



Item No. 11.1.5
Halifax Regional Council
May 29, 2012
June 26, 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 14, 2012

SUBJECT: **Kings Road Bridges (Private Road) - Wellington**

ORIGIN

Owners of properties accessed from Kings Road, a private road in Wellington, approached Councillor Dalrymple and HRM staff for assistance in financing repairs to two privately owned bridges.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Direct staff to provide financing assistance to the property owners for the replacement of two existing bridges on Kings Road, a private road located in Wellington;
2. Approve in principle and begin the formal process for the adoption of By-Law L-135, attached hereto as Appendix A, Respecting Charges for the Replacement of the Private Bridges at Little Rawdon River and Golden Brook, Kings Road, Wellington, and the assignment of Local Improvement Charges for full recovery of HRM's financing assistance; and
3. 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.

BACKGROUND

In 2002, the owners of property accessed from Kings Road were advised by Fire and Emergency Services that one of the single access bridges on that road had deteriorated to the point where it was no longer considered safe enough for heavier firefighting vehicles to cross. As a result, the property owners were advised that full firefighting service could not be provided until the bridge again met the necessary load requirements for these vehicles.

The property owners were unable to obtain financing from other sources in order to cover the cost of replacing the bridge. On August 19, 2003, Regional Council approved By-Law L-116, Respecting Charges to Provide for the Constructing of a One-Lane Bridge on Kings Road, a Private Road, thereby allowing for the re-establishment of full fire service. This By-Law enabled the use of a local improvement charge to finance the replacement of the bridge by dividing the cost equally amongst 82 of the properties serviced by it.

Since the approval of By-Law L-116, there have been two other occasions when a local improvement charge has been used to finance the repairs or replacement of bridges on private roads: By-Law L-119 (Rockwood Hills Drive, Timberlea); and L-131 (Clearwater Drive, Timberlea). As with Kings Road, the property owners were advised by Fire and Emergency Services that firefighting service to their properties would be reduced because the condition of the bridges was not considered safe enough for the passage of heavy firefighting vehicles.

In November 2011, the Councillor for District 2 and staff received correspondence from the South West Grand Lake Property Owner's Association requesting the use of a local improvement charge to finance the replacement of two other bridges on Kings Road which were nearing the end of their useful life. According to the correspondence, the two bridges were inspected by a structural engineer in 2010 who advised that one needed to be replaced by 2013, and the other by 2015. Unlike the previous instances when a local improvement charge was approved to finance the repairs or replacement of private bridges, the property owners had not received any notification from Fire and Emergency Services regarding a reduction in firefighting services due to the unsafe condition of the bridges. Considering their experience in 2002, the Association has opted to take a proactive approach to mitigating the risk by replacing the bridges now rather than waiting until they deteriorate to the point where firefighting service could be reduced.

DISCUSSION

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 three separate by-laws for the repair of bridges associated with private roads: By-Law L-116 (Kings

Road, Wellington), By-Law L-119 (Rockwood Hills Drive, Timberlea), and By-Law L-131 (Clearwater Drive, Timberlea). In each case, property owners had been advised by Fire and Emergency Service that heavy firefighting apparatus could no longer cross the bridge because of it's condition. The justification for providing financing assistance to the property owners 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).

While Fire and Emergency Services has not yet advised the property owners that firefighting service will be curtailed, it appears inevitable in the foreseeable future given the engineering inspection and advice provided for the remaining two bridges on Kings Road. Therefore, staff completed a formal survey of the affected property owners in April 2012. Copies of the formal surveys are attached to this report as Appendices B and C. Appendix B is the survey letter and ballot mailed to property owners required to cross both bridges (at Little Rawdon River and Golden Brook) to access their properties. Appendix C is the survey letter and ballot mailed to property owners required to cross only one of the bridges (at Little Rawdon River) to access their properties.

