

Item No. 10.1.13
Halifax Regional Council
June 12, 2012
June 19, 2012

TO: Mayor Kelly 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 28, 2012

SUBJECT: **Road Maintenance Fee for Bald Rock Road**

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 Sambro Head Lot Owners Association has applied for such an area rate/ uniform charge under this Policy for the private portion of Bald Rock Road.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Approve an annual uniform charge of \$385.33 per property, to be applied against all properties abutting the private portion of Bald Rock Road, as depicted in the map shown in Appendix A of this report, effective with the 2012-13 fiscal year for the purpose of funding the road maintenance activities of the Sambro Head Lot Owners Association;
2. Approve amending Administrative Order 45, Respecting Private Road Maintenance, by adding Schedule 8, respecting a Uniform Charge for the Sambro Head Lot Owners Association, attached hereto as Appendix B; and
3. Subject to the approval of Schedule 8 of Administrative Order 45, authorize the Mayor to sign on behalf of HRM, a Management and Operating Agreement between HRM and the Association.

BACKGROUND

Bald Rock Road is a public road with a private road extension, and is located just off Ketch Harbour Road in the community of Bald Rock in District 18. The private portion of the road is an easement over privately owned lots. The Sambro Head Lot Owners Association maintains the private portion of the road under the authority provided for in a schedule attached to each deeded property. The Association funds road maintenance expenses through an annual fee collected from the owners of each of the 15 properties abutting the private portion of the road. In the past, the Association has had some difficulty collecting the fee from a few of the property owners. As a result, the Association applied to HRM through the Private Road Maintenance Costs Recovery Policy for a uniform charge to ensure timely collection from all property owners.

DISCUSSION

The Private Road Maintenance Costs Recovery Policy 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 Bald Rock Road 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 Bald Rock Road is part privately owned (refer to #2 below), provides direct access to Ketch Harbour Road, and has more than two properties containing principal residences.

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

Staff has verified that Bald Rock Road is not a separate land parcel or parcels, and is an easement over several of the building lots. Schedule B-1 attached to the deeds of the properties requires each owner to participate in an association for maintenance of the road and to contribute to the cost of its maintenance. Specifically, Schedule B-1 states that "... the land described in Schedule C shall not be occupied or used by any person, company, etc, unless the owner of the land is a member in good standing of a Sambro Head Homeowners Association ...". Schedule B-1 further states the Association will be responsible "... to levy assessments for the maintenance of all rights of way, paths, roads and common areas of the subdivision ...".

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 February 2012, staff received a petition from the owners of property abutting the private

portion of Bald Rock Road, 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 both the principal residences and the road frontage on Bald Rock Road.

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 return envelopes, proxy forms and ballots approved to form by the HRM staff coordinator.*

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 Private Road Maintenance Cost Recovery Policy. Self-addressed return envelopes were not included in the mail-out because several of the property owners normally reside overseas or in the USA. Instead, other options were provided for submitting the completed ballot including a fax number and email address. A regular mailing address was provided for those residing locally.

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.*

A meeting of the affected property owners was held on Saturday, May 12, 2012 in the Heritage Room of the Sobeys located at 279 Herring Cove Road in Spryfield. The HRM staff coordinator was present at the meeting to supervise the proceedings and to answer any questions with respect to the Private Road Maintenance Costs Recovery Policy. A short presentation was made by the President of the Association explaining the amount and use of the uniform charge after which attendees had an opportunity to ask questions.

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 owners of 10 of the 15 properties (66.7%) voted in favour of establishing an annual uniform charge of \$385.33 each to fund the road maintenance activities of the Sambro Head Lot Owners Association.

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 to all properties abutting the private portion of Bald Rock

Road, as depicted in the map shown in Appendix A 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 (uniform charge) is included on the second page of Appendix C 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 Sambro Head Lot Owners Association, Registry ID 3053100, is currently in good standing (i.e. not lapsed).

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

The administration fee will be collected if Council approves the implementation of the uniform charge.

BUDGET IMPLICATIONS

If approved, the uniform charge would take effect in the 2012-13 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 \$385.33 per property is based on the 2012-13 operating budget of \$5,780, divided by the number of properties in the catchment area, which is 15. Details of the budget are provided in Appendix C of this report.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

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

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, 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

The Association was maintaining the roads prior to making application under the Private Road Maintenance Costs Recovery Policy. There is no change resulting from the Recommendations in this report other than the manner in which the road maintenance fees are collected from the property owners.

