

Item No. 11.2.2
Halifax Regional Council
January 14, 2014

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed

SUBMITTED BY: For Councillor Bill Karsten, Chair, Audit and Finance Standing Committee

DATE: January 6, 2013

SUBJECT: Framework for Area Rates – Stormwater Right-of-Way Costs

ORIGIN

Regional Council, August 6, 2013:

- Regional Council directed staff “to return with a report on funding stormwater right-of-way system costs in the context of a broader discussion on tax structure issues.”

Regional Council, October 22, 2013:

- Regional Council adopted “the Framework for Area Rates as outlined in Attachment 1 of the October 15, 2013 staff report” and directed staff “to prepare a report(s) applying the Framework for Area Rates on the following outstanding issues:
 - a. The Suburban-Rural Tax Boundary,
 - b. Recreation Facilities,
 - c. Right-of-way Stormwater,
 - d. Deep Stormwater, and
 - e. Condominiums and Density.”

Audit and Finance Standing Committee, December 20, 2013, Item No. 9.1.1

LEGISLATIVE AUTHORITY

Audit and Finance Standing Committee Terms of Reference, section 3.8, “To review and make recommendations on proposals coming to Halifax Regional Council outside of the annual budget or tender process including but not limited to:

- New programs or services not yet approved or funded
- Programs or services that are being substantially altered
- Proposed changes in any operating or budget items

Recommendation on page 2...

- Committing of funds where there is insufficient approved budget, or,
- New or increased capital projects not included in the approved budget
- Increases in project budget due to cost sharing
- Creation or modification of reserves and withdrawals not approved in the approved budget

RECOMMENDATION

It is recommended by the Audit and Finance Standing Committee that Halifax Regional Council:

1. Levy a new Stormwater Charge for Right of Way costs of \$39 per Property on those properties that pay the Halifax Water Stormwater Charge, and,
2. Request that Halifax Water collect the new Stormwater Charge for HRM through the Halifax Water billing process, commencing with the 2014-15 fiscal year.

BACKGROUND

The December 11, 2013 report deals with the implementation of a Stormwater charge as a result of the June 2013 UARB decision which requires Halifax Water to collect approximately \$3.9 million in 2013-14 for Stormwater Right of Way services, a new cost which has previously not been built into any tax rates. Further information in this regard is contained in the staff report dated December 11, 2013 (attachment 1).

DISCUSSION

Staff responded to questions from Councillors regarding the process of implementing a charge for Stormwater Right of Way costs. The Audit and Finance Standing Committee approved the recommendation as outlined in the recommendation section of this report.

FINANCIAL IMPLICATIONS

As outlined in the attached report dated December 11, 2013.

COMMUNITY ENGAGEMENT

All meetings of the Audit and Finance Standing Committee are open to the public. Agendas, reports and minutes are available on the web in advance of meetings

ENVIRONMENTAL IMPLICATIONS

As outlined in the attached report dated December 11, 2013.

ALTERNATIVES

The Committee did not provide alternatives however, alternatives are presented in the attached staff report dated December 11, 2013.

ATTACHMENTS

- 1. Audit and Finance Standing Committee Report dated December 11, 2013**
- 2. Excerpt of UARB decision dated June 24, 2013**

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: Liam MacSween, Legislative Assistant, 490-6521

Attachment 1
Audit & Finance Standing Committee
December 20, 2013

TO: Chair and Members of Audit & Finance Standing Committee
Original Signed

SUBMITTED BY: _____
Greg Keefe, Director, Finance & ICT/CFO

DATE: December 11, 2013

SUBJECT: Framework for Area Rates – Stormwater Right-of-Way Costs

ORIGIN

Regional Council, August 6, 2013:

- Regional Council directed staff “to return with a report on funding stormwater right-of-way system costs in the context of a broader discussion on tax structure issues.”

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- Regional Council adopted “the Framework for Area Rates as outlined in Attachment 1 of the October 15, 2013 staff report” and directed staff “to prepare a report(s) applying the Framework for Area Rates on the following outstanding issues:
 - a. The Suburban-Rural Tax Boundary,
 - b. Recreation Facilities,
 - c. Right-of-way Stormwater,
 - d. Deep Stormwater, and
 - e. Condominiums and Density.”

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, excerpts below.

Section 93 (Estimates of Required Sums)

- (1) The Council shall make estimates of the sums that are required by the Municipality for the fiscal year.
- (8) The tax rates must be those that the Council deems sufficient to raise the amount required to defray the estimated requirements of the Municipality.

Section 94 (Tax Rates)

The Council shall set separate commercial and residential tax rates for the area of the Municipality determined by the Council to be

- (a) a rural area receiving a rural level of services;
- (b) a suburban area receiving a suburban level of services; and
- (c) an urban area receiving an urban level of services.

Section 96 (Area Rates and Uniform Charges)

(1) The Council may spend money in an area, or for the benefit of an area, for any purpose for which the Municipality may expend funds or borrow.

(2) The Council may recover annually from the area the amount required or as much of that sum as the Council considers advisable to collect in any one fiscal year by an area rate of so much on the dollar on the assessed value of the taxable property or occupancy assessments in the area.

(3) The Council may provide

- (a) a subsidy for an area rate from the general rate in the amount or proportion approved by the Council;

RECOMMENDATION

It is recommended that the Audit and Finance Standing Committee forward a recommendation to Halifax Regional Council to:

1. Levy a new Stormwater Charge for Right of Way costs of \$39 per Property on those properties that pay the Halifax Water Stormwater Charge, and,
2. Request that Halifax Water collect the new Stormwater Charge for HRM through the Halifax Water billing process, commencing with the 2014-15 fiscal year.

BACKGROUND

Stormwater System Funding

In HRWC's Compliance Filing to the NSURB dated June 26, 2013, the stormwater charges to HRM are outlined in section 7(2) which states "Effective July 1, 2013 HRM shall pay annually to the Commission for the fiscal year commencing April 1, 2013, for stormwater service associated with the HRM owned Street Right of Way (ROW) the amount of \$3,561,766, which amount is pro-rated from July 1, 2013 to be \$2,671,324. This amount is calculated based on the impervious area within the HRM owned ROW. Effective April 1, 2014 HRM shall pay annually to the Commission for stormwater service associated with the HRM owned Street Right of Way (ROW) the amount of \$3,881,408."

On August 6, 2013, Regional Council directed that the uncommitted surplus from fiscal 2012-13 be used to fund the 2013-14 cost of the stormwater system within the HRM-owned right-of-way, and that staff "return with a report on funding stormwater right-of-way system costs in the context of a broader discussion on tax structure issues."

Framework for Area Rates

On October 22, 2013, a tax structure report, including a Framework for Area Rates, was presented to Regional Council at Committee of the Whole. The Framework was accepted by Regional Council and will be used to evaluate the options for funding the 2014-15 stormwater costs.

The Framework is not intended to provide an immediate answer as to the funding of specific services. Rather, it provides guidance as to the key factors to be considered and interpreted when making such taxation decisions.

As its chief principle, the "service standards and levels" should determine the tax status for a service, rather than the reverse. Where Council is introducing a new service or evaluating an existing service, details of that service need to be well understood before trying to establish its tax status

DISCUSSION

Storm sewers are an essential part of a city's draining system. While rural areas frequently use ditches or natural drainage to control rainwater and prevent flooding, more dense urban area require more extensive infrastructure. In a city the large amount of impervious surface such as road networks, creates a higher standard for a stormwater system. Piped systems are commonly integrated into the road network. It is for this reason that the NS Utility and Review Board ruled HRM should pay for stormwater costs attributable to the run off from HRM owned and maintained roads.

One of the essential questions to be considered in deciding how to tax for the run-off from the Right of Way is whether Council considers those costs to be a part of the road system or whether they see stormwater as a separate service provided by HRM. This is complicated by the fact that Halifax Water is the entity that provides and maintains storm sewers and because the broader storm drainage system (for example, ditches, culverts, etc...) exists across all of HRM. As a

result Council could view the service in three fashions:

1. Stormwater is part of the transportation and road service provided by HRM
2. Stormwater is a service provided all across HRM (through ditches, culverts, and payment to HW for ROW costs);
3. Stormwater pipes and ROW costs represent a higher level of service than other stormwater approaches (eg ditches and culverts).

