


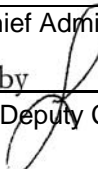


P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 11.1.7
Halifax Regional Council
June 16, 2015

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: May 27, 2015

SUBJECT: Road Maintenance Fee for Three Brooks Homeowner's Association

ORIGIN

On January 16, 2007, Regional Council approved the Private Road Maintenance Costs Recovery Policy. The purpose of this Policy is to provide owners of property accessed by private roads with the use of area rates or uniform charges to collect the funds required to maintain private roads. The Three Brooks Homeowner's Association has applied for such an area rate/ uniform charge under this Policy. On June 16, 2009, Regional Council approved the implementation of a road maintenance uniform charge to be applied against all properties abutting the private roads within the Three Brooks sub-division in the community of Hubley.

LEGISLATIVE AUTHORITY

Charter section 104(1)(g) which states "The Council may make by-laws imposing, fixing and providing methods of enforcing payment of charges for laying out, opening, constructing, repairing, improving and maintaining private roads, curbs, sidewalks, gutters, bridges, culverts and retaining walls that are associated with private roads, where the cost is incurred (i) by the Municipality, or (ii) under an agreement between the Municipality and a person." Also, By-Law P-1100 "Respecting Charges for Private Road Maintenance", and Administrative Order 45, "Respecting Private Road Maintenance".

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. For the reasons outlined in this report, suspend the requirement for a public meeting as is required under the Private Road Maintenance Costs Recovery Policy;
2. Amend and extend the catchment area for the Three Brooks Homeowner's Association Road Maintenance Uniform Charge to include the 6 properties located on White Pine Ridge as depicted in the map shown in Attachment 1 of this report, effective with the 2015-16 fiscal year for the purpose of funding the road maintenance activities of the Association; and
3. Approve amending Schedule 2 of Administrative Order 45, Respecting Private Road Maintenance, attached hereto as Attachment 2 by replacing the words "as identified on the map dated June 1, 2009 attached hereto" with the words "as identified on the map dated May 6, 2015 attached hereto".

BACKGROUND

Three Brooks sub-division is located just off of St. Margaret's Bay Road in the community of Hubley in District 13. All of the private roads in this sub-division are owned by Three Brooks Development Corporation Ltd and maintained by the Three Brooks Homeowner's Association. The Association funds road maintenance expenses through an annual fee collected from the owners of each of the 93 properties abutting the private roads in the sub-division. Since 2009, the road maintenance fee has been collected on the property tax bills of the property owners in accordance with Schedule 2 of Administrative Order 45.

Recently, an additional street has been added to the Three Brooks sub-division on which 6 building lots were located. As with the other streets within the sub-division, White Pine Ridge is privately owned by Three Brooks Development Corporation Ltd. The Three Brooks Homeowner's Association contacted HRM on October 7, 2014 about adding the 6 building lots to the catchment area for the road maintenance fee uniform charge so that it could be collected on the property tax bills for those properties.

DISCUSSION

The Private Road Maintenance Costs Recovery Policy outlines the conditions which must be satisfied before a uniform charge for private road maintenance can be implemented. Those conditions and the manner in which they were satisfied with respect to the Three Brooks Homeowner's Association are outlined below.

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

Staff have verified that the roads located within this sub-division are privately owned (refer to #2 below), provides direct access to St. Margaret's Bay Road (refer to map in Attachment 2), and has more than two properties containing principal residences.

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

Staff has verified that the private roads in the sub-division are owned by Three Brooks Development Corporation Ltd. Three Brooks Development Corporation Ltd also owns 5 of the 6 properties on White Pine Ridge for which they submitted 5 ballots in favour of the uniform charge. Consent would therefore be implied.

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

In October 2014, staff received a petition from the owner of property abutting White Pine Ridge, requesting HRM collect their annual road maintenance dues via their property tax billings. Staff reviewed the petition and determined that the signatory represented at least two-thirds of the properties which would be charged the fee under the Policy.

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

regular postage pre-stamped self-addressed return envelopes, proxy forms and ballots approved to form by the HRM staff co-ordinator.

The ballot letter mailed out to all affected property owners is included as Attachment 3 to this report. The ballot letter was developed by staff and included all the information required above with the exception of notification of a meeting. Self-addressed return envelopes were included in the mail-out, and a fax number was also provided.

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

There are only 2 property owners who own the 6 building lots on White Pine Ridge. 5 of the lots are owned by Three Brooks Development Corporation, and the owners of the sixth lot have a mailing address in Kentville. For that reason, and because the Three Brooks Development Corporation had already indicated in writing their willingness to pay the road maintenance fee, it was determined that a public meeting was not practical or necessary. Instead, property owners were encouraged in the ballot letter to contact either HRM or the Association if they had any questions or concerns regarding the road maintenance fee.

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

The property owner of 5 of the 6 properties on White Pine Ridge (83.3%) voted in favour of paying the annual uniform charge of \$580.00 to fund the road maintenance activities of the Three Brooks Homeowner's Association. A completed ballot was not received from the owner of the sixth property.

