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Municipal Council Meeting Agenda

Tuesday, February 14, 2023

MODL Council Chambers – 10 Allée Champlain Drive, Cookville

1.	Call to Order	
1.1	Mi'kma'ki Territorial Acknowledgement	
2.	Announcements, Acknowledgements, Recognition	
3.	Public Input (15 Minutes)	
4.	Changes/Approval of Agenda	
5.	Approval of Minutes - January 24, 2023	
6.	Business Arising from Minutes	
7.	Awarding of Tenders/RFPs	
8.	Presentations/Scheduled Times	
9.	Consideration of Correspondence	
10.	Recommendations from Committees & Boards	
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11.	Staff Reports	
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11.1.1	Request for Medical Leave – Councillor DeLong	11
11.2	Planning & Development	
11.2.1	Letter of Concurrence – MDL 69 Antenna Siting Protocol	12-14
11.2.2	Increase Charge Area – Botany Woods Landowners Association	15-28
11.3	Engineering & Public Works	
11.3.1	Pre-Budget Approval re New Germany I&I Mitigation Capital Project.....	29-31

12. Mayor's/Deputy Mayor's/Councillors' Matters

12.1 Deputy Mayor's Update

12.2 Mayor's Update

13. Added Items

14. In Camera

14.1 Land Negotiations re Sale of Land under Section 22(2)(a) of the MGA

15. Adjournment

Council
Item: #10.1
Date: February 14, 2023
Authorization: T. MacEwan



Memorandum

To: Her Worship, Mayor Bolivar-Getson, and Councillors

From: Chairman & Members of the Finance Committee

Date: February 7, 2023

Re: Recommendations of the Finance Committee

The Finance Committee, in session on Tuesday, February 7, 2023, made the following recommendation(s) to Council:

1. That Municipal Council approve:
 - The 2023/24 Fire hydrant rate at \$0.1713/\$100 of assessment
 - The 2023/24 Streetlight rates as presented
 - The 2023/24 Sewer rates at \$0.43/\$100 of assessment for global rate and \$0.25/\$100 of assessment for Hebbville rate.
2. That Municipal Council approve the strategic priorities for 2023-2025 as presented.

Respectfully submitted,

Chairman and Members
Finance Committee
/jer
Attachment

Council
Item: #10.1.1
Date: February 14, 2023
Authorization: T. MacEwan



Municipality of the District of Lunenburg

Request for Decision

Report to: Finance Committee
Submitted by: Angela Veinot, Accounting Manager
Date: February 7, 2023
Re: 2023-24 Proposed Area Rates: Streetlights, Hydrants, & Sewers

Recommendation

It is recommended that the Finance Committee recommend Municipal Council approve:

- The 2023/24 Fire hydrant rate at \$0.1713/\$100 of assessment
- The 2023/24 Streetlight rates as presented
- The 2023/24 Sewer rates at \$0.43/\$100 of assessment for global rate and \$0.25/\$100 of assessment for Hebbville rate

Executive summary

Enclosed are the proposed budgets for streetlights, fire hydrants and sewer rates for the fiscal year 2023/24.

The streetlight and hydrant rates are calculated based on the prior years' revenues collected minus the actual costs. The current year's property assessment and any estimated overage and shortage in the accounts are included in the calculation.

Sewer rates were set in December 2019, based on a 5-year sewer rate review. 2023/24 marks year 4 of 5 for these approved rates.

Discussion

As part of the budget process, area rates are required to be approved by Council. Streetlight and hydrant rates can be easily forecasted based on the nature of the revenues and expenditures. Revenues have been billed for the year and most expenditures have been recorded. The revenues and expenditures for these rates are analyzed by the Accounting Manager and a running total of the account

balance is kept. Any surpluses or deficits from prior year are rolled into the next year to be recovered through the area rates.

The street light rates are detailed on the attached schedule. These rates vary slightly from year to year.

The hydrant rates are increasing based on the 2022-23 actual billing amount which was adjusted by the Public Service Commission.

The sewer billing has two rates: the global rate and the Hebbville rate. The approved 5-year rates are \$0.43/\$100 of assessment for the global rate and \$0.25/\$100 of assessment for the Hebbville rate. As per past practice, Council is asked to approve the sewer rates annually.

Budget implications

Once Council approves the rates, they will be used to calculate the revenue budgets for 2023/2024.

Conclusion

Staff recommend Council approve the rates as presented.

Report Preparation	
Department	
Report Prepared by	Angela Veinot
Report Approved by	
Date Reviewed by C.A.O.	

**Municipality of the District of Lunenburg
Area Rates 2023/24 Draft Budget**

STREET LIGHT RATES

	<u>2022-23 Approved</u>	<u>2023-24 Proposed</u>
Rates per \$100 of assessment		
Riverport	\$ 0.025	\$ 0.024
Dayspring	\$ 0.065	\$ 0.071
New Germany	\$ 0.045	\$ 0.041
Catidian Place	\$ 0.010	\$ 0.013
Pine Haven Subdivision	\$ 0.036	\$ 0.041

Flat Rates Per Property

Barss Corner	\$ 49.02	\$ 54.75
Vogler's Cove, Broad Cove & Cherry Hill	\$ 44.21	\$ 53.62
Chelsea	\$ 86.43	\$ 95.44
Pine Grove	\$ 50.83	\$ 53.56
Oakhill Acres	\$ 32.39	\$ 33.93
Little Tancook	\$ 31.82	\$ 36.19
Whitley & Jenny	\$ 30.23	\$ 31.85
Westside Drive	\$ 120.91	\$ 137.39

	<u>2022-23 Approved</u>	<u>2023-24 Proposed</u>
Rates per \$100 of assessment		
FIRE HYDRANT RATE	\$ 0.1459	\$ 0.1713

SEWER RATES

Global Sewer	\$0.43	\$0.43
Hebville Sewer	\$0.25	\$0.25

Council
Item: #10.1.2
Date: February 14, 2023
Authorization: T. MacEwan



Municipality of the District of Lunenburg

Request for Decision

Report to: Finance Committee
Submitted by: Alex Dumaresq, Deputy CAO
Date: February 7, 2023
Re: Strategic Priorities

Recommended Motions

Move that the Finance Committee recommend the approval of the strategic priorities for 2023 -2025 to Council as presented.

