

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



Dan English, Chief Administrative Officer



Geri Kaiser, Deputy Chief Administrative Officer - Corporate Services
and Strategy

DATE: March 28, 2008

SUBJECT: Area Rate for Petpeswick Drive Improvement Society

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. The Petpeswick Drive Improvement Society is the first group to apply for such an area rate under this Policy.

RECOMMENDATION

It is recommended that:

1. An annual area rate of \$200.00 per property be approved to be applied against all properties abutting Petpeswick Drive which have residences as depicted in the map shown in Appendix A of this report effective with the 2008-09 fiscal year for the purpose of funding the road maintenance activities of the Petpeswick Drive Improvement Society.
2. Approve in principle, and begin the formal process for the adoption of By-Law P-1100 Respecting Charges for Private Road Maintenance, and Administrative Order 45 and Schedule 1 thereto, respecting an area rate for the Petpeswick Drive Improvement Society, attached hereto as Appendix B.
3. Subject to the approval of By-Law P-1100 and Administrative Order 45 and Schedule 1 thereto, authorize the Mayor to sign on behalf of HRM, the Management and Operating Agreement between HRM and the Society included as Appendix C of this report.

BACKGROUND

Petpeswick Drive is a private road located just off Highway 7 in the community of Gaetz Brook in District 3. 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 16 owners of property abutting the road. The fee is collected only for properties which have residences constructed on them. In the past, the Society has had some difficulty collecting the fee from a few of the property owners. As a result, the Society applied to HRM through the Private Road Maintenance Costs Recovery Policy for an area rate 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 for private road maintenance can be implemented. 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 (refer to map in Appendix A), and has more than two properties containing principal residences.

2. *The legal owner(s) of the property on which the private road is situate 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.*

At the June 19, 2007 meeting of Council, Councillor Hendsbee served a petition on behalf of the residents of Petpeswick Drive requesting HRM collect their annual road improvement dues via their property tax billings. A copy of the petition is included as Appendix D to this report. Staff reviewed the petition and determined that the signatories represented at least two-thirds of both the principal residences and the road frontage on Petpeswick Drive.

4. *Subsequent to HRM acceptance of the petition an applicant shall call a meeting of the*

subject property owners. Not less than fourteen (14) days prior to the date of the meeting, notice of the meeting shall be posted in three (3) conspicuous places in the area to which the rate is to be applied.

The meeting notice is included as Appendix E to this report. Staff are satisfied that the notice was posted in at least three conspicuous places at least 14 days prior to the meeting.

5. *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 co-ordinator.*

The meeting notice and ballot mailed out to all affected property owners is included as Appendix F to this report. The meeting notice was developed by staff and included all the information required above as per the Private Road Maintenance Costs Recovery Policy. Postage pre-stamped self return envelopes were included in the mail-out.

6. *The meeting shall be conducted by the applicant under the supervision of the HRM staff co-ordinator. 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 September 27, 2007 at the Chezzetcook Fire Hall. 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 Society explaining the amount and use of the area rate after which attendees had an opportunity to ask questions.

7. *The support for the proposed area flat rate shall be the owners of at least two-thirds (66.7%) of the affected properties.*

13 of the 16 property owners (81%) voted in favour of establishing an area rate of \$200.00 to fund the road maintenance activities of the Petpeswick Drive Improvement Society.

8. *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 area rate would be applied against all properties abutting Petpeswick Drive with residences as

depicted in the map shown in Appendix A of this report. The map includes the PID numbers of all the properties affected.

9. *An application shall include a budget in support of the proposed area flat rate.*

The budget in support of the proposed area flat rate, along with a description of the road maintenance plan, is included on the second page of Appendix F of this report. Staff have reviewed the budget and determined that it is sufficient to justify the amount of the area flat rate.

10. *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 Petpeswick Drive Improvement Society, Registry ID 1284298, is currently in good standing (ie. not lapsed).

11. *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 area rate.