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

The uniform charge would be applied against all properties abutting the private roads within Three Brooks Sub-division, including White Pine Ridge, as depicted in the map shown in Attachment 2 of this report.

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

The budget in support of the proposed area flat rate is included on the second page of Attachment 3 of this report. Staff have reviewed the budget and determined that it is sufficient to justify the amount of the area flat rate.

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

Staff have verified with the Registry of Joint Stock Companies that the Three Brooks Homeowner's Association, Registry ID 2296910, is currently in good standing (ie. not lapsed).

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

Because this road maintenance uniform charge was already set up in 2009, another administration fee is not required.

FINANCIAL IMPLICATIONS

If approved, the extension of the catchment area of the uniform charge to include the 6 properties on White Pine Ridge would take effect in the 2015-16 fiscal year. As all funding is from the uniform charge (i.e. no transfers from the general tax rate), there would be no impact on the HRM General Operating

Budget at any time in the future.

The uniform charge of \$580.00 per property is based on the proposed 2015-16 operating budget of \$57,420, divided by the number of properties in the catchment area, which would be 99 including the 6 properties proposed to be added. Details of the budget are provided in Attachment 3 of this report.

COMMUNITY ENGAGEMENT

The Community Engagement process is outlined in detail in the Discussion section of this report. All property owners were mailed a formal ballot which included information regarding the purpose and amount of the uniform charge. Phone numbers were included with the ballot letter so that property owners could contact the Association or HRM if they had any questions or concerns regarding the proposed uniform charge or the services they would be receiving for it.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications resulting from the recommendations in this report.

ALTERNATIVES

Council could deny approval of the uniform charge. This alternative is not recommended because owners of more than 66.7% of the affected properties voted in favour of paying the uniform charge which is the minimum required under the Private Road Maintenance Costs Recovery Policy.

ATTACHMENTS

- Attachment 1: Map of the 6 properties to be added to the catchment area for the Three Brooks Homeowner's Association Road Maintenance Uniform Charge
- Attachment 2: Schedule 2 of Administrative Order 45, Respecting Private Road Maintenance for the Three Brooks Homeowner's Association, including revised map of catchment area
- Attachment 3: Copy of Ballot letter mailed to Property Owners, including proposed budget

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Gordon Roussel, Senior Financial Consultant 902.490.2500

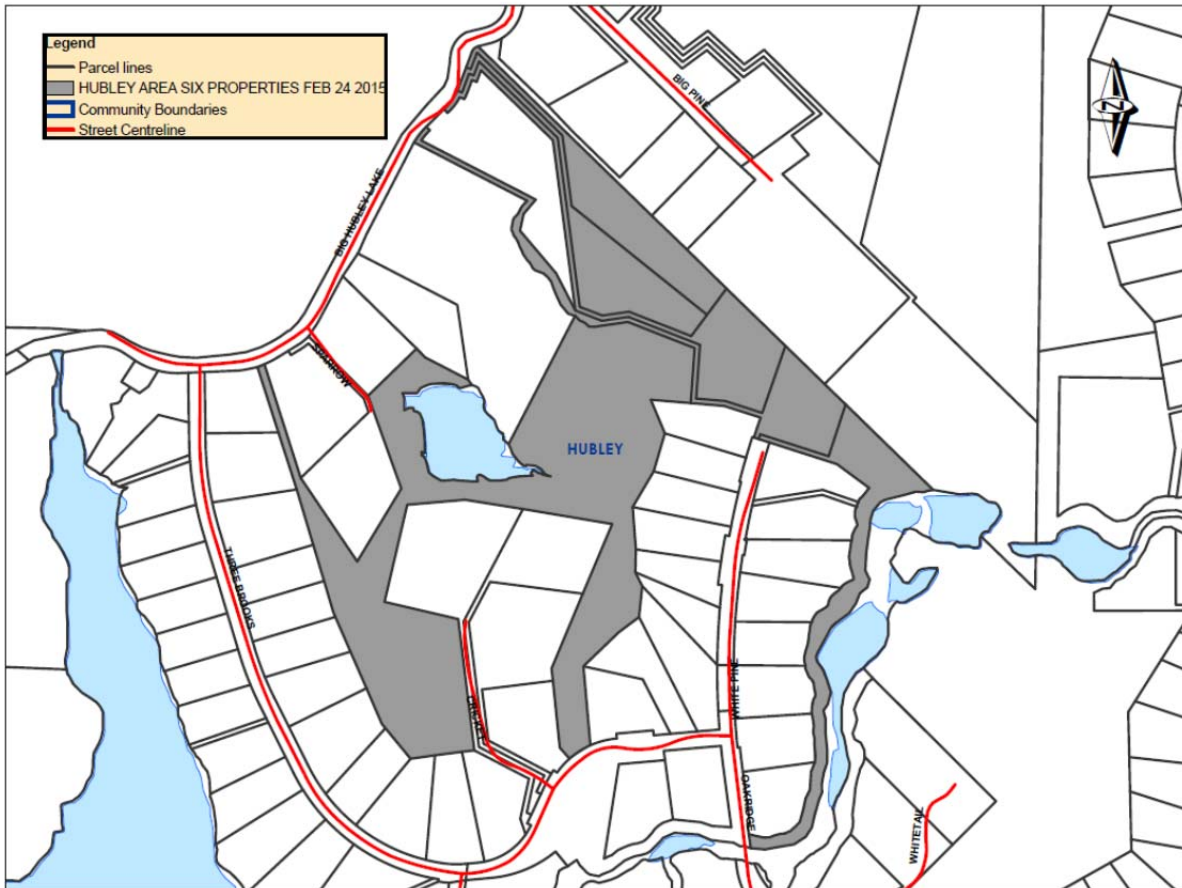
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Financial Approval by: _____
Greg Keefe, Director of Finance & ICT/CFO, 902.490.6308

