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Item No.
Community Planning & Economic Development Standing Committee
May 19, 2016

TO: Chair and Members of Community Planning & Economic Development
Standing Committee

SUBMITTED BY: Original Signed by:

Brad Anguish, Director, Parks & Recreation

DATE: April 22, 2016

SUBJECT: Update: Cobequid Cultural Society Less than Market Lease Request

INFORMATION REPORT

ORIGIN

March 23, 2015 North West Community Council Motion:

MOVED by Councillor Johns, seconded by Councillor Dalrymple that North West Community Council: Direct staff to provide the following transfer of funds from the Sackville Community Compensation Fund: \$100,000.00 to the Cobequid Cultural Society upon successfully negotiating a long term lease agreement between the Cobequid Cultural Arts Society and the Halifax Regional Municipality (Halifax Transit) for the construction of an Arts and Cultural Centre on HRM owned land located at the intersection of Margeson Drive and Highway 101 in Middle Sackville. **MOTION PUT AND PASSED**

August 4, 2015: Regional Council Motion:

MOVED by Councillor Johns, seconded by Councillor Walker that Halifax Regional Council request a staff report exploring the potential for a long term lease agreement between the Cobequid Cultural Society and the Halifax Regional Municipality (Halifax Transit) for the construction of an Arts and Cultural Centre on HRM owned land located at the intersection of Margeson Drive and Highway 101 in Middle Sackville. **MOTION PUT AND PASSED**

October 27, 2015 Regional Council Motion:

MOVED by Councillor Johns, seconded by Councillor Walker, that Halifax Regional Council direct staff to:

1. Request that a formal business plan be submitted by the Cobequid Cultural Society (CCS) regarding their proposal to construct an Arts and Cultural Centre on HRM owned land; and
2. Evaluate the business plan provided by the Cobequid Cultural Society and report to Council regarding the proposal once the detailed design for the Transit Park & Ride project is more advanced.

Councillor Johns then **MOVED** an additional recommendation, seconded by Councillor Walker to:

3. Direct staff to work with the CCS to review the terms and conditions needed to be met to allow for a long term lease. **MOTION PUT AND PASSED UNANIMOUSLY.**

LEGISLATIVE AUTHORITY

- ***Halifax Regional Municipality Charter:***
 - Section 61 (5)(b) The Municipality may (b) sell property at market value when the property is no longer required for the purposes of the Municipality;
 - Section 63 (1) The Municipality may sell or lease property at a price less than market value to a non-profit organization that the Council considers to be carrying on an activity that is beneficial to the Municipality.
 - (2) A resolution to sell or lease property referred to in subsection (1) at less than market value shall be passed by at least a two thirds majority of the Council present and voting.
 - (3) Where the Council proposes to sell property referred to in subsection (1) valued at more than ten thousand dollars at less than market value, the Council shall first hold a public hearing respecting the sale.
 - (4) The Council shall advertise the public hearing at least twice, in a newspaper circulating in the Municipality, the first notice to appear at least fourteen days before the hearing.
 - (5) The notice of the public hearing shall include the date, time and place of the hearing, the location of the real property or a description of the tangible personal property, the estimated value of the property and the purpose of the sale. 2008, c. 39, s. 63.

- *Administrative Order 50, Respecting the Disposal of Surplus Real Property*

BACKGROUND

In October 2008, the subject HRM property, PID 41287137, was acquired by the Municipality from a third party for the planned Highway 101 interchange, the southward alignment of Margeson Drive, and a future Halifax Transit Park & Ride facility in Middle Sackville. The 8.46 hectare (21 acre) property was acquired for a purchase price of \$3,500 per acre (\$73,500, plus HST and closing costs). The interchange has been constructed, and the section of Margeson Drive between the interchange and Highway No. 1 was completed, north of the subject property.

In August 2010, a 1.31 hectare (3.2 acre) portion of the subject property was conveyed to the Nova Scotia Department of Transportation and Infrastructure Renewal (NSTIR) for the Interchange, as HRM and NSTIR had previously agreed on a cost sharing approach to the development of the new highway interchange. Deeding over portions of land that were to be under the control of NSTIR was part of the agreement, at full cost recovery to HRM. The alignment of Margeson Drive south of the interchange is in the final planning stages; however, a section fronting the new Indigo Shores development is presently being built.

