

# HALIFAX

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

**Item No. 15.1.3**  
**Halifax Regional Council**  
**April 30, 2019**

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

**SUBMITTED BY:** Original Signed by   
Jacques Dubé, Chief Administrative Officer

**DATE:** December 1, 2018

**SUBJECT:** Road Maintenance Fee for Cambrian's Cove Homeowners' Association

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## **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 Cambrian's Cove Homeowner's Association has applied for such an area rate/ uniform charge under this Policy.

On October 30, 2018 Regional Council,

- approved Administrative Order 2018-003-ADM, Respecting Private Road Maintenance, which repealed both the Private Road Maintenance Costs Recovery Policy and the Administrative Order 45.
- Adopted amendments to By-Law P-1100, the Private Road Maintenance By-Law.

## **LEGISLATIVE AUTHORITY**

Halifax Regional Municipality Charter clause 104 (1) (g) as follows:

(1) "The Council may make by-laws imposing, fixing and providing methods of enforcing payment of charges for

(g) 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,"

By-Law P-1100, Private Road Maintenance By-Law, Subsection 2(6)

(6) Area Rates or Uniform Charges imposed pursuant to the provisions of this by-law may be adjusted by Council upon application from the Property Owner's Association.

2018-003-ADM Administrative Order – Respecting Private Road Maintenance

**Recommendation on next page**

## **RECOMMENDATION**

It is recommended that Halifax Regional Council

1. Approve an annual uniform charge of no more than \$680.00 per property, to be applied against properties abutting Cambren Drive, Five Island Road, Hawkins Drive and Kenley Road, as depicted in the map shown in Appendix A of this report, effective with the 2019-20 fiscal year for funding the road maintenance activities of the Cambrian's Cove Homeowners' Association.
2. Adopt the amendments to Administrative Order 2018-003-ADM, Respecting Private Road Maintenance, as set out in Appendix B of this report.
3. Subject to the adoption of the amendments to Administrative Order 2018-003-ADM, authorize the Mayor and Clerk to sign on behalf of HRM, an Agreement between HRM and the Association in the form approved by Regional Council on February 11, 2014.

## **BACKGROUND**

Cambrian's Cove subdivision is located off St. Margaret's Bay Road in District 13. The Cambrian's Cove Homeowners' Association (CCHA) funds road maintenance expenses through an annual fee collected from the owners of 57 properties abutting the roads. CCHA owns the four (4) private roads, Cambren Drive, Five Island Road, Hawkins Drive and Kenley Road, and 2 parkland properties. In the past, the Association has had some difficulty collecting the fee from some of the property owners. As a result, the Association applied to HRM through the Administrative Order – Respecting Private Road Maintenance for a uniform charge to ensure timely collection from all property owners.

## **DISCUSSION**

The Administrative Order 2018-003-ADM outlines the conditions which must be satisfied before an area rate or uniform charge for private road maintenance can be implemented. Those conditions and the manner in which they were satisfied with respect to Cambrian's Cove Homeowners' Association are outlined below.

1. *Upon application by a person, the Municipality may consider the establishment of a rate under this Administrative Order. The presented petition shall be signed by property owners comprising at least two-thirds (66.7%) of the properties located within the proposed area that would be subject to the rate.*

On July 30, 2018, staff received a petition from the owners of property abutting the private roads, within the Cambrian's Cove Homeowners' Association, requesting HRM collect their annual road maintenance dues via their property tax billings. Staff reviewed the petition and determined that the signatories represented at least two-thirds of the properties which would be charged the fee under the Administrative Order.

2. *Notice of the meeting shall also be made not less than fourteen (14) days prior to the date of the meeting, and mailing a notice to the tax assessment addresses of all the property owners located within the proposed area that would be subject to the rate, and the notice shall contain the information required by subsection 15(2)  
....the date, time and place of the meeting, the name or names of the applicant, a description of the area that would be subject to the proposed rate, a description of the nature of the road maintenance proposed, a description of the type of rate proposed, a description of the road maintenance plan and budget, a proposed rate amount, that the property owners are entitled to*

*vote on the establishment of the rate, the date of the vote, including only ballots received within 7 days of the meeting will be counted, and the method of voting, including that a proxy may vote on a property owner's behalf at the public meeting.*

The meeting notice and ballot mailed out to all affected property owners is included as Appendix C to this report. The meeting notice was developed by staff and included all the information required above as per the Administrative Order – Respecting Private Road Maintenance. Self-addressed return envelopes were included in the mail-out, plus a fax number and email address was also provided.

