



PO Box 1749
Halifax, Nova Scotia
B3J 3A5, Canada

DECLASSIFIED

FOIPOP Review

[Redacted] 26 23/10

Item No. 4

Approved to Release

[Redacted]

Halifax Regional Council

February 23, 2010

Date Jan. 26 24, 2010

In Camera

TO: Mayor Kelly and Members of Halifax Regional Council

Original Signed

SUBMITTED BY:

Dan English, Chief Administrative Officer

DATE: February 19, 2010

SUBJECT: Community Initiative

PRIVATE AND CONFIDENTIAL

ORIGIN

Ongoing settlement discussions with the Africville Genealogy Society et al as directed by Halifax Regional Council.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Approve the terms of settlement re: the Africville Genealogy Society et al vs City of Halifax as outlined in the Discussion and Budget Implications sections of this report.
2. Release this report to the public upon ratification by Halifax Regional Council and subsequent to a public announcement.

BACKGROUND

For more than 150 years, Africville was home to a community of African Nova Scotians located on the shores of Bedford Basin. In the 1960s, the City of Halifax obtained the Africville lands and residents were relocated resulting in the loss of the community. Former residents, descendants and the Africville Genealogy Society (AGS) have been seeking a resolution to address the impacts of this loss.

In March of 1996, an action was served on the City of Halifax by the Africville Genealogy Society, former residents and descendants. They indicated they were seeking damages for the City's failure to provide an Educational Trust Fund (approved by Council in 1994); failure to convey 2.5 acres for the construction of the Memorial Church; and other long standing social justice issues related to the Africville community. Municipal amalgamation occurred on April 1, 1996; the Halifax Regional Municipality was formed and it became responsible for any liabilities of the former City of Halifax.

Discussions between representatives of the former Africville community (AGS) and the Halifax Regional Municipality continued in an effort to try and resolve the outstanding issues and reach a settlement. During this dialogue, HRM introduced a framework to act as the basis for establishing a fitting memorial for Africville and settle the litigation, however, it was recognized that the project needed participation of all three levels of government and the community to succeed. As a result, HRM invited a group of stakeholders to engage in a discussion on Africville, and in June 2005 a Committee was established with tripartite representation from government and the AGS with the purpose of working towards building a fitting memorial for the former community.

The AGS, with support from an intergovernmental staff team consisting of representatives from HRM, the Nova Scotia offices of African Nova Scotian Affairs, the Department of Tourism, Culture and Heritage, the Department of Economic Development along with the Department of Canadian Heritage, and the Atlantic Canada Opportunities Agency (ACOA) contracted a team lead by A.L. Arbic Consulting to prepare a feasibility study and business plan for the reconstruction of a replica of Seaview United Baptist Church, the creation of an Interpretive Centre that would convey the history of the community of Africville. This study was completed and the Final Report submitted to AGS and its partners in December of 2006.

The Feasibility Study involved extensive consultations with the community, former Africville residents and descendants as well as other key stakeholders. Overall, those who were consulted expressed an openness to the concept of the reconstruction of a replica of Seaview United Baptist Church and the creation of an Interpretive Centre that would tell the story of the community of Africville and begin to formally bring closure to this very emotional part of the past while establishing a legacy for the future.

The 2006 Study recommended the concept of reconstructing the Seaview United Baptist Church replica on the site where it once stood, along with an adjacent Interpretive Centre. Total capital costs based on the recommended architectural, site and interpretative concept were estimated at \$4,395,000. Operating costs were projecting a deficit during the first five years of operation ranging from \$139,000 to \$155,000 or between 47% and 59% of total revenues. Both capital funding and any operating shortfall were expected to be raised from a combination of public and private sources. Preliminary estimates indicated the need for a \$3,000,000 trust fund to ensure operation stability.

Upon receipt of the final report, the intergovernmental staff team continued to work with representatives of the AGS to revise the project plan and funding strategy to further enable project success. In the fall of 2009, the AGS adjusted the scope of their proposed project to include two phases. The first phase focuses on the reconstruction of the Seaview United Baptist Church replica and the second phase would undertake the

building of the Africville Interpretive Centre. AGS and the Steering Committee then faced the challenge of revising the Business Plan (2006) to incorporate project phasing and updating the financials. In addition to this new work, the Africville Heritage Trust Board had to be created (community capacity) as well as the development of a fund raising strategy which were critical project success factors coming out of the Business Plan (2006). A funding application was submitted to ACOA through the Innovative Communities Fund for this piece of work and a contribution of \$250,000. was approved in October 2009.

The AGS entered into a partnership with the Black Business Initiative (BBI) to manage the project and a request for proposals was issued and awarded to A.L. Arbic Consulting. BBI representatives have now become part of the Steering Committee. The work began in November, 2009 and will continue until later in 2010. The Africville Project Steering Committee continues to meet weekly with the AGS and project consultants in order to guide the project to a successful conclusion.

HRM staff and representatives of the AGS have also continued to have detailed discussions with the goal of achieving an agreement in principle that would address the past, establish a legacy for the future and resolve the outstanding litigation.