1. Stormwater is part of the transportation and road service

Service Description:

HRM provides and maintains local, collector and arterial roads. To keep this service operational, stormwater must be managed within road right of ways. In areas of denser development, the service may include piped (or underground) services, but in many parts of the Region, including parts of the Halifax Water service area, services are above-ground.

Applying the Framework to this service description:

1. **Where is the service and where will it be available?**

Answer: Mostly within the municipal road service boundary, see Attachment 1. In addition, 41 km of HRM-owned roads are maintained by HRM outside of this boundary.

2. **Who will benefit, either directly or indirectly, from the service?**

Answer: All those who use HRM-owned roads, e.g. most of those who reside within the “commutershed,” i.e. same boundary as used for the Regional Transportation area rate, see Attachment 2.

3. **Who have caused a need for the service?**

Answer: Those who live or work along these HRM roads, as well as those who travel on the roads.

4. **Is the standard or level of service different than that provided elsewhere?**

Answer: No. Technical solutions will differ across HRM depending on topography and the amount of development, i.e. land availability and amount of impervious surfaces.

Using this definition of the HRM roads/stormwater service, “a significant minority of taxpayers has no practical access to a service” applies, i.e. those outside the commutershed do not benefit – would not regularly access – the HRM road network. Therefore, HRM could use an area rate to fund the service.

Taxation solution for this service: **create a stormwater area rate using the commutershed boundary to collect the charge.** All residents and businesses from within the “commutershed” benefit from HRM-owned roads.

One of the complicating factors of this approach is the current delivery model. Unlike most other municipal services, stormwater and road services has a shared responsibility between Halifax Water and Transportation and Infrastructure Renewal (TIR), Province of Nova Scotia. This later responsibility is linked to the Provincial – Municipal Service Exchange agreement for road maintenance under which HRM assumed responsibility for some provincial roads in the

core while the Province assumed responsibility for what would otherwise be municipal roads in the rural area.

2. Stormwater is a Service provided all across HRM

Service Description:

Stormwater is a service provided all across HRM but in differing ways. In areas of denser development, the service may include piped (or underground) services, but in many parts of the Region, including parts of the Halifax Water service area, services are above-ground, e.g. ditches and culverts.

Applying the Framework to this service description:

1. Where is the service and where will it be available?

Answer: Across all of HRM.

2. Who will benefit, either directly or indirectly, from the service?

Answer: All those who use public roads in HRM (roads will be drained of stormwater).

3. Who have caused a need for the service?

Answer: Those who use public roads.

4. Is the standard or level of service different than that provided elsewhere?

Answer: No. Technical solutions will differ across HRM depending on topography and the amount of development, i.e. land availability and amount of impervious surfaces.

Taxation solution for this service: **general rate across HRM**. All residents and businesses benefit from some level of stormwater service in HRM, and stormwater service standards don't vary by geography. Rather, different approaches are used depending on local need and circumstances.

As described in Option 1, the current delivery model for stormwater and road services complicates this approach.

3. Stormwater pipes and ROW costs represent a higher level of service

Service Description:

In denser areas the underground stormwater system is required whereas in rural areas more low cost approaches can be implemented. Halifax Water (HW) provides underground stormwater utility functions within their stormwater service area. Most of Halifax Water's stormwater customers are also water and/or wastewater customers. However, approximately 18,000 properties within the stormwater service area benefit from HW stormwater services, without being water or wastewater customers. The piped stormwater system is enormously expensive and functions in a far different fashion than other stormwater approaches.

Applying the Framework to this service description:

1. Where is the service and where will it be available?

Answer: Mostly within the stormwater service boundary, see Attachment 3.

2. Who will benefit, either directly or indirectly, from the service?

Answer: Often times, the direct benefit of the stormwater service can be local in nature: it benefits the street abutters most significantly, especially on smaller, local streets.

3. Who have caused a need for the service?

Answer: Those living and travelling along the HRM streets/rights-of-way.

4. Is the standard or level of service different than that provided elsewhere?

Answer: No. Technical solutions will differ across HRM depending on topography and the amount of development, i.e. land availability and amount of impervious surfaces.

Using this definition of the Halifax Water stormwater services, “a significant minority of taxpayers has no practical access to a service” applies, i.e. those outside the stormwater service boundary do not directly benefit.

Taxation solution for this service:

Although, HRM could establish a separate area rate for the stormwater service area, such an area rate could lead to confusion, with both HW water bills and HRM tax bills citing “stormwater services.” Collecting for both on-site and right-of-way stormwater on the utility bill would eliminate potential confusion. Levying the ROW costs on the exact same customers and in the same manner as other stormwater costs is within the spirit of the area rate framework. It suggests Council should not tax “various parts of a service in a way that are inconsistent”. Although it is collected by HW, the new levy would remain a cost of HRM and would be fully included in its budget and financial statements

Summary of Options

Option	Service	Tax Solution	Rate Impact	Pros	Cons
1.	Part of Transportation and Road Service	Wide area rate (same boundary as Regional Transportation)	Residential & Resource \$0.006 (approx.) Commercial \$0.027 (approx.)	<ul style="list-style-type: none"> • Consolidates service as part of HRM roads 	<ul style="list-style-type: none"> • Stormwater is seen by many as a service in itself.
2.	Stormwater is a Service available all across HRM	General rates	Residential & Resource \$0.006 (approx.) Commercial \$0.027 (approx.)	<ul style="list-style-type: none"> • Recognizes uniqueness of this service • Consistent with taxation of HRM roads 	<ul style="list-style-type: none"> • Stormwater in piped areas can be seen as a significantly higher level of service.
3.	Stormwater pipes and	Wide area rate (HW service)	Approximately \$39 per	<ul style="list-style-type: none"> • All stormwater 	<ul style="list-style-type: none"> • Doesn't recognize

	ROW costs represent a higher level of service.	boundary) or flat charge on utility bill	property per year.	billing would appear on the Utility Bill	benefits to all those using HRM roads.
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Review of Other Considerations (from Framework)

- Council should define each service broadly and not tax various parts of a service in ways that are inconsistent;

Response: The services are defined broadly in all three options although Option 3 recognizes a difference in the level of service.

- Exceptions to service standards should not be made, solely on the basis of willingness to pay additional taxes;

Response: The services are currently in place, and are not expected to vary based on the funding source or tax approach.

- Special taxes should not be created for amounts that are immaterial in nature or as a guarantee for local fund raising.

Response: The service cost will be \$3.9 million in 2013-14, not immaterial, yet less than 1% of total tax revenues.

Conclusion

The third option is the most appropriate for HRM taxpayers and Halifax Water (HW) customers. The most efficient approach to collecting the stormwater charge for all properties within the HW stormwater service boundary, is through the utility bill. This includes the additional 18,000 properties currently receiving stormwater benefits, even though they are not water or wastewater customers. HRM will need to notify Halifax Water of its intentions by mid-January 2014 to facilitate 2014-15 billing.

FINANCIAL IMPLICATIONS

The June 2013 UARB decision requires that Halifax Water collect an amount – approximately \$3.9 million in 2013-14 – for right-of-way stormwater services from the HRM. For HRM this is a new cost which has previously not been built into any tax rates. Without offsetting reductions there will be higher municipal taxes and costs.

COMMUNITY ENGAGEMENT

The level of community engagement may vary for each services and taxation method. General-rated services typically require less community consultation than new area rates or local improvement charges. The level of any community engagement will be outlined with the specific taxation approaches, as they are developed.

ENVIRONMENTAL IMPLICATIONS

No environmental implications.

ALTERNATIVES

1. Council may select Option 1, to fund the Halifax Water stormwater costs across the HRM general rates.
2. Council may select Option 2, to introduce a new area rate to cover this incremental cost.