BUDGET IMPLICATIONS

The area rate would take effect in the 2008/09 fiscal year. As all funding is from the area rate (ie. 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 area rate of \$200.00 per property is based on the 2008/09 operating budget of \$3,200, divided by the number of properties in the catchment area with residences, which is 16. Details of the budget are provided on the second page of Appendix F of this report.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

ALTERNATIVES

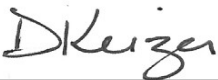
Council could either (1) change the amount of the area rate or (2) deny approval of the area rate altogether. Neither alternative is recommended because (1) the amount of the area rate is based on a budget approved by the Society's membership and verified by staff, and (2) 81% of the affected property owners voted in favour of paying the area rate.

ATTACHMENTS

- Appendix A: Map of Catchment Area for Proposed Area Rate
- Appendix B: Draft of By-Law P-1100 and Administrative Order 45 Schedule 1
- Appendix C: Management and Operating Agreement between HRM and the Society
- Appendix D: Petition tabled in Council on June 19, 2007
- Appendix E: Copy of Meeting Notice posted in three conspicuous places in the affected area
- Appendix F: Copy of Meeting Notice and Ballot mailed to Property Owners, including proposed budget and maintenance plan

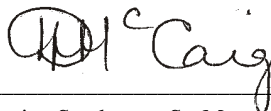
A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

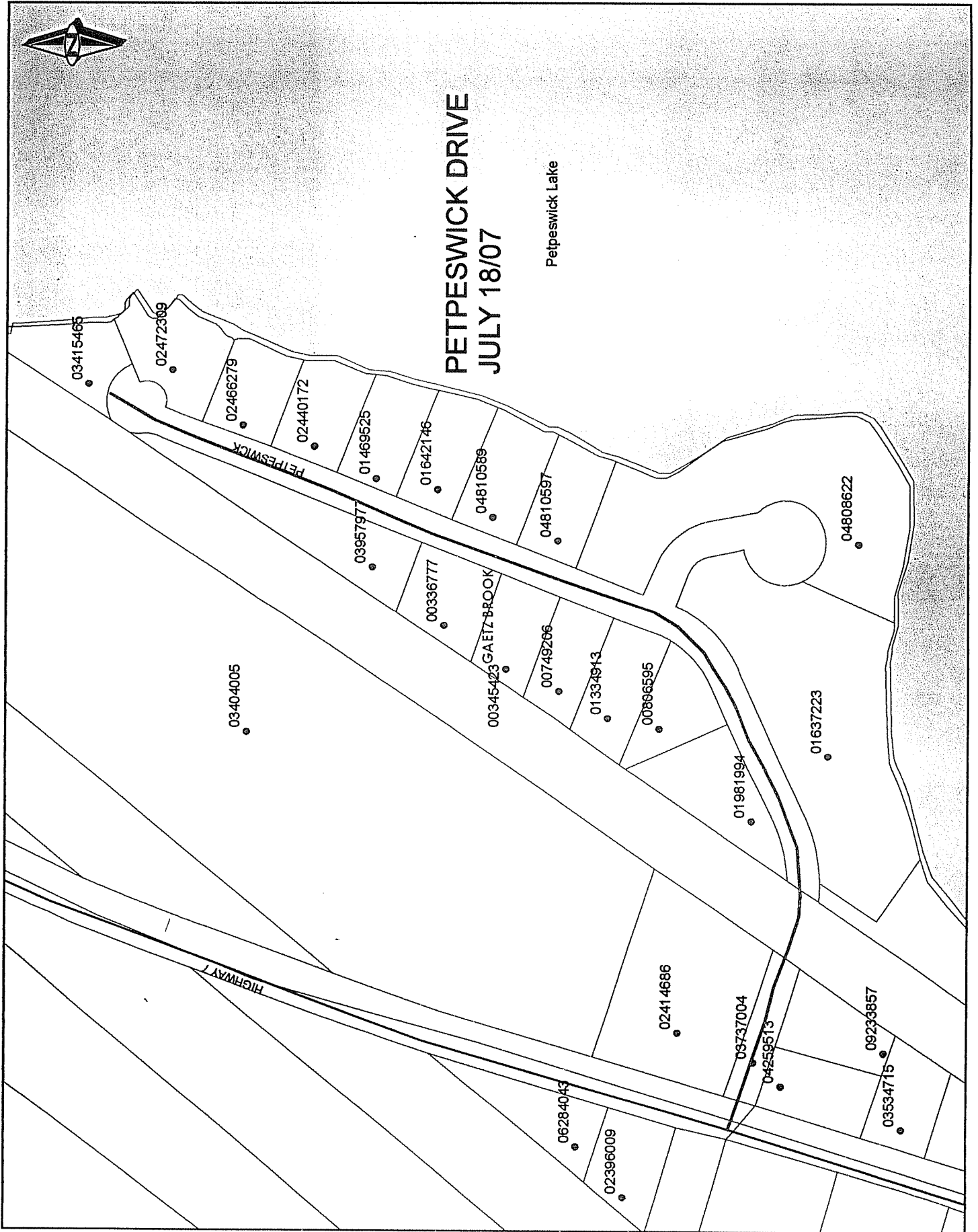
Report Prepared by: Gordon Roussel, Financial Consultant 490-6468