Background:

Council regularly completes a strategic priority setting process, to help guide budget preparation and to focus the work of the Municipality. The process normally involves input from citizens including: through the “Your Government, Your Ideas” meetings series, a review of existing projects and plans, identification of emerging issues, followed by Council identifying priorities.

The chart is a living document that provides guidance to staff when preparing budgets and allocating staff time. It is also a central communication tool, forming a part of the budget presentation, acting as the focus of “Your Government, Your Ideas” meetings, and is used regularly in responding to resident and stakeholder questions.

Since last discussing strategic priorities, Council approved a new vision for the Municipality as part of the MODL 2040 Municipal Planning Strategy:

The breathtaking, natural beauty of the Municipality of the District of Lunenburg is home to thriving communities with unique cultural identities. Growth centres support our diversified economies, driven by our residents' passion for the place they call home. With our strong economy, we can live, work and raise families here. We are a destination for visitors attracted to our vibrant parks, beaches, and hiking trails. As leaders in sustainability, we passionately protect our natural environment.

Council also approved the following values:

- **Thriving Communities:** We encourage meaningful connections.
- **Act with Integrity:** We are accountable and strive to provide exceptional leadership within our Municipality.
- **Respect and Kindness:** We value the uniqueness and diversity of our communities, welcoming everyone with respect and kindness.
- **Equity and Inclusion:** We take action to change and grow to be a truly diverse, equitable, and inclusive municipality.
- **Ready for Action!:** We are innovators, economic leaders, and collaborative partners.

And identified the following as the mission of the Municipality, we are:

- Responsible financial managers
- Strategic planners
- Sustainable community builders
- Collaborative engagers

Discussion

Corresponding with the new vision statement and the increased focus on longer term projects, staff are recommending that Council focus its strategic priorities on the following four large project groupings:

Osprey Village Growth Centre

Major developments are planned for the growth centre at Osprey Village. These include sale of land and partnerships to create residential units, including affordable housing developments. In addition, the Municipality has partnered with Lumia Health to develop a Community Hub and collaborative health centre. In concert with the major increase in housing, there are significant municipal infrastructure upgrades planned for the area, including: trail connections, active transportation and public transit links, an active living park; comprehensive water and wastewater services, and community beautification.

Re-Create! Parks

Council has identified the need for significant upgrades to existing parks and recreation facilities. Staff are currently developing standards and classification for all MODL facilities. As part of their redevelopment, the parks will be audited to identify accessibility and welcoming upgrades. Staff will also be developing a maintenance program for each class of parks. These decisions will inform the multi-year investment plan to re-invigorate parks and increase accessibility. In addition, two facilities that are currently used by the public, the MARC and Wiles Lake, will undergo a community engagement process to guide their redevelopment.

Climate Change Action Plan

In 2019 Municipal Council declared a climate emergency. Council has made significant steps to address carbon emissions in the Municipality including: hiring a Sustainability Coordinator, signing on to the Canadian Partners for Climate Protection program, developing a corporate emissions reduction plan and establishing a Sustainability Committee who would advised Council on the now-approved community emissions reduction program.

The implementation of the plans has also begun, including replacing some gas vehicles with electric vehicles and the installation of solar panels on the municipal services building. There remains significant work to achieve Council's goal of reaching net-zero emissions by 2050. This includes:

- Catalyzing the retrofitting of buildings to make energy efficient homes;
- Developing Public Transit;
- Creating an electrified transportation network;
- Achieving Net Zero emissions for municipal facilities & fleet;
- Supporting green renewable energy development;
- Increasing local food security; and
- Improving emergency preparedness & response.

MODL 2040

The Province has created regulation requiring land-use planning across all municipalities. Currently MODL only has development controls in approximately 12% of the municipality. Developing a comprehensive Municipal Planning Strategy (MPS) and Land Use Bylaw (LUB) is a major policy and public engagement endeavour. The Municipality has dedicated resources over the next two years to develop plans that meet the provincial requirements for development controls.

Having these plans in place will be a critical tool in guiding development in our communities. Planning will help Council in protecting natural environment, fostering growth centres, preserving distinct communities, encouraging climate change sensitive development, and will guide municipal Infrastructure decisions.

Emerging Issues

Establishing large, longer-term projects as priorities will help provide focus and resources to these major initiatives. However, Council will still continue to consider issues and opportunities that will require attention. Smaller scale but pressing community issues can still proceed and will be highlighted in the annual budget process. For example, projects such as the Lyme disease research and public education project

and anti-racism initiatives will continue in the 2023/24 budget and on Council’s regular agendas.

Council will also continue its role as an advocate for community issues that fall outside of municipal jurisdiction. For example, mobile phone coverage is inconsistent across the county and is impacting access to services, tourism & economic growth, quality of life, and emergency response. Council can continue to amplify these community concerns and advocate for improved service from mobile phone providers, the CRTC and the federal and provincial governments.

Process Revisions

As Council has focused on larger scale, strategic, and multi-year projects, there has been a need to shift processes to reflect the longer timelines and large scale of the work. Staff will engage Council in an in-depth review of strategic priorities every 4 years, with a mid-term check-in at the conclusion of a Council’s second year in a 4-year Council term.

Conclusion

The proposed four strategic priorities represent ambitious work that will move the Municipality forward as a leader in economic growth, recreation and public space, climate change mitigation and community planning. The proposed priorities align with Council’s new vision mission and values statement and speak to the municipal responsibilities as established in the Municipal Government Act.

Report Preparation	
Department	Administration
Report Prepared by	Alex Dumaresq, Deputy CAO
Report Approved by	
Date Reviewed by	
C.A.O.	

Tina Robichaud-Bond

From: Pam Hubley
Sent: February 7, 2023 10:03 AM
To: Tina Robichaud-Bond
Subject: Nomination Committee

Categories:

The nomination committee met on February 7, 2023.

The following motion was moved by Councillor Whynot and seconded by Mayor Bolivar-Getson.

That the Nominating Committee recommend Council appoint the following applicants to serve as members-at-large on the Planning Advisory Committee (PAC) with terms ending in November 2024: Mr. Larry Hagell and Mr. Peter Simpson

Thank you,
Pam Hubley
District 4 Councillor
Municipality of the District of Lunenburg
10 Allée Champlain Drive
Cookville NS B4V 9E4



Council
Item: #11.1.1
Date: February 14, 2023
Authorization: T. MacEwan



Memorandum

To: Municipal Council
From: Tom MacEwan, C.A.O.
Date: February 14, 2023
Re: Request for Medical Leave – Councillor DeLong

The Municipal Government Act at section 17(4) provides that a mayor or councillor who, without leave of council, is absent from three consecutive regular meetings of the council, ceases to be qualified to serve as mayor or as a councillor.

