

Item No. 11.1.4

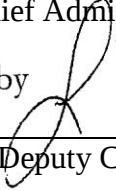
Halifax Regional Council

May 29, 2012

June 12, 2012

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: Original signed by 
Richard Butts, Chief Administrative Officer

Original Signed by 
Mike Labrecque, Deputy Chief Administrative Officer

DATE: May 16, 2012

SUBJECT: Road Maintenance Fee for Rutter Court Residents Association

ORIGIN

On January 16, 2007, Regional Council approved the Private Road Maintenance Costs Recovery Policy. The purpose of this Policy is to provide owners of property accessed by private roads with the use of area rates or uniform charges to collect the funds required to maintain private roads. The Rutter Court Residents Association has applied for such an area rate/ uniform charge under this Policy.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Approve an annual uniform charge of \$350.00 per property, to be applied against all properties abutting Rutter Court, as depicted in the map shown in Appendix A of this report, effective with the 2013-14 fiscal year for the purpose of funding the road maintenance activities of the Rutter Court Residents Association;
2. Approve amending Administrative Order 45, Respecting Private Road Maintenance, by adding Schedule 7, respecting a Uniform Charge for the Rutter Court Residents Association, attached hereto as Appendix B; and
3. Subject to the approval of Schedule 7 of Administrative Order 45, authorize the Mayor to sign on behalf of HRM, a Management and Operating Agreement between HRM and the Association.

BACKGROUND

Rutter Court is a private road located just off Highway 207 in the community of Seaforth in District 3. The road is an easement over privately owned lots. The Rutter Court Residents Association maintains the road under the authority provided for in the Restrictive Covenants attached to each deeded property. The Association funds road maintenance expenses through an annual fee collected from the owners of each of the 13 properties abutting the road. The fee is collected for all properties. The Association applied to HRM through the Private Road Maintenance Costs Recovery Policy for a uniform charge to ensure timely collection from all property owners.

DISCUSSION

The Private Road Maintenance Costs Recovery Policy outlines the conditions which must be satisfied before an area rate or uniform charge for private road maintenance can be implemented. Those conditions and the manner in which they were satisfied with respect to Rutter Court are outlined below.

1. A private road eligible for improvement or maintenance financing under this policy shall include any road that is not public and that provides perpetual direct or indirect access to a public road or highway for at least two properties each of which contains a principal residence.

Staff have verified that Rutter Court is privately owned (refer to #2 below), provides direct access to Highway 207 (refer to map in Appendix A), and has more than two properties containing principal residences.

2. The legal owner(s) of the property on which the private road is situated must consent in writing to the maintenance of the road.

Staff has verified that Rutter Court is not a separate land parcel or parcels, and is an easement over several of the building lots. The Restrictive Covenants attached to the deeds of the properties providing the easement require each owner to participate in an association for maintenance of the road and to contribute equally to the cost of its maintenance. Specifically, the Restrictive Covenants state under paragraph 4 that “... an association of owners of lots within the Subdivision shall be formed to deal with issues of concern to the Subdivision, and in particular the maintenance and upkeep of the roads, walkways, park lands or other facilities. Each owner in the Subdivision shall be responsible to share equally in the cost of any maintenance or upkeep of any facilities as may be directed by the majority of the owners in the Subdivision.”

3. An application for private road maintenance financing assistance under this policy shall be commenced by presenting a petition to the HRM Council. The presented petition shall be signed by property owners comprising at least two- thirds (66.7%) of both the principal residences and the road frontage on that portion of the private road for which the application is made.

On January 31, 2012, Karim Krey, President of the Rutter Court Residents Association, delivered a petition to staff on behalf of the owners of property abutting Rutter Court, requesting HRM collect their annual road maintenance dues via their property tax billings. Staff reviewed the petition and determined that the signatories represented at least two-thirds of both the principal residences and the road frontage on Rutter Court.

4. Notice of the meeting shall also be made not less than fourteen (14) days prior to the date of the meeting to all property owners that will be affected by the area rate through prepaid mail to their tax assessment addresses. The notice of the public meeting shall set out the date and time and place of the meeting, the name(s) of the applicant, describe the area to be subject to the application and the nature of the road maintenance proposed, the requested method of area flat rate determination (in conformity with this policy), the road maintenance plan and amount of the area flat rate to be requested in the application, and advise that rate payers will be entitled to vote and the method of voting. The mail notice shall contain regular postage pre-stamped self return envelopes, proxy forms and ballots approved to form by the HRM staff coordinator.

