



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

Item No. 9.2
Halifax Regional Council
February 9, 2010
March 23, 2010

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: *Krista Tidgwell*
for Councillor Russell Walker, Chair, HRM Grants Committee

DATE: January 27, 2010

SUBJECT: **Less than Market Value Property Sale: Former Musquodoboit Harbour Elementary School, 7962 Highway #7, Musquodoboit Harbour**

ORIGIN

HRM Grants Committee meetings of November 2, 2009 and December 7, 2009.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Accept the offer of \$1 for the purchase of the property located at 7962 Highway #7, Musquodoboit Harbour;
2. Approve early occupancy by the group in advance of the closing date of sale effective the date the Occupancy Permit is issued and subject to proof of applicable insurance coverage; further, that any Agreement of Purchase and Sale include specific conditions, intended to reduce certain risks to HRM, be met by the end of June, 2010. Such conditions would include but are not limited to:
 - a) Environmental Assessment;
 - b) Formal registration as a non-profit organization and submission of constitution and by-laws for same;
 - c) Confirmation of the organization's financial capacity to cover the following immediate costs:

... rec's cont.'d pg. 2

- building and liability insurance
- basic utilities ie. power, water, heat
- well and septic inspection
- building inspection
- permit fees as applicable
- cost of sale expenses (legal fees, survey, deed migration)
- confirmation of initial capital financing

3. Agree that if the proponent is unable to meet the conditions as of June 30, 2010, then the matter would come back to the HRM Grants Committee for review; and
4. Set a date for a public hearing.

BACKGROUND

The HRM Grants Committee discussed the matter, as outlined in the staff report dated August 27, 2009, at their November 2, 2009 and December 7, 2009 meeting.

DISCUSSION

The HRM Grants Committee overturned the recommendation of staff and agreed to Option 2: Accept Proponent’s Offer and that any Agreement of Purchase and Sale include specific conditions intended to reduce certain risks to HRM be met by June 30, 2010.

Summary of Key Terms and Conditions (Proposed)	
Civic Address	7962 Highway #7, Musquodoboit Harbour
Zoning	Mixed Use
Market Value	\$120,000
Proposed Sale Price	\$1

Specific Conditions	<p>The purpose of this in-kind contribution shall be the development of a creative centre for arts and cultural centre.</p> <p>A Buy-Back Agreement shall provide HRM with the right of first refusal should the non-profit entity cease operations, a substantive change in use, or elect to sell the property at a later date.</p> <p>The property shall be taxable. Application for assistance with property tax shall be made under By-law T-200.</p> <p>Early possession may be granted at HRM's discretion subject to an occupancy permit and applicable insurance coverage.</p> <p>The buyer shall satisfy the terms as set out in the recommendations approved by Regional Council respecting incorporation as a non-profit entity, financial capacity, building and site inspection, and capital financing.</p>
Closing Date	June 30, 2010
Cost of Sale Recovery	The purchaser shall pay all costs associated with this sale including HRM's (eg. legal fees, survey, appraisal, deed registration etc).

BUDGET IMPLICATIONS

As per the attached staff report dated August 27, 2009.

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

As per the attached staff report dated August 27, 2009.

ATTACHMENTS

1. Staff Report dated August 27, 2009.
2. Letter of acceptance to Ms. Laurie Cook from Carla Thistle, Real Estate Officer, Transportation and Public Works, Real Estate & Facility Services, dated January 13, 2010.

3. Extract of HRM Grants Committee Minutes dated December 7, 2009.

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210 or Fax 490-4208

Report Prepared By: Krista Tidgwell, Legislative Assistant



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

HRM Grants Committee
November 2, 2009

TO: Chair and Members HRM Grants Committee

SUBMITTED BY:


Paul Dunphy, Director, HRM Community Development

DATE:

August 27, 2009

SUBJECT:

**Property Matter: Former Musquodoboit Harbour Elementary School,
7962 Highway #7, Musquodoboit Harbour**

ORIGIN

In January, 2009, HRM issued a Request For Proposals for the purchase of the former Musquodoboit Harbour Elementary School, Musquodoboit Harbour. The offer attracted only one (1) proponent.

RECOMMENDATION

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

1. Decline the offer of \$1 for the purchase of the property located at 7962 Highway #7, Musquodoboit Harbour; and
2. Approve soliciting a fair market value sale conditional upon registration as a municipal heritage property as per the terms and conditions set out in the Discussion section of this report.

BACKGROUND

The Halifax Regional Municipality Charter (2008) allows for the sale of municipal property at less than market value to a non-profit organization. The sale must be approved by a two-thirds majority of Regional Council present and voting at a public hearing. Section 109, of the Municipal Government Act (1998) gives municipalities the discretionary authority to exempt a charity from payment of deed transfer tax (calculated as 1.5% of the sale price).

In January, 2009, HRM issued a Request for Proposals (RFP) for the purchase of three (3) surplus schools: Harbourside Elementary School, Jeddore-Lakeview Elementary, and the Musquodoboit Harbour Elementary. As of the submission deadline March 16, 2009, only one response had been received for each of the three properties. Two proponents are for profit entities and as such any negotiations are for market value through HRM's real estate staff. The only non-profit proponent wishes to acquire the Musquodoboit Harbour Elementary School for the sum of \$1.