Report Approved by: 
Dawn Keizer, Manager, Budget & Financial Analysis 490-7203

(Original Signed)

Report Approved by: Dale MacLennan, Director, Finance 490-6308

Report Approved by: 
For Catherine Sanderson, Sr. Manager, Financial Services, 490-1562



Appendix B

Halifax Regional Municipality By-Law Number P-1100 Respecting Charges for Private Road Maintenance

Be It Enacted by the Council of the Halifax Regional Municipality as follows:

Short Title

1. This Bylaw shall be known as Bylaw P-1100 and may be cited as the “Private Road Maintenance Bylaw”.

Charge Imposed

2. (1) Upon request of a Property Owner’s Association incorporated for the purpose of managing the maintenance of a Private Road, the Municipality may enter into an agreement with the Property Owner’s Association under which the Association shall accept responsibility for the implementing and administration of the maintenance services on the private road.

(2) Funding of the costs of private road maintenance and associated administration costs shall be collected by an Area Rate Charge from the owners of properties benefiting from the road maintenance.

(3) Payment of the Area Rates Charges collected by the Municipality will be made only to the Property Owner’s Association.

(4) All private road maintenance performed be under the control and direction of Property Owner’s Association and the Property Owner’s Association shall be solely accountable for the proper expenditure of the funds collected by the Municipality and forwarded to the Property Owner’s Association.

(5) Area Rate Charges imposed pursuant to this By-Law may be may be adjusted by Council upon request from the Property Owner’s Association:

(6) An Area Rate Charge is hereby imposed in those areas described in the Schedules to Administrative Order Number 45 as is more particularly set out in the Schedules.

Lien

3. (1) An Area Rate Charge imposed pursuant to this Bylaw constitutes a lien on a subject property in the same manner and with the same effect as rates and taxes under the Assessment Act.

(2) A charge imposed pursuant to this Bylaw is collectable in the same manner as rates and taxes under the Assessment Act and at the option of the Treasurer is collectable at the same time and by the same proceedings as are rates and taxes.

(3) The lien provided for in this Bylaw shall remain in effect until the charge plus interest has been paid in full.

(4) Where a property subject to a lien is subdivided, the amount of the charge plus interest then unpaid shall be apportioned among the new lots created including any residual land in the proportion that the value of each new lot including any residual land bears to the total market value of the lands subdivided including any residual lands.

(5) Market value lots so created must be confirmed by an accredited appraiser and written confirmation submitted to the Treasurer or his/her designate, in the prescribed form.

Interest

4. (1) Interest shall accrue on charges outstanding from the date of billing forward at a rate equal to the prime rate of the Municipality's banker plus four percentage points.

Capital Improvements

5. Recovery for costs related to the construction or capital improvement of private roads is not provided for in this By-Law.

Done and passed by Council

Done and passed by Council

Mayor

Municipal Clerk

Notice of Motion:

First Reading:

Notice of Public Hearing Publication:

Second Reading:

Approval of Service Nova Scotia and Municipal Relations:

Effective Date:

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 1

1. An Area Rate Charge for properties fronting or abutting in whole or in part on Petpeswick Drive, Gaetz Brook which have residences as identified on the map dated July 18, 2007 attached hereto, shall be a flat area rate of no more than \$200.00 annually.

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.

Appendix C

MANAGEMENT AND OPERATING AGREEMENT

THIS AGREEMENT is made as of the day of , 2007.

