

**MUNICIPALITY OF THE COUNTY OF**  
**ANTIGONISH**

**COMMITTEE OF THE WHOLE AGENDA**

**Tuesday, June 4, 2019, 6:30 pm**  
**Council Chambers**  
**Municipal Administration Building**  
**285 Beech Hill Road**  
**Beech Hill, NS B2G 0B4**

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1. Call to Order – Chairman, Warden Owen McCarron
2. Approval of Agenda
3. Approval of May 21, 2019 Committee of the Whole Minutes
4. Business Arising from the Minutes
5. Delegations  
There are no delegations
6. Continuing Business
  - a. Antigonish Bikeway Study  
The closing date for the Antigonish Bikeway Study was Friday, May 3rd, and four proposals were received. The review committee comprised of individuals from the County, Town, St FX, DTIR and recreation organizations evaluated the proposals and met via conference call to discuss the proposal. A report of the process and the recommendation of a consultant will be provided at the the Committee meeting.
  - b. Municipal Mural Program  
Municipal Council will select the next districts in which a municipal murals will be located.
  - c. Discussion about Request to Consider Private Roads Maintenance Levy By-law  
Staff has prepared an analysis of the options available for developing a by-law that speaks to the collection and remittance of a levy on behalf of associations created to manage the maintenance and repair of private roads.
7. New Business
  - a. Antigonish Event Strategy  
Staff will present a concept under development to build off the success of the 2018 Special Olympics to work with community partners to attract additional events to the Antigonish area. Staff will provide an update at the meeting.
  - b. Funding Request: Antigonish Stoirm Volleyball Club  
Antigonish Stoirm Volleyball Club is requesting financial support from the Municipality to assist with the cost County of replacing the sand in the courts as they have not been kept up for many years. They have received donations from the Town of Antigonish, St. FX Human Kinetics Department and Dr. JH Gillis Regional High School Sr. Volleyball. The group is requesting \$1000 from the county to assist with this project.
  - c. National Health and Fitness Day

National Health and Fitness Day (NHFD) is an initiative that challenges Canadians to get moving, starting by getting out and active on the first Saturday in June. This year it falls on Saturday June 1st. The Municipality has been asked consider a proclamation as a means of supporting National Health and Fitness Day.

8. Reports from Inter-Municipal Boards, Committees and Commissions

- a. Antigonish Heritage Museum Board
- b. Antigonish Arena Commission
- c. Antigonish Crime Prevention
- d. Eastern District Planning Commission
- e. Eastern Regional Solid Waste Management Committee
- f. Eastern-Straight Regional Enterprise Network
- g. Pictou Antigonish Regional Library
- h. RK MacDonald Nursing Home

9. Staff Reports

- a. Dog Park

The Town of Antigonish is looking into locations, size and operational requirements for a Dog Park. At this time they have put \$10K in their budget to see what can happen in 2019. They are exploring several pieces of land at this time; none are County or Town owned. The \$10K in the budget is allotted for scoping, fencing and trial. Municipal Staff is meeting with Town Staff on June 20th for more detailed information and will report back to Council after that meeting.

10. Community Events

This item provides Councillors with an opportunity to briefly bring to the attention of Council events that are taking place in their communities.

11. Additions to the Agenda

12. In Camera Items

13. Adjournment

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# MUNICIPALITY OF THE COUNTY OF ANTIGONISH

## Committee of the Whole Meeting Minutes

Tuesday, May 21, 2019, 6:30 pm  
Council Chambers  
Municipal Administration Building  
285 Beech Hill Road  
Beech Hill, NS B2G 0B4

- Present were: Warden Owen McCarron  
Deputy Warden Hugh Stewart  
Councillor Donnie MacDonald  
Councillor Remi Deveau  
Councillor John Dunbar  
Councillor Gary Mattie  
Councillor Bill MacFarlane
- Regrets: Councillor Mary MacLellan  
Councillor Vaughan Chisholm  
Councillor Neil Corbett
- Staff Present: Glenn Horne, Clerk-Treasurer  
Beth Schumacher, Deputy Clerk  
Tammy Feltmate, Director of Sustainable Communities  
Allison Duggan, Director of Finance
- Also Present: Chris Boyd, EMM Law  
Meghan MacGillivray, EMM Law

1. **Call to Order – Chairman, Warden Owen McCarron**

The meeting of the Committee of the Whole was called to order by the Chair, Warden McCarron, at 6:36 pm.

