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Halifax Regional Council

June 10, 2003

June 17, 2003

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:


George McLellan, Chief Administrative Officer


Dan English, Deputy Chief Administrative Officer

DATE: June 4, 2003

SUBJECT: Amendment to By-Law L-100 Cow Bay Road Area Sewer and Water Extension

ORIGIN

This is a staff originated report.

RECOMMENDATION

It is recommended that :

1. Council approve the amendment to the By Law as attached and that the normal approval process proceed, beginning with the Notice of Motion on June 10, 2003.
2. Council approve an increase of \$8,100 in the net cost for the project, Eastern Passage, Cow Bay Water and Sewer by reducing the Local Improvement Charges revenue to be collected in the operating budget as per the budget implications section of this report.

BACKGROUND

On January 5, 1999 Council passed an amendment to By-Law L-100 entitled Cow Bay Road Area Sewer and Water Extension. This Local Improvement Project set a rate of \$65 per lineal foot of frontage as the charge to be collected from each property for water and sewer. Part 1(c) of the amendment identified the Buffalo Club as being a property which would pay a total of \$12,000 an amount that was \$8,100 in excess of the amount prescribed by the by law. There was, however, no mention of the reason for the high charge for this one property (see report attached) and it wasn't until the Buffalo Club, in a letter dated November 3, 2002, forwarded information to staff concerning the original agreement with the former County that clarity was obtained.

DISCUSSION

In November 2002, the Buffalo Club, Eastern Lodge #8686 provided a County of Halifax staff report dated April 21, 1995 to HRM Engineering Services that outlined the costs and funding arrangement for the sewer and water extension to their property and mentioned two adjoining properties as funding participants. Their representative, Anthony C. Osmond, also provided a memo that outlined his involvement and understanding of the arrangement.

Late in the course of the project in the fall of 1994, the Buffalo Club approached their councillors of the day to inquire if they could be included in the service boundary for the project. They had not originally been consulted as they were outside the service boundary originally contemplated. Nevertheless, their councillors obtained a quote of \$80,000 for the extension and negotiated and obtained additional funding for the total. Included in the funding arrangement were two property owners who had originally not been consulted and were, in fact, originally not interested in being part of the service due to the prohibitive costs. The Buffalo Club consulted with the two property owners and agreed to pay more than the normal amount prescribed by the by law so as to make the sewer and water service extension affordable to the two properties in question. The properties belong to Mrs. Nancy Hann and Mrs. Theresa Atkinson. When the two property owners realized they could in fact receive sewer and water at a lower rate than what was prescribed under the strict terms of the by law because of the Buffalo Club's over payment, they agreed to have the project go ahead and to incur these lower costs. This arrangement and agreement was never expressed in the by law.

The amount the Buffalo Club would have been required to pay if originally included under the By Law is \$3,900 (the minimum amount, as their frontage is only 20 feet). The amount the two properties would have been required to pay based on their frontages under the by law is \$11,133 (Atkinson property) and \$4,680 (Hann property). Staff considers the original intent of the Buffalo Club to subsidize the Hann and Atkinson properties to be valid and therefore suggest the following:

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Amounts payable under By Law:

Buffalo Club would have paid	\$ 3,900 (frontage 20 feet times \$65 per foot is \$1300)
Atkinson would have paid	\$11,133 (frontage 171.29 feet times \$65 per foot)
Hann would have paid	<u>\$ 4,680</u> (frontage 72 feet times \$65 per foot)
Total	\$19,713

Buffalo Club actually paid
per the By Law clause 1(c) \$12,000

Remainder to be collected from
the two residents \$ 7,713

If approved and as prorated between the two properties based on frontage:

Atkinson will pay \$ 5,430
Hann will pay \$ 2,283

Remainder collected \$7,713

Both property owners have agreed with this approach and the amounts outlined above.

There remains the issue of the total funding requirement for the project as expressed in the amendment to the by law dated January 5, 1999. The total actual gross cost of the project and the planned funding sources which prescribed the frontage rate was as follows:

Gross cost	\$1,842,021
Heritage Hills Development Share of Oversizing	(\$355,000)
Buffalo Club	<u>(\$12,000)</u>
Adjusted Project Cost	\$1,475,021

30% of this amount, a total of \$443,000 had to be recovered via the local improvement charge, sewer lateral charges and bulk land charges. The rate of \$65 per lineal foot therefore was set based on costs to be recovered as per the discussion section of the report which set the by law rate.

The current by law now incorrectly reflects a recovery from the properties involved in the amount of \$27,813 as outlined below:

Buffalo Club	\$12,000	
Atkinson property	\$11,133	(171.29 feet times \$65)
Hann property	<u>\$ 4,680</u>	(72 feet times \$65)
Total to be recovered	\$27,813	

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Staff is recommending that \$19,713 be recovered as per discussion on page 2. This would then result in a funding shortfall for the project of \$ 8,100.

BUDGET IMPLICATIONS

A shortfall in funding for this project requires a reduction in the LIC revenues to be collected, thereby increasing the net cost for this project by \$8,100. Staff suggests that this shortfall be absorbed in the Fiscal Services operating budget by reducing the amounts of local improvement charges (LIC) to be collected for this project.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

Council could instruct staff to not amend the by law and to apply the by law in its strictest wording. This is not recommended as it does not reflect the original intent.