BETWEEN:

Halifax Regional Municipality, a body corporate pursuant to the *Municipal Government Act* (“the Municipality” or “HRM”)

OF THE FIRST PART

- and-

Petpeswick Drive Improvement Society, a society incorporated under the *Societies Act* of Nova Scotia (“the Association”)

OF THE SECOND PART

WHEREAS the Municipality is committed to facilitating public road access for municipal residents whose principal residences are accessed from private roads which do not form part of the HRM municipal street system.;

AND WHEREAS the Municipality recognizes that facilitating the maintenance of private roads is a necessary municipal service that will ensure the safety and long term usability of roads situated on privately owned land.;

AND WHEREAS authority to fund work on private roads is pursuant to section 65(aaa) of the *Municipal Government Act* (MGA).

THEREFORE the parties hereto covenant and agree as follows:

ARTICLE ONE

DEFINITIONSSection 1.01 **Definitions**

When used in this Agreement, the following terms shall have the following meanings:

- (a) **“Area Rate”** means the annual charge to property owners for the maintenance of the Private Road referred to in this agreement, and which is included as part of their property tax invoices.
- (b) **“Association”** means a private road resident's association which is party to this agreement. The Association must during the effective period of this agreement or renewal period maintain its status as a not for profit society incorporated under the Societies Act of Nova Scotia.
- (c) **“Council”** means Halifax Regional Council.
- (d) **“Fiscal Year”** means the annual period ending on March 31 of each year or such other period as the Municipality may establish upon notice to the Association.
- (e) **“Municipality”** means Halifax Regional Municipality.
- (f) **“Revenues”** means all monies collected by the Municipality from the Area Rate.
- (g) **“Private Road”** means that portion of road described in Schedule “A” attached hereto, provided that the road (a) is not public and remains so do during the effective period of this agreement or renewal terms, and (b) provides year round direct or indirect access to a public road or highway for at least two properties each of which contains a principal residence. The private road includes the portion of the road and right of way which is not used for vehicle traffic and is available for installation of services or is shoulder, ditch or buffer.
- (h) **“Term”** has the meaning set forth in Section 7.01.

ARTICLE TWO

APPOINTMENT OF ASSOCIATION AND ANNUAL BUDGETS

Section 2.01 **Appointment of Association**

The Municipality hereby appoints the Association for the Term of this Agreement to maintain the Private Road as an independent non-profit association, on the terms and conditions set out in this Agreement, and the Association hereby accepts such appointment.

Section 2.02 **General**

The Association shall have full responsibility for maintaining the Private Road, including culverts, retaining walls, sidewalks, curbs and gutters that are associated with the Private 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 in accordance with and subject to the terms and conditions of this Agreement during the Term of this Agreement unless and except to the extent otherwise determined by the Municipality in writing to the Association. The Association shall perform its duties and exercise the powers and authority set out in the Agreement in a competent, efficient and economical manner and in accordance with the terms of this Agreement, subject to the directions from time to time of the Municipality, which directions shall not be in contradiction with the terms of this Agreement or with the terms of the Memorandum of Association of the Association.

This agreement does not provide for the construction or capital improvement of private roads.

Section 2.03 **Annual Plans and Budgets**

The Association shall maintain the Private Road strictly in conformance with the annual operating budget approved from time to time by the Municipality pursuant to this Agreement.

Section 2.04 **Preparation of Annual Operating and Capital Budgets**

- (a) The Association shall prepare and present for consideration by Council an annual proposed operating budget (the "Operating Budget") for the maintenance of the Private Road. The Operating Budget shall be prepared and presented within the time frames established from time to time by the Municipality for the submission of operating budgets by its various departments.
- (b) The Operating Budget shall be prepared in accordance with the methodologies, frameworks, policies, guidelines, directives, and instructions of the Municipality from time to time relating to annual budgets.
- (c) The Association shall prepare and present to the Municipality annually a plan for the

maintenance of the road for the subsequent twelve month period. The maintenance plan shall be prepared and presented within the time frames established from time to time by the Municipality for the submission of business plans by its various departments.