The meeting notice and ballot mailed out to all affected property owners is included as Appendix C to this report. The meeting notice was developed by staff and included all the information required above as per the Private Road Maintenance Cost Recovery Policy. Self-addressed return envelopes were included in the mail-out, and a fax number was also provided.

5. The meeting shall be conducted by the applicant under the supervision of the HRM staff coordinator. The applicant shall make a presentation to the meeting setting out the reasons and proposed purposes for the use of the area rate fund and the amount of the flat rate.

A meeting of the affected property owners was held on March 6, 2012 at 280 Rutter Court. The HRM staff coordinator was present at the meeting to supervise the proceedings and to answer any questions with respect to the Private Road Maintenance Costs Recovery Policy. A short presentation was made by the President of the Association explaining the amount and use of the uniform charge after which attendees had an opportunity to ask questions.

6. The support for the proposed area flat rate shall be the owners of at least two-thirds (66.7%) of the affected properties.

The owners of 11 of the 13 properties (84.6%) voted in favour of establishing an annual uniform charge of \$350.00 each to fund the road maintenance activities of the Rutter Court Residents Association.

7. The application for the establishment of an area flat rate shall define the proposed area to which the flat rate is to apply with sufficient clarity to allow for proper implementation of the flat rate for billing purposes.

The uniform charge would be applied to all properties abutting Rutter Court, as depicted in the map shown in Appendix A of this report.

8. *An application shall include a budget in support of the proposed area flat rate.*

The budget in support of the proposed area flat rate (uniform charge) is included on the second page of Appendix C of this report. Staff have reviewed the budget and determined that it is sufficient to justify the amount of the area flat rate.

9. *The Applicant shall form, under the Societies Act, an incorporated association of the owners of the subject properties.*

Staff have verified with the Registry of Joint Stock Companies that the Rutter Court Residents Association, Registry ID 3243420, is currently in good standing (i.e. not lapsed).

10. *The administration fee shall be a set up charge of \$200.00 for each area rate.*

The administration fee will be collected if Council approves the implementation of the uniform charge.

BUDGET IMPLICATIONS

If approved, the uniform charge would take effect in the 2013-14 fiscal year. As all funding is from the uniform charge (i.e. no transfers from the general tax rate), there would be no impact on the HRM General Operating Budget at any time in the future.

The uniform charge of \$350.00 per property is based on the 2013-14 operating budget of \$4,550, divided by the number of properties in the catchment area, which is 13. Details of the budget are provided in Appendix C of this report.

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

The Community Engagement process is outlined in detail in the Discussion section of this report. All property owners were mailed a formal ballot which included information regarding the purpose and amount of the uniform charge, and the date, time and location of a public information meeting. The purpose of the meeting was to provide additional information and address questions and concerns raised by property owners.

ENVIRONMENTAL IMPLICATIONS

The Association was maintaining the roads prior to making application under the Private Road Maintenance Costs Recovery Policy. There is no change resulting from the Recommendations in

this report other than the manner in which the road maintenance fees are collected from the property owners.

ALTERNATIVES

Council could either (1) change the amount of the uniform charge or (2) deny approval of the uniform charge altogether. Neither alternative is recommended because (1) the amount of the uniform charge is based on a budget approved by the Association's membership and verified by staff, and (2) owners of 84.6% of the affected properties voted in favour of paying the uniform charge.

ATTACHMENTS

- Appendix A: Map of Catchment Area for Proposed Uniform charge
- Appendix B: Draft of Administrative Order 45 Schedule 7
- Appendix C: Copy of Meeting Notice and Ballot mailed to Property Owners, including proposed budget

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: Marlies van der Horst, Sr. Financial Consultant, 490-4446

Report Approved by: Bruce Fisher, Manager, Fiscal Policy & Financial Planning, 490-4493

Financial Approval by: Greg Keefe, A/Director of Finance & Information Technology/CFO, 490-6308



Halifax Regional Municipality
ADMINISTRATIVE ORDER NUMBER 45
Respecting Private Road Maintenance

1. Area Rate Charges pursuant to By-Law Number P-1100 Respecting Charges for Private Road Maintenance are hereby imposed in those areas described in the attached Schedules as is more particularly set out in the Schedules.

