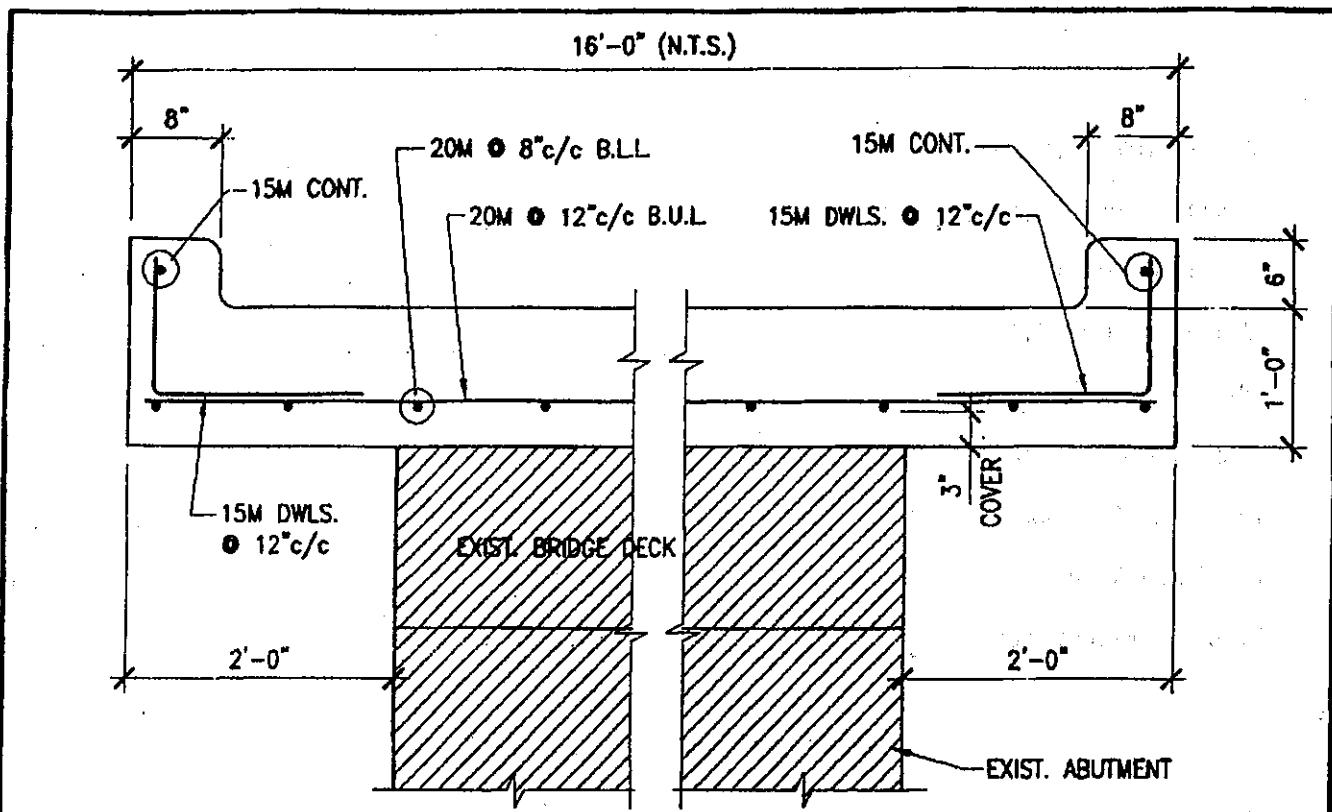
Sincerely,



Bradley Lanteigne
Projects Manager

BL/am

March 2
12:1
C-Ran



SECTION

1
SSK-1

SCALE: 3/4"=1'-0"