Based on a quotation provided to the Association by Dexter Construction, the total estimated cost to replace both bridges is \$250,000 including contingencies and HST. This cost would be divided amongst the properties serviced by the bridges as follows:

Calculation of Estimated Local Improvement Charge

	Little Rawdon River	Golden Brook
Total Estimated Cost	\$ 142,950	\$ 107,050
Properties Serviced	78	67
Estimated LIC per property	\$ 1,832.69	\$ 1,597.76

Each of the 67 properties that must use both bridges to access their properties would be required to pay both LICs which total \$3,430.45. The 11 properties which are required to use only the bridge over Little Rawdon River would each be responsible for a LIC of \$1,832.69. These amounts would be adjusted for the final total cost once known. The properties which would be charged both LICs are indicated in the first map included with the draft by-law attached to this report. The properties which would be charged only the LIC for the bridge over Little Rawdon River are shown in the second map included with the draft by-law attached to this report.

The survey letters and ballots were mailed to property owners on April 23, 2012. The letters indicated May 11, 2012 as the deadline to return the completed ballot. A public meeting was held on May 2, 2012 to provide additional information and to give property owners an opportunity to ask questions or raise concerns. Following are the results of the formal balloting:

Ballot Results for Kings Rd Bridges LICs

	Little Rawdon River		Golden Brook	
Properties Balloted	78		67	
Minimum Required (50%+1)	40		35	
Ballots In Favour	43	55.1%	37	55.2%
Ballots Not in Favour	12	15.4%	10	14.9%
Ballots not returned	23	29.5%	20	29.9%

The results of the balloting indicate that property owners representing a majority of the affected properties are in favour of utilizing local improvement charges to finance the replacement of the two bridges.

BUDGET IMPLICATIONS

The property owners are 100% responsible for all costs associated with replacement of the two bridges. While HRM will settle with the contractor up front for these costs, they will be recovered in their entirety from the property owners over a period not to exceed 10 years, along with interest based on the prime rate plus 2% (which is fixed on the date the final charges are set based on the final total actual cost including HST). The interest compensates HRM for not having access to these funds for other purposes and/or not being able to invest the funds in accordance with the HRM Investment Policy. Therefore, there is no impact on the approved Operating, Capital or Reserves budget.

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

A letter from HRM explaining the purpose of the local improvement charge was mailed to each affected property owner and included a ballot to be returned indicating whether or not the property owner was in favour of the charge to finance the cost of replacing the bridges. Prior to the deadline for returning the ballot, the property owners were invited to a public meeting to obtain more information on the project and the process for implementing the charge, and to provide an opportunity to raise any questions or concerns. The by-law process also provides property owners with the opportunity to address Council directly at a public hearing.

ENVIRONMENTAL IMPLICATIONS

The contractor, Dexter Construction, will be obtaining all environmental permits required.

ALTERNATIVES

1. Regional Council could decide not to approve the local improvement charges recommended in this report. A possible reason for this could be because the property owners have not been advised by Fire and Emergency Services that firefighting services have been cut back due to the bridges being unsafe for the passage of heavy firefighting equipment. This alternative is not recommended because replacing the bridges now mitigates the risk of having this emergency service reduced in the future.

2. Regional Council could decide to approve the local improvement charge for the replacement of the most seriously deficient bridge at this time, and defer the charge for the other bridge to a later date. However, this alternative is not recommended given the engineering opinion that both bridges should be replaced by 2015, and given that replacing both bridges at the same time is more cost effective because the contractor is only required to be on site once with his equipment and workers. Further, the cost of replacing one of the bridges later could rise.

ATTACHMENTS

Appendix A: By-Law L-135, Respecting Charges for the Replacement of the Private Bridges at Little Rawdon River and Golden Brook, Kings Road, Wellington (includes maps of charge areas)

Appendix B: Letter and ballot mailed to property owners required to cross both bridges (over Little Rawdon River and Golden Brook) to access their properties.

Appendix C: Letter and ballot mailed to property owners required to cross only the bridge at Little Rawdon to access their properties.