Councillor DeLong is requesting that Council approve a medical leave covering the period from February 14 to March 15, 2023 which would include the regular meetings of council scheduled for February 28, 2023 and March 14, 2023.

Recommendation

It is recommended that Council approve the requested medical leave submitted by Councillor DeLong.

Recommended Motion

Council approves the medical leave request submitted by Councillor DeLong for the period of February 14, 2023 to March 15, 2023 which includes, but is not limited to, the regular meetings of MODL Council scheduled for February 14 and 28, 2023 and March 14, 2023.

A handwritten signature in blue ink, appearing to be "Tom MacEwan".

Tom MacEwan, C.A.O.

Council
Item: #11.2.1
Date: February 14, 2023
Authorization: T. MacEwan



Municipality of the District of Lunenburg

Request for Decision

Report to: Mayor Bolivar-Getson and Municipal Council
Submitted by: Norma Schiefer, Municipal Development Officer
Date: February 14, 2023
Re: Letter of Concurrence – MDL 69 Antenna Siting Protocol

Recommendation

That Municipal Council issue a letter of concurrence for a communication tower at PID 60443967, 2259 Highway 325, Oakhill, as the application has met the requirements of MDL-69 Antenna Siting Protocol.

Background

In November, the Municipality of Lunenburg received an information package from Nova Scotia Power outlining the proposal to locate a communication tower at their existing Bridgewater East Substation. This tower will expand site monitoring and remote control to carry critical communications for the operation of the power grid.

The Municipality has a policy on the siting of telecommunication towers outlining submission requirements and to ensure adequate public consultation is given. Municipal Council is required to issue a letter of concurrence if the proponent has fulfilled the requirements of MDL-69 Antenna Siting Protocol.

Discussion

Nova Scotia Power is expanding site monitoring, and remote control of the existing Bridgewater East Substation. To do this a new communications system is required to bring data back to NSP's control center. This new system will carry mission critical communication for the operation of the power grid.

A 25.2 m composite pole will be located within the existing substation yard at PID 60443967, 2259 Highway 325, Oakhill.

All proposals must comply with Innovation, Science and Economic Development Canada’s requirements and include certification or attestation of compliance from other government agencies, including NavCanada, Health Canada, Transport Canada and Environment Canada.

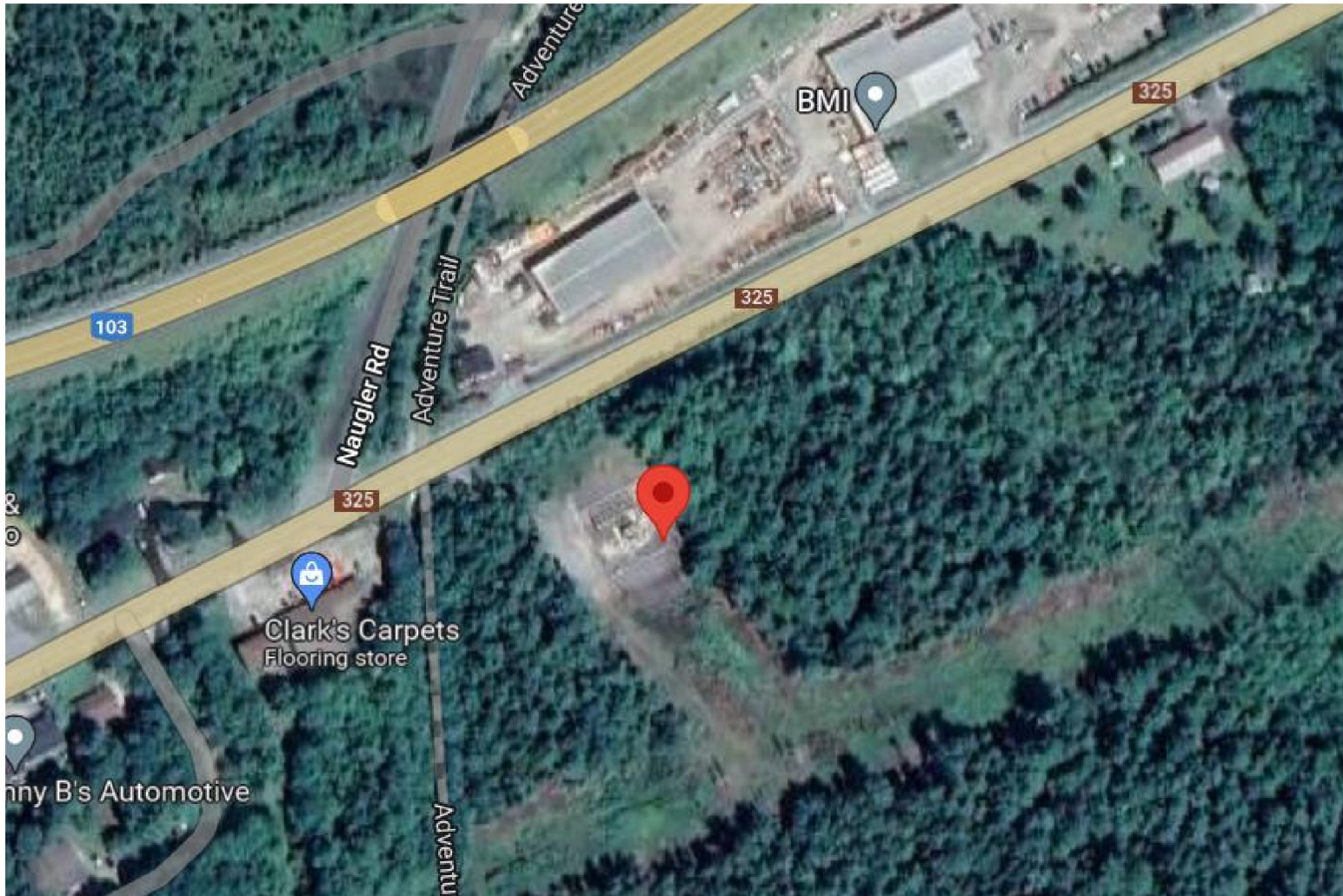
As part of any proposal, public consultation is a requirement. Nova Scotia Power has provided notification letters to properties located within the required consultation area to provide details of the proposal. As a result of the consultation, there were no concerns.

