

Item No.
HRM Grants Committee
June 4, 2012

TO: Chair and Members HRM Grants Committee



SUBMITTED BY:

Greg Keefe, A/Director, Finance & Information, Communications &
Technology



Peter Stickings, A/Director, Planning & Infrastructure

DATE: April 16, 2012

SUBJECT: **Property Matter: Proposed Less than Market Value Sale of 4693
Highway #7, Porter's Lake (Portion of PID#40238552) to the Porter's
Lake Community Service Association.**

SUPPLEMENTARY REPORT

ORIGIN

January 26, 2010 - Regional Council authorized staff to initiate the process for the closure of the existing Porter's Lake Community Centre (4693 Highway #7) such that the closure occurs concurrent with the opening of the new community centre (a school enhancement partnership with the Province of Nova Scotia); and, declare that, on the closure of the existing Porter's Lake Community Centre, it be declared surplus to the needs of the municipality, and authorize staff to arrange for its disposal.

January, 2011 - Unsolicited request from the Porter's Lake Community Service Association requesting title to the subject property for \$1.00.

RECOMMENDATION

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

1. Authorize the Mayor and Municipal Clerk to enter into an Agreement of Purchase and Sale, whereby the property located at 4693 Highway #7, Porter's Lake, pending sub-division approval, be conveyed to the Porter's Lake Community Service Association for the sum of \$1, plus associated costs as per the terms and conditions set out in Table 1 of this report;
2. Set a date for a public hearing as required under Section 63(2) of the HRM Charter (2008).

BACKGROUND

In 1952, the subject property was conveyed by a private owner to the Trustees of Porter's Lake School Section #65, School District of Halifax West, and in 1953 a public school was constructed on the property. In the early 1970's the school was de-commissioned and conveyed to the former County of Halifax for disposal. In 1975, the municipality entered into a lease agreement with the Porter's Lake Community Service Association who operated the property located at 4693 Highway #7, Porter's Lake, as a community centre. Title to the property was vested in HRM at amalgamation.

In January, 2010, Regional Council approved a joint project with the Province of Nova Scotia to add a community centre component to the new Porter's Lake Elementary School and directed staff to initiate the process for the closure and disposal of the existing Porter's Lake Community Centre (4693 Highway #7). The stated intent was that the closure occur concurrent with the opening of the new facility. The new Lake & Shore Community Recreation Centre opened in September, 2011.

Given their long-standing role in operating the former Porter's Lake Community Centre under a Facility Lease Agreement (FLA) with HRM, staff engaged the Porter's Lake Community Service Association to determine their level of interest in operating the new facility. The Association did not wish to transfer their interest to the new community centre and instead expressed a desire to continue the status quo; to operate the existing facility on behalf of HRM. Based on Regional Council's approval of the new facility and subsequent direction on the existing building, this was not an option. In January, 2011, HRM received an unsolicited request to convey title to the former community centre located at 4693 Highway #7, Porter's Lake, to the Porter's Lake Community Centre Association for the sum of \$1.00. In 2012, the Association requested the land containing tennis courts also be conveyed but that HRM retain the basketball court and playground.

If the property sale is approved, HRM will sub-divide the property and retain the portion containing the playground and basketball court for public park purposes. However, HRM shall

retain a public access easement over that portion of the property conveyed to the Association so as to secure public access to the playground and sports court. The sub-division shall take into consideration the lot area requirements for a property with on-site well and septic.

DISCUSSION

A less than market value sale is recommended on the basis of the Porter's Lake Community Centre Association's prior contractual relationship with HRM in the operation of the facility 1975 to 2011.

