HALIFAX
REGIONAL MUNICIPALITY

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Item No. 3 (ii)
Halifax Regional Council
February 28, 2012
Committee of the Whole
August 7, 2012
August 14, 2012

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: Original signed

Richard Butts, Chief Administrative Officer

Original signed

Greg Keefe, Acting Director of Finance/CFO

DATE: January 19, 2012

SUBJECT: Sidewalk Local Improvement Charges (LIC) and Taxes

ORIGIN

On July 5, 2011, Regional Council directed staff to "review the current LIC By-Law and policy requirements for possible improvement to the process, and to present to Council varying options for discussion."

RECOMMENDATION

It is recommended that Regional Council direct staff to:

1. Develop a new sidewalk, curb and gutter LIC and taxation system for 2012-2013 that recovers the costs of local sidewalks through a local sidewalk tax and includes the sidewalks on regional roads within the general tax rate, as identified in option 3 of this report;

2. Provide additional details for the selected option, including potential tax rates, prior to the 2012-2013 budget presentation; and

3. Provide direction as to whether similar solutions should be considered for LICs on other road features such as paving of gravel road upgrades.

BACKGROUND

The construction of new sidewalks, curbs and gutter are only one service provided by HRM and their total cost represents perhaps two to three percent of the total budget. Despite this, there is a confusing array of taxes and charges used. The construction of a sidewalk is often funded through local improvement charges, its maintenance through the Urban General Tax rate and its snow plowing through a separate area rate. Different taxpayers may pay for different parts of the sidewalk service. This system has become increasingly complex, confusing and inconsistent. It is not clear that the various rates and policies used to levy and collect the funds are meeting the original objectives of Council or that they can be said to represent a fair way to tax for a service.

DISCUSSION

LICs - Construction of New Sidewalks

Under the subdivision by-law, sidewalks in new sub-divisions are constructed by the developer, with the cost of that sidewalk presumably built into the sales price of the new homes. In existing sub-divisions HRM would build new sidewalks. They are funded in a variety of ways, depending on where the sidewalk is located and the exact local circumstances.

- In most cases, the municipality pays 50% of the construction costs and the local taxpayers pay the other 50%. This other 50% can be collected in a variety of ways including:
    - A frontage charge levied on abutters (e.g. $50 per foot of roadway). A small percentage of new sidewalk projects are considered under this category; however, when surveyed the abutters typically vote against the project. If the Councillor chooses to suspend the survey, the property owners are notified and advised of the LIC charge. The charge is typically applied over a 10-year period as per the Bylaw, and the full amount immediately becomes a lien on the property until paid.
    - An area rate on the district or a specific "mapped" area (area-rated LIC). No survey is required; and, therefore consultations normally do not occur. The charge is for one to three years and must be re-approved by Council each year. The amount voted on that year becomes a lien. Over the past five years, 90% of projects have been funded this way.
- If a new sidewalk is constructed outside of the urban tax area, it must be 100% funded by a local area rate or improvement charge, less external funding. Fall River in the suburban tax area and Sheet Harbour in the rural tax area are two significant examples, each with several kms of sidewalk. Currently, Sheet Harbour and the surrounding area pay a flat area rate of almost $12/year for each property for capital and maintenance costs.
- If a new sidewalk is constructed in the urban tax area, and there is already a sidewalk on one side of the roadway, the general tax rate pays for the cost of the second sidewalk.

Conversely, if there is a curb on one side of the road, the abutter must pay for a curb on the second side.

This system of taxing the construction of sidewalks has caused a number of practical difficulties:

- Decisions on whether to construct sidewalks are often driven by engineering standards and the sidewalk rating system. For instance, in cases where a road is being widened the standards might dictate that a sidewalk be added or upgraded. In other cases there are time constraints in partnering with other work, or public safety may be an over-riding factor. The local area can be forced into paying an area rate even though they were neither surveyed nor consulted.
- The boundaries for different LIC rates have started to overlap, causing confusion and feeling of unfairness. For instance,
    - Those who are paying long-term frontage rates often insist that they should not have to pay any area-rated LIC (because the latter taxpayers did not pay any of their frontage charges).
    - New sidewalks constructed close to the urban/suburban tax boundary might require two different tax rates.
    - When District boundaries are changed or new Councillors elected there may be multiple tax boundaries included within the new district. This situation will become more problematic after the 2012 municipal election.
- Local improvement Charge systems tend to imply that the greatest benefit from a new sidewalk accrues to the abutter or local neighbourhood. While this can be true it is often not the case. Sidewalks can address some safety concerns and are often used by many within miles of the sidewalk. In other cases sidewalks exist not simply because of those walking for leisure, but because the volume of traffic on the road has made walking conditions unsafe. Often that traffic comes from outside the local neighbourhood.
- The system is complex and confusing for taxpayers to understand. Significant staff resources are applied to accurately determining average frontage costs, shaping options for boundaries and explaining projects to citizens. Collecting the LIC (and interest) for each project can take as long as ten years.