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.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, Senior Financial Consultant, 490-6468

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

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

HALIFAX REGIONAL MUNICIPALITY

**BY-LAW NUMBER L-135
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 replacement of the two existing private bridges located at Little Rawdon River and Golden Brook on Kings Road, a private road in Wellington, thereby ensuring no disruption to firefighting service within the boundaries identified on a map entitled "Properties Subject to LIC for Little Rawdon River Bridge" dated March 28, 2012 as attached,
 - (b) The project will be funded by Local Improvement Charges based on the entire cost of the project,
 - (c) A Local Improvement Charge will be imposed at an interim rate of \$1,832.69 per property for those properties indicated on a map entitled "Properties Subject to LIC for Little Rawdon River Bridge" dated March 28, 2012 as attached,
 - (d) An additional Local Improvement Charge will be imposed at an interim rate of \$1,597.76 per property for those properties indicated on a map entitled "Properties Subject to LIC for Golden Brook Bridge" dated March 28, 2012 as attached,
 - (e) 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.

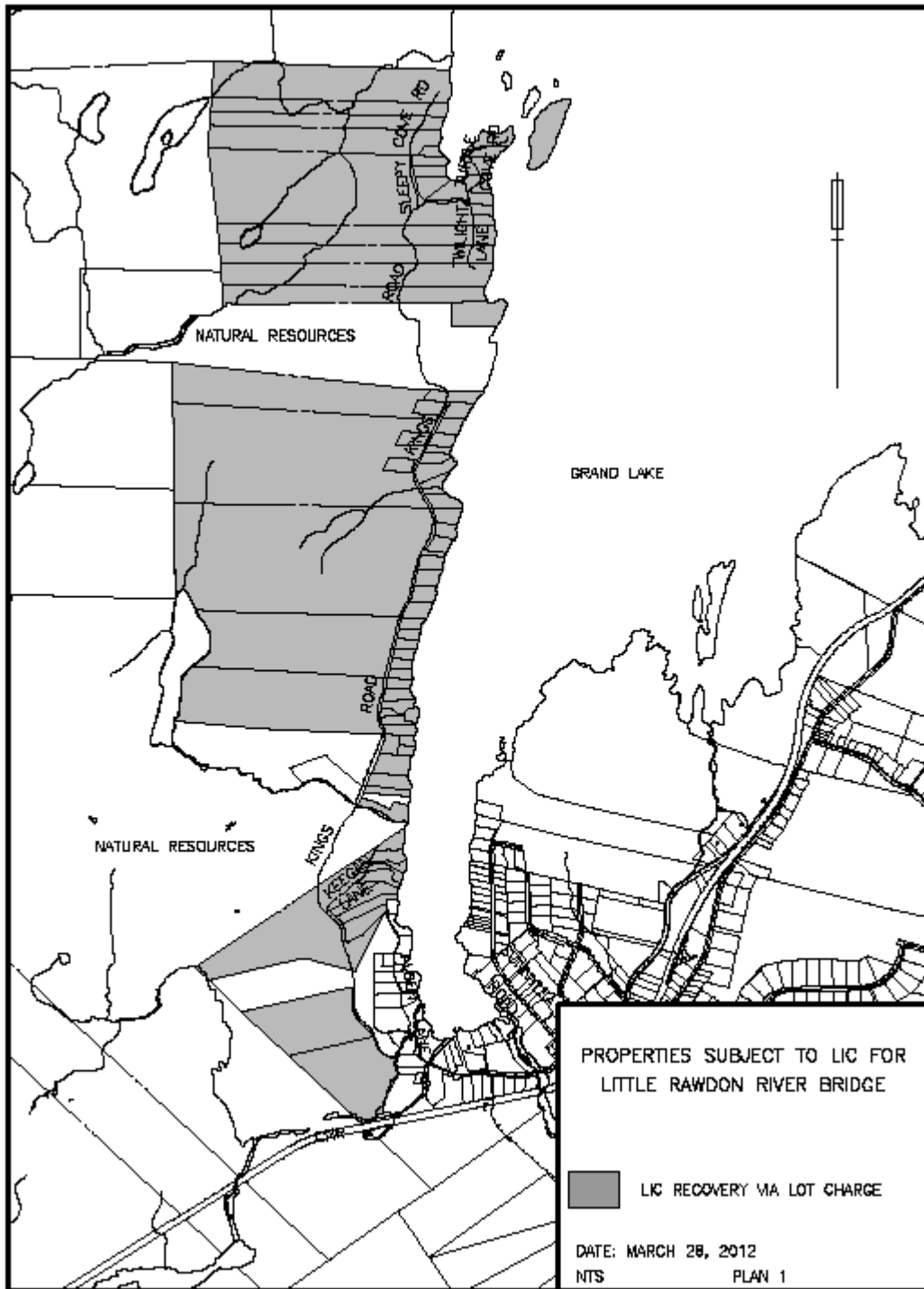
Done and passed by Council this day of , 2012

