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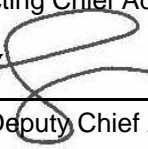
**Item No. 14.1.2**  
**Halifax Regional Council**  
**April 26, 2016**

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

Original Signed by 

**SUBMITTED BY:**

\_\_\_\_\_  
John Traves, Q.C. Acting Chief Administrative Officer

Original Signed by 

\_\_\_\_\_  
Jane Fraser, Acting Deputy Chief Administrative Officer

**DATE:** April 1, 2016

**SUBJECT:** Road Maintenance Fee Increase for Petpeswick Drive Improvement Society

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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 to collect the funds required to maintain private roads.

On May 13, 2008, Regional Council approved Schedule 1 of Administrative Order 45 to permit the implementation of an annual fee of \$200.00 per property to be applied against all properties abutting Petpeswick Drive which have residences effective with the 2008-09 fiscal year for the purpose of funding the road maintenance activities of the Petpeswick Drive Improvement Society.

On October 13, 2015, the Society advised HRM that an increase to the annual fee would be required effective with the 2016-17 fiscal year.

### **LEGISLATIVE AUTHORITY**

- Charter section 104 (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 Respecting Charges for Private Road Maintenance
- Administrative Order 45 Respecting Private Road Maintenance

### **RECOMMENDATION**

It is recommended that Halifax Regional Council amend Schedule 1 of Administrative Order 45 as indicated in Appendix A of this report in order to increase the annual road maintenance fee for the Petpeswick Drive Improvement Society from \$200.00 to \$300.00 per property effective with the 2016-17 fiscal year, and approve the revised Schedule 1 included in Appendix B.

## **BACKGROUND**

Petpeswick Drive is a private road located just off Highway 7 in the community of Gaetz Brook in District 2. The road is owned and maintained by the Petpeswick Drive Improvement Society. The Society funds road maintenance expenses through an annual fee collected from each of the 18 owners of property abutting the road. The fee is collected only for properties which have residences constructed on them.

On May 13, 2008, Regional Council approved the implementation of an annual fee of \$200.00 per property to be applied against all properties abutting Petpeswick Drive which have residences effective with the 2008-09 fiscal year for the purpose of funding the road maintenance activities of the Petpeswick Drive Improvement Society.

On October 13, 2015, the Society advised HRM that an increase to the annual fee would be required effective with the 2016-17 fiscal year.

## **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 or increased. Those conditions and the manner in which they were satisfied with respect to Petpeswick Drive 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 Petpeswick Drive is privately owned (refer to #2 below), provides direct access to Highway 7, 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 have verified that the road is owned by the Petpeswick Drive Improvement Society and is registered as PID# 40589681. Consent would therefore be implied.

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.*

On October 13, 2015, the Society advised HRM by e-mail that an increase to the annual fee would be required effective with the 2016-17 fiscal year. In accordance with the Policy, a petition is not required to increase an already existing road maintenance fee previously implemented under the Policy.

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 included in the mail-out, and a fax number was also provided.

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 Wednesday, March 2, 2016 at 81 Petpeswick Drive, Gaetz Brook. 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. The President of the Association explained 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 12 of the 18 properties (66.7%) voted in favour of increasing the annual road maintenance fee from \$200.00 to \$300.00 each to fund the road maintenance activities of the Petpeswick Drive Improvement Society.

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 18 properties abutting Petpeswick Drive which have residences. The mapped area is included as part of Schedule 1 of Administrative Order 45 which is attached as Appendix B to 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 in 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 has verified with the Registry of Joint Stock Companies that the Petpeswick Drive Improvement Society, Registry ID# 1284298, 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 only applies when a new road maintenance fee is implemented, and is therefore not applicable in this case.

### **FINANCIAL IMPLICATIONS**

If approved, the increase to the uniform charge would take effect in the 2016-17 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 \$300.00 per property is based on a 2016-17 operating budget of \$5,400 divided by the number of properties with residences in the catchment area, which is 18. Details of the budget are

provided in Appendix C of this report.

### **RISK CONSIDERATION**

HRM's role with respect to the Private Road Maintenance Costs Recovery Policy is outlined in detail in the service agreements between HRM and the private road maintenance associations, and in the meeting notices mailed out to all affected property owners. The agreements specify 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 a formal ballot which included information regarding the purpose and amount of the increase to 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 increase to the uniform charge, or approve a different amount. This alternative is not recommended because owners of two-thirds of the affected properties voted in favour of the increase to the uniform charge which is the minimum required under the Private Road Maintenance Costs Recovery Policy.