Conclusion

Nova Scotia Power has fulfilled the requirements of MDL-69, Antenna Siting Protocol and ensured communication of the project was provided to the public. Public consultation has been effective in providing details of their upgrade project. A letter of concurrence is required to be prepared and forwarded to Innovation, Science and Economic Development Canada.

Report Preparation	
Department	Planning and Development Services
Report Prepared by	Norma Schiefer, Development Officer
Report Approved by	Jeff Merrill, Director
Date Reviewed by C.A.O.	

Location



Coordinates: 44.398312, -64.489169

Civic Address: 2259 Highway 325 Oak Hill NS

Council
Item: #11.2.2
Date: February 14, 2023
Authorization: T. MacEwan



Municipality of the District of Lunenburg

Request for Decision

Report to: Mayor Bolivar-Getson and Municipal Council
Submitted by: Norma Schiefer, Municipal Development Officer
Date: February 14, 2023
Re: Request for Decision – Increase Charge Area – Botany Woods Landowners Association

Recommendation

That Municipal Council approve the addition of PID's 60708336, 60716255, 60708344 and 60716230 to the Botany Woods Private Road Maintenance Charge Area; and further, that the Municipal Clerk and Mayor be authorized to sign an addendum to the Private Road Maintenance Agreement with the Botany Woods Landowners Association to implement the same.

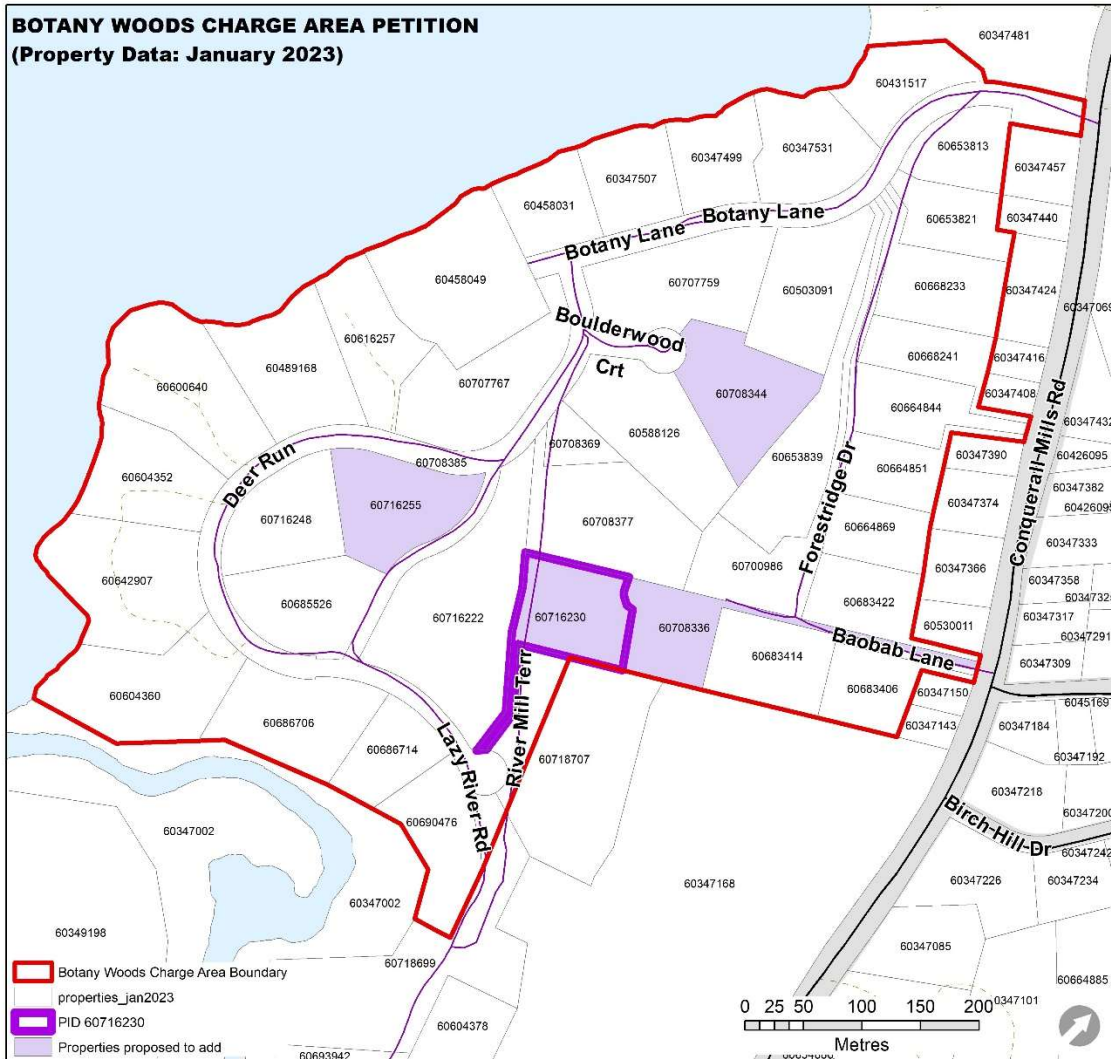
Background

The Municipality has a Private Roads By-law which sets out a process for property owners on private roads to have their road maintenance fees collected by the Municipality.

The Municipality signed an agreement in 2017 with the Botany Woods Landowners Association to collect road maintenance fees on their behalf. At the time the Association submitted a petition signed by 70% of the lot owners in the charge area. The agreement specifically exempted properties owned by the developer from the charge area. Once the developers' properties are sold, they have been added to the charge area, as access to the properties is via the private roads. Since the original agreement, Council has approved requests to add 4 properties to the charge area.

Discussion

Staff received a request from the Botany Woods Landowners Association to add an additional four (4) properties to their charge area. PID's 60708336, 60716255, 60708344 and 60716230 are shown on the map below (shaded light purple).



The Botany Woods Landowners Association has passed a resolution to amend their charge area to include these properties as the lots use the internal private subdivision roads for access. PID 60708344 obtains access from Botany Lane and Boulderwood Court. PID 60716255 obtains access from Botany Lane and Deer Run. PID 60708336 obtains access from Botany Lane and Forestridge Drive. PID 60716230, (outlined in dark purple) in the middle of the development, can obtain access from Botany Lane, Deer Run to River Mill Terrace or via Lazy River Road to River Mill Terrace through an adjacent development. Lazy River Road is access for an adjacent development and extends to Conquerall Mills Road.