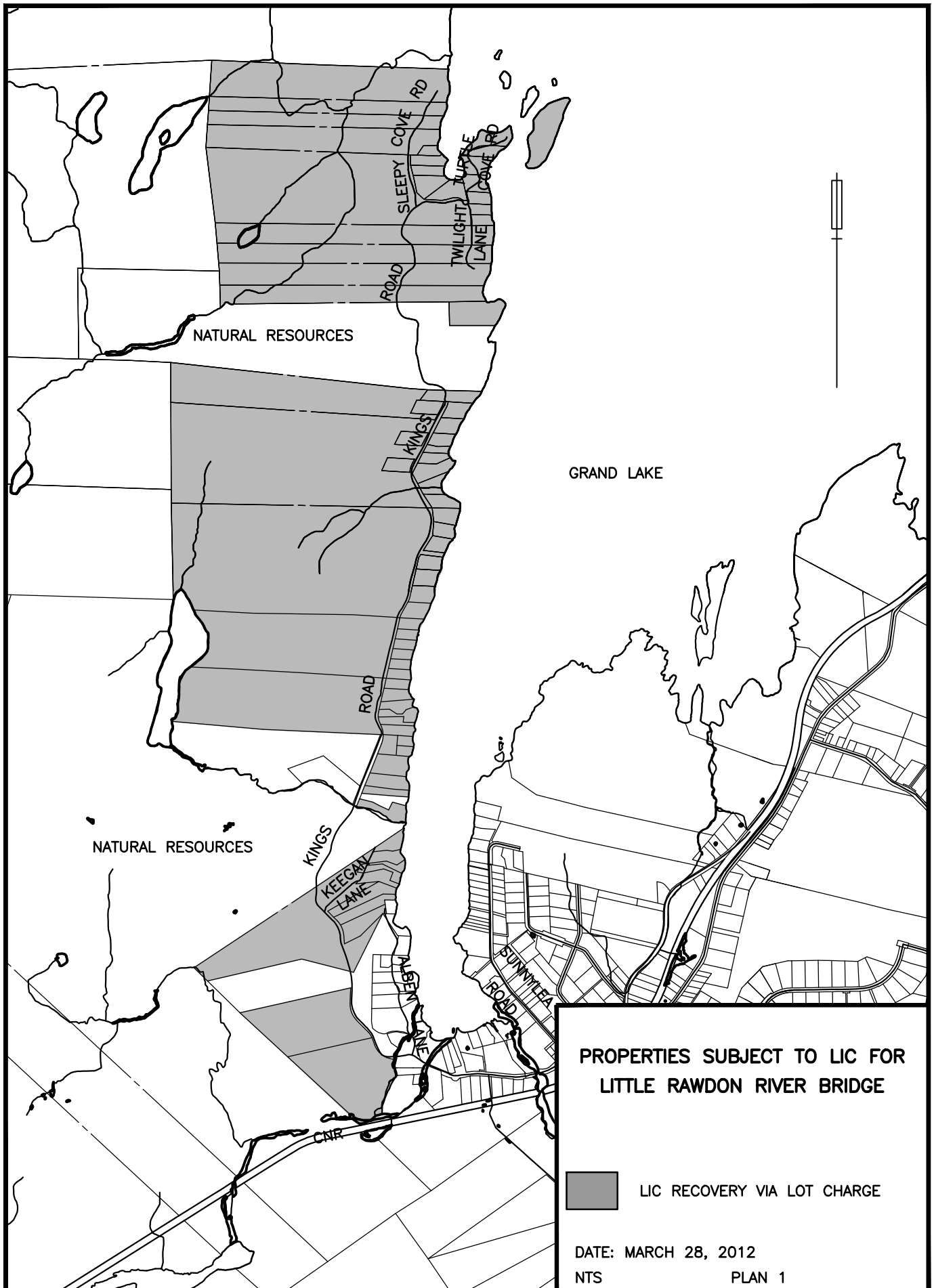
MAYOR

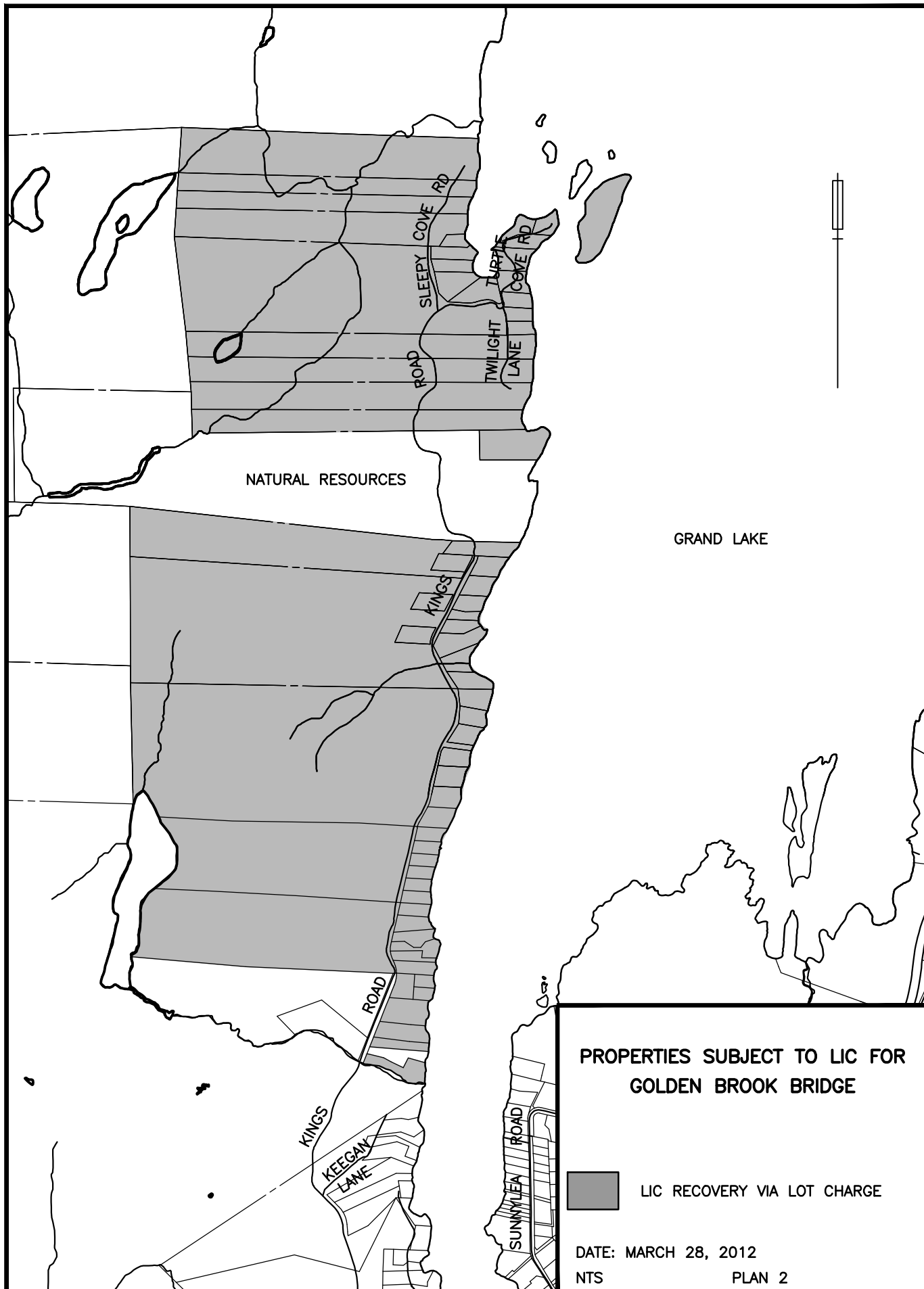
MUNICIPAL CLERK

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 ,2012

Cathy Mellett, Municipal Clerk







FORMAL SURVEY LETTER FOR PRIVATE BRIDGE LOCAL IMPROVEMENT CHARGE

April 13, 2012

OWNER1 /OWNER2

ADDRESS1

ADDRESS2 / POST_CDE

Assessment# AAN#

CIVIC/STR_NAME/STR_TYPE/Lot LOT

RE: Survey of Owners of Properties serviced by the Private Bridges over Little Rawdon River & Golden Brook