Section 2.05 **Operating Deficit or Surplus**

In the event the Association sustains, in any fiscal year, an Operating Deficit or Surplus, the Association shall prepare a written report setting out the magnitude of the operating deficit or surplus, the reason or reasons for the operating deficit or surplus in the opinion of the Association and the recommendation or recommendations of the Association for dealing with the operating deficit or surplus, as the case may be, in the ensuing fiscal year. The report is to be submitted to Council at the time the Association submits its Operating Budget for the ensuing fiscal year.

ARTICLE THREE
DUTIES AND RESPONSIBILITIES OF THE ASSOCIATION

Section 3.01 **Licences and Permits**

The Association shall obtain and renew as necessary all licences, permits and approvals which may be required in connection with the maintenance of the Private Road. This includes obtaining written permission from the legal owner(s) of the Private Road to provide maintenance if the documentation creating the Private Road access does not permit the property owners to implement the maintenance work. The Association shall at all times comply with the conditions of such licences, permits and approvals and shall comply with and observe all applicable laws, and by-laws.

Section 3.02 **Annual Meeting**

The Association shall have an annual general meeting prior to the end of September in each year, at which meeting the simple majority of a quorum present shall review and approve the road maintenance plan and budget for the following year.

Section 3.03 **Special Meeting**

Any changes to the amount of the area rate shall require majority approval at a special meeting of the Association called for the purpose of considering the rate increase issue. For the purposes of this Section, majority approval means at least two-thirds (66.7%) of both the principal residences and the road frontage on the Private Road. Notice of the special meeting shall conform to the standards outlined in Section 6 of the Private Roads Maintenance Costs Recovery Policy. An application to increase the area rate shall include a budget and maintenance plan in support of the proposed

increase, and a declaration setting out the fulfilment of the public notice and public meeting process required under the policy. The Association may also by special meeting elect to terminate the financial assistance agreement with HRM and upon the termination of the agreement the area rate will discontinue after the payment of all outstanding amounts.

ARTICLE FOUR DUTIES AND RESPONSIBILITIES OF THE MUNICIPALITY

Section 4.01 **Scope of Responsibility**

- (a) Pursuant to the provisions of the MGA, the Municipality has the authority to impose, fix and provide methods of enforcement of charges or area rates for maintaining private roads, curbs, sidewalks, gutters, bridges, culverts and retaining walls that are associated with private roads where the cost is incurred under this agreement between the Municipality and the Association.
- (b) The Municipality's responsibilities will be limited to the administration of the charge or area rate.
- (c) The Municipality will review the plan and budget approved at each Annual General Meeting of the Association to ensure it complies with the purpose of the area rate and that sufficient funding can be raised through the area rate to fund it.
- (d) Any special meeting at which an increase to the area rate is proposed shall be under the supervision of a staff coordinator designated by the Municipality.
- (e) All proposed area rate increases are subject to approval by the Municipality.
- (f) The Municipality will not be involved in the provision of engineering, technical or legal services or advice in respect of the private road maintenance.

ARTICLE FIVE FINANCES, RECORDS AND INFORMATION SERVICES

Section 5.01 Revenues

HRM Council will establish an area rate for private road maintenance services to be applied on a per dwelling unit basis or adjoining property basis. Payment of the area rate revenue collected will be made only to the Association. All work performed under private road policy financing arrangements will be under the control and direction of Association and the Association shall be wholly responsible for the application of the funds provided.

Section 5.02 Full Banking and Bookkeeping Package**(a) Operating Account**

Except as otherwise provided herein, all revenues received by the Association from time to time shall be deposited into an Operating Account.

(b) Bookkeeping

The Association is required to maintain a complete and proper set of books following general accounting and bookkeeping practices, as set out in the Generally Accepted Accounting Principles as established from time to time by the Canadian Institute of Chartered Accountants.

Section 5.03 Financial Reports

The Association shall provide to the Municipality a copy of the annual financial statements prepared by or on behalf of the Association for the Association's Annual General Meeting within 30 days of presenting such statements to the Annual General Meeting.

Section 5.04 Other Reports

The Association shall, if and when requested from time to time by the Municipality, prepare and furnish to the Municipality, such other reports or statements as the Municipality may reasonably require.