Report Approved by: _____
Greg Keefe, Director of Finance & ICT/CFO, 902.490.6308

ATTACHMENT 1

HUBLEY AREA



Halifax Regional Municipality
ADMINISTRATIVE ORDER NUMBER 45
Respecting Private Road Maintenance

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

Schedule 2

1. An Area Rate Charge for properties fronting or abutting in whole or in part on the private streets located within the Three Brooks Sub-division, Hubley as identified on the map dated May 6, 2015 attached hereto, shall be a flat area rate of no more than \$580.00 annually.
2. The Charges collected under this By-Law shall be used by the Three Brooks Homeowner's Association for the maintenance of the private roads located within Three Brooks Sub-division, including culverts, retaining walls, sidewalks, curbs and gutters that are associated with the roads. Road maintenance includes all work required to maintain the road in a serviceable condition year round and may include snow removal, grading, ditch and culvert and bridge repair and brush clearing.



BALLOT FOR PRIVATE ROAD MAINTENANCE TAX

March 6, 2015

Names of property owners

Mailing address

Community, Province Postal Code

Assessment Account: 00000000 **PID:** 00000000

Property Description: *lot number, location*

Dear *Names of property owners*:

Since 2009, the Halifax Regional Municipality has collected an annual private road maintenance fee on the property tax bills for all properties within the Three Brooks subdivision. The fees collected are turned over to the Three Brooks Homeowner's Association which is responsible for maintaining all the roads within the subdivision.

In August 2014, the Halifax Regional Municipality was advised in writing by Three Brooks Development Corporation that they were willing to pay the annual private road maintenance fee for each of the properties they own on White Pine Ridge. White Pine Ridge is a new road in the subdivision which falls outside the current catchment area for the road maintenance fee. In accordance with the Municipality's Private Road Maintenance Costs Recovery Policy, since Three Brooks Development Corporation owns at least 66.7% of both the residential properties and the frontage along White Pine Ridge, a formal vote of all owners of property on that road must be conducted by the Halifax Regional Municipality.

A ballot is provided at the bottom of this page. The purpose of this ballot is to confirm that at least 66.7% of property owners with property abutting White Pine Ridge wish to implement a per property charge of \$580.00 annually to maintain the road. If the 66.7% minimum is attained, then all properties abutting White Pine Ridge would be added to the catchment area and the owners of those properties would be required to pay the charge. The annual charge would be divided equally between the two property tax billings mailed to property owners each year. Please refer to the reverse side of this ballot for details regarding the proposed 2015-16 budget submitted by the Three Brooks Homeowner's Association to provide maintenance services to all the roads in the subdivision including White Pine Ridge. The annual per property charge is calculated as follows:

$$\frac{\text{Estimated Cost of Services in 2015-16}}{\text{Number of Properties abutting Private Roads}} = \frac{\$ 57,420}{99} = \$ 580.00 \text{ per property}$$

Completed ballots may be faxed to 902-490-5622, or mailed in the enclosed self-addressed envelope. Ballots may also be scanned and emailed to rousseg@halifax.ca. If you have any questions regarding the process, please contact Gordon Roussel at 902-490-2500. For questions regarding the road maintenance services provided by the Association, please contact Peter Wamboldt, Secretary, at 902-876-8299 or at pkwamboldt@eastlink.ca, or Sandra Ashby, Treasurer, at 902-876-7499 or at rsashby@eastlink.ca.

Please note that all ballots must be received by April 1, 2015 (Sorry, but we cannot make any exceptions). If you are mailing in your ballot please allow adequate time for delivery.

-
- YES**, I am in favour of implementing the area rate for private road maintenance and paying an annual area rate of \$580.00 on my property tax bill.
 - NO**, I am not in favour of implementing the area rate for private road maintenance.

Assessment Account: 00000000

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

Three Brooks Homeowners Association

Budget - Year ending MAR 31, 2016	
-	
<u>Private Road Maintenance</u>	2015-16
Revenue	
(99 lots @ \$580 each)	<u>\$ 57,420.00</u>
Expenses	
Accounting	\$ 250.00
Dust Control	\$ 3,800.00
Grading	\$ 5,770.00
Gravel/Rock	\$ -
Winter Management Fee	\$ 1,200.00
Plowing	\$ 12,400.00
Guard Rails	\$ 20,000.00
Sanding	\$ 14,000.00
Brush Cutting	
	<u>\$ 57,420.00</u>