


Halifax Regional Council

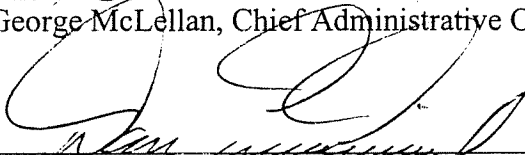
April 16, 2002

*April 23, 2002*

**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:**

  
George McLellan, Chief Administrative Officer

  
Dan English, Deputy Chief Administrative Officer

**DATE:** April 11, 2002

**SUBJECT:** **Recreation Facility Funding - Municipal Government Act  
Amendments**

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#### **ORIGIN**

- April 9, 2002 Committee of the Whole motion proposing that HRM request changes to the Municipal Government Act which would allow the municipality to collect capital cost charges to fund recreation facilities.
- Staff was also asked to outline alternative funding options which are currently within HRM's existing legislative authority. This report was requested for the April 16, 2002 Council meeting.

#### **RECOMMENDATION**

It is recommended that:

- Regional Council authorize staff to report back with more detail and a recommended course of action to initiate amendments to HRM's municipal planning strategies and by-laws in order to collect 10% subdivision fees; and
- The option of using area rates to supplement the 10% subdivision fee be forwarded to the Tax Structure Committee.

## SUMMARY

- At the April 9, 2002 Committee of the Whole meeting it was pointed out that the Province is unlikely to amend the MGA to allow HRM to levy infrastructure charges for recreation facilities. In addition it was noted that even if they agreed to such an amendment it would not occur in the near future.
- In the meantime, the gap between unfilled needs for additional recreational facilities and HRM's ability to finance this from general revenue would not be narrowed. As a result this will likely be a critical and unresolved issue again during next year's budget process.
- This report highlights the reasons why the Province is not likely to amend the MGA. In addition, funding alternatives which are within Council's current authority are highlighted.
- Staff is suggesting that the alternatives be pursued now. This would create the possibility that additional funding could be in place in the near future.

## DISCUSSION

### Infrastructure Charges

Prior to incorporating infrastructure charges legislation in the MGA, the Province reviewed similar legislation in other areas. While some jurisdictions permit charges to fund recreation facilities, the Province consciously chose not to incorporate this in the MGA. As a result of legal challenges both Ontario and Alberta were unsuccessful in their attempts to include recreation facilities in capital cost charges legislation. The same outcome was expected in Nova Scotia if recreation facilities were included. It is unlikely that the Province will reverse this decision. The Province's reasons for not including recreation facilities in the MGA have not changed. These include:

- The basic assumption of a Capital Cost Charge is that all subdivision residents create a similar service demand and this level of demand can be reasonably calculated;
- All residents will use hard services such as streets, sewers and water, and the methods of calculating these demands are universally accepted since they are used in determining infrastructure capacity;
- It can't be assumed that all residents will use recreation facilities and the methods of determining recreation capacity are not as easily quantified, therefore it is more difficult to create a defensible capital cost charge formula for recreation;
- The standards or service levels for recreation facilities cannot be as easily or clearly defined as those for roads, sewers and water;
- This can lead to inequity in the infrastructure charges levied from one development to another; and

- Infrastructure charges only apply to "oversized" servicing requirements and it is not clear what "oversized" recreation requirements are since there are no clear recreation demand/capacity standards or methodologies.

#### Subdivision Fees

During the subdivision of all properties, HRM levies an "open space" charge which can be in the form of a parkland dedication, equivalent value of money, or a combination of both. Provincial legislation formerly restricted this to a maximum of 5% of the assessed value of the subdivided land. The MGA now permits this to be increased to a maximum of 10% (See Attachment 1). In order to do this, all of HRM's Municipal Planning Strategies and Subdivision Bylaws need to be amended. Subdivision fees are generally consistent with the concept of infrastructure charges in that the "cost causer" pays.

As-of-right subdivisions are currently limited to the 5% maximum contribution. It should be noted however that in the case of development agreements, negotiations often lead to a land dedication of greater than 10%. This often includes some improvements to the parkland rather than just dedication of raw land.

A November 17, 2001 Information Report indicated that two Planning Strategies (i.e. Herring Cove and Timberlea/Lakeside/ Beechville) incorporated the 10% requirement in conjunction with comprehensive amendments to these planning strategies. In addition, this is also proposed for Wentworth Estates/Bedford South master plan area. The Information Report suggested that the remaining strategies would be amended during Regional Planning. If this is an urgent issue however, these amendments could be done independent of the Regional Plan. Staff can report back on how long this would take and also identify potential resources and funds for this work since this is not currently budgeted in any Business Plans or budgets.

#### Area Rates

Council also has authority to establish area rates for recreation facilities. This is currently being reviewed by the Tax Structure Committee and it is recognized that this option is intertwined with this review. Nevertheless, area rates for recreation facilities could be applied to property owners in new residential areas. This could be done either instead of the 10% subdivision fee or more likely as a supplement to this fee if additional revenue is required in order to build the required facilities.

Area rates are generally consistent with the concept of infrastructure charges in that the "cost causer" pays. In this case however rather than the developer passing the costs through in the sale of the property, the municipality collects it directly from the property owner.

#### Community Fund-raising

Community fund-raising is also a source of funding for recreation facilities. Again this can be used to supplement the 10% subdivision charge. This alternative might also be used in communities where a supplementary area rate charge is not acceptable.

Deed Transfer Tax

Previously it was suggested that a portion of the Deed Transfer Tax be used to fund recreational facilities. This was forwarded to the Tax Structure Committee. It should be pointed out however that money from the existing Deed Tax is already allocated to existing municipal expenditures and therefore is not a source of new funding.

**BUDGET IMPLICATIONS**

This recommendation does not have an effect upon the approved budget.

**FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approves Operation, Capital and Reserve budgets, polices and procedures regarding withdrawals from the utilization of the Capital and Operating Reserves as well as relevant legislation.

**ALTERNATIVES**

1. Council could request the Province to amend the MGA by including recreation facilities in infrastructure charges. This course of action is not recommended for the reasons outlined in the report, however if this alternative is selected, it is suggested that the staff recommendation also be pursued simultaneously.

**ATTACHMENTS**

Attachment 1 - Excerpt from the Municipal Government Act respecting subdivision charges for open space.

Additional copies of this report and information on its status can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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Report approved by: Paul Dunphy, Director of Planning & Development Services  
Karen MacTavish, Director of Parks & Recreation Services

## Attachment 1

### Excerpt from the Municipal Government Act respecting subdivision charges for open space

Section 271 (3)(h) of the Municipal Government Act (MGA) enables a subdivision by-law to include

... requirements for the transfer to the municipality of useable land, or equivalent value, for park, playground and similar public purposes, provided that the land required to be transferred does not exceed

- (1) five per cent of the area of the lots shown to be approved on the final plan of subdivision, or
- (2) ten per cent of the area of the lots shown to be approved on the final plan of subdivision, if the requirement and the reasons for it are provided for in a municipal planning strategy