- 3. The Public meeting shall be conducted by the applicant under the supervision of staff of the municipality. At the public meeting, the applicant shall make a presentation setting out the amount of the proposed rate and the proposed uses of the funds arising from that rate.*

A meeting of the affected property owners was held on Sunday November 18, 2018 at Estabrooks Community Hall, 4408 St. Margaret's Bay Road, Hubley. The HRM staff coordinator was present at the meeting to supervise the proceedings and to answer any questions with respect to the Administrative Order – Respecting Private Road Maintenance. The President of the Association explained the amount and use of the uniform charge after which attendees had an opportunity to ask questions.

- 4. For a vote to be successful, owners representing at least two-thirds (66.7%) of the assessed properties that are located within the proposed area that would be subject to the rate must have voted in favour of the rate.*

The owners of 48 of the 57 properties (85.7%) subject to the rate, voted in favour of establishing an annual uniform charge of no more than \$680.00 each to fund the road maintenance activities of the Cambrian's Cove Homeowners' Association.

- 5. The request for the establishment of a rate shall include the following information – the area where the proposed rate would apply, and whether the proposed rate is an area rate or uniform charge, and if a uniform charge is proposed, the request shall indicate whether the proposed uniform charge will apply to each taxable property assessment or each dwelling unit in the area.*

There are a total of 57 assessed properties within the catchment area of CCHA, as highlighted on the attached map. CCHA owns two (2) parkland and three (3) private road properties, which have been removed from the catchment area. Another eight (8) properties were still owned by the Developer (Hinterlands Development Limited) at the time of the petition and are also excluded from the catchment area until which time, the property is sold and/or becomes a residential property; then the flat rate will be applied to the assessed property, upon application to Council. One (1) additional property (Lot 10) is excluded due to a pre-existing covenant, in which the current owner is exempt from maintenance fees as long as they own and live in the home. If/when this property ownership changes, an application will be presented to Council to include this property within the private road catchment area.

The area flat rate (uniform charge) would be applied to 57 properties abutting the private roads of the Cambrian subdivision, as depicted in the map shown in Appendix A of this report.

During the process for preparing the Ballot letter, the Association was informed by the Developer of a sale of one property, which will be included in the 2019 assessment roll; therefore, the budget was prepared based on 57 properties, whereas, only 56 properties were entitled to vote.

- 6. The request for the establishment of a rate shall include the following information – a detailed proposed maintenance budget to support the proposed rate.*

The budget in support of the proposed area flat rate (uniform charge) is included in Appendix C on page 8 of this report. Staff have reviewed the budget and determined that it is sufficient to justify

the amount of the area flat rate.

7. *If Council establishes a rate, the applicant shall incorporate a Property Owner's Association in the form of a society under the Societies Act.*

Staff has verified with the Registry of Joint Stock Companies that the Cambrian's Cove Homeowners' Association, Registry ID 3066362, is currently in good standing (i.e. not lapsed).

8. *A one-time administration fee of \$200 is set by the By-law, and shall form part of the maintenance funding for the first year the rate is levied.*

The administration fee is included in the 2019/20 Budget submitted by CCHA and has been paid by the Association.

### **Housekeeping Amendment to Administrative Order**

A responsibility of the Property Owner's Association was missed when combining the previous Private Road Maintenance Cost Recovery Policy and the Administrative Order. If the Homeowner's Association does not own the private roads, then the legal owner(s) of the property on which the private road is situated must consent in writing to the maintenance of the road. To facilitate this, staff provide the Homeowner's Association with an Agreement in which both parties can agree to the allowance of maintenance work. Details of the required amendments to the Administrative Order are provided in Appendix B of this report.

### **FINANCIAL IMPLICATIONS**

If approved, the uniform charge would take effect in the 2019-20 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 \$680.00 per property is based on an operating budget of \$38,760, divided by the number of properties in the catchment area, which is 57. The Association has requested to collect only 50% (\$340/property) of the fees for the 2019-20 implementation year, due to the transition from their Fiscal year to HRM's Fiscal year. The 2020/21 fee will be the requested \$680/property fee. Details of the budget are provided in Appendix C of this report.

### **RISK CONSIDERATION**

HRM's role with respect to the Administrative Order – Respecting Private Road Maintenance is outlined in detail in the service agreement between HRM and the private road maintenance association, and in the meeting notices mailed out to all affected property owners. The agreement specifies that HRM's role is restricted only to collecting the road maintenance fees on property tax bills and turning those funds over to the private road maintenance association. HRM does not have any responsibility to monitor or oversee how the Association spends the funds, nor does HRM provide any other services such as maintenance, engineering, technical or legal services or advice, and takes no responsibility for private roads or their condition. In this way, liability risk to HRM is minimized. Since the road maintenance fees are collected on property tax bills, HRM may impose a lien on properties for which the fees are past due. Therefore, bad debt risk is minimized.