ALTERNATIVES

Council could either (1) change the amount of the uniform charge or (2) deny approval of the uniform charge altogether. Neither alternative is recommended because (1) the amount of the uniform charge is based on a budget approved by the Association's membership and verified by staff, and (2) owners of 66.7% of the affected properties voted in favour of paying the uniform charge.

ATTACHMENTS

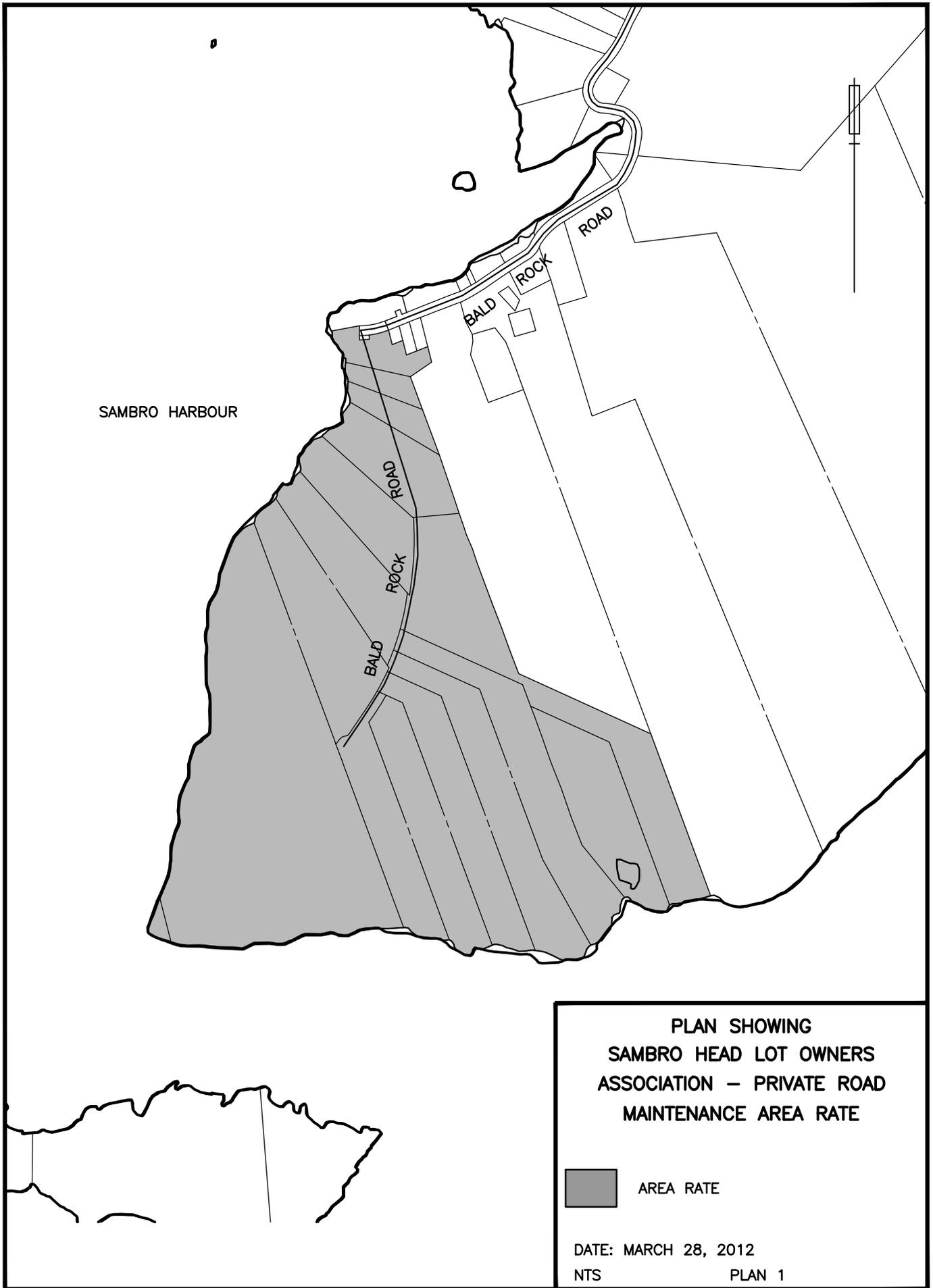
- Appendix A: Map of Catchment Area for Proposed Uniform charge
- Appendix B: Draft of Administrative Order 45 Schedule 8
- Appendix C: Copy of Meeting Notice and Ballot mailed to Property Owners, including proposed budget