ATTACHMENTS

Attachment 1 – HRM Road Maintenance Area

<http://www.halifax.ca/snow/documents/WinterMaintenanceResponsibilitymap.pdf>

Attachment 2 – Regional Transportation Boundary

http://www.halifax.ca/revenue/TaxBill/documents/Regional_Transportation_Area.pdf

Attachment 3 – Halifax Water Service Boundary

<http://www.halifax.ca/hrwc/documents/HalifaxWaterServiceableBoundary.pdf>

Attachment 4 – Area Rate Framework

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: Andre MacNeil, Sr. Financial Consultant, 490-5529

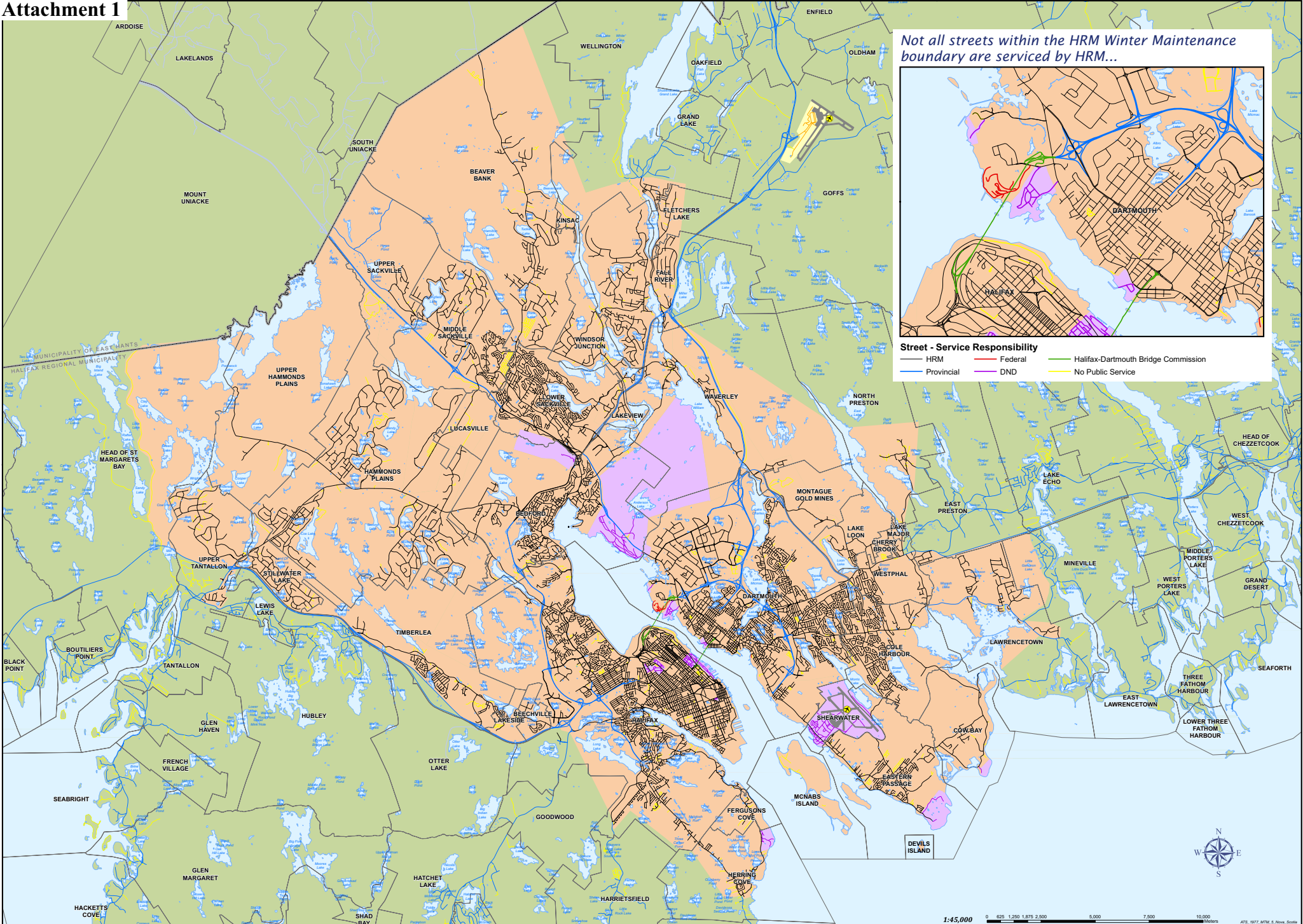
Original Signed

Report Approved by:

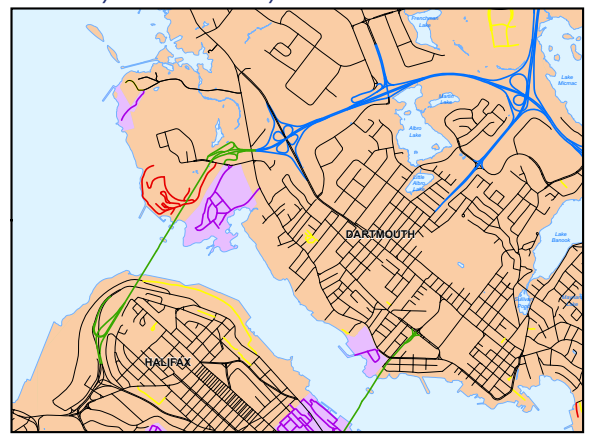
Bruce Fisher, MPA, CMA, Manager of Financial Policy and Planning, 490-4493

Winter Maintenance Responsibility in HRM Core

Attachment 1



Not all streets within the HRM Winter Maintenance boundary are serviced by HRM...



Street - Service Responsibility

- HRM
- Provincial
- Federal
- DND
- Halifax-Dartmouth Bridge Commission
- No Public Service

LEGEND

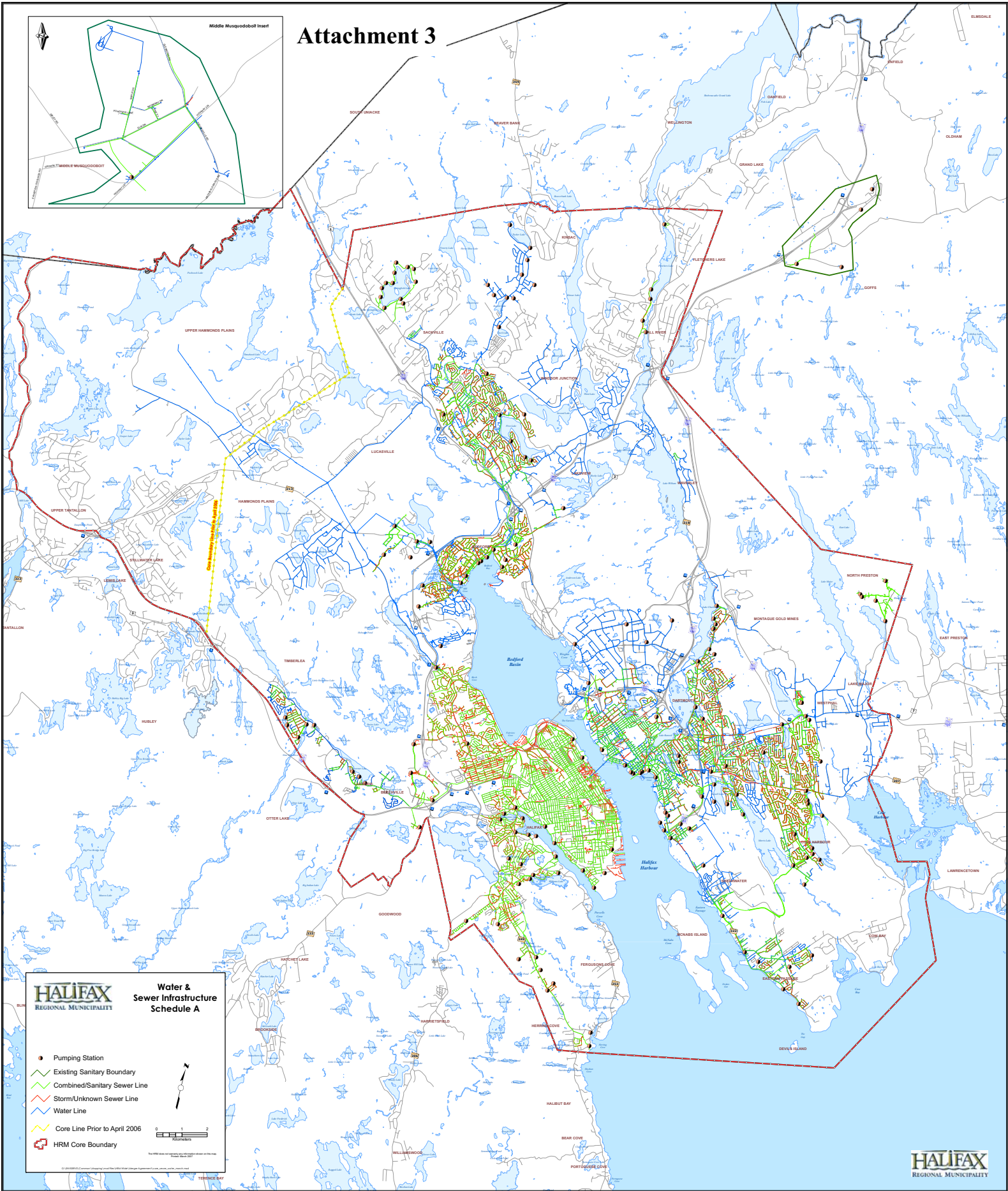
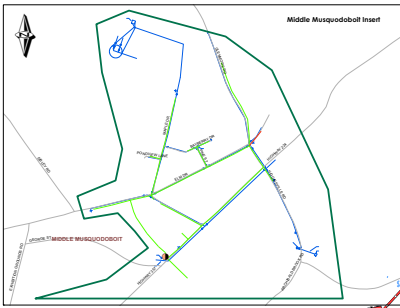
Street - Service Responsibility