In March 2014, the Cobequid Cultural Society made a written request to the area Councillor for a Less than Market Lease for a portion of the HRM property planned for the Halifax Transit Park & Ride. Their request is to facilitate the construction of a proposed new Arts Centre for the visual and performing arts. On August 4, 2015, Regional Council requested a staff report on "exploring the potential for a long term lease agreement between the Cobequid Cultural Society and HRM..."

In May 2014, the Real Property Technical Review of the request was completed, and the general consensus was that the portion of the property the group was interested in is considered surplus to the requirements of the Municipality, subject to the proposed park & ride location and any portions required for the future Margeson Drive southward alignment. Discussions with Halifax Transit and the Cobequid Cultural Society have taken place and there is agreement in principle to the concept of a synergy between the cultural and the transportation land uses.

In October 2015, staff was directed to work with the Society to review the terms and conditions required to allow for a long term lease of the property. In addition, staff was directed to request a formal business plan from the Cobequid Cultural Society (CCS) regarding their proposal to construct an Arts and Cultural

Centre on HRM owned land; and to evaluate the business plan and report to Council regarding the proposal.

DISCUSSION

Over the past months, staff from Corporate Real Estate, Halifax Transit, Parks & Recreation and Finance (Grants and Contributions) met with members of the CCS to review the request for a less than market lease for the property under consideration. Staff also requested the group submit the formal business plan for the Community Performing Arts Centre for evaluation as per Council's direction.

On February 11, 2016 correspondence was sent to the area Councillor from CCS (Attachment 1). The Society has determined it is now in their best interest to enter into a purchase and sale agreement of the property instead of a less than market lease. They requested that the municipality consider disposal of the three acre property through the Community Interest category under Administrative Order 50.

As the nature of the proposed transaction has changed, HRM will assess the Society's request to purchase under Administrative Order 50, Respecting the Disposal of Surplus Real Property (AO50). The Society did submit a business case to staff as per Council's direction. However, until the property has been assessed under AO50 and categorized for potential sale, the business case cannot be reviewed as to not inadvertently impact the process.

AO50 Categories

There are two surplus property categories in AO 50 that could be relevant: Community Interest and Economic Development, each outlined below. As part of the disposal process, under either category, an appraisal of the property must be obtained to determine current market value (section 5).

Community Interest

Under AO50, Regional Council has the option to place the property in the Community Interest category (section 2(2)(b)):

Properties known to have potential for community use, in particular where:

- (i) there has been a prior community or institutional use of the property; or
- (ii) by location or scarcity of available property the consideration would reasonably arise.

Under the Community Interest category, Regional Council can consider the disposal of a property to a non-profit organization for less than market value. However, the process set out in the AO for the Community Interest category does not permit Regional Council to direct staff to negotiate with a specific purchaser. The AO requires an open call process in which all non-profit organizations are invited to submit a proposal for the surplus property and are provided 90-120 days to respond. The responses are then reviewed by staff and presented to Council for consideration. Under the Community Interest category, Council must consider whether the non-profit is carrying on activity that is beneficial to the municipality. If Council deems a proposal to be acceptable, the AO requires a public hearing and two-thirds majority vote of council for disposal of a property for less than market value, pursuant to the *HRM Charter*.

Economic Development

Alternatively, section 2(2)(a) of AO 50, Economic Development, states:

Strategic properties having Economic Development potential ought to be sold to:

- (i) maximize use or value;
- (ii) achieve the attraction of targeted industries and employment or the regeneration of neighborhoods;
- (iii) to advance development opportunities; and
- (iv) to generate financial return to the municipality

These properties are viewed by Council to be strategic and may be disposed of through individually recommended disposal processes, including a referral to a special committee or task force of HRM. Under this category they are required by the *HRM Charter* to be sold at market value and can include partnership models between private developers and non-profits and municipally defined public use or service delivery components (section 4(1)(d)). Referral to a special committee or task force would not be recommended as that function has essentially been completed through the work carried out on the completion of the current proposal.