- Incorporated in 1975, the Porter's Lake Community Centre Association is a long-standing non-profit society that has operated the facility in support of various leisure programs, local events, and non-recurring room rentals. Fitness, youth and adult programming has also been offered in partnership with HRM Community Recreation. The community group remains committed in their desire to continue to support, enhance, and offer "quality of life" services.
- The proposed conditions of sale include a Buy-Back Agreement giving the Municipality the option to re-acquire the property in the event that the Porter's Lake Community Centre Association cease operations or wish to convey the property to a third party. This supplementary agreement does not oblige HRM to acquire title to the property but does ensure that a formal decision of Regional Council would be sought in the event of dissolution, or if a change in ownership/intended use were proposed.
- As owners of the facility, the Association will not operate under a Facility Lease Agreement with HRM and will not be bound by expectations to operate within any municipal mandated service provision. HRM's previous capital or recurring operating funding will be revoked. However, ownership will leverage the Association's ability to secure independent financing and/or eligibility to apply for corporate, philanthropic or government grants, including HRM assistance programs.
- If the sub-division is approved and the portion of land with tennis courts is conveyed to the Association, the new owner shall be responsible for all operating, maintenance and future re-capitalization. For the past few years the tennis court has been used largely for outdoor ball hockey, social events and an outdoor ice surface. Hence, in the opinion of staff the amenity now serves multi-purposes and there is no immediate impact on current users.

Table 1. Summary of Key Terms and Conditions (Proposed)	
Civic Address	4693 Highway No. 7, Porter's Lake
Site Area	2.5 acres
Zoning	R-A, Residential A Zone, and RE, Rural Enterprise Zone Planning Districts 8 & 9. A permitted R-A use includes community uses, open space uses and institutional uses. The proponent's intended

	use conforms to the current zoning.
Appraised Value	\$180,000*
Proposed Sale Price	\$1.00, plus cost of sale recovery
Tax Status	<p>To date, the property has been assessed as Exempt Commercial. A sale will trigger re-assessment for Commercial property taxes. Any request for tax assistance requires the owner make separate application under By-law T-200.</p> <p>The proponent is not a registered charity, therefore deed transfer tax is payable at 1.5% of the sale price.</p>
Specific Terms and Conditions	<p>A Buy-Back Agreement shall provide HRM with the option to re-acquire the property should the Purchaser cease to operate the premises for a community purpose, elect to sell or convey title, or in the event of dissolution. The Buy-back Agreement, with the written consent of the Municipality, may be postponed or held as a second charge on the property to enable financing required for re-capitalization.</p> <p>HRM shall retain an easement for public access purposes for the portion of the property retained by HRM that contains the playground and basketball court.</p> <p>Conveyance is subject to subdivision approval;</p> <p>The purpose of HRM's in-kind contribution shall be for the operation of a community centre;</p>
Closing Date	As soon as possible pending confirmation of financing by Purchaser
Cost of Sale Recovery	The purchaser shall pay all municipal expenditures associated with this sale including but not limited to, appraisal, environmental assessment, site survey, deed registration, legal fees, easements, and deed transfer tax.

* Ingram Varner and Associates Appraisal August, 2011, was for the entire property and did not consider sub-division.

BUDGET IMPLICATIONS

A discounted sale price of \$1 would result in a decrease in HRM's potential revenue of \$180,000 and deed transfer tax of \$2,700 for a combined in-kind contribution of \$182,700. However, a sale will create property taxes where previously there were none and relieve HRM of any immediate liabilities and future re-capitalization.

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.

COMMUNITY ENGAGEMENT

The HRM Charter (2008) permits the sale of surplus municipal property at less than market value. If the property is valued at more than \$10,000 the sale must be approved by a two-thirds majority of Council present and voting at a public hearing. Legislation requires that the public is to be notified through an advertisement published in a newspaper circulating in the Municipality. Any member of the public can present a written or verbal opinion for or against the proposed sale.

ALTERNATIVES

1. The HRM Grants Committee could direct staff to pursue (a) a discounted sale price at a percentage of market value, or (b) full market value sale.

This action is not recommended: The property has been deemed surplus to HRM's operational requirements. The proposed sole source discounted sale to the Porter's Lake Community Service Association is recommended on the basis of the former contractual relationship with the proponent who operated the premises on HRM's behalf for over 35 consecutive years.

ATTACHMENTS

1. Site Map and Photograph.

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.

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Attachment 1

ATTACHMENT "A"
**Property Matter: Proposed Less than Market Value Sale of 4693 Highway No. 7,
Porters Lake, Porters Lake Community Centre (a portion of PID #40238552)**
SITE PLAN & PHOTOGRAPHY

Site Map of Subject Property

Front View of Subject Property

Back View of Subject Property