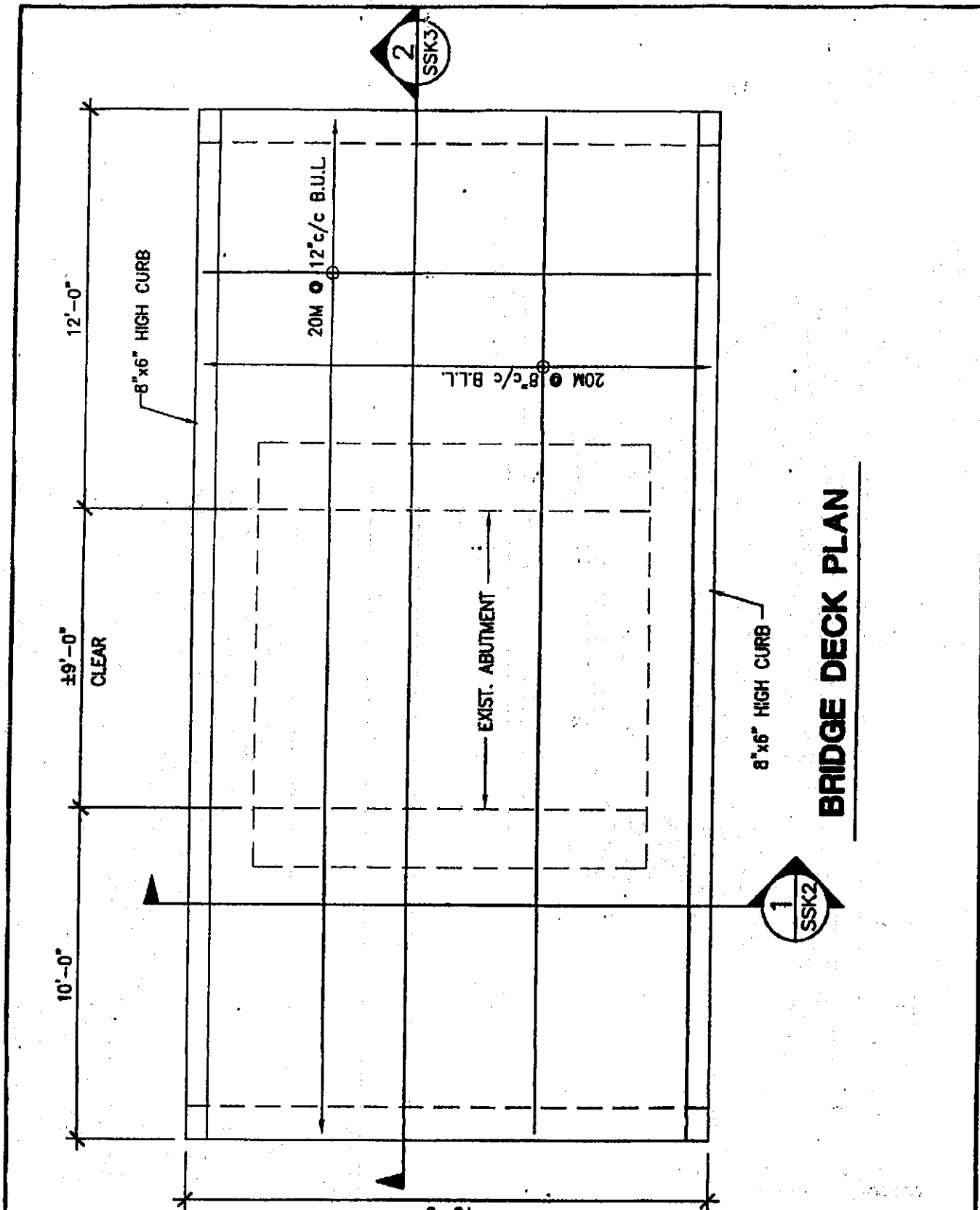
GENERAL NOTES

1. ALL WORK AND MATERIALS SHALL CONFORM TO THE LATEST EDITION OF THE NATIONAL BUILDING CODE.
2. THE CONTRACTOR SHALL EXAMINE ALL DRAWINGS AND CHECK ALL DIMENSIONS AGAINST SITE CONDITIONS AND REPORT ANY DISCREPANCIES BEFORE PROCEEDING WITH WORK.
3. CONTRACTOR SHALL DESIGN, INSTALL AND MAINTAIN ADEQUATE TEMPORARY BRACING AND SHORING OF ALL STRUCTURAL ELEMENTS FOR STABILITY AND SAFETY WHERE REQUIRED DURING CONSTRUCTION. (THE ABOVE WORK IS BEYOND THE SCOPE OF BMR STRUCTURAL ENGINEERING).
4. ALL CONCRETE, CONCRETE MATERIAL, FORMS, PRACTICE, ETC., SHALL CONFORM TO CSA-A23.1 UNLESS NOTED OTHERWISE.
5. MINIMUM COMPRESSIVE STRENGTH OF CONCRETE AT 28 DAYS SHALL BE 4,000psi UNLESS NOTED ON DRAWINGS:
6. USE 3/4" MAX. AGGREGATE SIZE THROUGHOUT. ALL CONCRETE EXPOSED TO WEATHER OR FREEZING CONDITIONS SHALL BE AIR ENTRAINED TO 6% (±2%). SLUMP TO BE 3" (±1").
7. NO ADMIXTURES SHALL BE USED WITHOUT PRIOR APPROVAL FROM THE STRUCTURAL ENGINEER.
8. ALL REINFORCING STEEL SHALL HAVE A MINIMUM YIELD STRENGTH OF 400 MPa AND SHALL CONFORM TO CSA G30.18.
9. ALL REINFORCING STEEL SHALL BE DETAILED, FABRICATED, PLACED AND SUPPORTED IN ACCORDANCE WITH "REINFORCING STEEL MANUAL OF STANDARD PRACTICE" BY THE REINFORCING STEEL INSTITUTE OF CANADA.