- HRM
- Provincial
- Federal
- DND
- Halifax-Dartmouth Bridge Commission
- No Public Service
- Unknown

General Areas of Winter Maintenance Responsibility

- HRM
- Provincial
- Federal
- Halifax International Airport Authority

Attachment 3



HALIFAX
REGIONAL MUNICIPALITY


Water & Sewer Infrastructure Schedule A

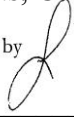
- Pumping Station
- Existing Sanitary Boundary
- Combined/Sanitary Sewer Line
- Storm/Unknown Sewer Line
- Water Line
- Core Line Prior to April 2006
- HRM Core Boundary

Scale: 0 1 2 Kilometers

Item No. 3
Committee of the Whole
October 22, 2013

TO: Mayor Savage 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: October 15, 2013

SUBJECT: Area Rate Framework

ORIGIN

Regional Council, January 29, 2013:

MOVED by Councillor Whitman, seconded by Councillor Hendsbee, that staff provide a report in regard to reviewing and make recommendations to amend the taxation zone designations to reflect any changes in municipal services levels and taking into consideration the water and sewer boundaries in, particular, District 13 and other jurisdictions throughout HRM.

MOVED by Councillor Hendsbee, seconded by Councillor Dalrymple, that Halifax Regional Municipality explore the option of absorbing into the General Base Tax Rate existing and future areas rates that are assessed for the purposes of charging local contributions towards capital construction of local community facilities and public infrastructure projects.

Regional Council, August 6, 2013:

Regional Council directed staff “to return with a report on funding stormwater right-of-way system costs in the context of a broader discussion on tax structure issues.”

Regional Council, September 17, 2013:

MOVED by Councillor Karsten, seconded by Councillor Craig, that Regional Council rescind the Stormwater Infrastructure Funding Interim Solution (February 26, 2013).

Regional Council, April 9, 2013:

MOVED by Councillor Karsten, seconded by Councillor Nicoll, that Regional Council direct staff to analyze and review why condominium buildings generally have a higher assessment

RECOMMENDATION ON PAGE 2

compared to apartment buildings equal in size, quality and virtually similar in all other factors. To consider methods used in other Canadian Municipalities to address this issue, including providing a reduced tax rate and/or other incentives to increase density, review with Property Valuations Services Corporation and bring recommendations back to Regional Council.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, excerpts below.

Section 93 (Estimates of Required Sums)

(1) The Council shall make estimates of the sums that are required by the Municipality for the fiscal year.

(8) The tax rates must be those that the Council deems sufficient to raise the amount required to defray the estimated requirements of the Municipality.

Section 94 (Tax Rates)

The Council shall set separate commercial and residential tax rates for the area of the Municipality determined by the Council to be

- (a) a rural area receiving a rural level of services;
- (b) a suburban area receiving a suburban level of services; and
- (c) an urban area receiving an urban level of services.

Section 96 (Area Rates and Uniform Charges)

(1) The Council may spend money in an area, or for the benefit of an area, for any purpose for which the Municipality may expend funds or borrow.

(2) The Council may recover annually from the area the amount required or as much of that sum as the Council considers advisable to collect in any one fiscal year by an area rate of so much on the dollar on the assessed value of the taxable property or occupancy assessments in the area.

(3) The Council may provide

- (a) a subsidy for an area rate from the general rate in the amount or proportion approved by the Council;

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Adopt the Framework for Area Rates as outlined in Attachment 1.
2. Direct staff to prepare a report(s) applying the Framework for Area Rates on the following outstanding issues:
 - a. The Suburban-Rural Tax Boundary,
 - b. Recreation Facilities,
 - c. Right-of-way Stormwater,
 - d. Deep Stormwater, and,
 - e. Condominiums and Density.

BACKGROUND

Like most municipalities, Halifax has a property tax system that is based on assessment. Assessment based tax systems are based on the premise that more expensive properties are owned by wealthier individuals. In most Canadian municipalities there is only one municipal tax rate, the general tax rate. Assessment systems are not good indicators of the value of municipal services a home owner gets. In Nova Scotia, however, many municipalities use area rates to pay for local services. In Halifax, there are three general tax rates (urban, suburban and rural) and a number of area rated services (eg, recreation, transit).

Within the last year Regional Council has made major revisions to the existing tax structure. It has eliminated local improvement charges for sidewalk construction and area rates for sidewalk plowing and crosswalk guards. It also approved (and then rescinded) local improvement charges for deep stormwater service. Council requests are outstanding to look at the tax structure for the rural-suburban tax boundary, area rates for recreation and the taxation of condos and other forms of density. In order to ensure that advice and decisions on area rates are consistent, staff are advising that Council adopt a framework that outlines the fundamental principles as to when area rates and other special taxes can be used to pay for services.

DISCUSSION

HRM's current tax structure could not be called a service-based system. The greatest range in taxation is due to differences in home and property values, rather than service availability. Property values are the result of a wide variety of market factors including the desirability of certain locations and neighborhoods, home size, perceived quality, etc. The availability of municipal services may make properties more desirable but are unlikely to be the primary or sole cause of market forces. As such, there may be a high home value even though available services are weaker than elsewhere. In other cases the reverse may be true. This is especially true since the introduction of the assessment cap which has prevented most homes from being taxed at the technically correct assessed value.

The Development of the Current Tax Structure

While it is not a service based system, HRM's tax structure has always had a service based component. The current tax structure was created as a compromise solution in 1997, one year after amalgamation. At that time there were four general tax rates and numerous area rates. In total there were approximately 250 combinations of tax rates. The key features of that structure were:

- Three general tax rates: Urban, Suburban and Rural;
- Urban taxpayers paid for Transit and Sidewalks;
- Urban and Suburban paid for Recreation Facilities, Fire Services, Streetlights and Crosswalk Guards; and,
- Rural Taxpayers had area rates for Recreation Facilities, Fire Services, Streetlights and Crosswalk Guards if they had those services.

The tax boundary between the Rural areas and the Urban/Suburban areas was based on the

Provincial Department of Transportation Paving Boundary, as used in the 1995 Service Exchange. (Inside that boundary HRM is responsible for local roads). That rural tax boundary has not been changed since 1997 even though new developments have occurred across HRM, including in the boundary area. In addition, the Province has transferred additional local streets to HRM, meaning the municipality is now taking care of local streets in parts of “rural” HRM.

The tax boundary between the Urban and Suburban areas was based on the availability of transit and sidewalks for properties within the Department of Transportation Paving Boundary. It has been modified since 1997 based on the availability of sidewalks and transit.

In addition, there have been major changes in which services are funded by which general tax rate. In 2002 it was felt that fire and streetlights were safety issues and that area rates were preventing proper funding of the service. In the case of Fire Services, the use of area rates prior to 2003 placed both citizens and firefighters at risk due to inadequate funding of equipment (eg Breathing Apparatus) and vehicles. It was also noted at the time that often rural areas did not have lower tax rates for fire than the urban core. Even though their service levels were often weaker, their area rates were based mostly on residential homes and excluded the very large urban commercial tax base. After 2002 the Fire Service was general rated and rural equipment and vehicles were standardized, leading to higher service and acceptable safety levels.