Schedule 7

- (a) An Area Rate Charge for properties fronting or abutting in whole or in part on Rutter Court, a private road located in the community of Seaforth as identified on the map dated February 3, 2012 attached hereto, shall be a flat area rate of no more than \$350.00 annually.
- (b) The Charges collected under this By-Law shall be used by the Rutter Court Residents Association for the maintenance of Rutter Court, including culverts, retaining walls, sidewalks, curbs and gutters that are associated with the roads. Road maintenance includes all work required to maintain the road in a serviceable condition year round and may include snow removal, grading, ditch and culvert and bridge repair and brush clearing.



BALLOT FOR PRIVATE ROAD MAINTENANCE TAX

February 27, 2012

OWNER

ADDRESS1

ADDRESS2

Assessment # AAN#

LOCATION

Dear Property Owner:

The Halifax Regional Municipality has been petitioned by the owners of property abutting the private road on which you own the above referenced property. The petition concerns the possible implementation of an area property tax rate to fund the maintenance of the Rutter Court private road. Since those signing the petition represent at least 66.7% of both the principal residents and the frontage along Rutter Court, a formal vote of all property owners must be held in accordance with the Municipality's Private Road Maintenance Costs Recovery Policy.

A ballot is provided at the bottom of this page. The purpose of this ballot is to determine whether at least 66.7% of property owners abutting the Rutter Court private road wish to implement a per property charge of \$350.00 annually to maintain their road. If the 66.7% minimum is attained, then all property owners abutting the private road would be required to pay the charge starting in 2012. With the exception of 2012, the annual charge would be divided equally between the two property tax billings mailed to property owners each year. For 2012 only, the entire charge would appear on the second billing. The charges collected would be turned over to the Rutter Court Residents Association which is responsible for maintaining the private road. The annual per property charge is calculated as follows:

$$\frac{\text{Estimated Cost of Services in the First Year}}{\text{Number of Residential Properties abutting Private Road}} = \frac{\$4,550}{13} = \$350.00 \text{ per property}$$

Enclosed with this letter is a budget which outlines how the total estimated cost of services was determined. As required by the Private Road Maintenance Costs Recovery Policy, a meeting of the owners of property abutting the private road will be held to provide additional information and to give property owners an opportunity to ask questions or raise concerns. The meeting will be held:

Tuesday March 6, 2012 @ 6:30 p.m.
280 Rutter Court, Seaforth

Completed ballots may be dropped off at the meeting, faxed to 490-5622, or mailed in the enclosed self-addressed envelope. You may also scan and email the completed ballot to vanderm@halifax.ca. If you have any questions regarding the process, please contact Marlies van der Horst at 490-4446.

Please note that all ballots must be received by March 26, 2012. If you are mailing in your ballot please allow adequate time for delivery. Results of the ballot will be communicated by the Rutter Court Residents Association.

- ☐ YES, I am in favour of implementing the area rate for private road maintenance and paying an annual area rate of \$350.00 on my property tax bill.
- ☐ NO, I am not in favour of implementing the area rate for private road maintenance.

Assessment #

NOTE: Only one vote per assessment number will be counted. Ballots with written-in, typed-in, or altered assessment numbers will not be accepted.

Budget (April 1, 2012 - March 31, 2013) Rutter Court, Seaforth

Income:

Dues collected	\$350 x 13 =	\$4,550.00
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Expenses:

Snow Removal	\$1,800.00
Grading/trimming of alders	\$1,500.00
HRM tax collection handling fee	\$100.00
Registry of Joint Stock Co. fee	\$25.00
Contingency*	\$1,075.00
Misc. (Bank, postage, office supplies)	\$50.00
	\$4,550.00

*Contingency: Includes money set aside for unexpected maintenance resulting from storm surge, heavy rain. Also maintenance of small trail to beach.

Note: Best use of yearly surplus (if case maybe) will be discussed during yearly AGM.