Council could direct staff to prorate the \$8100 shortfall among the property owners already charged under the by law. This is not recommended as the shortfall was created by an oversight and the remaining property owners should not be required to absorb it.

Council could direct staff to find the \$8,100 shortfall in another area of the operating budget.

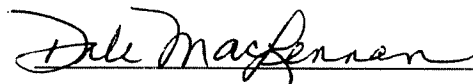
ATTACHMENTS

By-Law Number L-115
Map of properties affected

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.

Report Prepared by: Catherine Sanderson, Manager of Revenue 490-6470

Report Approved by:



S. Dale MacLennan, Director, Financial Services 490-6308

REVISED

HALIFAX REGIONAL MUNICIPALITY

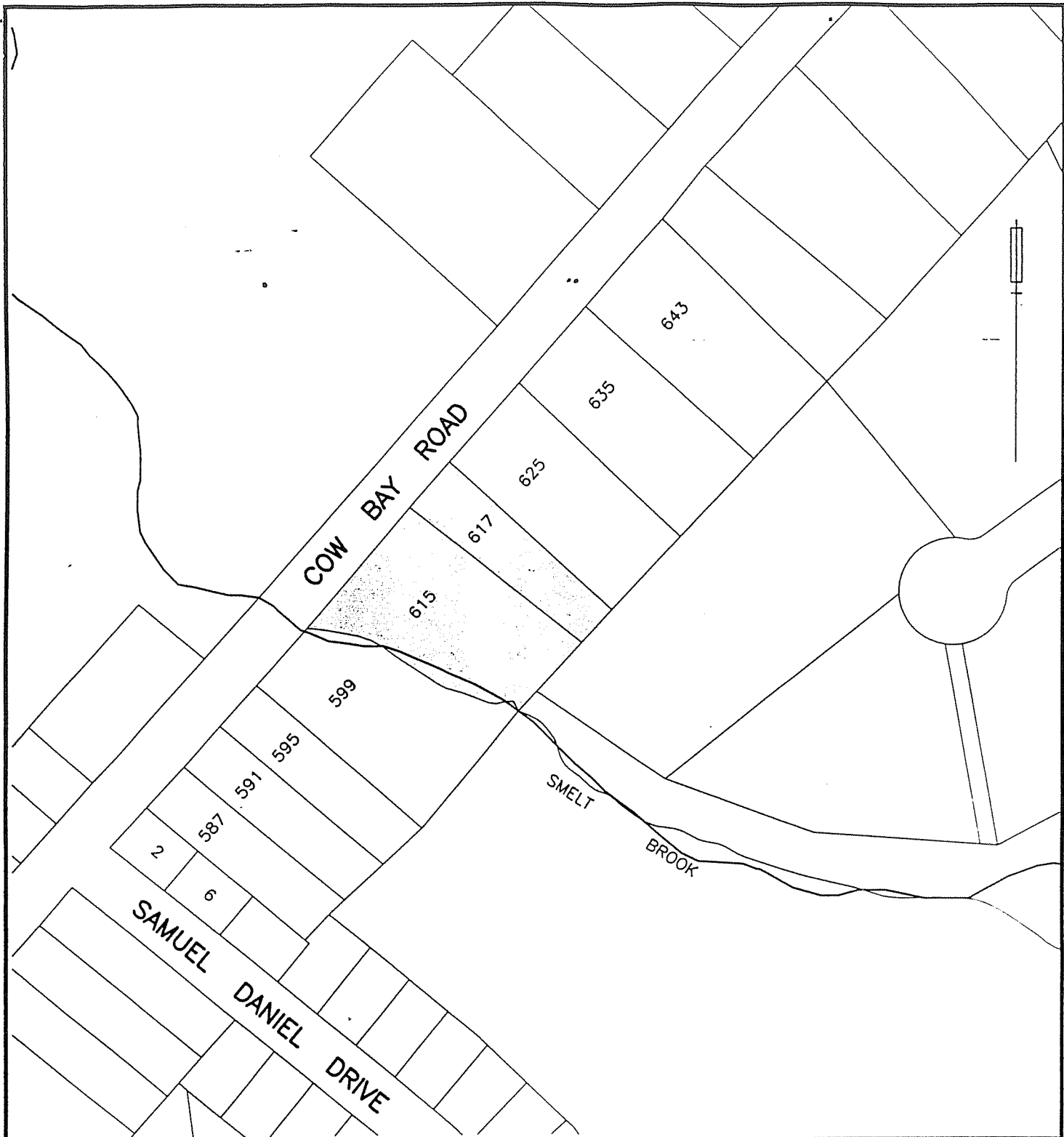
BY-LAW NUMBER L-115

RESPECTING CHARGES FOR LOCAL IMPROVEMENTS

BE IT ENACTED by the Council of the Halifax Regional Municipality that By-law Number L-100, the Local Improvements By-law, is amended as follows:

1. That part of Schedule A under the heading “Cow Bay Road Area Sewer and Water Extensions” is amended by adding as clause (d) the following:

“The local improvement charges for the property identified as 615 Cow Bay Road shall be \$5430 and for the property identified as 617 Cow Bay Road shall be \$2283.”



**COWBAY WATER & SEWER PROJECT
PROPERTIES OF THERESA ATKINSON
AND NANCY HANN
FRONTAGE CHARGES**



AREA IDENTIFIED FOR LOCAL
IMPROVEMENT CHARGES

DATE: MARCH 19, 2003

NTS