


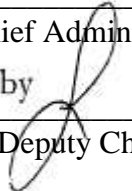
Item No. 11.1.4
Halifax Regional Council
March 4, 2014

TO: Mayor Savage and Members of Halifax Regional Council

Original signed by 

SUBMITTED BY:

Richard Butts, Chief Administrative Officer

Original Signed by 

Mike Labrecque, Deputy Chief Administrative Officer

DATE: January 29, 2014

SUBJECT: Chebucto Head Road – Duncan’s Cove

ORIGIN

Halifax Regional Council – June 19, 2012, Item 10.2.2 Councillor Adams – Request for staff report re: Chebucto Head Road Maintenance Issues “MOVED by Councillor Adams, seconded by Councillor Wile that Halifax Regional Council request a staff report determining what can be done with regard to maintenance and upkeep of Chebucto Head Road. Solutions could include, but would not be limited to, developing a strategy with other levels of government to cost share in upgrades, or exploring alternative sources of funding, such as tourism. The solutions developed could serve as a template for other roads with similar issues.”

Council also requested the report identify the following:

- confirmation of the length of the road and number of residents living on the road; and
- opportunity for a Local Improvement Charge.

LEGISLATIVE AUTHORITY

HRM Charter, clauses 79(1)(aa), (ab) - Council may expend money required by the Municipality for streets and private roads.

HRM Charter, clauses 104(1)(f)(g) - Council may, by by-law, impose charges for : (1) streets whether the cost is incurred directly by HRM or by an agreement with the Province; and (2) private roads where the cost is incurred by directly by HRM or by agreement between the Municipality and a person.

RECOMMENDATION ON NEXT PAGE

HRM Charter, section 304 - The Municipality may maintain and provide fire and emergency services.

By-law P-1100, the *Private Road Maintenance By-law*.

RECOMMENDATION

It is recommended the residents of Chebucto Head Road pursue their private rights with the Government of Canada (Option No. 1) to address the current condition and future maintenance requirements of Chebucto Head Road.

BACKGROUND

Chebucto Head Road is located in Duncan’s Cove, District 11 (former District 18). The first section of this road (from Ketch Harbour Road to Duncan’s Cove Road) which is approximately 900 meters in length, was recently resurfaced with asphalt; it is owned and maintained by Nova Scotia Department of Transportation and Infrastructure Renewal (NSTIR). The section from Duncan’s Cove Road to the Chebucto Head Lighthouse (approximate length - 1700 meters) is also a paved road, but is in very poor condition; this section is owned by the Government of Canada (and administered by the Department of Fisheries and Oceans). There is a gate along this section of road which obstructs vehicular access; the gate is located roughly 640 meters from Duncan’s Cove Road. There are no residential properties located beyond the gate. However, between Duncan’s Cove Road and the gate, there are two private roads (Joey’s Way and Windship Lane) that connect to Chebucto Head Road, accessing 12 properties (11 residential, 1 resource). The properties are assessed as residential and resource lands, and a number of these properties are occupied year round. The attached plan identifies the road segments and highlights the location of the properties, the private roads and the gate.

The Chebucto Head Lighthouse is listed on the Nova Scotia Government lighthouses website and during the spring and summer months the traffic increases. The residents have been concerned with the condition of the section of road administered by Fisheries and Oceans, and have expressed that the deterioration is so significant it represents a safety issue for motorists, emergency vehicles and pedestrians. As a result, interested parties have been requesting that the road be appropriately upgraded and maintained.

DISCUSSION

The section of road under consideration in this report is 640m long. The estimated capital cost to upgrade this section of road is \$100,000 (Note: Additional analysis would be required to confirm this estimate). If upgraded, it is anticipated that maintenance costs would be minimal for a number of years as the asphalt would be in good condition.