BMR
Structural Engineering
5413 DOYLE ST.
HALIFAX, N.S.
B3J 1Y6
TEL 429-3321
FAX 422-9650

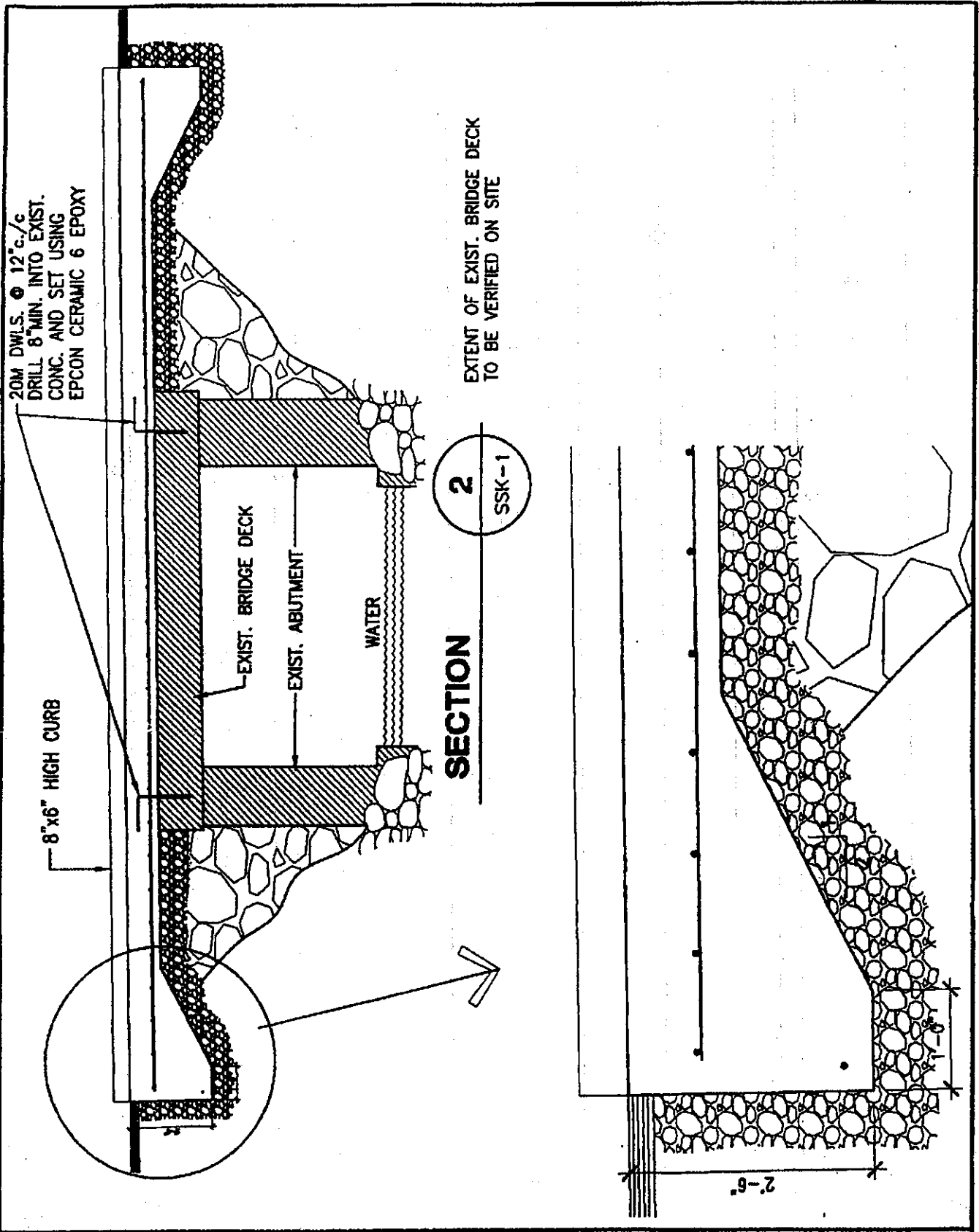
PROJECT	CLEARWATER ROAD BRIDGE NOVA SCOTIA
TITLE	SECTION 1 AND NOTES


DRAWN	R.L.	DATE	JAN. 17, 2006
PROJ. No.	2005-52B	DRAWING No.	SSK-2



BRIDGE DECK PLAN

 <p>5413 DOYLE ST. HALFAX, N.S. B3J 1H8 PH. 429-3321 FAX 422-0850</p>	PROJECT	DRAWN	DATE
	Clearwater Road Bridge	R.L.	JAN. 17, 2006
TITLE	PLAN	PROJ. No.	DRAWING No.
		2005-528	SSK-1



