



Item No.
HRM Grants Committee
June 7, 2012

TO: Chair and Members HRM Grants Committee

SUBMITTED BY:



Greg Keefe, A/Director of Finance & Information Technology



Peter Stickings, A/Director of Planning & Infrastructure

DATE: May 31, 2012

SUBJECT: Property Matter: Less than Market Value Sale of 3214 Highway #2, Fall River (PID#526939) to the Lakeview, Windsor Junction, Fall River Firemen's Association

ORIGIN

May 18, 2010 – Regional Council approved a less than market value lease with the Regional Firefighters Interpretation Centre for the property located at 3214 Highway #2, Fall River.

June 4, 2010 – Unsolicited request from the LWF Firemen's Association requesting HRM convey title to the property located at 3214 Highway #2, Fall River, for the sum of \$1.

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 3214 Highway #2, Fall River, be conveyed to the

Lakeview, Windsor Junction, Fall River Firemen's Association, conditional upon confirmation of an approved easement agreement, for the sum of \$1 plus all associated costs as per the terms and conditions set out in the Table 1 of this report; and

2. Set a date for a public hearing as required under Section 63 (2) of the HRM Charter.

BACKGROUND

In 1989, the former Halifax County acquired title to the property located at 3214 Highway #2, Fall River, from the Maritime Telegraph and Telephone Company. The Municipality held title to the property to secure a loan of \$120,000 advanced to the Lakeview, Windsor Junction, Fall River Firemen's Association (Letter from Halifax County to Robert Cragg & Associates, dated January 6, 1989). The loan was intended to repay the municipality's expenditure in acquiring the property and to convert the existing building for use by the volunteer fire service. The LWF Firemen's Association, which incorporated as a non-profit society on November 23, 1965, raised funds to repay the cost of property acquisition (\$89,000), building upgrades, and to purchase equipment. The premises served as an ancillary fire hall for eighteen years (1991-2009) until it was de-commissioned following construction of the HRM Fire Station #45, Fall River. HRM has no record indicating the date that the Halifax County loan was repaid but, as of the date of this report, there are no outstanding receivables.

The property has been screened through the internal real property review process and deemed surplus to HRM's operational requirements. In May 2010, Regional Council approved a less than market lease agreement with the Regional Firefighters Interpretation Centre, a non-profit society that collects memorabilia and archival materials related to the history of the fire service in HRM. The agreement is for a 5-year term and expires March 31, 2015. The agreement includes HRM's right to assign the lease. The rent was established at \$1 per annum in lieu of all operating and capital expenses (Regional Council, May 18, 2010).

In June 2010, HRM received an unsolicited request from the LWF Firemen's Association requesting title to the property for the sum of \$1. The offer is based on the Association's financial investment in acquiring and developing the property and its' operation. The proponent has indicated that they will accept the lease agreement with the Regional Firefighters Interpretation Centre as a condition of sale.

DISCUSSION

The property has been deemed surplus to municipal operations but was retained pending plans for either (a) regional transportation, or (b) uses identified under the Regional Plan: Fall River Community Vision. Albeit the Fall River Community Vision (2007) does not specifically identify the former fire station as an asset to be retained by HRM, the plan does seek the preservation of public lands for public use. Specifically, the plan advocates for establishing the right of first refusal for public lands to secure their use in relation to public parks, community

recreation and leisure facilities. Regional Council has approved the plan in principle, subject to financial and technical feasibility in concert with other municipal policies, programs and priorities.

At their meeting of May 17, 2010, the Fall River Visioning Implementation Committee, an advisory committee convened under the Regional Plan project, unanimously approved the following motion:

“Recognizing that the proposed use of the Highway #2 Fall River Auxiliary Fire Hall by the LWF Fireman’s Association is in keeping with the wishes of the community as described in a motion by the VIC [Visioning Implementation Committee] on April 21, 2008, and cognizant of the wishes of the community for the property to remain in the public domain, it is recommended that the committee support the proposed transfer of the aforementioned property to the LWF Firemen’s Association.

The committee wishes it to be known that, if and when, the LWF Firemen’s Association no longer has use for the property, the property should revert to HRM and be used as originally recommended by the VIC”.

A less than market value sale is recommended on the basis of the LWF Firemen’s Association’s historical association with the acquisition and operation of this property.

- Title was vested in the former Halifax County to secure a loan made by the Municipality to the LWF Foremen’s Association. The loan, it is presumed, has since been re-paid.
- The LWF Firemen’s Association is a long-standing non-profit society that owns the former fire station located at 843 Fall River Road, Fall River, that now serves the local Firemen’s Social Club with low cost rentals to community groups and private functions. The proponent has demonstrated the ability to own and operate a community venue. The option of sub-leasing all or a portion of the premises secures revenue and/or assigns specific capital and operating costs to a third party.
- The Association has agreed to assignment of the Regional Firefighters Interpretation Centre lease as per the terms and conditions of the agreement currently in effect. As owner, it will be the Association’s prerogative to renew, revise, or discontinue the lease when it expires, or with the mutual consent of the tenant.
- 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 LWF Firemen’s Association cease operations or wish to convey title 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 if in the event of dissolution, or if ownership or a substantive change in use were proposed.

- The owner of road access has granted HRM an easement at no cost in support of the property conveyance.
- In a letter dated May 5, 2012, the proponent has indicated their acceptance of the proposed terms and conditions of sale.