The residents have filed requests to all three levels of government recommending that the road be repaired and that future regular maintenance be conducted. Fisheries and Oceans, who is the administrator of this section of Chebucto Head Road, has advised HRM staff the road is maintained to the extent necessary to allow DFO and Canadian Coast Guard employees access to

the Chebucto Head lighthouse (for the purposes of maintaining the navigational aid and telecommunications equipment). Federal government staff has indicated it was not intended for public access, and as a result, it would be considered a low priority in departmental budgeting procedures. They are not prepared to upgrade it, but have suggested a willingness to divest their ownership interest; they have met with Provincial and HRM staff to discuss a potential transfer of ownership. During those initial discussions, the Province indicated they do not wish to acquire the road, and HRM staff advised it did not seem practical to include this road in HRM’s inventory since it is located outside of the core area. All roads in the immediate area are primarily owned and maintained by the Province.

Options

The following represents an overview of potential options:

Option No. 1 – Residents pursue the Government of Canada – under this scenario, the residents would continue to pursue their private rights with the Government of Canada to address the current condition and future maintenance requirements of Chebucto Head Road.

This is the staff recommendation because the use of the road was a matter negotiated between the residents and Canada and staff believes that these are private property matters best left to the parties.

Option No. 2 – Road exchange between HRM and the Province - The Province has recently expressed interest in support of a joint solution with HRM. The Province no longer accepts ownership of local roads pursuant to the Provincial-Municipal Service Exchange agreement. This practice was discontinued in 1995 as it was the Province's intention to no longer assume ownership of new local roads. However, they are willing to accept ownership of the portion of Chebucto Head Road (from Duncan's Cove Road to the gate) from the Government of Canada provided the Municipality assumes ownership of a remnant section of road that is currently owned by the Province. This would result in no net gain to the Province's road inventory. The remnant section of road would be equal in length to Chebucto Head Road and would require no immediate capital upgrade. The Province would then accept title of the road and full responsibility of the maintenance and capital requirements subject to approvals from Regional Council, the Provincial NSTIR Minister and the Government of Canada.

Under this option, staff would present the remnant road to Council at a later date for approval.

Option No. 3 - Ownership transferred to the local residents – the residents on Joey’s Way, Windship Lane and Chebucto Head Road would be required to form an association and receive permission from the federal government to acquire the road right-of-way. The said portion of the road would become privately owned, and future maintenance upgrades would be the responsibility of the property owners pursuant to By-law P-1100. The remaining portion of Chebucto Head Road (from the gate to the end) would remain under the ownership of the federal government.

As per the attached plan, Chebucto Head Road is subdivided into three segments. Under Option No. 3 transferring ownership to a residents’ association would cause the middle segment to be privately owned which then may require a public easement, as access would still be required to the lighthouse area. This option may be deemed inequitable to the residents as others would be accessing the road. Residents would also have to agree to form the association..

Option No. 4 - Ownership transferred to HRM – under this scenario, the federal government would transfer ownership to the Municipality which would result in a portion of Chebucto Head Road owned by the Province and a portion owned by the Municipality (with HRM being responsible for future capital and maintenance requirements for its portion).

HRM currently owns in excess of 1800 kms of streets and roads and has over 800 kms that require some form of rehabilitation upgrade. As a note, HRM’s policy is to not acquire new roads to its inventory unless the owner upgrades the infrastructure to HRM’s standard. In this situation, the federal government is not prepared to undertake this upgrade.

Option No. 5 – Maintenance cost shared among the three levels of government - HRM staff has contacted Economic and Rural Development and Tourism, Transportation and Infrastructure Renewal, and Fisheries and Oceans Canada to determine if there is an opportunity to equally cost share to upgrade Chebucto Head Road, and to ascertain if there is an ability to jointly cover the costs of future maintenance. The Economic and Rural Development and Tourism department advised they do not have a funding assistance program in place to support the upgrade of a federally-owned road, and Fisheries and Oceans Canada stated their position as noted above.