Upon notification to the 4 property owners, the Municipality has received correspondence from Mr. Gary Rivers/Dianna Smith, of PID 60716230. Mr. Rivers/Ms. Smith are requesting not to be

added to the charge area as their access, River Mill Terrace, is not maintained by the Association, email attached dated Feb 2, 2023.

- River Mill Terrace is deemed a private driveway by the Botany Woods Landowners Association serving as access to Mr. Rivers property from Botany Lane. River Mill Terrace is a right of way that joins from Botany Lane to Lazy River Road.
- Botany Woods Association has indicated they do not maintain private driveways. As River Mill Terrace serves as access to only this property and was not a road developed in the original subdivision, it is not listed as maintained by the Association.

The landowners indicate they can access their property via another road, Lazy River Road, to get to the Provincial Road. Also, attached is a letter from the developer, Mr. Vander Zwaag, indicating verbal right of way over the adjacent development.

The Botany Woods Landowners Association indicate this property uses the roads within the development, therefore request it to be added to the charge area. See emails attached dated Nov. 28, 2022, and January 24, 2023 from the Botany Woods Landowners Association.

River Mill Terrace is a right of way for access that is not maintained by the Private Road Association. The By-laws for the Association indicate the roads which will be maintained, and this is not listed as a maintained road.

The Municipality's Private Road By-law, Section 13 addresses charge exemptions:

Charge exemptions

13 (1) Notwithstanding this By-law and subject to subsection (2), the Municipality may, upon request in writing, exempt a charge from any landowners within a Charge Area whose property:

- (a) abuts and has access to a public road;
- (b) does not use the private road; or
- (c) does not have access to the private road.

(2) The Municipality may later assess those exempted landowners in subsection (1) if they appear to be using the private road.

This property was originally excluded from the charge area as it was owned by the Developer. As the property has been conveyed, the Association is requesting the amendment to include it in the charge area. The charge area is outlined in red and is the Botany Woods subdivision.

In addressing the location of the property:

- PID 60716230 is in the middle of the Botany Woods Subdivision.
- The property does not abut or have direct access to a public road.
- The property has the ability to use the private roads within the development. As well as guests, delivery drivers, utility providers, emergency services, etc).

- The property has access to the private roads via a private driveway.

Budget implications

Pending Council’s decision, if the 4 properties are included in the charge area, the amount of \$2,400.00 will need to be added to the budget as revenue and \$2,285.72 added as an expense. [\$2,400.00 less \$114.28 admin fee = \$2285.72]. The Association has budgeted \$600 per property as the road fee.

Alternatives

- A. Grant Mr. Rivers/Ms. Smith’s request and not include PID 60716230 in the charge area as they requested.
- B. Request a new petition be submitted.
- C. Amend by-law to add a process to have properties added to an established charge area.

Conclusion

Amendment requests have been dealt with on a case by case basis. Staff is recommending Council add the 4 properties to the Botany Woods Landowners Association as requested by the Association and deny the request of Mr. Rivers/Ms. Smith to exclude their property. As stated in the original agreement, the properties have been conveyed, so the original exemption no longer applies. Access is provided via the private roads.

Staff recommends that Council expand the Botany Woods Landowners Association private road maintenance charge area to include PID’s 60708336, 60716255, 60708344 and 60716230. To implement the change in the charge area, an addendum to the existing agreement between the Association and the Municipality will need to be signed by both parties (draft addendum attached).

Report Preparation	
Department	Planning & Development
Report Prepared by	Norma Schiefer, Municipal Development Officer
Report Approved by	Jeff Merrill, Director
Date Reviewed by C.A.O.	

From:
Sent: February 1, 2023 7:23 PM
To: Norma Schiefer
Subject: Fwd: January 28, 2023

Follow Up Flag: Follow up
Due By: February 3, 2023 9:00 AM
Flag Status: Flagged

You don't often get email from diannasmith [Learn why this is important](#)

CAUTION: This email originated from an external sender.

Sent from my iPhone

Begin forwarded message:

From:
Date: February 1, 2023 at 2:23:56 PM AST
To: norma.schiefer@modl.ca
Subject: January 28, 2023

concern:

Re: PID 60716230
45 River Mill Terrace
Conquerall Mills, NS
B4V 9H6

According to Mr. Allan Nause, president of Botnay Woods Landholders Association, the road in question River Mill Terrace will not receive any road maintenance, including snow plowing as it is a private driveway (see attached correspondence). As a result we approached the developer of both Botnay Woods and River Mill Subdivisions for alternate access to Conquerall Mills Road by way of River Mill Terrace and Lazy River Road. Mr. Sybren Vanderzwaag has drafted a letter in support of our use of alternate roads through the River Mill Subdivision (see attached). As a result we have made the decision that we not be included in the Botnay Woods charge area.

Thank you for your attention to this matter. Additional information can be supplied at your request.

Gary Rivers and Dianna Smith

Correspondence 1

Sent from my iPhone

On Oct 23, 2022, at 11:28 PM, Allen Nause

wrote:

Gary,

The BWLA bylaws clearly identify the roads to be maintained by the BWLA. Those roads being Botany Lane, Forestridge Dr., Baobab Lane , Deer Run and Boulderwood Court and that portion of Lazy River Rd formerly known as Deer Run. The Bylaws were drafted by the Developer's lawyer 2009. It did not and does not include River Mill Terrace.

The contractual agreement dated March 24, 2017 between the Municipality and the BWLA clearly identifies these same roads for which the BWLA is responsible for maintaining. River Mill Terrace was not and is not included.

Your lot PID 60716230 is a flag lot which abuts on Deer Run. The Developer, knowing the topography would not allow for easy access to Deer Run, provided your lot with an easement over PID 60708377. Where you situate your house and your private driveway to access Deer Run is your own affair.

At the time the Developer was building your private driveway the BWLA informed the Developer in writing on different occasions (copies of which I previously provided to you) that the BWLA would not assume responsibility for a long driveway servicing one lot in the subdivision regardless of whatever he named it. We asked in writing that in the spirit of fairness and transparency the Developer inform any potential buyer they would be responsible for maintaining this long private driveway. I regret you were not informed of this fact prior to buying the lot.