### **ATTACHMENTS**

- Appendix A: Proposed Changes to Schedule 1 of Administrative Order 45
- Appendix B: Amended Schedule 1 of Administrative Order 45
- 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 <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Gordon Roussel, Senior Financial Consultant 902.490.2500

Report Approved by: Bruce Fisher, Manager, Financial Policy and Planning, 902.490.4493

Financial Approval by: Amanda Whitewood, Director of Finance and Information Technology/CFO, 902.490.6308

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**Appendix A  
(Amending Administrative Order 45)**

**Halifax Regional Municipality  
ADMINISTRATIVE ORDER NUMBER 45  
Respecting Private Road Maintenance**

**BE IT ENACTED** by the Council of the Halifax Regional Municipality that Administrative Order 45, Respecting Private Road Maintenance, is further amended as follows:

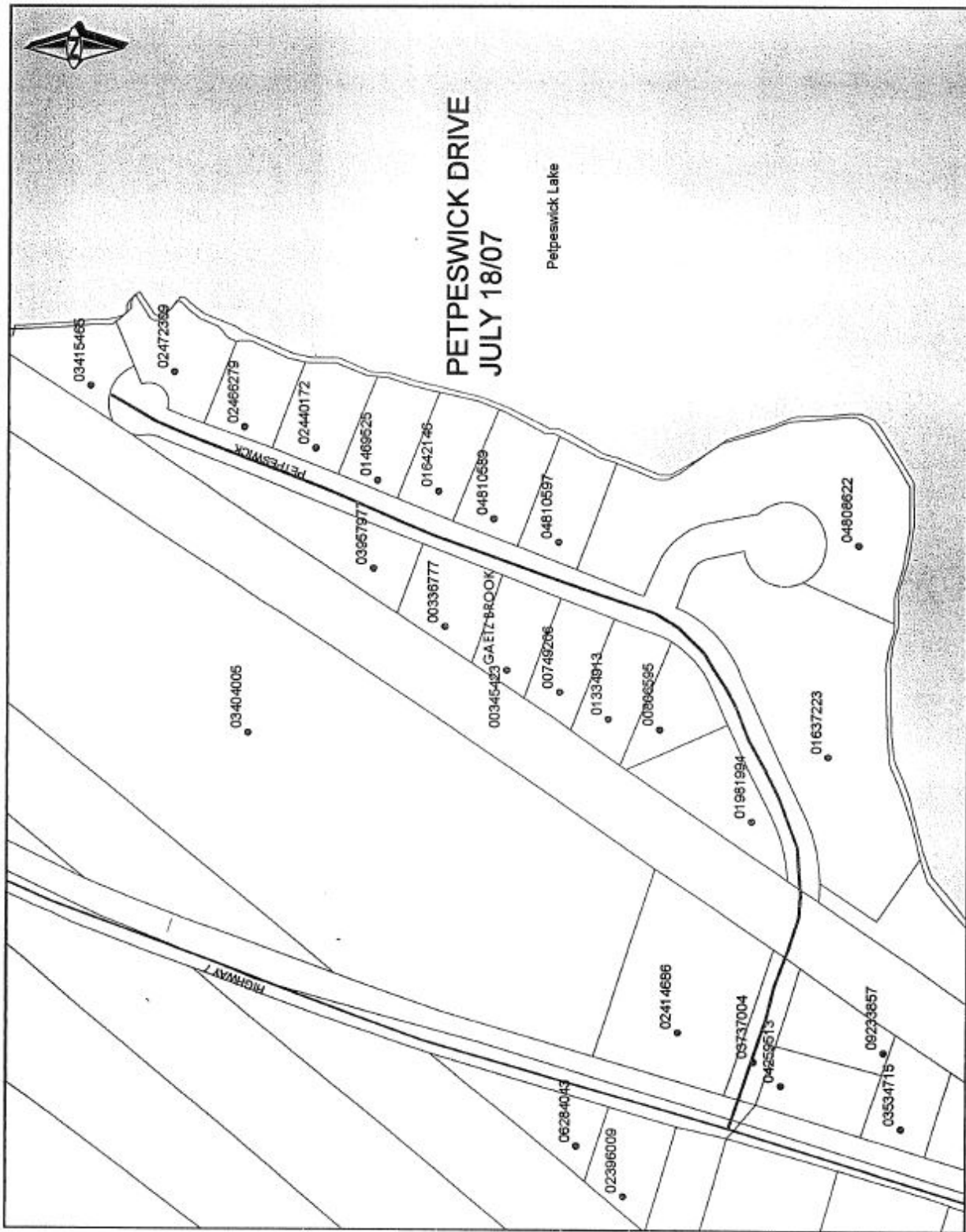
1. Section 1 of Schedule 1 is amended by:
  - (a) replacing the number "\$200.00," after the words "no more than," and before the word "annually" with the number "\$300.00".