2. **Approval of Agenda**

Warden McCarron called for any additions or deletions to the agenda. One item was added: Chamber of Commerce golf tournament.

**Moved By** Councillor Deveau

**Seconded By** Councillor MacFarlane

*That the agenda be approved as amended.*

**Motion Carried**

3. **Approval of May 16, 2019 Committee of the Whole Minutes**

Warden McCarron called for any errors or omissions in the minutes.

**Moved By** Councillor MacDonald

**Seconded By** Deputy Warden Stewart

*That the Committee of the Whole minutes of May 16, 2019 be approved as presented*

**Motion Carried**

4. **Business Arising from the Minutes**

There was no business arising from the minutes.

5. **Delegations**

a. **EMM Law**

Mr. Chris Boyd and Ms. Meghan MacGillivray were introduced to members of Council by Warden McCarron. They provided an overview of their firm and their practices. Mr. Boyd and Ms. MacGillivray have had the opportunity to meet staff and were welcomed by members of the Committee.

Councillor Dunbar joined the meeting at 6:40 pm.

6. **Continuing Business**

a. **Budget Deliberations**

Deputy Warden Stewart asked to speak further regarding the request for funds from The Keppoch, which was reviewed at a previous budget deliberation meeting. Discussion followed. Consensus of the Committee was to provide an additional \$30,000 to the amount approved in the community grants program in order to give the full request for support from The Keppoch, for a total contribution of \$50,000.

The opportunity was provided for any remaining questions about the budget. There were no remaining questions. The Committee reiterated their thanks to staff for their work on the budget.

7. **New Business**

a. **Low-Income Tax Exemption Request**

**Moved By** Councillor Deveau

**Seconded By** Councillor MacFarlane

*The Committee recommends that Municipal Council provide AAN 09707956 with a reduction of 30% on property taxes for the 2019/2020 tax year.*

**Motion Carried**

**8. Staff Reports**

Mr. Horne reviewed the report provided by the RCMP.

**9. In Camera Items**

There were no in-camera items.

**10. Additions to the Agenda**

**a. Antigonish Chamber of Commerce Golf Tournament**

The Municipality has been approached by the Chamber of Commerce to participate in their upcoming golf tournament.

**Moved By** Deputy Warden Stewart

**Seconded By** Councillor MacDonald

*The Committee recommends that Municipal Council sponsor a hole at the 2019 Chamber of Commerce golf tournament.*

**Motion Carried**

**11. Adjournment**

Warden McCarron provided some updates regarding the upcoming President's Dinner at St. FX. Members of Council who are interested in attending are asked to contact Mr. Horne before the end of the week.

Before adjourning, Mr. Horne acknowledged all of the work that Mrs. Duggan has put in with her team to put together the budget.

**Moved By** Councillor Deveau

*That the Committee of the Whole meeting be adjourned at 7:08 pm.*

**Motion Carried**

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Warden Owen McCarron

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Glenn Horne, Municipal Clerk/Treasurer

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## MEMO FOR INFORMATION

**TO:** Committee of the Whole  
**FROM:** BETH SCHUMACHER, DEPUTY CLERK  
**SUBJECT:** PRIVATE ROADS MAINTENANCE AND IMPROVEMENTS DISCUSSION  
**DATE:** 04/06/2019

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### SUMMARY

Staff has prepared an analysis of the options available for developing a by-law that speaks to the collection and remittance of a levy on behalf of associations created to manage the maintenance and repair of private roads.