Dear Property Owner:

Halifax Regional Municipality (HRM) has been advised that the private bridges which provide access to your property as identified above are gradually deteriorating to the point that they may soon become unsafe for the passage of vehicular traffic, including emergency vehicles. A request has been submitted to HRM to provide financing assistance to the property owners who must use the bridges so that the cost of the necessary repairs or replacement can be completed as soon as possible. The purpose of this survey is to determine if there is sufficient interest among the property owners to pay for the necessary repairs or replacement utilizing a Local Improvement Charge (LIC).

Property owners are 100% responsible for the cost of the work. However, HRM would advance the funding required to pay all upfront costs associated with repairing or replacing the bridges so that they meet all loading requirements as described in applicable bridge codes and regulations in a timely manner. Property owners, through the South West Grand Lake Property Owners Association (SWGLPOA), are responsible for all facets of the project including but not limited to relevant surveying, engineering design, construction, construction inspection, contract administration, and certification. The Association would be required to engage the services of qualified professionals to ensure the work is properly completed. HRM involvement in the project is strictly limited to providing the LIC financing mechanism and assumes no responsibility or liability for the work completed.

Once the repairs or replacement is completed and the final total cost is known, each property would be billed back their share of the cost through a LIC. The LIC is calculated for each property by dividing the total final cost of each bridge plus HST (minus the Municipal HST Rebate) by the number of properties which must be accessed by the bridge. Property owners may take up to 10 years to pay the total LIC. The minimum annual payment is one-tenth (1/10th) of the balance owing plus interest accrued in the preceding 12 month period on the outstanding balance. The interest rate used to calculate the interest owing is based on the Prime Rate in effect on the date that the final LIC is calculated, plus 2%. That interest rate remains fixed for the entire 10 year period. Please note that the implementation of a LIC results in a lien on the properties to which it is applied until paid in full.

Based on information provided to us by the contractor who has been retained by the Association, the total estimated cost to repair/replace the bridges is \$250,000 including contingencies and HST. This cost would be divided amongst the properties serviced by the bridges as follows:

	Little Rawdon River	Golden Brook
Total Estimated Cost	\$ 142,950	\$ 107,050
Properties Serviced	78	67
Estimated LIC per property	\$ 1,832.69	\$ 1,597.76

The 67 properties that must use both bridges to access their properties would be responsible for both LICs which total \$3,430.45. The 11 properties which are required to use only the bridge over Little Rawdon River would be responsible for a LIC of \$1,832.69. These amounts will be adjusted once the final total cost is known.

Included at the end of this letter is a ballot for you to indicate whether or not you agree with using a LIC to provide upfront financing to cover the total cost of replacing or repairing the bridges. Please indicate with a check mark or "X" your preference in the applicable box on the ballot form. The completed ballot can be faxed to 490-5622 or mailed to: G. Roussel, Finance & Information Technology, Halifax Regional Municipality, PO Box 1749, Halifax, NS B3J 3A5. If you have access to a scanner, you may wish to scan the completed ballot and email it to rousseg@halifax.ca.

Please note the deadline for returning the completed ballot is Friday May 11, 2012 at 4:30 pm. If you are mailing in the ballot, please allow at least 5 business days to ensure it arrives by the deadline.

To provide additional information and to give property owners an opportunity to ask questions or raise concerns, a public meeting will be held:

Wednesday May 2, 2012 @ 7:00 pm
Fire Station 43, 22 Lakeside Dr., Grand Lake

If enough property owners representing at least a simple majority (50% + 1) of the properties agree to the use of a LIC to provide upfront financing for the repairs or replacement of the bridges, a to amend By-law L-100, Respecting Charges for Local Improvements, will be prepared for consideration by Regional Council. Prior to consideration of the by-law, a public hearing will be held to provide property owners with the opportunity to provide further comments to Regional Council. The date, time and place of the public hearing will be advertised in the Chronicle Herald. If Regional Council approves the by-law, the LIC will be billed to all property owners serviced by the bridges once the repairs or replacement is completed and the final cost is known.