Under the Economic Development category, Regional Council could consider arts and culture as the targeted industry or sector and direct staff to negotiate directly with the Society for the sale of the property at market value.

Following further discussion with the Society and completion of the review and analysis respecting Administrative Order 50, staff will then report back to Council with respect to the following:

- disposal as per Administrative Order 50;
- revenue and tax implications of any sale;
- access or easement agreement(s) required;
- any implications with respect to shared use, maintenance and capital respecting the planned Park & Ride facility; and
- the compatibility of use of the subject property in relation to HRM's immediate plans (Park & Ride), overall transportation strategy, and potential expansion.

FINANCIAL IMPLICATIONS

There are no immediate financial implications associated with this report.

Financial considerations of possible future action to declaring the property surplus to municipal needs and subsequent sale will be assessed through this process.

COMMUNITY ENGAGEMENT

A public hearing for is required for the less than market sale of lands with a market value of more than \$10,000.

ENVIRONMENTAL IMPLICATIONS

None

ATTACHMENTS

Attachment 1 – February 11, 2016, Letter from Cobequid Cultural Society to HRM

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.

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COBEQUID
CULTURAL
SOCIETY

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Thursday February 11, 2016

Councillor Brad Johns
Halifax Regional Council
Halifax, Nova Scotia

Dear Councillor Johns:

Re: Purchase and Sale Agreement

I'd like to start by thanking you for your time and commitment towards the Cobequid Cultural Society's goal of establishing an Arts and Cultural facility in Middle Sackville.

After numerous meetings with yourself, various Halifax staff (Patricia Hughes, Peta Jane Temple, Tom Crouse and others), and members of the Society, it has become apparent that it would be in the best long term interest of both the Society and Municipality to enter into a purchase and sale agreement versus a long-term lease.

Therefore, we are requesting that the municipality consider disposal of the northern most 3 acres (closest to Provincial Highway 101) of the HRM owned parcel Lot 8a (portion of Margeson Drive, Middle Sackville) PID 41287137, through the Community Interest category of Administration Order.

This would be the remnant parcel not required by Halifax Transit who are planning on the construction of a 500 car park and ride on the site sometime in the future. We would require an easement over the remaining HRM owned parent parcel, in order to access the newly created parcel. The Society would like to negotiate an agreement between itself and Halifax Transit, whereby the new Arts and Cultural facility would have shared use in the evenings and weekends of the Halifax Transit future parking and ride lot.

The Society understands that Municipality originally purchased the entire 21 acre parcel in 2008 for \$3,500.00 per acre, plus closing costs and HST. In August of 2010, 3.2 acres were conveyed to the Nova Scotia Department of Transportation, leaving 17.8 acres in municipal ownership. Of that 17.8 acres approximately 8.9 acres were assigned to Transit for the construction of a future park and ride, the current assessment of which is \$48,100.00 or \$5,404.49 per acre.

Once again, the Society would like to purchase the northern most 3 acres of this parcel at the original \$3,500.00 per acre, plus closing costs and HST of approximately \$2,500.00, for a total offer of \$15,000.00. The Society recognizes that it would be responsible for any additional cost for survey and subdivision of the property. We believe the municipality has the ability to grant this request for sale under the Community Interest section of Administration Order 50.

The Society recognizes that through the Administration Order process other non-profits may apply for this as well, however we feel due to the steep sloping topography, high site development costs (as there are no municipal services available at the location) and other site challenges, that the requested 3 acres is really of very little value to the municipality, Halifax Transit or any other potential groups other than for a theatre. We also feel that the new facility would be of a direct benefit, not only to the broader Sackville, Lucasville, and Hammonds Plains community but also to transit riders because we plan to incorporate washrooms and other potential amenities.

Since our initial discussions with transit and the municipality regarding the construction of a community facility at this site, we have been able to secure the funding required that would enable us to complete this transaction and would appreciate the municipality to consider this offer.

In closing I would like to sincerely thank the municipal staff who have assisted us this far, particularly, Tom Crouse, Peta Jane Temple, and staff at Halifax Transit. We look forward to working with them in the future to help make our dream a reality.

I look forward to your speedy response to this request.

Yours truly,

Rae Smith, Vice President
Cobequid Cultural Society