**Appendix B  
(Incorporating proposed changes)**

**Halifax Regional Municipality  
ADMINISTRATIVE ORDER NUMBER 45  
Respecting Private Road Maintenance**

**Schedule 1**

1. A Uniform Charge for properties fronting or abutting in whole or in part on Petpeswick Drive, Gaetz Brook as identified on the map dated July 18, 2007 attached hereto, shall be a Uniform Charge of no more than \$300.00 annually. If a property owner owns more than one property on Petpeswick Drive, the Uniform Charge will apply only to one property.
2. The Charges collected under this By-Law shall be used by the Petpeswick Drive Improvement Society for the maintenance of Petpeswick Drive, including culverts, retaining walls, sidewalks, curbs and gutters that are associated with the road. 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.





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**BALLOT FOR PRIVATE ROAD MAINTENANCE TAX**

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February 16, 2016

Owner1  
Owner2  
Address1  
Address2, PC

Property ID # AAN  
Property Address, LOT#

Dear Property Owner:

The Halifax Regional Municipality has been notified by the Petpeswick Drive Improvement Society that an increase is necessary to the area property tax rate which funds the maintenance of Petpeswick Drive. In accordance with the Municipality's Private Road Maintenance Costs Recovery Policy, a formal vote of all property owners must be held to determine if the owners of at least 66.7% of the properties abutting Petpeswick Drive are in favour of the increase. As the owner of the above referenced property, you are entitled to a vote. A ballot is provided at the bottom of this page.

If the 66.7% minimum is attained, then all property owners currently charged the area property tax rate would be required to pay the increased amount starting in 2016. The charges collected would be turned over to the Petpeswick Drive Improvement Society which is responsible for maintaining the road.

The Society is proposing an increase to the per property charge of \$100 annually. Therefore, the per property charge would increase from \$200 to \$300. On the reverse side of this letter is a budget from which the new annual per property charge was determined. The reverse side of this letter also includes a summary of the responsibilities of both HRM and the Association under the Service Agreement.

As required by the Private Road Maintenance Costs Recovery Policy, a meeting of the owners of property abutting Petpeswick Drive 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:

**Wednesday, March 2, 2016 @ 7:00 p.m.  
81 Petpeswick Drive, Gaetz Brook**

Completed ballots may be dropped off at the meeting, faxed to 490-5622, or mailed in the enclosed self-addressed envelope. You may also scan and email the completed ballot to [rousseg@halifax.ca](mailto:rousseg@halifax.ca). If you have any questions regarding the process, please contact Gordon Roussel at 490-2500. For questions regarding road maintenance services and the amount of the proposed increase, please contact John Peach at (Home) 827-2235 or (Cell) 483-7373 or by e-mail at [jppeach30@gmail.com](mailto:jppeach30@gmail.com).

**Please note that all ballots must be received by March 11, 2016.** If you are mailing in your ballot please allow adequate time for delivery. Results of the ballot will be communicated by the Petpeswick Drive Improvement Society.

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- YES**, I am in favour of increasing the area rate for private road maintenance from \$200 to \$300 each year on my property tax bill commencing in 2016 to maintain Petpeswick Drive.
- NO**, I am not in favour of implementing an increase to the area rate for the maintenance of Petpeswick Drive.



Property ID # 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.

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.

**Petpeswick Drive Improvement Society  
2016-17 Proposed Road Maintenance Budget**

<b>Income</b>	
Contingency	\$ 173
Dues (18 properties X \$300)	\$ 5,400
<b>Total Income</b>	<b>\$ 5,573</b>
<b>Proposed expenditures</b>	
Gravel	\$ 390
Taxes	\$ 130
Bank Fees	\$ 30
Registry of Joint Stocks	\$ 35
Road Grading	\$ 425

**Road Maintenance Fee Increase  
for Petpeswick Drive Improvement Society  
Council Report**

- 10 -

**April 26, 2016**

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Snow Plowing	\$	2,500
Insurance	\$	1,325
<b>Total Expenditures</b>	<b>\$</b>	<b>4,835</b>
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Projected balance Sept 2017	\$	738