There are four arguments that are often made in favour of local improvement charges:

- First, individuals who purchase a home that abuts an existing sidewalk have theoretically paid the cost of building the sidewalk in their home price. Hence, those who didn't have the cost built into their purchase price should pay an extra tax to cover the cost. While this theory is sound, there is no way to confirm how much, if any, value is built into a specific property.
- Secondly, as with many public services, demands for new sidewalks are high and funding to expand the sidewalk network are limited. More than 250 potential new sidewalk projects are on HRM's "waiting" list, but based on annual budget levels HRM currently constructs 8 to 10 new sidewalk sections each year. LICs provide local choice and flexibility in how a service

is provided. Sidewalks that are desired in a local area but rank low on the priority ranking system can be provided through an area rate or LIC. Abutters can hence be given the choice to approve or disapprove of any sidewalk construction. (However, it should be remembered that in many cases the abutters are not the ones requesting the sidewalk. Rather, there is a broader local community involved, e.g. sidewalks to the neighbourhood school or sidewalks on a busy arterial road).

- Third, LICs provide additional municipal revenues over and above the general tax rates. It costs nearly $1 million per year to pay the debt charges on past LICs. In 2011-12 an additional $500,000 in LIC debt was approved for sidewalks.
- Lastly, LICs help place a limit on the demand for new sidewalks. Those who might otherwise expect a new sidewalk under the general tax rate are sometimes unwilling to pay the LIC.

Urban Tax Rate - Sidewalk Maintenance

Once constructed, sidewalks need to be maintained and plowed. The Urban General Tax Rate was originally designed to include the costs of maintaining sidewalks and operating the transit system. In 2009-10 the transit system was moved into separate transit area rates. The only current difference between the Urban and Suburban General Tax rates is that the former includes the costs for sidewalks. However, about 4,000 homes within the urban tax boundary are not within walking distance of a sidewalk. There are another 2,000 homes that are within walking distance of a sidewalk but are not included in that urban tax boundary.

Sidewalk Plowing Area Rate

Winter maintenance (i.e. plowing) of sidewalks along arterial and transit routes, intersections, and HRM owned properties is currently funded from the general tax rate. For all other sidewalks, which are referred to in this report as "local sidewalks", winter maintenance is paid for through an area rate. Changes to the tax structure could align summer and winter maintenance approaches to taxation.

Options for Change

There is no accepted best practice for LICs. Rather, local improvements charges are more of a philosophy, and there is no one correct approach. If a municipality and its residents believe that sidewalks benefit those that live nearby and that local approval is critical, an LIC is a logical policy result. If sidewalks and road improvements are seen as benefiting the broader community, then a broadly-funded approach would be appropriate and the general tax rate can be used. In between are a wide variety of compromises and mixed approaches. The proper approach requires a municipal government to determine for itself who uses and benefits from the sidewalk system.

Generally speaking, such systems can place local control and the resulting cost of building a sidewalk onto the individual home (a complex system with multiple and overlapping tax rates) or can give control and the costs to the broader community (a simple system with one tax rate). HRM appears to be achieving the worst of each world. Residents generally are not surveyed on new sidewalks, so there is limited local input, yet much of the cost is still levied onto the individual neighbourhood leading to numerous tax rates. It would be preferable that HRM either return to the original purpose of the LIC

system – and use surveys for each of the LICs across HRM each year – or move toward a broader system of placing the costs within the general tax rate or a regional area rate. Depending on the mix of objectives that Council wishes to achieve, it can re-design that system to go in one of four broad directions:

(1) Local Improvement Charges – Abutters or those within a specific distance would share the cost of constructing and maintaining sidewalks and would have to agree to a new sidewalk through a survey process. Cost sharing from the general tax rate could be made available. It is preferable that Council use one type of tax and not allow exceptions. Its options for levying the tax include frontage and assessment. The urban tax boundary would be eliminated or re-drawn to include only those abutting on sidewalks. This option is the most complex system but places the costs directly on the heaviest users, the abutters. A possible compromise is to replace the LIC with a fixed nominal fee per home. This flat fee would be the same across the region and would be paid for all new sidewalks.

