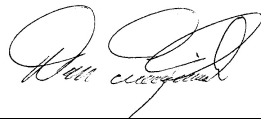


**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:**



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Dan English, Chief Administrative Officer



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Wayne Anstey, Deputy Chief Administrative Officer - Operations

**DATE:** July 30, 2009

**SUBJECT:** Government Wharf Road, Eastern Passage, District 8

**ORIGIN**

This report originates from staff.

**RECOMMENDATIONS**

It is recommended that Regional Council approve the acceptance of ownership of Government Wharf Road, Eastern Passage as shown as Parcel XA on the attached Plan No. 07033002 conditional upon the following:

1. The Province of Nova Scotia provides a letter of intent or quit claim deed to HRM releasing any responsibility of ownership;
2. HRM to obtain an encroachment agreement from property owner(s) who have known infrastructure elements or interests located within the proposed boundaries; and,
3. Halifax Water to obtain relevant easements from the Province for the purpose of maintaining the existing sewer system.

**RECOMMENDATIONS CONTINUED ON PAGE 2**

Upon acceptance the following terms and conditions shall apply:

1. HRM to notify all property owners of Government Wharf Road of HRM's intent to own;
2. HRM will not be required to install a new sidewalk in the future within Parcel XA; and,
3. HRM will be responsible only for the future maintenance and capital improvements within the boundaries illustrated as Parcel XA on the attached Plan No. 07033002. Infrastructure components including the boardwalk that are located beyond the proposed right-of-way boundaries shall be the responsibility of others.

### **BACKGROUND**

Government Wharf Road is located in Eastern Passage, District 8. The road boundaries are approximately 281 meters in length and an average of 8 meters in width (refer to attached Plan No. 07033002). This road has been in operation for many years, and serves as the only access to a wharf and fish processing plant for the local fishing community. As well the road services many businesses that are linked to the local economy and tourism industry. Given the uniqueness and popularity of this community, the road is subjected to significant volumes of traffic, particularly during the summer and fall season.

Factors including age, traffic volumes and lack of general maintenance have impacted on the condition of the travelled way. Currently no government level is taking responsibility for the ownership of this road. The Fisherman's Cove Association and the local community are concerned about its state, and the potential impact on local and general travel. As a result they have conveyed their concerns to the District 8 Councillor, and request that the road ownership be transferred to HRM, and upgraded and maintained to a suitable standard.

### **DISCUSSION**

The ownership of Government Wharf Road is unknown and/or unclear, and both the Federal and the Provincial Governments have informed HRM they currently do not have an ownership interest in this parcel of land. Over the past several years, meetings and other forms of communication have occurred with representatives at the Provincial and Federal government levels, as well with the Fisherman's Cove Association and the local business community to determine ownership and maintenance responsibilities. Based on those discussions, it appears the Federal Government has maintained Government Wharf Road for many years; however, according to local business representatives their involvement ceased approximately 8-10 years ago. Since that time, there has been no regular maintenance conducted on the road, and snow removal at times has been a significant challenge to the community.

The Federal Government suggests there is no clear title to the road, and to date the research supports this claim. As a result, the ownership continues to be in question. However due to past paving and maintenance operations by the Federal Government it appears that the federal Crown considered the road to be its property or at least its obligation for some period of time.

In order to support the local community and maintain the paved section of the road, HRM requested quit claim deeds conveying any interest in the road from the federal and provincial governments. The Federal Government has provided a deed. The Provincial Government has not provided a quit claim deed but rather has agreed to provide a letter of intent that it has no ownership interest in the road. As a result, the recommendation would be to have HRM accept these interests in the road as described as Parcel XA on the attached Plan No. 07033002, and provide the necessary short and long term maintenance and capital improvements. It is noted the Province has expressed concern about the road extending over their original high water mark which suggests there is some level of interest. Also it is noted HRM has yet to receive this letter of intent from the Province.