### BACKGROUND

At their meeting on January 8, 2019, the Committee of the Whole considered a request from a resident of Terra Tory Drive regarding the consideration of the Municipality collecting a levy on behalf of their community association, for the maintenance and repair of their private roadway. The example for this levy collection and remittance system that was given is that used by the Municipality of the District of Lunenburg. The Committee of the Whole requested that staff prepare further information regarding this system for their consideration.

Staff looked into examples from Municipalities with private road maintenance levies and found that both the Municipality of the District of Lunenburg and the Municipality of the District of Chester have enacted by-laws that speak to the Maintenance and Improvement of Private Streets, for the collection and distribution of a local improvement charge, pursuant to Section 81 of the Municipal Government Act (MGA). This section of the MGA outlines the powers of a Council to make by-laws imposing, fixing and providing methods of enforcing payment of charges for different expenses, including

- (da) laying out, opening, constructing, repairing, improving and maintaining private roads, curbs, sidewalks, gutters, bridges, culverts and retaining walls that are associated with 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.*

At the municipalities that staff spoke with, the by-law regarding private roads maintenance is handled in a similar fashion to the Antigonish County Local Improvement By-law, and is initially administered by the municipality's Planning / Development Services staff. This administration involves intake of the enquiry, collecting the information required by the by-law, and presenting the results of the petition with a recommendation to Council. Once approved by Council, Finance staff then take over the remaining processing of the by-law.

In order to be able to use the provision of the by-law, residents on a private road must:

1. Form an association under the Nova Scotia Societies Act.
2. Prepare and submit a petition to the municipality with the signatures from 66.6% of the residents of the private road indicating interest in applying this special tax; this number needs to represent 66.6% of the property owners on the road.

3. Prepare a yearly maintenance budget, justifying the amount that they are asking the municipality to collect.

At the District of Lunenburg, the levy for maintenance or repairs to the private roadway is billed on the annual property tax bill for the affected residents, and collected in the same manner as those taxes, with interest applicable following the due date and any outstanding balances becoming liens on the property if not paid. In order to be able to include the levy with the tax bills, the deadline for the submission of the required financial paperwork for setting the levy is due by March 1<sup>st</sup> each year, with any fees remitted by the municipality to the association by June 15<sup>th</sup> each year.

Contracting the maintenance and repair work is the responsibility of the private road association. Both municipalities consulted apply an administration charge to account for staff resources used in the collection and remittance of the levy, ranging from 5% to 10% of the levy amount.

#### Why would a Private Road Association Want this By-law?

There is nothing that currently prevents property owners living on private roads from collecting funds from organizing and collecting funds on behalf of those along the roadway to cover expenses for repairs and maintenance. Residents on private roads could create and operate associations registered with the Nova Scotia Societies Act and undertake the processes of budgeting, collecting funds, and contracting service providers without the Municipality being involved.

Utilizing the municipality to collect the levy on the behalf of the road association would provide a convenience to the association. With the levy being collected in the same manner as taxes, there would be mechanisms in place to apply interest for outstanding balances which would serve as an incentive for the timely payment of the fee. The Municipality's ability to utilize liens for taxes or unpaid fees against a property could also be a benefit for associations with any concerns about fee collection.

#### Potential Concerns with Using a Private Roads Maintenance By-law

Potential concerns that were raised when evaluating the use of such a by-law included:

- The true extent of the benefit of such a by-law, if a property owner's inclusion in a road association is voluntary
- Properties being subject to a tax sale if the levy is not paid
- Staff capacity available to administer the by-law, given the number of private roads in the community (currently approximately 236)
- Liability or recourse if residents are not happy with the actions of their association and/or the work that is done, particularly if the funds aren't spent as indicated in the budget
- Responsibility or process if the actual project expenses exceed the budgeted/collected levy amount

One of the questions that came up in the staff analysis was with respect to whether a property owner could be involuntarily added to a non-profit association. Staff consulted with provincial staff and sought legal advice on the matter. Membership of an association would be outlined in their by-laws and would speak to how a party joins or leaves the association. In looking at an example of a homeowner's association, they are typically set up using restrictive covenants that are tied to, and carry with, the land and outline obligations and any required fees.