In 2009 Council removed transit from the Urban tax rate and abolished the local area rates that existed for transit. Instead, it created a local transit rate (paid by those within 1 km of a bus stop) and a Regional Transportation Rate (paid by those within the commutershed). In 2013 Council eliminated local improvement charges for sidewalk construction and area rates for sidewalk plowing and crosswalk guards. As a result of these changes there are now only a few services that are not general rated and the difference between the Urban, Suburban and Rural tax rates has been greatly reduced. Currently:

- The urban tax rate still pays for sidewalks. Its rate is 66.8 cents (per \$100 of assessment).
- The urban/suburban rate pays for recreation facilities. The Suburban rate is 63.5 cents.
- The rural rate is 62.9 cents. Area rates for recreation facilities are added on top in many communities.

Lessons Learned from Past Experience

Who pays for which services has been an ongoing source of debate at Regional Council. In reviewing the outstanding requests from Council and the past debate, a number of observations can be made:

- Often times the debate over who pays for which service can overshadow issues related to service standards. In the case of fire services, rural area rates were often inadequate, hence rural fire departments often used outdated equipment and vehicles. General rating the fire service eliminated this deficiency.
- Area rates often cause inefficiencies and confusion. For example, it was difficult to do

bulk purchasing for volunteer fire trucks because of the large number of rural departments. Crosswalk area rates (\$20,000) were minor relative to the overall budget.

- Area rate boundaries often abutted causing confusion as to which area rate a neighborhood should pay. Inconsistencies in boundaries or area rates were seen as unfair by taxpayers. Tax boundaries often don't grow with the community.
- Most services are not provided to a specific property per se. In some cases they are made available for those who wish to use them (recreation facilities, transit). In most cases, however, there is a very broad benefit to all taxpayers even though that may not be immediately apparent. For example, road networks allow the economy to develop. Police and Fire Services provide public protection and help improve safety issues. The exact level of benefit to an individual property cannot be easily quantified.
- While many services appear local in nature they often have a very strong regional component. For example, local transit routes are ineffective without the broader regional transit service. Small local roads connect into the larger arterial network. Demand for services is often "caused" by taxpayers from outside the neighborhood. (For example, sidewalks on an arterial road).
- A few area rated services (eg private roads, private recreation facilities) are not public in nature.

Proposed Framework on Area Rates

Based on this experience, a Framework approach should help Council create and maintain a consistent approach to tax issues. The Framework is not meant as an absolute answer as to the tax status of services. Rather, it provides Council guidance as to the key factors to be considered and interpreted when making that decision.

As its chief principle, the service standards and level set by Council should determine the tax status for a service, rather than the reverse. Where Council is introducing a new service it should first determine the details of that service before trying to establish its tax status. When examining a service, Council must answer the following four critical questions about the service:

1. Where is the service and where will it be available?
2. Who will benefit, either directly or indirectly, from the service?
3. Who have caused a need for the service?
4. Is the standard or level of service different than that provided elsewhere?

The proposed framework suggests that by default all services be general rated. The exceptions for an area rate are where:

- a) a significant minority of taxpayers have no practical access to a service or
- b) a significant minority of taxpayers have access to a service that is unavailable elsewhere in the region.

In the first case, one would expect to see something such as the Transit tax rates, where almost everyone pays. In the second case, one would expect to see small localized services unconnected to broader regional standards.

The framework also recognizes that Council may wish to use Local Improvement Charges (LICs) or development charges “where users have been previously excluded from paying for a service but now access the service”. These are taxes to be used for specific circumstances, should Council wish them to be used. User fees, other charges and private area rates (eg for Private Roads) could also continue under the framework.

There are four other considerations that the Framework suggests be kept in mind.

- Council should define each service broadly and not tax various parts of a service in ways that are inconsistent;
- Exceptions to service standards should not be made, solely on the basis of willingness to pay additional taxes;
- Special taxes should not be created for amounts that are immaterial in nature or as a guarantee for local fund raising;
- If HRM has acknowledged it is negligent, remediation should be general-rated regardless of the service.

In addition, the Framework specifies that Council may make exceptions to general rating for low income individuals, non-profits or to “to encourage or discourage certain behaviours, should it feel that the outcome would benefit the municipality as a whole” such as for HRM’s Economic Strategy or Regional Plan.

Implementation and Outstanding Issues

By its very nature, any change in the Tax Structure will likely shift the tax burden from one group of taxpayers to another. The Framework is designed to help make such decisions easier to debate and explain. The Framework should also help to make the tax structure more transparent and understandable to HRM residents and other rate payers. Above all, it is critical that there be a consistent approach to such decisions.

Unless requested by Council, Staff does not intend to undertake a review of the full tax structure. Rather, as per the existing direction from Council, the following issues would be considered.

The Suburban & Rural Tax Boundary

In 1997 the Provincial Department of Transportation Paving Boundary was used as the boundary for the Rural General Tax rate. Everything inside that boundary was urban or suburban and everything outside was rural. Since the suburban-rural tax lines were drawn substantial development has taken place with some newer neighborhoods straddling the rural tax boundary. In addition, the only current difference in the rural versus suburban general tax rates is recreation facilities. (Fire Services, Streetlights and Crosswalk guards are now paid by everyone).

Should recreation facilities become general rated the rural and suburban tax rates would become identical and the boundary would be irrelevant. Should it not be general rated, staff would likely review that boundary in the context of recreation facilities. Depending on how the service is defined, areas with access to facilities could pay a revised general tax rate or a new recreation tax.

Recreation Services Taxation

HRM's urban and suburban general rates are meant to pay for all recreation facility costs, (capital and operating) within that boundary. The rural tax areas pay through a variety of area rates and general-rated funding. Major facilities (meant to break even) are general rated across the region. Nonetheless, one of these facilities, the St Margaret's Bay Centre, is area rated.

Through a series of decisions, the current tax treatment is far from consistent. For example, three facilities are area rated in the suburban or urban general tax area, even though they are supposed to be paid for by the general tax rate (See Attachment 4). The structure is clearly inconsistent with some taxpayers paying twice. In addition to the above, there are 16 other recreation area rates for neighbourhood associations, as well as 2 community-owned facilities which are essentially area rates for private recreation.

Right-of-Way Stormwater Taxation

The NS Utility and Review Board has ruled that HRM should pay for stormwater costs attributable to the run off from HRM owned/maintained roads. The allocation of this cost will depend on how "the service" is defined, who will benefit and who has caused a need for the service.

Deep Stormwater

Deep Stormwater projects have proven to be a complex area with many conflicting arguments and overlapping responsibilities. In order to determine the appropriate answer as to how this potential program is taxed, it is first important to determine what service and service levels are to be provided by the municipality and others. Attempts to find an interim solution without that direction are unlikely to provide a long-term sustainable solution. Under the Framework, staff would return to Council to debate the broader issue of service levels and standards.

Condo Taxation

In HRM, both apartments and apartment-style condos pay the same residential tax rate, but their overall taxes per unit are often different due to varying assessment values. On average, condo assessments are \$210,600 – similar to single-family homes – while apartments (4 units and larger) average \$76,100 per unit. Most condos receive municipal solid waste services, while apartments (over 6 units) do not. Most condos are eligible for the assessment cap, while apartment buildings (4 units and larger) are not. Currently, the nearly 10,000 condo units in HRM account for more than 5% of households. Apartments make up 29% of all dwelling units.

There is considerable debate around the technical issues of assessing condos and whether a condominium building is indeed worth more than a comparable apartment. In addition, there may be economic or planning reasons under the Framework to provide lower taxes to apartments, condos and other forms of density. If the Framework is accepted, staff would return to discuss these issues. Any issues with the assessed value would likely be returned to the Provincial Valuation Services Corporation (PVSC). Staff would still examine the value of incentives for density, however, under the Framework.

Other

Depending on the above recommendations, staff would likely return with revised area rate guidelines as to how communities are to be consulted on the introduction of new area rates.

FINANCIAL IMPLICATIONS

The Framework for Area Rates will not directly affect the size or the scope of the overall HRM budget and finances.