The BWLA has never contributed to the building or maintenance of your driveway named by the Developer "River Mill Terrace". The recent improvements i.e.; grading and gravel, were performed by the Developer at his expense.

Your lot has a right of way over Deer Run and Botany Lane to access a public highway. If you use these roads maintained by the BWLA then you must pay dues. If you choose not to use these roads then you can apply to the Municipality for an exemption under Section 13(1) (b) of the Private Roads By-law.

Perhaps you could approach the Developer to maintain that portion of your driveway i.e.; River Mill Terrace as part of River Mill Subdivision thereby providing you access to Conquerall Mills Rd via Lazy River Rd. In doing so you would meet the Municipal requirements for an exemption.

I trust you will take this matter up with the Municipality and the Developer.

Al Nause
President
BWLA
Sent from my iPad

RECEIVED

JAN 30 2023

To Whom it may Concern,

Please be advised that Gary Rivers/Dianna Smith have been granted verbal right of use of roadways River Mill Terrace and Lazy River Road in River Mill subdivision as ingress and exits to their property, 45 River Mill Terrace, Botany Woods Subdivision.

This right of use is valid till 1 July, 2024 and may be extended.

Signed



Sybren Vander Zwaag,

President of Botany Woods Developments and River Mill Developments,

124 Lazy River Road,

Conquerall Mills, NS

B4V 6B4

Dated 26 January, 2023

Tina Robichaud-Bond

From: Allen Nause
Sent: November 28, 2022 8:03 PM
To: Norma Schiefer
Cc: Darlene McAlpine
Subject: Charge Area Update

Hello Norma,

I sent you a copy of appendix "1" of the Botany Woods Landowners Association (BWLA) By-laws which outlines the geographical boundary of Botany Woods Subdivision. It is essentially the same as the Botany Woods Charge Area map.

I also sent you a copy of the Supreme Court of Nova Scotia consent order dated June 25, 2015; which states:

It is hereby declared that the area as depicted on Appendix "1" attached to the By-laws of the Botany Woods Landowners Association and attached to this Order as Schedule "A" is the area to which the Restrictive Covenants within the Botany Woods Subdivision apply and within which the Botany Woods Landowners Association is entitled to collect annual Association dues and fees.

The new lots being added to the amended Charge Area are all located within the boundaries of Botany Woods Subdivision Appendix "1" referred to as Schedule "A" in the court order. The reason these lots are being included in this year's amended Charge Area is because the ownership of these lots recently transferred from Botany Woods Development Inc. to private ownership. Vacant lots owned by Botany Woods Development Inc. are excluded from the Charge Area because as a corporation they are not a member of the Association. Private owners who purchase a lot within the subdivision automatically become a member of the BWLA. The restrictive covenants attached to the lots require the private owner to pay yearly dues for road maintenance.

At this year's AGM the BWLA voted to include the newly acquired lots (referred to in the covering letter) in the Charge Area. The BWLA was prepared to exclude lot PID 60716230 if the new owner Mr. Rivers clarified that he did not intend to use roads within the Botany Woods Subdivision to access a public highway. Mr. Rivers did not respond to our clarification request and was subsequently observed using BWLA maintained roads. As such the BWLA did not exclude PID 60716230 from the unanimously agreed upon amended Charge Area.

As you are aware, Mr Rivers can apply for an exemption under section 13 (1)(b) of the Private Roads By-law if he does not use roads maintained by the BWLA within the BWLA Charge Area. Mr. Rivers ' lot is situated at the far end of Botany Woods Subdivision boundary and if he so chooses he could access Conquerall Mills Rd. via roads outside the BWLA Charge Area.

I will provide you with some further detail surrounding the roads maintained within the Charge Area and the rationale as to why the BWLA does not maintain River Mill Terrace.

Botany Woods Subdivision has the following "designed roads": Botany Lane, Deer Run, Boulderwood Court and a portion of Lazy River Road formerly know as Deer Run. These private roads are owned by the Developer but not maintained by the Developer nor the Municipality.

In accordance with the MODL Subdivision of Land Bylaw the Developer had to build these designed roads in order to subdivide a larger parcel of land, as each new lot had to abut on a "designed road" with a right of way to a public highway or abut on a public highway.

In accordance with Nova Scotia Property Law a right of way over private property provides the legal right to cross the property. It does not require the owner of the property to build an access way or to maintain the right of way.

The primary benefactor of the right of way is responsible for maintaining the right of way. Where there is a common shared right of way with multiple benefactors then those who are using the right of way have a shared responsibility to maintain it.

The BWLA is responsible for maintaining the shared common right away over the identified designed roads; not the the owner/developer. However each lot owner whose property abuts the designed road is responsible for constructing and maintaining their private access driveway in order to reach the designed road.

In addition to these designed roads Botany Woods Subdivision has multiple flag lots that share a common right of way i.e.; Forestridge Drive and Baobab Lane.

Forestridge Drive and Baobab Lane are a shared common right of way over the flag poles of four privately owned flag lots. Because there are multiple lot owners (14) who benefit from this right of way there is a shared responsibility among those who use the right of way to maintain it. Each user, however; is responsible for maintaining their private access to reach the shared common right of way.

For example my lot PID 60664851 is a flag lot that abuts on Conquerall Mills Rd. However, I have a deeded right of way over Forestridge Drive and Botany Lane to the Conquerall Mills Road. My access/driveway is a private right of way which extends across the adjacent flag lot PID 60664869 enabling me to access the common shared right of way known as Forestridge Drive.

As the sole benefactor of my access right of way over the adjacent flag lot I was responsible for putting in culverts, extending and paving my driveway to reach the point of the common shared right of way namely Forestridge Drive. I, like everyone else in the BWLA, must maintain my access driveway at my own expense even though I may not be the owner of the land it crosses. Whereas as no one else benefits or shares this portion of my exclusive right of way I alone am responsible to maintain it.

When the BWLA agreed to be incorporated under the Societies Act the BWLA bylaws specifically identified the common shared right of ways and designed roads to be maintained by the BWLA. They are Botany Lane, Forestridge Drive, Baobab Lane, Boulderwood Court, Deer Run and that portion of Lazy River Road formerly known as Deer Run. The BWLA was and is adamant that no additional roads will be maintained beyond those listed in the Bylaws. Our contract with the Municipality under the authority of the MODL Private Roads By-law specifically identifies these very same roads to be maintained by the BWLA.