(2) Local Area Rate – As with the local transit tax, all properties within a set distance of a proposed new sidewalk would share in the costs of the sidewalk system. For instance, everyone within 1 km of a proposed new sidewalk might pay the costs of the sidewalk system. Those without a sidewalk would start paying the sidewalk tax once a new sidewalk was completed in their area. The urban tax boundary would be eliminated. This places the costs on those most likely to use sidewalks without creating a series of overlapping local improvement charges.

(3) Local Area Rate and General Tax Rate – This approach would look at local and regional sidewalks differently. Sidewalks on local roads would be paid for by those within a set distance of a sidewalk. Sidewalks on highways and major arterials would be paid for through the general tax rate of the whole municipality or a re-defined urban tax boundary. Those without a sidewalk would not contribute to local sidewalk costs. Using this system, the cost for local sidewalks is paid for by those in the immediate area while sidewalk costs of arterials and highways are paid for by all across the region.

(4) General Tax Rate - All sidewalk costs would be included in the general tax rate. This could be either a redesigned urban tax boundary or the general tax rate for all of Halifax. In this way everyone would share in the costs of sidewalk construction and maintenance across the region regardless of whether there is a sidewalk in their neighbourhood. This is the simplest and easiest system to understand and to administer.

Under any of these scenarios the current HRM by-laws and procedures would need to be completely re-written to ensure they are both clear and are consistent with Council direction. All of them would require some adjustment in the current LIC and tax rates although the actual size of many LICs is often small.

Consistency with other Policies/LICs

The scope of this sidewalk funding policy includes the costs of curb and gutter improvements done in conjunction with HRM sidewalk work. LICs for paving of gravel roads and other parts of the road

network (such as non-accepted streets) could be reviewed to assess whether a comparable approach is desirable.

BUDGET IMPLICATIONS

None of the options presented will either raise or lower expenditures. Rather, they simply change the system for collecting the revenue to cover those costs. If Council wishes to re-design its LIC and tax system, then staff will have to return with specific recommendations and impacts as to the magnitude of those changes. These will vary by the option chosen and the specific details. Final rates could not be set until the 2012-13 operating and capital budgets are set.

While staff have not fully modelled out the impact of each option, the change to most taxpayers should be relatively modest. For instance, the urban general tax rate is 1.7 cents more than the suburban tax rate. There are about 2,000 properties close to sidewalks that don't pay this charge for maintenance and could see additional charges. Conversely, there are about 4,000 homes within the urban boundary that are not close to sidewalks and might no longer pay this charge. At current tax rates the change would be about $35 per home added or subtracted to such homes.

LIC area tax rates can range from 2/10ths of a cent to as much as 8 cents. They can be even more when levied on frontage. However, many areas do not have LICs. Looking at all urban homes, the average LIC rate is 0.5 cents per $100 of assessment or about $10 per the average home. If there was a move to some form of a local sidewalk tax, then a small number of taxpayers would likely see some significant savings (e.g. $160) while a larger number of taxpayers might see small increases (e.g. $10). In 2011-12 about 13,700 properties had a Local Improvement Charge.

This report does not establish the new tax rates or policies that could replace the LIC system. Rather, as part of its next steps, Council would have to set specific policies around the rates and pass the appropriate by-law changes. This would include an implementation schedule and transition measures. Those LICs that have been levied as of a point in time would remain in place and, if not fully collected, would continue to be paid.

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

Information would be provided to rate payers, via tax bill inserts in April and October 2012.

ALTERNATIVES

1. This report offers Council four broad choices for LIC policy, within which there are a wide variety of options.
2. Regional Council could opt for the status quo but is not recommended by staff for the reasons outlined above.

ATTACHMENTS

Attachment 1 – Map of possible Local Sidewalk Tax boundary (2010-11)

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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Original signed

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Sidewalks

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Legend

- Urban Tax Boundary
- Properties within 1km of an HRM Sidewalk

This map was produced for the internal use of Halifax Regional Municipality(HRM). HRM takes no responsibility for errors or omissions. For further information on Street, Street Name or Community(GSA) data please contact HRM Civic Addressing at 490-5347 or email civicaddr@halifax.ca.

For further information regarding any other aspect of this plot please contact HRM Geographic Information Systems & Services at 490-6568 or email geoinfo@halifax.ca.

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LUCASVILLE
KINSAC
FLETCHERS LAKE
FALL RIVER
WINDSOR JUNCTION
LAKEVIEW
WAVERLEY
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NORTH PRESTON
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