Section 5.05 Right to Review and Audit

The Municipality reserves to right to review and audit the books and financial statements and all corporate records (including by-laws) of the Association from time to time, and the Association shall furnish these documents to the Municipality if and when requested.

**ARTICLE SIX
ASSOCIATION MEMBERSHIP**

Section 6.01 Board of Directors

It is a term and condition of this agreement that throughout the Term of this Agreement, that the Board of Directors of the Association shall be made up of representatives as outlined by the by-laws of the Association.

Section 6.02 Members

It is a term and condition of this agreement that throughout the Term of this Agreement that any property owner who is required to pay the area rate is as a right a Member of the Association and will be entitled to all rights and privileges as outlined by the by-laws of the Association including the right to attend and vote at all General and Special Meetings of the Association.

**ARTICLE SEVEN
TERM/TERMINATION****Section 7.01 Commencement and Initial Term**

This Agreement shall be for a initial one year term (the "Term") as set out in Schedule "B" attached hereto, and continue in force, unless earlier terminated as set out in Section 7.02 or Section 7.03. The agreement will automatically renew for periods of one (1) year each unless either party shall notify the other that it elects not to renew this Agreement at least three (3) months prior to the end of the initial term or any subsequent renewal term.

Section 7.02 Termination by Either Party for Breach

- (a) This Agreement may be terminated by the Municipality upon giving the Association three (3) months written notice of its election to terminate this Agreement if the Association breaches or fails to comply with or observe any of the terms, conditions, provisions or requirements of this Agreement.
- (b) This Agreement may be terminated by the Association upon giving the Municipality three (3) months written notice of its election to terminate this Agreement if the Municipality breaches or fails to comply with or observe any of the terms, conditions or requirements of this Agreement.
- (c) Upon termination of the Agreement, the area rate will be discontinued upon payment of all outstanding amounts..

Section 7.03 Termination by Either Party for Any Reason

This Agreement may be terminated at any time by either of the parties hereto for any reason whatsoever on three (3) months notice in writing. Upon termination of the Agreement, the area rate will be discontinued upon payment of all outstanding amounts.

**ARTICLE EIGHT
INSURANCE****Section 8.01 Property and Liability Insurance**

The Association is solely responsible for obtaining and maintaining at its own expense any and all insurance protection required to administer this Agreement.

Section 8.02 Suits and Claims

The Association shall notify the Municipality in writing as soon as possible after the Association becomes aware of any claim or possible claim against the Association and/or Municipality which involves the Private Road. The Association shall notify the Municipality in writing as soon as possible after it becomes aware of any injury or property damage occurring in, on or about the Private Road, which could reasonably be expected to result in a claim being made against the Municipality or the Association and of all claims against the Municipality and/or the Association which involve the Private Road. The Association shall take no steps (such as the admission of liability) which would operate to bar the Municipality from obtaining any protection afforded by any policies of insurance it may hold or which will operate to prejudice the defence in any legal proceedings involving the Municipality or the Association, or otherwise prevent the Municipality from protecting itself against any such claim, demand or legal proceeding. The Association and the Municipality shall cooperate fully with each other in the defence of any claim, demand or legal proceeding.

**ARTICLE NINE
AUTHORITY OF THE ASSOCIATION****Section 9.01 Authority of the Association**

The Association is hereby authorized to act solely for the purpose of carrying out the authority and responsibilities set forth in this Agreement, subject, however, to any limitations set forth in this Agreement or in any notice in writing at anytime delivered to the Association by the Municipality pursuant to this Agreement. The Municipality shall execute and provide to the Association any documents or other evidence which may be reasonably required by the Association to demonstrate

to third parties the authority of the Association set out in this Agreement.