DISCUSSION

As directed by Halifax Regional Council on 26 January 2010 staff met with representatives of the AGS and legal counsel to present the following terms to resolve the outstanding litigation and reach a settlement that brings some closure to the dispute with dignity to all parties:

- \$3m contribution
- Land
- Acknowledgement of loss
- Park Maintenance
- Renaming of Seaview Park
- Community Development
- No personal compensation
- Settlement of Litigation

The following outlines the key terms and conditions of settlement that have been agreed to, representing the direction from Halifax Regional Council and the concurrence of the Africville Genealogy Society et al.

KEY TERMS AND CONDITIONS OF SETTLEMENT	APPROACH
1. Acknowledgement of Loss (Apology)	Mayor Kelly will deliver an apology to the African Nova Scotian community on February 24, 2009.
2. \$3 million municipal contribution to the project inclusive of both capital construction and operational costs	Funds from the Africville Trust account and the Self Insurance Reserve will be transferred to Africville Heritage Trust.
3. Conveyance of 2.5 acres of land adjacent to and west of Seaview Park	2 parcels of land owned by HRM and Transport Canada/HPA will be transferred.
4. Park Maintenance Agreement between the Africville Heritage Trust Board and HRM for the lands known as Seaview Park	Staff will work with the Africville Heritage Trust and stakeholders to establish a maintenance agreement for the lands known as Seaview Park.
5. Renaming of Seaview Park to Africville - the park will remain as an HRM asset	Staff will work with the AGS, the Africville Heritage Trust Board and community stakeholders to officially rename Seaview Park.
6. Community Development - The establishment of an African Nova Scotia Affairs Office or function within HRM that would enable our organization to better engage with the African HRM community.	Staff will work within the Business Plan and Budget framework (10/11) to outline an approach to establish a function within HRM to better serve the African Nova Scotian community brought to Council for approval.
7. Settlement of Litigation	The terms of the agreement as noted above have been approved by the Africville Genealogy Society. The other plaintiffs to the litigation have been invited to a community meeting on Saturday, 20 February 2010 to approve the terms of settlement.
8. No personal Compensation	There will be no personal compensation

Further detail with respect to the financial and land contributions outlined above are as follows:

\$3m contribution:

The current balance of the Africville Trust account #2407 is \$2,018,685.75. The remainder - \$981,314.25 will come from Q306 Self Insurance Reserve, which currently has a projected balance of \$4,157,188 for March 31, 2010. This unbudgeted withdrawal will reduce the projected reserve balance to \$3,175,873.75 at year end. This reserve is used for settlement of legal claims.

Conveyance of 2.5 acres of land:

As noted to Council on 26 January 2010, the 2.5 acres, consisting of Parcel HH-1, lands of the Her Majesty the Queen in the Right of Canada - Halifax Port Authority and PARCEL D-2, lands of Halifax Regional Municipality, said parcels to be consolidated. The market value of the land owned by HRM is \$276,270 and those of the Halifax Port Authority at \$165,000.

The Halifax Port Authority, has agreed in principle subject to final board approval and approval of Transport Canada, to transfer HH-1 to HRM in exchange for a piece of land of equivalent value at Fairview cove, adjacent or in close proximity, to its current terminal operations at CERES. HRM would then convey HH-1 to Africville Heritage Trust for \$1.00.

The mandate of achieving an agreement in principle that would address the past, create a legacy for the future and resolve the outstanding litigation, as set by Halifax Regional Council on January 26, 2010 has been achieved. It is therefore recommended that Halifax Regional Council approve the Motion as indicated, inclusive of the following:

- Approve the terms of settlement re: the Africville Genealogy Society et al vs the City of Halifax as outlined above.
- This report be released to the public after ratification by Halifax Regional Council.
- Approve the conveyance of parcel D-2 to the Africville Heritage Trust as part of the terms of the settlement.
- Approve the acquisition of parcel H H-1 from the Halifax Port Authority/Transport Canada and its conveyance to the Africville Heritage Trust as part of the terms of the settlement.
- Halifax Regional Council approve a withdrawal of \$981,314.25 from Q306 Self Insurance Reserve.
-

Given the significance of the resolution of this issue within our community, HRM staff and the AGS have begun to prepare for a public announcement on February 24, 2010 pending the outcome of the February 20th Community Meeting and ratification by Council.

BUDGET IMPLICATIONS

- Current balance of Africville account is \$2,018,685.75 The remainder - \$981,314.25 is intended to come out of the Q306 Self Insurance Reserve.
- The HRM land asset has a book value of \$15,964. This will show as a loss on HRM's statements but will have no impact on the operating budget or general tax rate.
- The land exchange HH-1 and subsequent conveyance to the Africville Heritage Trust for \$0. could result in a loss of \$165,000 being recorded in HRM's 09/10 financial statements, however there is no budgetary impact or impact on the tax rate.
- The establishment of an African Nova Scotian Affairs function will be integrated into the Business Plan/Budget process for 2010/11.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

ALTERNATIVES

1. Halifax Regional Council could choose not to proceed with the recommended approach to settlement as noted in this report.
2. Halifax Regional Council could direct staff to negotiate new terms of settlement with the AGS et al.

ATTACHMENTS

None

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Original Signed

Report Prepared & Approved by:

✓

Catherine Mullally, Director, Human Resources, 490-7239