

Item No.
HRM Grants Committee
October 1, 2012

TO: Chair and Members HRM Grants Committee

Original Signed

SUBMITTED BY:

Bruce Fisher for: Greg Keefe, Director of Finance & Information
Technology

DATE: August 21, 2012

SUBJECT: **Property Matter: Less than Market Value Sale of a portion of
PID#40914863, Cobequid Road, Lakeview, to the Union Cemetery
Company**

ORIGIN

An unsolicited request came from the Union Cemetery Company for the donation of a remnant parcel of vacant land located on Cobequid Road, Lakeview, for use in association with the abutting non-profit community cemetery.

RECOMMENDATION

It is recommended that the HRM Grants Committee recommend that Regional Council:

1. Authorize the Mayor and Municipal Clerk to enter into an Agreement of Purchase and Sale, subject to the closure of a portion of Cobequid Road, whereby the property located at PID#40914863, Cobequid Road, Lakeview, be conveyed to the Union Cemetery Company for the sum of \$1.00, plus all costs associated with this conveyance, subject to the preparation of a site survey, legal description and documents of conveyance, and the terms and conditions set out in Table 1 of this report.

Committee Report

BACKGROUND

In 2007, the Union Cemetery Company applied to HRM for a permit to place a sign on land abutting the community cemetery. Evidently, the society had been using the land for parking in relation to the abutting community cemetery. In 2009, the proponent made a formal written request for title to the land for cemetery parking. The proponent has offered a purchase price of \$1.00.

DISCUSSION

Proponent: In 1954, the Union Cemetery Company incorporated in accordance with the Cemetery Companies Act (1989). Under s.2(1) of the Act no less than ten persons may form a company for the purpose of "...establishing, maintaining, conducting, managing or operating a cemetery"; such entities are of limited liability in that members of the Board of Directors are not personally liable for any obligations of the organization related to unpaid shares or any assessment. The community cemetery is non-denominational.

Precedence: With the exception of identifying or protecting artifacts in registered heritage burial grounds (grave markers, heritage structures) HRM does not provide cash grants or discounted property sales for religious or congregational purposes. To date, property sales have been at market value with the following exceptions:

- Baron De Hirsch Benevolent Society, Halifax: In 2002, HRM entered into a land exchange agreement to consolidate abutting property boundaries, create a new right of way and shared parking. The transaction was considered market value with the future sale of burial plots in the HRM-owned Fairview Cemetery off-setting the value of land conveyed to the Society and HRM's capital investment in infrastructure.
- Riverlake Community Cemetery Association, Wellington: In 2008, HRM declined a request for the donation of the former Wellington School property but did agree to a fair market value sale whereby the Association assumed responsibility for the full cost of demolishing the building. The sale was considered a fair market value transaction based on market value, minus the estimated cost of demolition. Because of the nominal net value (\$0) the sale was approved under the Transaction Policy, as approved by Regional Council on October 8, 2002.

No change is being proposed to the practice of excluding religious or congregational uses and/or private parking from consideration for property donations or discounts. However, the subject parcel of vacant land is under-sized and cannot be developed. Hence, its utility and marketability is severely constrained. The unresolved issue of possible un-marked burial plots, being on the subject property, also diminishes potential use and would require confirmation using specialized imaging techniques at the proponent's expense.

Rationale in Support of a Land Donation: A less than market value sale is recommended on the basis of the land's limited utility and potential liabilities with respect to the possibility of un-marked burial plots.

Table 1. Summary of Key Terms and Conditions (Proposed)	
Civic Address	PID#40914863 Cobequid Road, Lakeview
Site Area	6,800 sf
Zoning	R-6 Rural Residential Zone, Sackville Land Use By-law. The intended use is permitted as of right under existing zoning.
Market Value	\$6,000
Proposed Sale Price	\$1.00
Tax Status	To date, the property has been assessed as Exempt Resource. A sale will trigger a re-assessment. If, as required as a condition of sale, the land is consolidated with the abutting cemetery the property shall be Exempt Commercial as per the Assessment Act.
Specific Conditions	<ul style="list-style-type: none">• The proponent shall consolidate the subject property identified as a portion of PID#40914863 with the existing cemetery located at PID#40068827 and PID#40416323, Cobequid Road, Lakeview.• The purpose of HRM's in-kind contribution shall be for the purpose of a non-profit community cemetery.• There shall be no Buy-Back Agreement based on the possibility of un-marked burial plots and the negligible marketability of the land.
Closing Date	Fall, 2012
Cost of Sale Recovery	The Purchaser shall pay all municipal costs associated with this sale including but not limited to legal fees, plan of survey, sub-division consolidation application and deed registration.

Market Value Estimate: A market value of \$6,000 is based on a staff assessment of comparable land sales and extrapolation of MLS data for the subject area. An assessment valuation cannot be used as a proxy for market value because the property does not have a separate assessment account number. Prior to the Provincial/Municipal Service Exchange Agreement the land was owned by the Province of Nova Scotia; under the agreement roads within a defined core area were transferred to HRM. Long-term government ownership with no on-site service or program use has resulted in a lack of detection for assessment purposes.

Street Closure: Section 325(2)(b) of the Halifax Regional Municipal Charter ([HRM Charter](#)) permits Regional Council to close a portion of street without a public hearing, if the portion of street is deemed surplus by the municipal engineer and the value of the portion to be closed is worth less than \$50,000. Due to a re-alignment of Cobequid Road a number of years ago, the subject property has been deemed surplus to the current Cobequid Road right-of-way. The subject property is also valued less than \$50,000. Subject to Regional Council's approval to do the proposed less-than-market value sale and the proponent entering into an Agreement of Purchase and Sale, an Administrative Order for a Street Closure will be requested in a future Regional Council report.

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BUDGET IMPLICATIONS

Using a proxy value of \$6,000, a sale price of \$1.00 would decrease HRM's potential revenue by \$6,000 and the applicable deed transfer tax of \$90 for a combined in-kind contribution of \$6,090. The sale will not generate real property taxes.

The net proceeds from the sale shall be credited to the **Sale of Land Reserve Account Q101**.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

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

The subject property is valued at \$6,000. Therefore, a public hearing is not required and Regional Council may determine the disposal process and/or value by a simple majority vote.

COMMUNITY ENGAGEMENT

The HRM Charter (2008) permits the sale of municipal property at less than market value to a non-profit organization. If valued over \$10,000 the sale must be approved by a two-thirds majority of Council present and voting at a public hearing. In this instance, a public hearing is not required.

ALTERNATIVES

1. The Grants Committee could recommend a full market value sale or limit HRM's in-kind contribution to a percentage of the full market value.

This action is not recommended: The remnant land is under-sized for development (6,800sf) and has negligible marketability due to its location, size and configuration.

2. The Grants Committee could recommend retention of the land by HRM and execution of a lease agreement with the Union Cemetery Company.

This action is not recommended: Operations have confirmed that the land is not required for road-widening and is surplus to municipal operations. Further, should the site contain human remains an alternate use is constrained.

ATTACHMENTS

1. Site Map.

Property Matter: PID#40914863
Cobequid Road, Lakeview
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