Section 9.02 **Limitation of Authority**

The Association is not an agent of the Municipality and shall not pass off or represent that it is an agent of the Municipality. Unless expressly authorized in this Agreement, or by prior written direction or approval of the Municipality, the Association shall not have the authority to do any of the following:

- (a) cause the Municipality to extend credit or to make any loans or become a surety, guarantor, endorser or accommodation endorser for any person, firm or Association;
- (b) cause the Municipality to enter into any contracts;
- (c) release, compromise, assign or transfer any claim, right or benefit of the Municipality;
- (d) allow a default judgement to be entered against the Municipality;

**ARTICLE TEN
GENERAL PROVISIONS**

Section 10.01 **Notices**

All notices, demands, requests, approvals or other communication of any kind which a party hereto may be required or may desire to serve on the other party in connection with this Agreement shall be served personally or sent by registered mail. Any such notice or demand so served by registered mail shall be deposited in the Canadian mail with postage thereon fully prepaid, registered and addressed to the party so to be served as follows:

- (a) if to the Municipality:
Attention: Director
Finance
Halifax Regional Municipality
P. O. Box 1749
Halifax, NS
B3J 3A5
- (b) if to the Private Road Association:
mailing address inserted here

Except in the event of a postal service strike or lockout (in which event the parties hereto agree to temporarily utilize other reasonable methods of communicating any notices), service of any notice or demand so made by mail shall be deemed complete on the date of actual delivery as shown by the registry receipt or at the expiration of the seventh business day after the date of mailing, whichever is earlier in time. Either party may from time to time, by notice in writing served upon the other party as aforesaid, designate a different mailing address or different or additional persons to which all such notices or demands are thereafter to be addressed.

Section 10.02 **Validity of Provisions**

In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein and this Agreement shall be enforceable to the fullest extent permitted by law.

Section 10.03 **Waiver and Modification**

No consent or waiver, express or implied, by a party of any breach or default by the other party in the performance by such other party of its obligations hereunder shall be deemed or construed to be a consent or waiver of any other breach or default hereunder. Failure on the part of a party to complain of any act, or failure to act, on the part of the other party or to declare the other party in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder. Neither this Agreement nor any provision hereof may be amended, waived, modified or discharged except by an instrument in writing executed by the party against whom enforcement of such amendment, waiver, modification or discharge is sought.

Section 10.04 **Successors**

The provisions of this Agreement shall, subject to the terms and conditions hereof, be binding upon and enure to the benefit of the successors and assigns of each of the parties hereto, provided, however, that this Agreement shall at all times remain personal to the Association and may not be assigned by the Association without the prior written consent of the Municipality.

Section 10.05 **Remedies**

Both parties shall, in addition to all rights provided herein or as may be provided by law, be entitled to the remedies of specific performance and injunction to enforce their rights hereunder.

Section 10.06 **Headings**

The heading used in this Agreement are inserted solely for convenience or reference and are not a part of the Agreement and are not intended to govern, limit or aid in the construction of any term or provision hereof.

Section 10.07 **Interpretation**

Where the context so requires, words used in the singular shall include the plural and vice versa.

Section 10.08 **Entire Agreement**

This Agreement, together with any written agreements executed in connection herewith or modifications or amendments to this Agreement entered into by the parties hereto shall constitute the entire agreement between the parties hereto relative to the subject matter hereof and shall supersede any prior agreement or understanding, if any, whether written or oral, which either party may have had relating to the subject matter hereof.

Section 10.09 **Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of Nova Scotia.

Section 10.10 **Time of Essence**

Time is of the essence in the performance of the obligations of this Agreement and of each provision hereof.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto, as of the day and year first above written.

Halifax Regional Municipality

Per: _____

Witness

Per: _____

Petpeswick Drive Improvement Society

Witness

Per: _____

Per: _____

SCHEDULE "A"

Description of Road: Petpeswick Drive from the entrance at Highway #7 to the end.

SCHEDULE "B"

Term of the Agreement: April 1, 2008 to March 31, 2009. The agreement will automatically renew for periods of one (1) year as set out in Section 7.01.

Appendix D

PETTESWICK DRIVE IMPROVEMENT SOCIETY

We, the residents of Petteswick Drive in Gaetz Brook NS, hereby Petition The Halifax Region Municipality to collect our annual road improvement dues via our property tax billing. Our area rate for road improvement was set at \$100.00 per household at our last annual general meeting. We request that our area rate be collected on the annual March Property Tax billing and be deposited to our account at the Royal Bank at Porters Lake, NS. It is our understanding that we, the society will order our own

→ dues increased to \$200.00. See minutes of meeting Nov. 27/05

Road grading, plowing, salting, sanding and other road maintenance as in the past and pay the relative costs from our own bank ac-

ct.