Table 1. Summary of Key Terms and Conditions (Proposed)

Civic Address	Lot A, 3214 Highway #2, Fall River.
Site Area	10,160 sf.
Zoning	C-2 Community Commercial, Land Use By-Law Districts 14 & 17. Institutional uses are permitted under C-2 zoning provided they are in accordance with the P-2 Community Facility zone. Museums and community halls are considered institutional.
Assessment Value	\$121,600.
Proposed Sale Price	\$1 plus cost of sale recovery.
Tax Status	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 HRM By-Law T-200. The proponent is not a registered charity, therefore deed transfer tax is payable at 1.5% of the sale price.
Specific Terms and Conditions	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 the property, 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 to re-capitalize the asset. The purpose of the conveyance shall be to secure the premises for continued community use. The Association agrees to assignment of the current lease agreement between HRM and the Regional Firefighters Interpretation Centre. At the expiry of the current leasing contract the proponent may amend, renew or terminate the agreement. Amendment prior to the expiry date is permitted by mutual consent. Subject to HRM securing an access easement, the purchaser shall acknowledge the easement rights obtained by HRM to gain pedestrian and vehicular access to the premises.
Closing Date	As soon as possible pending confirmation of financing by the purchaser.
Cost of Sale Recovery	The purchaser shall pay all applicable municipal expenditures associated with this sale, including but not limited to legal fees, environmental assessment, deed registration, easement fees, advertising, site survey, etc.

BUDGET IMPLICATIONS

Using the 2012 assessment value of \$121,600, a sale price of \$1 would decrease HRM's potential revenue by \$121,600 and the applicable deed transfer tax of \$1,824, for a combined in-kind contribution of \$123,424. However, the 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 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 Regional Council present and voting at a public hearing. Legislation requires the general public be notified of the hearing through an advertisement published in a newspaper circulating throughout the Municipality. Any member of the public may present a written or verbal opinion for or against the proposed sale.

ALTERNATIVES

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

This action is not recommended: HRM acquired title by default through dissolution of the former Halifax County under the Halifax Regional Municipality Act (1995) wherein its assets and liabilities were assumed by the new municipality. Halifax County held title to secure a municipal loan granted to a volunteer fire association expressly for the purpose of acquiring and renovating the subject property. HRM's records indicate there are no outstanding receivables.

2. The Grants Committee could recommend retention of the property by HRM and execution of a head lease agreement with the LWF Firemen's Association and assign the existing lease with the Regional Firefighters Interpretation Centre as a sub-lease.

This action is not recommended: The property is surplus to municipal operational requirements. A less than market value lease for \$1/year in lieu of capital and operating costs does not aid the Association's sustainability. To the contrary, leasing could disqualify the Association from some

government and philanthropic assistance programs, or from using the asset to secure financing for major re-capitalization. As owner, the Association has the option of sub-leasing all or a portion of the premises to generate revenue or to petition HRM to permit joint ownership with another non-profit entity.


ATTACHMENTS

1. Letter to HRM from Lakeview, Windsor Junction, Fall River Firemen's Association dated June 4, 2010
2. Letter to HRM from Lakeview, Windsor Junction, Fall River Firemen's Association dated May 5, 2012
3. 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.

Report Prepared by: Peta-Jane Temple, Team Lead Grants & Contributions, HRM Finance 490-5469; Chad Renouf, Real Estate Officer, HRM Planning & Infrastructure; David Greener, HRM Legal Services.

Report Approved by: 
Michael Wile, A/Manager Real Property, HRM Planning & Infrastructure

Financial Approval by: 
Bruce Fisher, Manager Fiscal Policy & Financial Planning, HRM Finance

Attachment 1

Peta-Jane Temple
Team Lead Grants & Contributions
HRM Community Development
Box 1749,
Halifax, N.S. B3J 3A5

2010-06-04

Re: Proposed Transfer of Title for Property - 3214 Hwy 2, Fall River

This letter is being sent to you to confirm that the LWF Firemen's Association is indeed seeking that the above noted property & building be returned to the communities of Lakeview, Windsor Junction & Fall River thru our public board legally known as the Lakeview, Windsor Junction & Fall River Firemen's Association.

Councillor Dahyple gave a presentation in this regard to the Board at our monthly meeting on June 2nd and explained the Less than Market Sale process and the current lease the HRM now has with the Regional Firefighters Interpretation Centre.

Our Association bought this property in 1992 and turned it into a second community Fire Station and also purchased much of the equipment and vehicles that were used there. We helped maintain and operate the station until amalgamation when it became property of the HRM.

At our meeting on June 2nd the Board voted unanimously that it would like to re-acquire this property, maintain the current lease with the RFIC and work with them for the overall benefit of the communities.

We would like to thank the HRM in advance for this opportunity.

Aimee Kirby
Secretary

Bob Dahyple
Councillor/HRM

Stephanie Dubé
Executive

Stephanie Carr
Executive

Attachment #2

Halifax Regional Municipality,
Box 1749,
Halifax, Nova Scotia
B3J 3A5

2012-05-05

Re: Proposed Conveyance of 3214 Highway Two, Fall River

Attn: P.J. Temple

Thank you for your letter dated April 23rd, 2011 to the LWF Firemen's Association in this regard. By way of this return letter we are advising that we fully understand this proposal is now ready to go to the HRM Grants Committee and if there is a positive recommendation it will then go to Regional Council for a Public Hearing and Motion.

In your letter you have asked for written confirmation that we are in agreement of accepting 5 points and we have included your letter with those points as Attachment A.

This is to advise you that the Board has been informed of these 5 points, that we have discussed them with Councillor Barry Dalrymple and are in full agreement and this is accepted as per the signatures below.

We would like to be advised of the date of the Public Hearing as a couple of our Executive may wish to attend and speak in favor of this proposal and we would like to thank you and your Staff for your assistance with this process.

Stephanie Dube *Stephanie Dube*
Bill HORNE *Bill Horne*
Sandra Care *Sandra Care*
Barry Dalrymple *Barry Dalrymple*

Regards,

LWF Firemen's Association
Box 2027,
Fall River, N.S.

Attachment 3