While Regional Council will consider the results of the formal survey and the comments provided at the public hearing, it is important to note that this information is non-binding on Regional Council. If Regional Council deems that the safety risk to the property owners and/or the general public is unacceptably high, they may implement the by-law regardless of the survey results and public hearing comments.

If you have any questions, please contact Gordon Roussel at 490-6468 or by e-mail at rousseg@halifax.ca.

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- ☐ **YES**, I am in favour of paying Local Improvement Charges to finance the repairs or replacement of the private bridges located at Little Rawdon River and Golden Brook. I understand the amount of \$3,430.45 quoted in this letter is only an estimate and that the final LIC amount will be determined upon project completion once the final total cost is known.
- ☐ **NO**, I am NOT in favour of paying a Local Improvement Charge to finance the repairs or replacement of the private bridges located at Little Rawdon River and Golden Brook.

Assessment # AAN#

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

A favourable outcome to the ballot will be based on whether enough property owners representing at least a simple majority (50% + 1) of all the affected properties agree to the use of a LIC. Therefore, it is not based on the simple majority of the ballots returned. This has the same effect as counting non-responses as not being in favour of the LIC.

Please fax your completed ballot to 490-5622, or mail it in the enclosed self-addressed envelope to:

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Property owners are 100% responsible for the cost of the work. However, HRM would advance the funding required to pay all upfront costs associated with repairing or replacing the bridges so that they meet all loading requirements as described in applicable bridge codes and regulations in a timely manner. Property owners, through the South West Grand Lake Property Owners Association (SWGLPOA), are responsible for all facets of the project including but not limited to relevant surveying, engineering design, construction, construction inspection, contract administration, and certification. The Association would be required to engage the services of qualified professionals to ensure the work is properly completed. HRM involvement in the project is strictly limited to providing the LIC financing mechanism and assumes no responsibility or liability for the work completed.

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Included at the end of this letter is a ballot for you to indicate whether or not you agree with using a LIC to provide upfront financing to cover the total cost of replacing or repairing the bridge over Little Rawdon River. Please indicate with a check mark or "X" your preference in the applicable box on the ballot form. The completed ballot can be faxed to 490-5622 or mailed to: G. Roussel, Finance & Information Technology, Halifax Regional Municipality, PO Box 1749, Halifax, NS B3J 3A5. If you have access to a scanner, you may wish to scan the completed ballot and email it to rousseg@halifax.ca.

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If enough property owners representing at least a simple majority (50% + 1) of the properties agree to the use of a LIC to provide upfront financing for the repairs or replacement of the bridges, a by-law to amend By-law L-100, Respecting Charges for Local Improvements, will be prepared for consideration by Regional Council. Prior to consideration of the by-law, a public hearing will be held to provide property owners with the opportunity to provide further comments to Regional Council. The date, time and place of the public hearing will be advertised in the Chronicle Herald. If Regional Council approves the

by-law, the LIC will be billed to all property owners serviced by the bridges once the repairs or replacement is completed and the final cost is known.

While Regional Council will consider the results of the formal survey and the comments provided at the public hearing, it is important to note that this information is non-binding on Regional Council. If Regional Council deems that the safety risk to the property owners and/or the general public is unacceptably high, they may implement the by-law regardless of the survey results and public hearing comments.

If you have any questions, please contact Gordon Roussel at 490-6468 or by e-mail at rousseg@halifax.ca.

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- ☐ **YES**, I am in favour of paying a Local Improvement Charge to finance the repairs or replacement of the private bridge located at Little Rawdon River. I understand the amount of \$1,832.69 quoted in this letter is only an estimate and that the final LIC amount will be determined upon project completion once the final total cost is known. As I am not required to travel over Golden Brook to access my property, I will not be required to pay a Local Improvement Charge for the repairs or replacement of the bridge at that location.
- ☐ **NO**, I am NOT in favour of paying a Local Improvement Charge to finance the repairs or replacement of the private bridge located at Little Rawdon River.

Assessment # AAN#

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