Depending on how Council interprets and applies the Framework, it may lead to greater or less emphasis on certain taxes or revenue sources. This means that some taxpayers may pay more than they otherwise would, while other taxpayers would pay less. Any implementation would likely start in the 2014-2015 fiscal year.

COMMUNITY ENGAGEMENT

The level of community engagement may vary for each services and taxation method. General-rated services typically require less community consultation than new area rates or local improvement charges. The level of any community engagement will be outlined with the specific taxation approaches, as they are developed.

ENVIRONMENTAL IMPLICATIONS

No environmental implications.

ALTERNATIVES

1. Council may pass amendments to the Framework as it deems appropriate.
2. Council may opt not to develop a Framework for Area Rates. This is not recommended as it may lead to less transparency and confusion.

ATTACHMENTS

- Attachment 1 – Framework on Area Rates
 - Attachment 2 – Current Tax Structure
 - Attachment 3 – Current Tax Rates
 - Attachment 4 – Eight Recreation Area Rates/Boundaries
-

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

Attachment 1

Framework for Area Rates

Premise:

The property tax system in Halifax assumes that property values are a proxy for income and that municipal services are not a key driver of property values.

HRM recognizes that municipal government is about the sharing of costs and that equal services are unlikely to be available everywhere, rather different parts of the municipality

- Grow and develop at different rates
- Have local or specific needs that are met in unique ways
- Use infrastructure and services not just within their neighbourhood but across the region.

As such, Halifax recognizes that municipal services may benefit everyone, and to the extent that all benefit, all should share in the cost of the service.

Key Principle on Service Taxation:

As its foremost principle, the service standards established by Council should determine the scope of the tax structure. That Tax Structure should follow Council's service standards and levels, rather than determine the standards and levels. Before levying a tax other than the general rate of tax for all Halifax, Council must answer the following four critical questions about the service:

1. Where is the service and where will it be available?
2. Who will benefit, either directly or indirectly, from the service?
3. Who have caused a need for the service?
4. Is the service standard or level different than elsewhere?

Exceptions to the General Rate of Tax on Services:

All such municipal services should be general rated to all taxpayers unless,

1. Area Rates and Other Taxes:

- a. **a significant minority of taxpayers have no practical access to a specific service.**
Hence, Council may levy a very broad area tax rate (based on geographic area or distance from service). For example, the Regional Transportation Rate excludes areas outside the Commutershed.

- b. **a significant minority of taxpayers have access to a specific service that is unavailable elsewhere in the Region.**

Hence Council may levy a local or neighbourhood tax. For example, area rates for local neighbourhood associations.

Where users have been previously excluded from paying for a service but now access the service, Council may levy a tax, fee or charge for the existing capacity already paid for by other taxpayers or for the additional service capacity required. For example, Local Improvement or Development Charges.

2. User Fees and Charges

a service is used directly by a specific group or type of individuals and the Municipality has the ability to identify the users and restrict use of the service,

Hence Council may levy a fee, charge or tax on individuals for access to the service. For example, water and sewer charges, recreation and other fees.

3. Private Fees and Taxes

a service is privately owned and the public has no or limited access, in which case any fee or tax collected on their behalf shall be fully levied on the users and/or owners,

For example, private roads or private recreation facilities.

Tax Relief for Economic, Financial and Income Issues:

When appropriate, Council shall provide targeted tax relief for individuals or non-profit organizations of low or modest income. Council may also alter its tax structure to encourage or discourage certain behaviours, should it feel that the outcome would benefit the municipality as a whole.

- E.g. Low-income tax relief or deferral
- Lower taxes for non-profits
- Support for economic strategy
- Support for Regional Plan

Other Considerations for Deciding on Exceptions:

- Council should define each service broadly and not tax various parts of a service in ways that are inconsistent;
- Exceptions to service standards or levels should not be made, solely, on the basis of willingness to pay additional taxes;
- Special taxes should not be created for amounts that are immaterial in nature or as a guarantee for local fund raising;
- If HRM has acknowledged it is negligent, remediation should be general-rated regardless of the service.

Attachment 2

Current Tax Structure

<i>Service</i>	Rural (Base) General Tax Rate	Suburban General Tax Rate	Urban General Tax Rate
Policing, Solid Waste, Recreation Programs, Planning, Libraries, Sports fields, Playgrounds	Included in the Base General Tax Rate		
Administration			
Fire Suppression			
Street lighting			
Crosswalk Guards			
Recreational and Community Facilities (Capital Costs - Cost Sharing)			
Recreational and Community Facilities (Operating Costs)	Area Rate	Included in the Urban and Suburban General Tax Rates	
Sidewalks	Area Rate	Area Rate	Included in the General Tax Rate
Transit	Area Rate	Area Rate	Area Rate
Fire Hydrants	Area Rate	Area Rate	Area Rate