As you know, River Mill Terrace is not a designed road. It is not built to any standard. It is not recognized as a road by the Municipality for the purpose of the subdivision of land. MODL approved PID 60716230 because the flag lot abutted the approved designed road Deer Run. MODL would not have approved this lot had it not abutted Deer Run.

That portion of River Mill Terrace (.4 kilometres) located within Botany Woods Subdivision is an exclusive deeded right of way over the adjacent flag lot PID 60708377. The Developer granted this private deeded right of way over the adjacent lot in order to provide Mr. Rivers' lot with an alternative means of accessing Deer Run other than via the MODL approved flag pole. Mr. Rivers' lot is the sole benefactor of this deeded right of way. No other lot within the Botany Woods subdivision has a deeded right of way over lot PID 60708377. Call it what you may but River Mill Terrace is simply Mr. Rivers' access driveway utilizing a private right of way to reach Deer Run.

As with my extended access driveway, as the sole benefactor Mr. Rivers is responsible for maintaining his right of way not the actual property owner nor the BWLA. Had Mr. Rivers decided to access Deer Run via the MODL approved flag lot pole he would still be solely responsible for maintaining a very long, steep impractical driveway. The fact that he has

opted to use his private deeded right of way over an adjacent property because it is more convenient and accessible does not shift the burden of maintaining this right of way to the BWLA regardless of what the Developer led him to believe.

The BWLA's responsibility to Mr River's flag lot on the Hill is to maintain Deer Run the MODL approved "designed road " on which the pole portion of his approved flag lot abuts.

To reiterate the BWLA does not maintain private access right of ways to reach common shared right of ways. Each lot owner is responsible for maintaining their own private access right of way/driveway.

I hope I have provided some clarity on these issues. If you still have questions I can meet with you in person.

Al Nause
President
BWLA

From: Allen Nause
Sent: January 24, 2023 1:20 PM
To: Norma Schiefer
Cc: Darlene McAlpine; Donna West
Subject: Rivers Driveway

CAUTION: This email originated from an external sender.

Hello Norma,

Please find attached a photo taken on the 21 st of January, 2023. This photo depicts Mr River's private right of way/ driveway recently ploughed in order to access Deer Run. Whereas he is using roads within the Charge Area would you please ensure he is not exempted from paying road maintenance dues as per our contractual agreement with MODL.

Have you had time to review our road maintenance submission. Do you need anything else before we head South.

Al Nause
president
BWLA

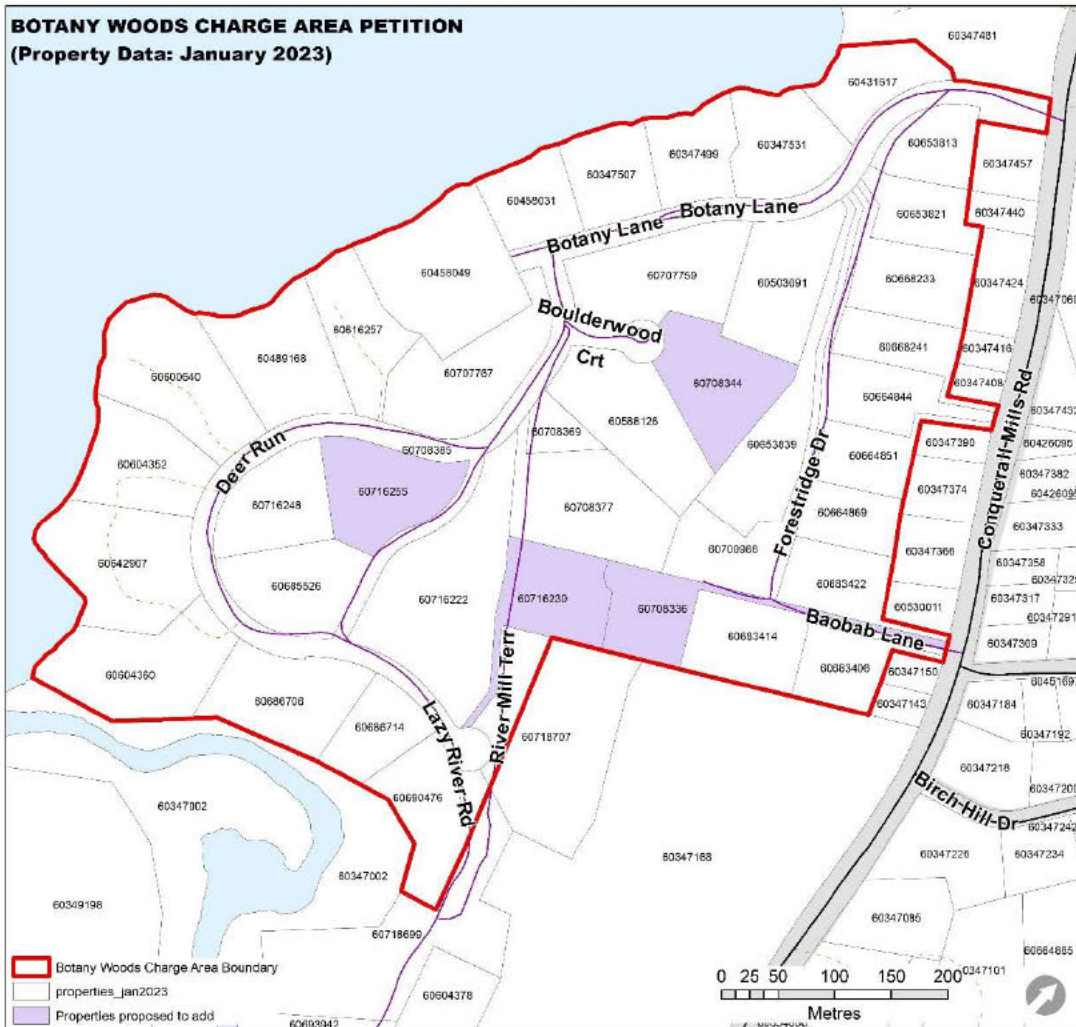


Schedule B



THE MUNICIPALITY OF THE DISTRICT OF LUNENBURG

PRIVATE ROADS MAINTENANCE AND IMPROVEMENT CHARGE BOTANY WOODS LANDOWNERS ASSOCIATION



WHEREAS the Botany Woods Landowners Association has requested that the charge area that forms part of the private road maintenance and improvement charge agreement (hereafter referred to as the "Agreement") between the Botany Woods Landowners Association and the Municipality of the District of Lunenburg be amended to include four additional properties.