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 by: Gordon Roussel, Sr. Financial Consultant, 490-6468

Report Approved by: _____
Bruce Fisher, Manager, Fiscal Policy & Financial Planning, 490-4493

Financial Approval by: Bruce Fisher for Greg Keefe
Greg Keefe, A/Director of Finance & Information Technology/CFO, 490-6308



Appendix B

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 8

- (a) An Area Rate Charge for properties fronting or abutting in whole or in part on the private portion of Bald Rock Road, a private road located in the community of Bald Rock as identified on the map dated March 28, 2012 attached hereto, shall be a flat area rate of no more than \$385.33 annually.
- (b) The Charges collected under this By-Law shall be used by the Sambro Head Lot Owners Association for the maintenance of the private portion of Bald Rock Road, 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

May 1, 2012

OWNER1 OWNER2
ADDRESS1
ADDRESS2 PC

Assessment # AAN
CIVIC STR_NAME STR_TYPE Lot LOT

Dear Property Owner:

The Halifax Regional Municipality has been petitioned by the owners of property abutting the private portion of the 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 portion of Bald Rock Road which extends from civic number 462 to the end of the road. Since those signing the petition represent at least 66.7% of both the principal residents and the frontage along this private road, 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 property owners along the private portion of Bald Rock Road wish to implement an annual per property charge of \$385.33 to maintain their road. If the 66.7% minimum is attained, then all property owners abutting the private portion of the road would be required to pay the charge starting in 2012. With the exception of 2012, the annual charge would be divided equally between the two property tax billings mailed to property owners each year. For 2012 only, the entire charge would appear on the second billing. The charges collected would be turned over to the Sambro Head Lot Owners Association which is responsible for maintaining the private portion of the road. The annual per property charge is calculated as follows:

$$\frac{\text{Estimated Cost of Services in the First Year}}{\text{Number of Properties abutting Private Portion of Road}} = \frac{\$ 5,780}{15} = \$ 385.33 \text{ per property}$$

Enclosed with this letter are details of the estimated cost of services in the first year. As required by the Private Road Maintenance Costs Recovery Policy, a meeting of the owners of property abutting the private portion of the road 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:

Saturday, May 12, 2012 @ 11:00 a.m.
Sobey's (Heritage Room), 279 Herring Cove Road, Spryfield

Completed ballots may be dropped off at the meeting, faxed to 490-5622, or mailed to: G. Roussel, Finance & Information Technology, Halifax Regional Municipality, PO Box 1749, Halifax, NS B3J 3A5. You may also scan and email the completed ballot to rousseg@halifax.ca. If you have any questions regarding the process, please contact Gordon Roussel at 490-6468.

Please note that all ballots must be received by May 22, 2012. If you are mailing in your ballot please allow adequate time for delivery. Results of the ballot will be communicated by the Sambro Head Lot Owners Association.

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- YES**, I am in favour of implementing an area rate for private road maintenance and paying an annual area rate of \$385.33 on my property tax bill.
 - NO**, I am not in favour of implementing the area rate for private road maintenance.

Assessment # AAN

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

**Estimated Projection for Fiscal 2012-13
Sambro Head Lot Owners Association**

Stationary costs incl. postage	\$50
Bank Fees	\$50
NS Registration Fees	\$30
Accountant	\$250
Reconized Agent/Legal Fees	\$150
Private Road Liability Insurance	\$1,450
Directors Insurance	\$600
Road Maintenance	\$700
Snow Ploughing	\$2,500
Total Estimated Expenditures:	<u>\$5,780</u>
Total Properties to be Charged Fee:	15
Total annual amount due per lot	<u>\$385.33</u>

The total is to be equally divided by the 15 lots on the Private Road portion of Bald Rock Road.
Projection compiled by the directors on April 15th, 2012