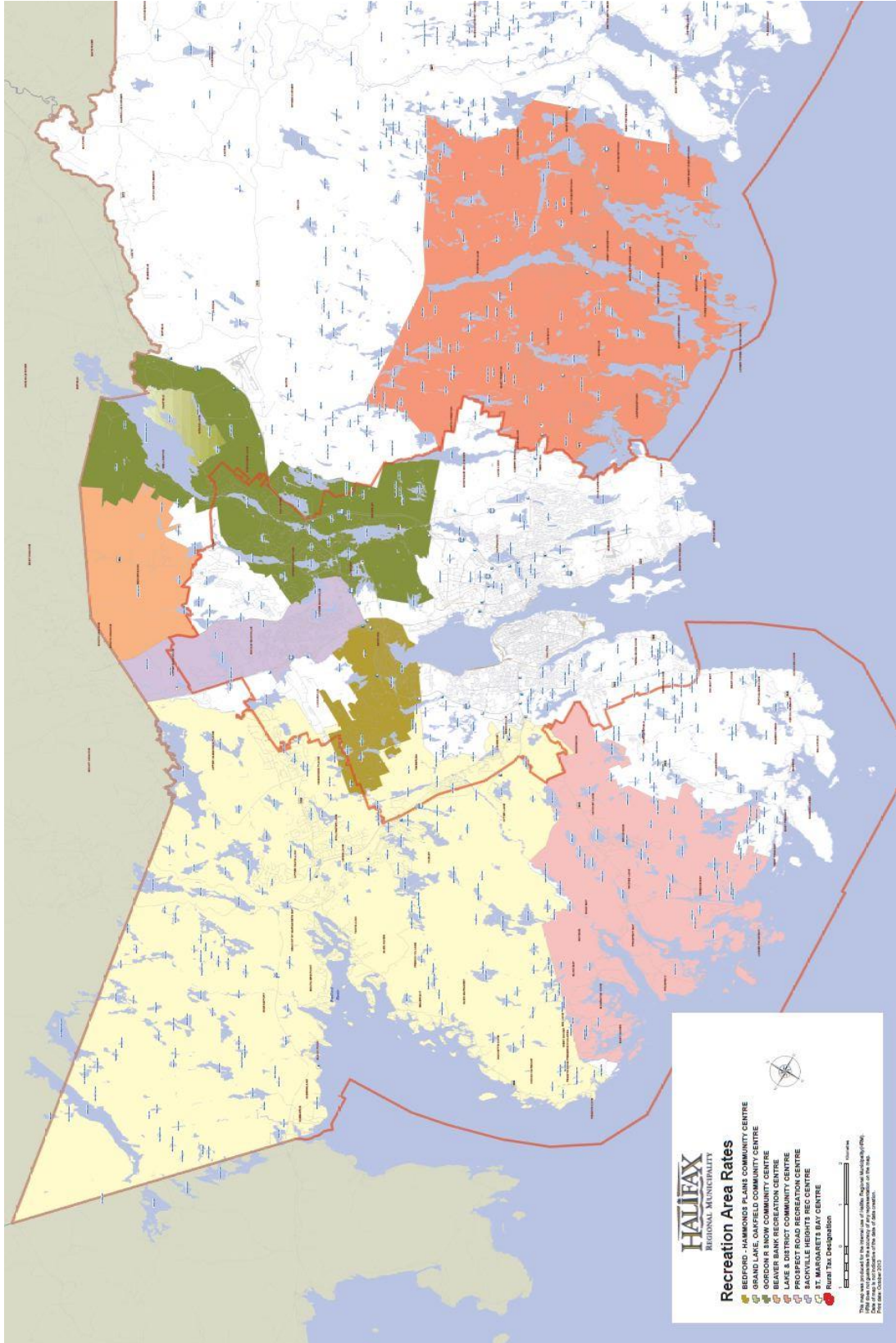
Attachment 3

Current Tax Rates

Schedule of General & Area Tax Rates	Residential and Resource Rate		Commercial Rate	
General Tax Rates for Municipal Services				
Urban Area	0.668		3.054	
Suburban Area	0.635		3.054	
Rural Area	0.629		2.691	
Tax Rates for Provincial Services (All of HRM)				
Mandatory Education	0.299		0.304	
Property Valuation Services	0.019		0.010	
Corrections Services	0.019		0.009	
Metro Housing Authority	0.007		0.007	
<i>Total Provincial Area Rates:</i>	<i>0.344</i>		<i>0.330</i>	
Supplementary Education				
HRM-wide	0.035		0.104	
Fire Protection				
To be levied on all assessable property that is within 1,200 feet of a fire hydrant:				
Fire Protection (Hydrants)	0.025		0.075	
Sidewalks				
Sheet Hbr & Area Streetscape Program (per property; not applicable to Resource assessment)	\$11.84	Flat Fee	\$11.84	Flat Fee
Transit Services				
Regional Transportation	0.051		n/a	
Local Transit	0.105		n/a	
Recreation - Multi-District Facility				
St. Margaret's Centre	0.010		0.010	
Recreation - HRM-owned Facilities				
Beaver Bank Recreation Centre	0.070		n/a	
East Preston Recreation Centre	0.050		n/a	
Gordon R. Snow Community Centre	0.063		0.063	
Harrietsfield Williamswood	0.019		n/a	
Hubbards Recreation Centre	0.031		n/a	
Prospect Road Recreation Centre	0.038		n/a	
Riverline Activity Centre (Dutch Settlement)	0.032		n/a	
Sackville Heights Community Centre	0.010		0.010	
Upper Hammonds Plains (Maximum of \$300 per property)	0.170		n/a	
Recreation - Provincially-owned Facilities				
Bedford Hammonds Plains Community Centre	0.018		0.018	
Lake & Shore Recreation Centre (Porter's Lake)	0.024		0.024	
Recreation - Community-owned Facilities				
Grand Lake Community Centre	0.021		n/a	
LWF Recreation Centre (Urban Core)	0.030		n/a	

Schedule of General & Area Tax Rates	Residential and Resource Rate		Commercial Rate	
Recreation - Neighbourhood Associations (no facility)				
Fox Hollow at St. Margaret's Bay Homeowners Association (flat fee per property)	\$60.00	Flat Fee	\$60.00	Flat Fee
Glen Arbour Residents Association (flat fee per property)	\$65.00	Flat Fee	\$65.00	Flat Fee
Haliburton Highbury		0.023		n/a
Hammonds Plains Common Rate		0.005		n/a
Highland Park		0.005		n/a
Ketch Harbour Area Residents Association (flat fee per dwelling)	\$66.67	Flat Fee		n/a
Kingswood Ratepayers (flat fee per property)	\$50.00	Flat Fee	\$50.00	Flat Fee
Lost Creek Community Association (flat fee per property)	\$50.00	Flat Fee	\$50.00	Flat Fee
Maplewood Ratepayers (flat fee per property)	\$50.00	Flat Fee	\$50.00	Flat Fee
Mineville Community Assoc (flat fee per property)	\$20.00	Flat Fee	\$20.00	Flat Fee
Musquodoboit Harbour Common Rate		0.005		n/a
Prospect Road Recreation Association		0.012		n/a
Silversides Residents Association (flat fee per property)	\$100.00	Flat Fee	\$100.00	Flat Fee
Three Brooks Homeowners Association (flat fee per property)	\$20.00	Flat Fee		n/a
Westwood Hills Residents Assoc. (flat fee per property)	\$50.00	Flat Fee	\$50.00	Flat Fee
White Hills Residents Association (flat fee per property)	\$50.00	Flat Fee	\$50.00	Flat Fee
Business Improvement Districts				
Downtown Halifax Business Commission (Minimum \$250, Maximum \$30,000)		n/a		0.0947
Downtown Dartmouth Business Commission (Minimum \$300, Maximum \$15,000)		n/a		0.3600
Spring Garden Area Business Association (Minimum \$250, Maximum: \$12,000)		n/a		0.3200
Quinpool Road Mainstreet District Association (Minimum \$250, Maximum \$7,000)		n/a		0.1900
Spryfield & District Business Commission (Minimum \$125, Maximum \$10,000)		n/a		0.2100
Main Street Dartmouth & Area Business Improvement Assoc (Min \$250, Max \$15,000)		n/a		0.1700
Sackville Business Association (Minimum \$200, Maximum \$7,000)		n/a		0.1400
North End Business Association Commercial (Minimum \$50, Maximum \$2,500)		n/a		0.1500
Private Road Maintenance Fees				
Petpeswick Drive Improvement Society (flat fee per property)	\$200.00	Flat Fee	\$200.00	Flat Fee
Three Brooks Homeowner's Association (flat fee per property)	\$530.00	Flat Fee	\$530.00	Flat Fee
South West Grand Lake Property Owner's Association (flat fee per property)		Flat Fee Schedule		Flat Fee Schedule
Shag End Lot Owner's Association (flat fee per property)	\$600.00	Flat Fee	\$600.00	Flat Fee
River Bend Rd & River Court Homeowner's Association (flat fee per property)	Up to \$350	Flat Fee	Up to \$350	Flat Fee
Sambro Head Lot Owner's Association: Bald Rock Rd (flat fee per property)	\$385.33	Flat Fee	\$385.33	Flat Fee
St. Margaret's Village Community Association (flat fee per dwelling)	\$450.00	Flat Fee	\$450.00	Flat Fee
Rutter Court Residents Association (flat fee per property)	\$350.00	Flat Fee	\$350.00	Flat Fee
Range Road Land Owner's Association (flat fee per property)	\$150.00	Flat Fee	\$150.00	Flat Fee
Local Improvement Charges				
O'Connell Dr (Provincial), Exeter Dr, Bali Terrace, Neven Rd & Old Fairbanks Rd	\$160.00	Flat Fee	\$160.00	Flat Fee

Attachment 4



Attachment 2

Excerpt from Nova Scotia Utility and Review Board

2013 NSUARB 127 M0546 – Sections 7.8 & 7.9

June 24, 2013

Abbreviations:

CA – Consumer Advocate

HPA – Halifax Port Authority

IPOANS – Income Property Owners' Association of Nova Scotia

A copy of the full decision can be viewed online at:

http://www.halifax.ca/hrwc/documents/HRWCDecision-2_24Jun2013.pdf

7.7 Findings

[171] The Board agrees with Westphal's argument and HRWC's conclusion that the rate approved for wastewater usage, based upon water consumption, is not appropriate to be applied to metered flow into the wastewater system. The Board has not approved a rate for such metered flow, and a rate cannot be charged until HRWC applies to the Board and receives approval to charge the rate. The Board, at this time, does not approve the proposed addition of Regulation 6 (1) iii, as noted above.

7.8 Stormwater

[172] The total cost to operate the stormwater system is split approximately 35%/65% between "street right of way flow" and "site generated flow". The billing determinate for both is the impervious area. The impervious area for street right of way is approximately 29% of the total impervious area in the stormwater area. In other words, 29% of the impervious area causes 35% of the costs.

[173] For billings purposes the impervious area of the properties in the stormwater area is used to calculate the rate for each flow. This includes a minor adjustment for those properties that do not have "site generated flow", but are to be charged for the "street generated flow". The impervious area is the actual for all non-residential properties and an average of 224 metres for each residential property.

[174] The amount of impervious area to use for the billing determinate was discussed by Mr. Whalen who noted that the measurements proposed to be used by HRWC may not produce the intended revenue. HRWC revisited its calculations and, as stated by Ms. O'Toole:

The issue that was occurring in our billable impervious area, which I didn't realize as an accountant, was that we had included some properties, like quarries and refineries,

where they had their own onsite requirement to treat stormwater, so that we had to back out some properties and exempt them that hadn't already been exempted. So our total billable impervious area is a little bit lower now, but the resulting rates now we are confident that the billable impervious area is correct.