Signed:

Name (print)	Signature	Lot No.	PID or No.
Malcolm MacDonald	<i>[Signature]</i>	B15	02479 02466279
Mike Lawlor	<i>[Signature]</i>	B14	
Cathy Laybolt	<i>[Signature]</i>	B13	
Fred Bowser	<i>[Signature]</i>	B23	T00806595
Ken Snow	<i>[Signature]</i>	B21	
Jim Black	<i>[Signature]</i>	B18	
Roy Frank	<i>[Signature]</i>	B17	
Don Henderson	<i>[Signature]</i>	B35-8	
Harold Acker	<i>[Signature]</i>	B11	
Paula Crawford	<i>[Signature]</i>	B10	
Ray Johnston	<i>[Signature]</i>	B1-4	
Wendy Kennedy	<i>[Signature]</i>	B-23	
Richard Moorhouse	<i>[Signature]</i>	B-12	

other households on Petteswick Dr. to be included @

Val Wallace & Ken Rodman	B-9
Edward + Noreen Morrison	B-16
Howard Blair + Wayne Tymchuk	B-19 + 20

AREA TAX RATE MEETING NOTICE

ALL PETPESWICK DRIVE PROPERTY
OWNERS ARE URGED TO ATTEND IN
ORDER TO DISCUSS AND UNDERSTAND
THE PROCESS OF COLLECTION OF ROAD
MAINTENANCE DUES THROUGH AN AREA
RATE ON THEIR PROPERTY TAX BILLS

LOCATION: CHEZZETCOOK FIRE HALL

DATE AND TIME: THURSDAY SEPT 27 @ 7:00



BALLOT FOR PRIVATE ROAD MAINTENANCE TAX

September 11, 2007

DOE SUSAN AND GEORGE
123 ANYWHERE ST
HRMVILLE NS CA B0X 0X0

Assessment # 01234567
123 ANYWHERE ST
LOT 123 HRMVILLE

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 Petpeswick Drive. Since those signing the petition represent at least 66.7% of both the principle residents and the frontage along the 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 abutting the private road wish to implement a per property charge of \$200.00 annually to maintain the road. If the 66.7% minimum is attained, then all property owners abutting the private road would be required to pay the charge. The annual charge would be divided between the two property tax billings mailed to property owners each year. Please refer to the reverse side of this ballot for details regarding the maintenance services to be provided, and the cost of providing these services for the first year. The annual per property charge is calculated as follows:

Estimated Cost of Services in the First Year = \$ 3,200 = \$ 200.00 per property
Number of Properties abutting Private Road 16

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

Thursday September 27, 2007 @ 7:00 p.m.
Chezzetcook Fire Hall (upstairs bingo hall)
5543 Hwy #7, Head of Chezzetcook

Completed ballots may be dropped off at the meeting, faxed to 490-5622, or mailed in the enclosed self-addressed envelope.

If you have any questions regarding the process, please contact Gordon Roussel at 490-6468.

Please note that all ballots must be received by Friday October 5, 2007 (No exceptions!). If you are mailing in your ballot please allow adequate time for delivery.

' YES, I am in favour of implementing the area rate for private road maintenance and paying an annual area rate of \$200.00 on my property tax bill.

' NO, I am not in favour of implementing the area rate for private road maintenance.

Assessment # 01234567

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

PETPESWICK DRIVE IMPROVEMENT SOCIETY

BUDGET – 2008

INCOME :

DUES COLLECTED \$200.00 X16	\$3200.00
-----------------------------	-----------

EXPENSE :

*SNOW PLOWING & SANDING	\$1400.00
*PROPERTY TAXES	\$ 100.00
*ROAD GRADING	\$ 300.00
*REGISTRY OF JOINT STOCK CO'S FEE	\$ 25.00
*COST OF IMPLEMENTING AREA RATE	\$ 250.00
*DEFERRED MAINTENANCE COST (TREE TRIMMING& REMOVAL,DITCHING,GRAVEL)	\$ 1050.00
*MISCELLANEOUS(BANK FEES,POSTAGE, COPYING)	\$ 75.00

TOTAL EXPENSE :	\$3200.00
-----------------	-----------