A homeowner's association could be set up on a voluntary basis as well, but if there's nothing attached to the land (such as a restrictive covenant) there may not be the ability to compel a property owner to be a member or to impose the requirement to participate if the land changes owners. Any by-law developed

would need to examine this further, and staff would need to ensure that adequate due diligence is done regarding notification and member identification.

Staff contacted the teams at the District of Lunenburg and the District of Chester and asked about their experiences regarding several the concerns noted above. As far as those team members consulted could recall, no properties had ever been sent to tax sale because of an outstanding road maintenance levy; one property that went to tax sale for outstanding taxes also had an outstanding road levy due.

At both municipal units consulted, the by-law administration is shared over various departments, primarily Planning and Finance. The onus to initiate the process and comply with annual deadlines rests on the private road association, and the administrative fee that is applied by the municipal units is intended to offset any expenses incurred by the municipality during the process. In proposing that the Municipality being the body that collects the levy from the residents, Municipal staff are likely to become the front-line for complaints, questions, and criticisms. It is ultimately the private road association that is answerable to its members for the levy and its expenditure, including maintenance standards.

While the by-law and operating procedures for the could stipulate that liability and accountability for the expenditure of the funds rests with the private roads association, there may still be residents who perceive that the Municipality's involvement in the collection of the funds represents a role in validating the expenditure and/or guaranteeing the work. Any by-law or operating procedures would need to clearly outline the role of the Municipality and its expectations from the road association in terms of following procurement protocol by collecting multiple quoted prices as a means to determine whether they are within reason; for recurring applications, including audit information with financial details when the annual renewal/application is made, as a means of ensuring fiscal accountability; and establishing and communicating levels of service for road maintenance to its members, and assuming responsibility if unforeseen circumstances (e.g. weather) impact the ability to meet those standards.

## **BUDGET IMPLICATIONS**

Direct costs associated with this project are limited to administrative time and legal consultation in reviewing the draft by-law. Like what is done in other municipalities, an administrative fee should be applied to any levy collected to cover expenditures incurred by the municipality in their role of collecting/remitting the fee.

## **NEXT STEPS**

The Municipality has two options for next steps with this issue:

1. Not continue further with the request and maintain the status quo, recognizing that that a homeowner cannot be compelled to join an association, and not having membership tied to land title via restrictive covenants creates additional administrative work and liability for the municipality; or,
2. Proceed with developing a draft by-law, which will be used for discussions with residents on the private roads to determine public opinion on the matter throughout the County, and for further legal review.

If the Municipality chooses to maintain the status quo and leave the collection of funds for the improvement and maintenance of private roads to those owning property along them, it may be worthwhile to look at creating a "toolbox" for subdivision developers and landowners along private roads regarding long-term maintenance agreements and covenants.



**MEMO FOR INFORMATION**

**TO:** Committee of the Whole  
**FROM:** MARLENE MELANSON, DIRECTOR OF RECREATION  
**SUBJECT:** **ANTIGONISH STOIRM VOLLEYBALL CLUB REQUEST**  
**DATE:** 04/06/2019

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**SUMMARY**

Antigonish Stoirm Volleyball Club is requesting financial support from the Municipality to assist with the cost County of replacing the sand in the courts as they have not been kept up for many years. They have received donations from the Town of Antigonish, St. FX Human Kinetics Department and Dr. JH Gillis Regional High School Sr. Volleyball. The group is requesting \$1000 from the county to assist with this project.

**BACKGROUND**

Antigonish Stoirm Volleyball Club along with volleyball coach and trainer Joe Duggan are in the midst of working on the beach volleyball courts at the Dr. JH Gillis Regional High. They have developed and will be offering an 8-week beach volleyball program for youth in our community. They are looking to replace the sand in the beach volleyball courts, as they have not been kept up for many years. The cost of sand is quite expensive as it needs to be trucked in from the Truro area. That is the only place to get the proper sand that is used in beach volleyball courts.