 <p>BMR Structural Engineering</p> <p>5413 DOYLE ST. HALLFAX, N.S. B3J 1Y6 PH 428-1321 FAX 422-8650</p>	PROJECT	DRAWN	DATE
	Clearwater Road Bridge	R.L.	JAN. 17, 2006
TITLE	PROJ. No.	DRAWING No.	
SECTION 2	2005-528	SSK-3	



Councillor's Office

Halifax Regional Municipality
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Canada B3J 3A5

Tel: (902) 490-4050
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www.halifax.ca

Councillor Reg Rankin

District 22
Timberlea-Prospect

Tel: (902) 876-0146
Cell: (902) 499-3744
Fax: (902) 876-4304
Email: rankinr@halifax.ca
www.halifax.ca

Appendix D

May 5, 2009

Re: Surveys - Upgrading of Clearwater Bridge

I have received a request from residents of Clearwater Drive for financial assistance from HRM to upgrade the privately owned bridge subject to the following conditions:

- 1) The formation of a legal entity by the property owners to be responsible for the bridge including future maintenance and upgrades;
- 2) The acquisition of all applicable permits;
- 3) HRM has been asked for funding to a maximum of \$30,000 to upgrade the bridge. A quote was provided to the residents from Coastal Restoration & Masonry Limited for \$25,387.00 plus HST. This quote was dated October 27, 2008. Based on an estimate of \$30,000, a successful survey representing 2/3 of the property owners in favour of the project is required, and would equate to 4,285.71 per lot;
- 4) If the actual construction costs are in excess of the \$30,000, HRM will finance this amount. However, the lot charge will increase accordingly in order to recover 100% of the cost of the project;
- 5) A by-law providing for the Local Improvement Charge must be developed and approved by the Halifax Regional Council prior to permitting the project to proceed; and,
- 6) HRM assumes no responsibility or liability that will be related to this project.

The Local Improvement Charge amount payable (as an option to the property owner) may be paid in equal annual installments for a period not exceeding ten years. Installments are due on the anniversary date of the original billing until the debt is paid in full. This billing may also be paid in full at any time without any interest penalty, if the abutter so desires. The unpaid balance is subject to an interest rate based on the maximum of the prime rate as set by the Royal Bank of Canada plus 2% at time of notification.

If you are in agreement to pay the estimated lot charge for your property in the amount of \$4,285.71, for the required upgrade of Clearwater Bridge, please sign and return the attached agreement by **May 22, 2009** to:

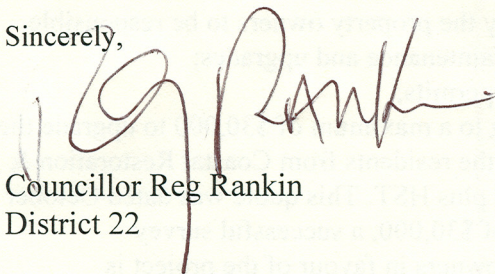
Mail: Ann Reid, LIC Clerk
Design & Construction Services
P.O. Box 1749
Halifax, NS B3J 3A5

Hand Deliver: Ann Reid, LIC Clerk
21 Mount Hope Ave.
Dartmouth, NS
Fax:: (902) 490-4858
Email: reida@halifax.ca

A survey form that is not completed and submitted to HRM prior to the deadline is deemed that the property owner is not in favour of this proposal. If you have any questions or concerns pertaining to this matter, please do not hesitate to call **Ann Reid at 490-6849** or e-mail: reida@halifax.ca.

If you require further clarification, please call **Ms. Ann Reid at (902) 490-6849**.

Sincerely,

A handwritten signature in black ink, appearing to read 'Reg Rankin', written over a light blue horizontal line.

Councillor Reg Rankin
District 22

cc: Phil Townsend, A/Director, Infrastructure & Asset Management

Survey - Upgrading of Clearwater Bridge

May 5, 2009

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AGREEMENT

I agree to pay the lot charge of \$4,285.71 (estimated) for the Clearwater Bridge upgrade.

Name _____

Signature _____

Lot # _____ Street Address: _____