And we recognize that Halifax Water assumes risk either way if our rates are set incorrectly, and we do have enough confidence in our data put forward at this point, because we recognize that it's all hard data, it's easily verifiable and easily measured.

So thank you for identifying that error for us, Mr. Whalen, it was very helpful.

[Transcript, pp 221-222]

[175] IPOANS noted that permeable surfaces can also generate flow run-off.

Accordingly they suggested:

... that if an averaged flat rate will be applied to all single-family residential customers, the flat rate should include two components – a rate for the average impervious area of the property and a (lower) rate for average permeable area of the property. This will ensure that home-owners are paying for the full contribution to stormwater runoff, based on the average runoff generated by single-family residential properties.

[IPOANS Post Hearing Submission, p. 18]

[176] HRWC responded negatively to this suggestion in its Rebuttal Brief. The reason being:

... that including a component of permeable area in the calculation of the residential (or both residential and ICI) stormwater rate will greatly increase HRWC's administrative burden and costs in the calculation of such rates and will lead to confusion in the minds of its ratepayers as to the basis of this charge.

[Rebuttal Brief, p. 7]

[177] IPOANS and HPA questioned the validity of the ROW charge.

[178] IPOANS argued that charging other customers for the ROW portion of streets and not charging HRM who owns the streets violates cost of service principles.

IPOANS went on to say:

Importantly, HRM recognizes that it benefits from stormwater removal from the streets. As part of the "supporting rationale" for contributing up to \$3 million to stormwater-related projects in HRM, the Municipality listed the following benefits:

- Protection and elongation of life of street and road infrastructure
- Public Safety: Reduction of icing and street flooding.

- **Public Service:** The HRM Charter states that... the functions of the Municipality are to:
 - (i) provide good government
 - (ii) provide services, facilities and other things that, in the opinion of the Council, are necessary or desirable for all or part of the Municipality, and
 - (iii) develop and maintain safe and viable communities

While HRM streets provide a portion of the stormwater system, it is apparent that the streets also generate run-off (the same as any other impervious surface) and that HRM derives a specific, Municipal, benefit from having stormwater removed from the streets.

[IPOANS Post Hearing Submission, May 10, 2013, p. 20]

[179] HRWC argued that its rationale for designing the rate this way is that all property owners have access to municipal streets and roads to be able to travel to and from their properties and therefore benefit from the stormwater services.

[180] HPA agreed with the argument of IPOANS that HRM is a customer which benefits in the same fashion as other customers and their impervious area should be incorporated into the calculation of rates.

[181] However, HPA goes on to say that the Board is without jurisdiction to set the rate because, in its view, HRWC does not own or manage a "stormwater system" as defined in the *Municipal Government Act*.

[182] HPA submitted that because stormwater management is not conceptually amenable to public utility regulation and because HRWC does not own the entire system the stormwater charge proposed by HRWC is an inappropriate application of public utility regulation and cost of service and regulatory principles. HPA argued the stormwater charge is properly an element of municipal taxation and for that reason it is not subject to regulation elsewhere in Canada.

[183] HRWC responded that it has its own incorporating legislation which specifically provides, in Section 19, that the stormwater system it operates is deemed to be a public utility. HRWC goes on to say:

97 ... It is significant that the Board's authority extends to "any ... stormwater facility or system owned, operated, managed or controlled by the Commission for service to the public ...". The clear intent of this provision is that any stormwater assets either owned or operated by HRWC are a "public utility" subject to the supervision of the Board. This provision is not limited to the definition of either "stormwater facilities" or "stormwater systems" in the MGA or the HRM Charter.

98. Therefore it is apparent, as a matter of legislative edict, that HRWC operates a regulated stormwater utility subject to regulation by the Board. Moreover, it is also apparent, contrary to the assertion of HPA, that "stormwater management" is conceptually capable of being treated and regulated as a utility.

[HRWC Rebuttal Brief, May 17, 2013, p. 18]

[184] There are also some residential properties (3,547 according to HRWC), which do not generate any site flows but, since they are in the stormwater area, are subjected to a ROW charge. The proposed annual charge is \$17.60 for 2013/14 and \$19.22 in 2014/15. The CA noted Mr. Whalen's testimony on the issue:

Mr. Whalen: My starting point for that is to recognize that, in 2007, the city transferred a certain responsibility to the Water Commission and that if you treat them as a customer and say you need -- 30 percent of the revenues we need have to come from you, it's kind of defeating the purpose that they started with

So given that -- if I interpret the 2007 as being -- saying we want to hand all this off to the Water Commission and have them recover these numbers or these charges, then you look at the charges that the Water Commission is incurring, and certainly using the impervious area is an appropriate way to go with that.

You could think of the right-of-way piece as being a kind of a surcharge, if you will, that other customers are paying. They would have paid in a tax rate and this way they're paying in the surcharge kind of rate.

There's been a fair bit of discussion around customers who are only served -- who don't discharge water into a system and if they wind up paying the street charge -- I haven't discussed this with the Water Commission, but I've done some quick calculations and it looks like if -- to me, at least, that if you were to say -- if you don't put any from your property into the street, we won't charge you just for the right-of-way.

It looks like it's about a \$50,000 revenue impact, which is not large in the context of the whole thing, but -- so I would suggest that as a possible consideration.

The Chair: It might save a lot of grief.

Mr. Whalen: It might be worth the 50,000.

The Chair: Acceptability is one of Bonbright's criteria, isn't it?

Mr. Whalen: Yes, indeed.*

[Transcript, pp. 941-943]

7.9 Findings

[185] The Board finds the impervious area is the fairest and most cost effective billing determinate for the stormwater charges. This includes an average for all residential properties, and the actual area for all other properties.

[186] With respect to the jurisdictional argument raised by HPA, the Board is satisfied that it has the legal authority pursuant to the *Halifax Regional Water Commission Act*, S.N.S. 2007, c 55 (the "*HRWC Act*") to impose the stormwater charge.

[187] Section 19 of the *HRWC Act* states:

Public utility

19 The Public Utilities Act applies to the Commission and any water, wastewater or stormwater facility or system owned, operated, managed or controlled by the Commission for service to the public is deemed to be a public utility within the meaning of that Act.

[188] The Board agrees with HRWC that its authority extends to any stormwater facility or system owned, operated, managed or controlled by HRWC for service to the public. HRWC either owns or operates a stormwater system in the service territory of HRM and for that purpose, pursuant to the *HRWC Act*, is a public utility subject to supervision by the Board.

[189] The Board expects that the reason stormwater rates are not regulated in other jurisdictions is that the legislative regime in those jurisdictions does not require it.

In that respect, in Canada at least, the legislative regime under the *HRWC Act* is unique.

[190] With respect to the other argument raised by IPOANS and HPA, the Board agrees that normal cost of service principles require that HRM, who is the owner of the streets and who receives the benefit of the service, must pay for the cost that it incurs with respect to HRWC's services, like any other customer. The Board does not understand the reasons for the exemption. In the passage quoted in para. 178, IPOANS noted how HRM itself has recognized the benefit it obtains from stormwater removal from streets.

[191] The Board therefore finds that the ROW costs should be charged to HRM.

8.0 SCHEDULE OF RATES, RULES AND REGULATIONS

[192] The Application notes that the proposed Rules and Regulations reflect three significant changes of:

1. The existing Schedule A – "Schedule of Rates and Charges", and Schedule B – "Schedule of Rules and Regulations" have been combined in one document. Having one Schedule of Rules and Regulations will improve clarity for customers. There are currently charges established in both Schedules A and B, so maintaining two distinct Schedules no longer serves a purpose.
2. The existing Rules and Regulations from Schedules A and B have been updated to reflect modern legislative and regulatory drafting conventions, with an objective to improve clarity and conciseness.
3. The proposed Rules and Regulations were drafted to reflect inclusion of the Airport/Aerotech system.

[Exhibit H-1, p.22]

As a result of the IR process, a number of minor errors were identified, and suggestions were made, which were accepted by HRWC, prior to the public hearing.

[193] Mr. Rubin made some suggestions in his Evidence dealing with the deposit refund related to the charge for temporary water, wastewater or stormwater