AND WHEREAS Municipal Council in session on _____, passed the following Motion "That Municipal Council approve the addition of PID's 60708336, 60716255, 60708344 and 60716230 to the Botany Woods Private Road Maintenance Charge Area; and further, that the Municipal Clerk and Mayor be authorized to sign an addendum to the Private Road Maintenance Agreement with the Botany Woods Landowners Association to implement the same."

AND WHEREAS all other terms and conditions contained in the Agreement shall remain in effect;

IT IS HEREBY agreed that PID's 60708336, 60716255, 60708344 and 60716230 are added to the charge area appended to the agreement as shown on the inset map.

IN WITNESS WHEREOF the parties to these presents have signed, sealed and delivered the same the day and year first above written.

SIGNED, SEALED AND DELIVERED	)	BOTANY WOODS LANDOWNERS ASSOCIATION
In the presence of:)	
)	
)	
_____	)	Per: _____
Witness	)	President
)	
)	
_____	)	Per: _____
Witness	)	Secretary

	)	MUNICIPALITY OF THE DISTRICT
	)	OF LUNENBURG
)	
_____	)	Per: _____
Witness	)	Mayor Carolyn Bolivar-Getson
)	
)	
_____	)	Per: _____
Witness	)	April Whynot-Lohnes, Municipal Clerk

PROVINCE OF NOVA SCOTIA)
COUNTY OF LUNENBURG)

ON THIS day of , A.D., 2023, before me, the subscriber personally came and appeared, , a subscribing witness to the foregoing Indenture who, having been by me duly sworn, made oath and said that BOTANY WOODS LANDOWNERS ASSOCIATION, one of the parties thereto, caused the same to be executed in its name and on its behalf and its corporate seal to be thereunto affixed by its proper officers in his/her presence.

A COMMISSIONER OF THE SUPREME COURT
NOVA SCOTIA

PROVINCE OF NOVA SCOTIA)
COUNTY OF LUNENBURG)

ON THIS day of , A.D., 2023, before me, the subscriber personally came and appeared, , a subscribing witness to the foregoing Indenture who, having been by me duly sworn, made oath and said that the MUNICIPALITY OF THE DISTRICT OF LUNENBURG, one of the parties thereto, caused the same to be executed in its name and on its behalf and its corporate seal to be thereunto affixed by its proper officers in his/her presence.

A COMMISSIONER OF THE SUPREME COURT
NOVA SCOTIA

Council
Item: #11.3.1
Date: February 14, 2023
Authorization: T. MacEwan



Municipality of the District of Lunenburg

Request for Decision

Report to: Council

Submitted by: Larry Feener, P.Eng., Municipal Engineer

Date: February 14, 2023

Re: Request for Pre-Budget Approval
New Germany I&I Mitigation Capital Project

Recommendation

That Council give pre-budget approval for the New Germany I&I Mitigation project for \$800,000, including net HST, as identified in the 5-year Capital Budget Plan for 2023/24.

Executive Summary

Approximately 247 properties are connected to the New Germany wastewater system. During storm events and continuous wet weather conditions, the inflow and infiltration (I&I) to the sanitary sewer causes sanitary sewer flows to exceed the design capacity of the New Germany Wastewater Treatment Plant (WWTP). When the design capacity of the WWTP is exceeded, proper treatment of wastewater becomes more challenging resulting in poor quality effluent that may not meet conditions required in Nova Scotia Environment Approval to Operate. Reducing the I&I that enters the sanitary sewer system is a valuable investment in ensuring the Municipality continues to meet provincial and federal regulations.

Discussion

Design Point Engineering completed an I&I study in June 2017 and identified areas needing repairs to eliminate unnecessary stormwater from entering the sanitary sewer. In 2021, a detailed design and tender package was prepared to address the I&I issues in the New Germany sanitary sewer collection system, however, Council deferred the project and it was reintroduced in the 5 year capital plan for completion in 2023/24.

The scope of work for this phase of the project includes repairs to Municipally owned infrastructure including sewer mains, manholes, and pump station wet wells.

As part of the I&I study, Design Point Engineering also surveyed a number of homes and properties to determine if storm water is being discharged to the sanitary sewer, further contributing to the I&I issue. Separating private stormwater interconnections is not part of this scope of work, but *By Law 011B Respecting Municipal Sewers* has a mechanism for MODL to require property owners to address these types of situations. Should I&I persist after this infrastructure upgrade project is completed, a separate initiative will be introduced to reduce the amount of private stormwater interconnections.

Reducing I&I may also provide increased plant and system capacity to accommodate future development provided this increase would not jeopardize the quality of treatment.

It is recommended to get the *New Germany I&I Mitigation* project tender issued early in the season with the hope of obtaining favorable pricing.

Budget Implications

The proposed 2023/24 capital budget is \$800,000 including net HST, contingency, contract administration, and construction oversight.

The MODL Grants Coordinator will apply for eligible project funding as it becomes available. Currently this project does not have any approved external funding.

Strategic Plan

Investing in Infrastructure is one of Council's 2022/23 Strategic Priorities.

Opportunities to include or improve accessibility will be considered during the design, tender, and construction phases of the project.

Work Plan

The New Germany I&I Mitigation project is included in the 5-year Capital Budget plan for 2023/24.

Alternatives

Council may decide to defer the decision to pre-approve the 2023/24 capital project for the New Germany I&I Mitigation to the 2023/24 budget process.

Conclusion

In order to have New Germany WWTP treat sanitary sewer as designed and within the Nova Scotia Environment requirements for the Approval to Operate, work needs to be done to reduce the I&I. Staff are requesting Council to give pre budget approval, prior to the 2023/24

budget process, so that a tender can be issued, closed, and brought back to Council for a decision prior to the 2023/24 construction season.

That Council give pre-budget approval for the New Germany I&I Mitigation project for \$800,000, including HST, as identified in the 5 year Capital Budget Plan for 2023/24.

Report Preparation	
Department	Engineering & Public Works
Report Prepared by	Larry Feener, P.Eng.
Report Approved by	Stephen W. Pace, MBA, P.Eng.
Date Reviewed by C.A.O.	February 14, 2023