Option No. 6 - Upgrades cost shared among the residents through a local improvement charge (LIC) - Council requested that the report identify the opportunity to upgrade the road and recover costs through an LIC pursuant to By-law S-400, Respecting Charges for Street Improvements. Staff is of the opinion that Council has the authority to impose an LIC on a project that occurs on property that is not owned by HRM provided the initiative is required for municipal purposes. As such, Halifax Regional Fire & Emergency (HRFE) conducted an evaluation of the road conditions. HRFE has minimum service delivery response times and concluded the response times may be compromised as a result of the condition of the road. The justification for providing financing assistance to the property owners is derived from Section 307(2)(e) of the HRM Charter 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.

If the upgrade of this road is completed by HRM (assuming permission from Fisheries and Oceans), staff is of the opinion the Municipality is not obligated to acquire ownership of the road, and that LICs can be levied against the property owners to recover the total cost of construction.

Under Option No. 6, the Local Improvement Policy would apply. If approved, this will address the upfront capital requirements but not deal with the longer term maintenance needs. The estimated cost for upgrading the federally owned section of Chebucto Head Road (to the gate) is \$100,000 (Note: additional analysis would be required to confirm this estimate). Based on the 12 existing properties, the estimated lot charge would be approximately \$8,300 and may be payable over ten years. As the road would continue to be used by others residing outside of the area, charging the local residents for the upgrade may be deemed inequitable.

FINANCIAL IMPLICATIONS

There are no budget implications with respect to Option No. 1. HRM would not be involved with any capital and/or maintenance requirements under this option.

The following outlines the financial implications with respect to the remaining options:

Option No. 2 – Road exchange between HRM and the Province – Under this option, HRM would be required to assume ownership of a provincially owned road of equal length (approximately 600 meters as identified on Plan A). The road is to have no immediate capital upgrade requirements; however, the road would be added to HRM’s pavement management system and be monitored for future maintenance and capital programs.

Option No. 3 - Ownership transferred to the local residents – HRM would not incur financial implications with respect to this option. All costs would be borne by the property owners under this scenario.

Option No. 4 - Ownership transferred to HRM – HRM would be responsible for the maintenance and capital requirements under this option. The initial capital cost to upgrade is estimated to be \$100,000. This section of Chebucto Head Road would be added to the pavement management system in order to prioritize against other locations identified for capital upgrades, along with future maintenance costs. As a note, the Municipality would discuss the opportunity of having the Province address snow operations through the Service Exchange agreement.

Option No. 5 – Maintenance cost shared among the three levels of government – HRM would be required to cover 1/3 of the upfront capital costs (approximately \$33,000) and 1/3 of the future maintenance costs.

Option No. 6 - Upgrades cost shared among the residents through a local improvement charge (LIC) - HRM would not incur financial implications with respect to this option. All costs would be borne by the property owners under this scenario.

COMMUNITY ENGAGEMENT

Property owners on Chebucto Head Road have discussed with HRM staff and the District Councillor the issue of the condition of the road and what steps can be done to mitigate this situation.

ENVIRONMENTAL IMPLICATIONS

There are no Environmental Implications at this time.

ALTERNATIVES

Alternative 1 - Council could direct staff to negotiate an exchange of a remnant equal to the length of Chebucto Head Road, from Duncan's Cove Road (approximately 600 meters) to the gate as per Option 2 and authorize the CAO to accept the remnant.

Alternative 2 - Council could recommend residents form an association to acquire the road right-of-way from the federal government. Future maintenance upgrades would be the responsibility of the property owners pursuant to By-law P-1100 as per Option 3.

Alternative 3 - Council could recommend the federal government transfer ownership of the said portion of Chebucto Head Road to HRM. HRM would assume responsibility for future capital and maintenance requirements as per Option 4.

Alternative 4 - Council could direct staff to develop a cost-sharing agreement with all three levels of government to equally fund the upgrade to Chebucto Head Road, and to jointly cover the costs of future maintenance as per Option 5. This alternative is not recommended as it appears the federal government is not prepared to cost share.

Alternative 5 - Council could recommend that LICs be levied against the property owners to upgrade the road as outlined in Option 6.