### **COMMUNITY ENGAGEMENT**

The Community Engagement process is outlined in detail in the Discussion section of this report. All property owners were mailed or emailed a formal ballot which included information regarding the purpose

and amount of the uniform charge, and the date, time and location of a public information meeting. The purpose of the meeting was to provide additional information and address questions and concerns raised by property owners.

### **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 Administrative Order – Respecting Private Road Maintenance.

### **ATTACHMENTS**

Appendix A: Map of Catchment Area for Proposed Uniform charge  
Appendix B: Proposed Amendments to Administrative Order 2018-003-ADM  
Appendix C: Copy of Meeting Notice and Ballot mailed to Property Owners, including proposed budget

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Barb Wilson, Senior Financial Consultant 902 490.4280

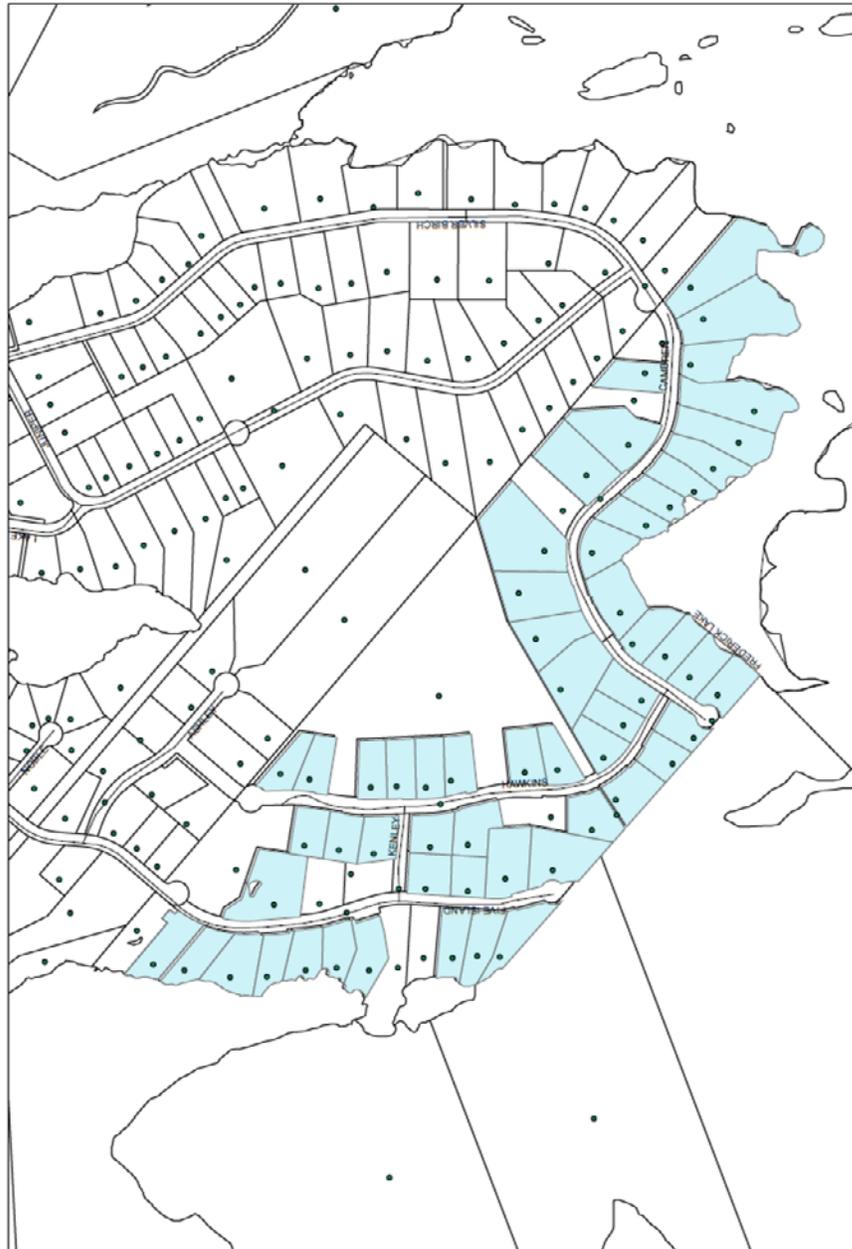
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Appendix A

Map of Catchment Area for Cambrian's Cove Homeowners' Association



CAMBRIANS COVE PRIVATE ROAD MARCH 5, 2019







## Appendix C

### BALLOT FOR PRIVATE ROAD MAINTENANCE TAX

22 October 2018

OWNER1  
OWNER2  
ADDRESS  
CITYPROV PC

**Property ID # AAN#**  
*PROPERTY DESCRIPTION*

Dear Property Owner:

The Halifax Regional Municipality has been petitioned by the owners of property abutting the private road on which you own the above referenced property. The petition concerns the possible implementation of an area property tax rate to fund the maintenance of the private roads of Cambren Drive, Five Island Road, Hawkins Drive and Kenley Road. Since those signing the petition represent at least 66.7% of the properties along these private roads, a formal vote of all property owners must be held in accordance with the Municipality's Private Road Maintenance Costs Recovery Policy.