The boundaries as identified on Plan No. 07033002 do not meet the current HRM road standards. A local urban road typically has a 16.0 metre right-of-way, an asphalt surface that is 9.0 metres in width, concrete curb and gutter on both sides of the paved surface and a sidewalk complete with a grassed median. A preliminary estimate to upgrade to this standard including a piped storm system is in excess of \$400,000. Given the nature and configuration of the area it would be problematic to construct to the current standard. A 16.0 metre right-of-way would encompass an area that includes buildings and a wooden boardwalk. As well this road and surrounding locale has a more rural quality, and converting to the urban standard would impact on the character of the community. In contrast to an urban road standard, the current rural local road standard has a pavement width of 6.4 metres which is more comparable to the configuration of Parcel XA. Given the constraints beyond the existing asphalt boundaries (i.e.; building structures and boardwalk), the recommendation is to accept ownership of a right-of-way that equals the width of the existing asphalt surface (approximately 6.0 metres). Beyond this area, HRM would have no responsibility. The right-of-way area would accommodate the asphalt surface, some sanitary sewermain alignment and the full watermain alignment. There is a section of sanitary sewer pipe that transverse beyond the proposed right-of-way; however, Halifax Water has made a request to the Province to acquire an easement for future maintenance and capital requirements. As an additional note, there is sufficient turning area at the end of the road to facilitate the movement of larger emergency vehicles including fire trucks.

Although the proposed takeover boundaries do not meet current HRM road right-of-way standards, the uniqueness of the community supports the roadway configuration. In order for this area to continue to prosper and grow, appropriate access is imperative. Therefore by acquiring this road and land, it would provide a level of certainty to the property owners and businesses regarding the future repair and maintenance of the road.

### **BUDGET IMPLICATIONS**

Any costs associated with obtaining the encroachment(s) and easements identified in items 2 and 3 of the recommendation will be submitted under a separate Council Report at the time of acquisition.

Given the current condition of Government Wharf Road, a thin overlay asphalt application would be required in the short term. The estimated cost for this work is \$40,000. The funding for this work is currently available within project # CZU01082. Costs would also be incurred as a result of snow removal operations. In the long term Government Wharf Road would be upgraded pursuant to HRM's maintenance and pavement management programs.

### **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**

Council may choose not to approve the takeover of ownership of Government Wharf Road. Since other government levels refuse to accept ownership and associated maintenance responsibilities, staff does not recommend this alternative.

### **ATTACHMENTS**

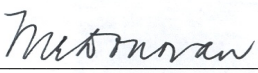
Plan No. 07033002 - Parcel XA


Attachment No. 1 - Terms and Conditions of Transaction


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 at 490-4208.

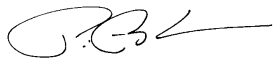
Report prepared by: David Hubley, P. Eng. Manager, Design & Construction Services at 490-4845

Report prepared by: Kirby Grant, Senior Solicitor, Legal Services, at 490-4226

Report Approved by:   
M.E. Donovan, Director, Legal Services & Risk Management at 490-4226

Financial Approval by:   
Cathie O'Toole, Director of Finance 490-6308

Report Approved by:   
Mike Labrecque, P. Eng. Director, Transportation and Public Works at 490-4855

Report Approved by:   
Acting for Phil Townsend, Director, Infrastructure and Asset Management at 490-7166

DH/pm



## ATTACHMENT NO. 1

The following are the Recommendations of Acceptance and Key Business Terms and Conditions of the conveyance:

<b>KEY BUSINESS TERMS AND CONDITIONS OF TRANSACTION</b>	
<b>Property Location</b>	Government Wharf Road, Fisherman's Cove, Eastern Passage
<b>Site Area</b>	3246.8 square meters
<b>Vendor</b>	Unknown / Unclear
<b>Purchaser</b>	Halifax Regional Municipality
<b>Purchase Price</b>	\$1.00
<b>Recommendations of Acceptance</b>	<ol style="list-style-type: none"> <li>1. The Province of Nova Scotia provides a letter of intent or quit claim deed to HRM releasing any responsibility of ownership;</li> <li>2. HRM to obtain an encroachment agreement from property owner(s) who have known infrastructure elements or interest located within the proposed boundaries;</li> <li>3. Halifax Water to obtain relevant easements from the Province for the purpose of maintaining the existing sewer system;</li> </ol>
<b>Key Business Terms and Conditions</b>	<ol style="list-style-type: none"> <li>1. HRM to notify all property owners of Government Wharf Road of HRM's intent to own;</li> <li>2. HRM will not be required to install a new sidewalk in the future within Parcel XA;</li> <li>3. HRM will be responsible only for the future maintenance and capital improvements within the boundaries illustrated as Parcel XA on the attached Plan No. 07033002. Infrastructure components including the boardwalk that are located beyond the proposed right-of-way boundaries shall be the responsibility of others.</li> </ol>