ATTACHMENTS

A1 – Map No. 1 Chebucto Head Road

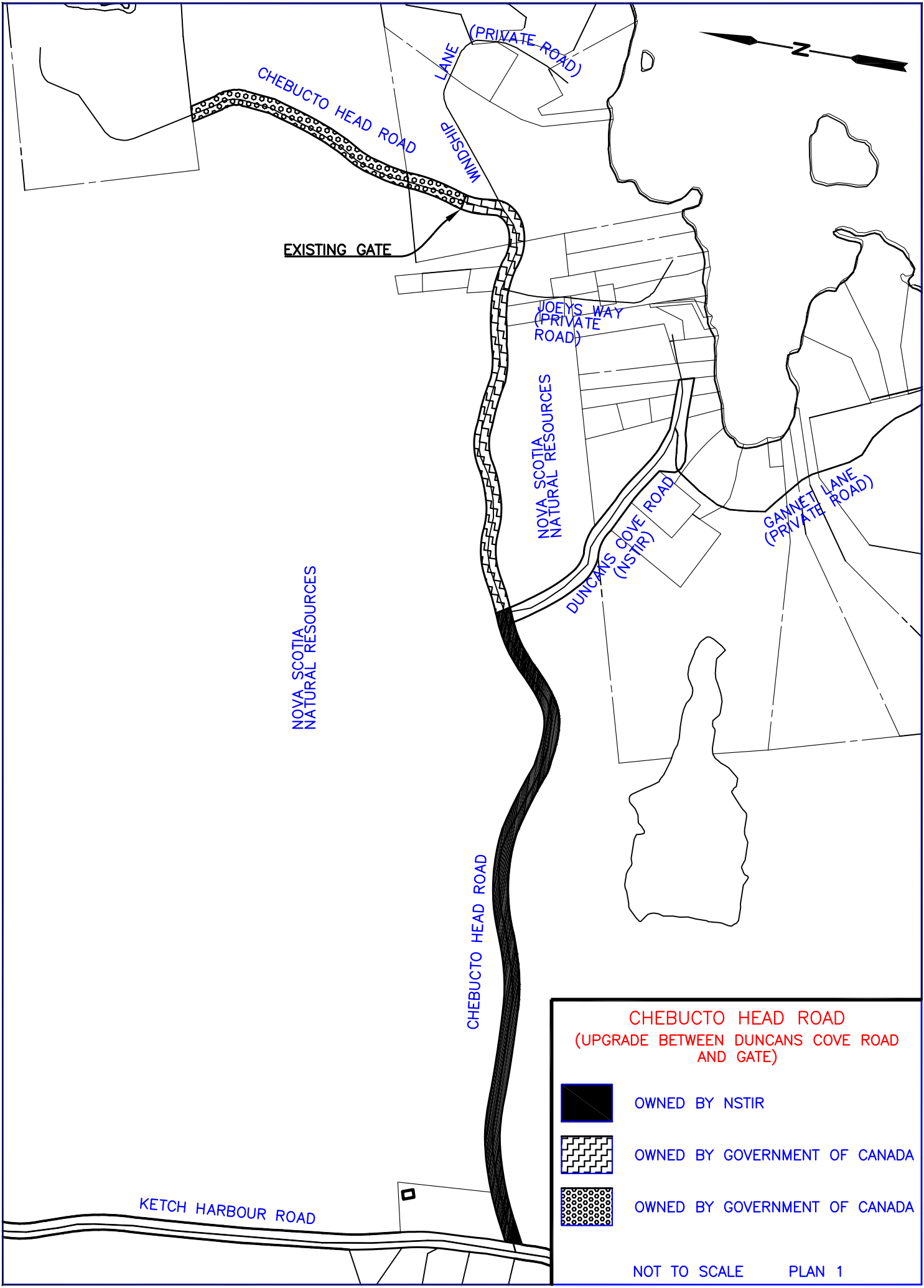
A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared/Approved by:

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CHEBUCTO HEAD ROAD
(UPGRADE BETWEEN DUNCANS COVE ROAD
AND GATE)



OWNED BY NSTIR



OWNED BY GOVERNMENT OF CANADA



OWNED BY GOVERNMENT OF CANADA