A ballot is provided at the bottom of this page. The purpose of this ballot is to determine whether at least 66.7% of owners with property abutting Cambren Drive, Five Island Road, Hawkins Drive and Kenley Road wish to implement a per property charge of \$680 annually to maintain their road. If the 66.7% minimum is attained, then all property owners balloted would be required to pay the charge starting in 2019, with the exception of properties owned by the Cambrian's Cove Homeowners' Association (CCHA), or by the developer (Hinterlands Development Limited) until they are sold and/or become residential properties and excluding Lot-10 for as long as its current owner, owns and lives in the home as per an agreement with the CCHA; as requested by your Board. The charges collected would be turned over to the Cambrian's Cove Homeowner's Association which is responsible for maintaining the private roads.

Following Regional Council approval of the new property charge, a service agreement must be executed between HRM and the Cambrian's Cove Homeowners' Association. On the reverse side of this letter is a summary of the responsibilities of both parties under the service agreement. This letter also includes a budget which outlines how the total estimated cost of services was determined and how the annual per property charges was calculated.

As required by the Private Road Maintenance Costs Recovery Policy, a meeting of the owners of property abutting the private roads will be held to provide additional information and to give property owners an opportunity to ask questions or raise concerns. The meeting will be held:

**Sunday November 18, 2018 @ 4:00 p.m.**  
**Estabrooks Community Hall, 4408 St. Margaret's Bay Rd.**

Completed ballots may be dropped off at the meeting, faxed to 490-6030, or mailed in the enclosed self-addressed envelope. You may also scan and email the completed ballot to [wilsonba@halifax.ca](mailto:wilsonba@halifax.ca). If you have any questions regarding the process, please contact Barb Wilson at 490-4280. For questions regarding road maintenance services, please contact the Chair, Sergiy Khan at 902-xxx-xxxx or xxx@gmail.com.

**Please note that all ballots must be received by November 25, 2018.** If you are mailing in your ballot, please allow adequate time for delivery. Results of the ballot will be communicated by the Cambrian's Cove Homeowner's Association.

- YES**, I am in favour of implementing the area rate for private road maintenance and paying an annual area rate of \$680.00 on my property tax bill.
- NO**, I am not in favour of implementing the area rate for private road maintenance.

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

**Cambrian's Cove Homeowner's Association Budget**

	Year-One Budget (2019-20)	Annual on-going Budget
Revenue (57 x \$340/\$680)	(\$19,380)	(\$38,760)
Snow Removal	\$10,630	\$10,630
Road Maintenance	6,270	\$15,875
Administration	\$2,280	\$2,280
HRM Admin Fee	\$200	\$0
Contingency Fund	\$0	\$9,975
Net balance	\$0	\$0

The Responsibilities of the Municipality under the Service Agreement:

- HRM's responsibilities are restricted only to collecting the road maintenance fees on property tax bills and then turning those funds over to the Association.
- HRM does not have any responsibility to monitor or oversee how the Association spends the funds.
- HRM also does not provide any other services such as maintenance, engineering, technical or legal services or advice, and takes no responsibility for private roads or their condition.
- Therefore, HRM provides a fee collection service for the Association and nothing more. However, HRM does review the budget and year-end financial statements provided each year by the Association to ensure that the funds are spent in accordance with the purpose of the Area Rate.

The Responsibilities of the Association under the Service Agreement:

- The Association is required to provide to HRM each year a budget that has been approved at the Association's Annual General Meeting (AGM). It must include the amounts to be spent on each type of road maintenance work and the costs for administration, insurance, etc.
- At the end of the year, the Association is to provide HRM with a copy of its financial statements for the year, also approved by the membership at the AGM. These financial statements must detail all expenditures made from the Area Rate funds.
- Maintenance of the road(s) and proper expenditure of the area rate funds is entirely under the control and direction of the Association.
- The area rate funds must be kept separate from other funds.
- While the Association is expected to seek competitive prices before hiring a third party to undertake Road Maintenance, HRM does not monitor compliance.
- Liability insurance is also the responsibility of the Association.
- The Association must maintain an active status with the Registry of Joint Stock Companies at all times.
- All property owners who are required to pay the Area Rate are members of the Association and are entitled to all rights and privileges as outlined in the Association By-Laws including the right to attend and vote at all general and special meetings of the Association.