Building:

The building is a former elementary school and as such its' current interior configuration poses limitations. The appraised value of the property is \$120,000. The zoning is mixed use. In 2008, an HRM *Community Vision* for Musquodoboit Harbour was adopted by Regional Council which provides a 25-year action plan to guide future development. During deliberations the deterioration of the old school and possible sale to a private interest was raised as a concern. Some members of the community expressed interest in retention of the building and potential change in use. In the opinion of HRM staff, the former wooden schoolhouse can be effectively protected from demolition or substantive architectural alteration through registration as a municipal heritage property. Any proposed sale would require the owner relinquish the right to de-register.

Proponent's Offer and Intended Use:

Presently, the proponent is a small group of local residents and not incorporated. A positive indication from HRM regarding ownership of the property would prompt formal registration as a non-profit cooperative. Formal incorporation as a non-profit organization is a pre-requisite of any property sale as per legislation. Hence, any Agreement of Purchase and Sale would be provisional pending receipt of a copy of the certificate of incorporation and the cooperative's constitution and by-laws. The proponent has offered \$1.

In April, 2009, staff from HRM met to evaluate the proponent's submission. The initial proposal envisioned use of the building for child care and youth with a focus on recreational programming. HRM staff determined that more detail regarding the group's capital and operating capacity would be prudent. Staff met with representatives and provided feedback on the initial proposal. The group was offered an opportunity to submit further information to support the sustainability of the proposed "Old School Gathering Place".

In August, 2009, staff from HRM Community Development (Cultural Affairs, Recreation Facilities, Grants and Contributions) and Real Estate met to evaluate the addendum. It should be noted that the

focus of the proposal shifted from recreational programming to arts and cultural programming. In part, this change in focus is to acknowledge the Eastern Shore Recreation Commission (arena) and HRM Community Recreation amenities in the immediate vicinity. Proposed programming includes art and dance classes, a second-hand store, art gallery, and room rentals for community events, the Eastern Shore Family Resource Centre, and HRM Community Recreation room rentals.

DISCUSSION

Staff have developed two options for Regional Council's consideration:

Option 1. Staff Recommendation

In the opinion of staff, the proponent's proposal lacks sufficient assurance re: the on-going operating viability of the facility. Further, the proponent is not an established non-profit organization and as such their ability to attract and retain members, manage a property, or generate revenues is unknown. Arguably, protracted negotiations could result in further physical deterioration of the building, especially if it remains vacant over the winter, to the extent that demolition becomes a cost-effective alternative and clearly one that would meet with opposition from local residents. Therefore, staff are recommending that should Regional Council approve pursuing a fair market value sale specific conditions shall be applied so as to protect the community's interest in the property:

- HRM shall seek registration of 7962 Highway #7, Musquodoboit Harbour, as a municipal heritage property. In the event of any change in ownership, the new owner shall waive the right to de-register the property.
- A Buy-Back Agreement shall provide HRM with the right of first refusal should the new owner elect to sell the property or convey the property at a later date.
- The new owner shall be encouraged to provide modest accommodation to local community groups. For example, to make one room available for recurring or non-recurring room rentals for recreation/leisure programming, or the lease of a portion of the premises for child or parent services.

The latter condition recognizes that HRM Community Recreation has formally endorsed community access by virtue of a financial commitment to the non-profit proponent's initial proposal. As such, there appears to be support for community recreation or leisure programming. However, the staff recommendation noted above falls short of mandatory community access so as not to unduly jeopardize the sustainability of the property if market demand for room rentals is low or erratic, or groups are unwilling to pay for programming space.

It should also be noted that recent developments in the immediate vicinity may provide for some portion of the community's programming needs. For example, the Musquodoboit Harbour Lions Club's purchase, renovation, and expansion of the former seniors centre and a proposed development by the local farmers market.

Precedence:

The recent sale of 47 Wentworth Street, Dartmouth, at fair market value employed a similar approach (May 29, 2009). HRM's Request for Proposals received only one offer in the amount of \$1. Staff recommended the offer be declined on the basis of a low score. The property was subsequently re-advertised but with specific conditions attached: (1) heritage registration could not be waived and (2) a Buy-back Agreement affords HRM the right of first refusal. Given these encumbrances were believed to be in the public interest, in combination with the poor physical condition of the premises, the market value was lowered ie. to a "fair market value".

Potential Heritage Registration:

Given the local neighbourhood interest in the former school building, staff recommend that while HRM is the owner 7962 Highway #7, Musquodoboit Harbour, be registered as a municipal heritage property. In the opinion of heritage staff this increasingly rare architectural style (ie. a wooden school house), the building's prominent location, and other registered buildings in close proximity the former school is expected to score well in the registration process. Arguably, the school would add to the heritage value of this 'node'. Further research would be undertaken to establish any historical association with people or events.

Option 2. Accept Proponent's Offer

In the alternative, if Regional Council wish to accept the proponent's offer of \$1 for the purposes put forth in their proposal, staff recommend that early occupancy by the group be granted in advance of the closing date of sale, subject to proof of applicable insurance coverage. In effect, the group would assume responsibility for the operating costs. Further, staff recommend that any occupancy agreement include specific conditions intended to reduce certain risks to HRM. Such conditions would include but are not limited to:

- (a) formal registration as a non-profit organization and submission of constitution and by-laws for same; and
- (b) confirmation of the organization's financial capacity to cover the following immediate costs:
 - building and liability insurance
 - basic utilities ie. power, water, heat
 - well and septic inspection
 - building inspection
 - permit fees as applicable
 - cost of sale expenses (legal fees, survey, deed migration)
 - confirmation of initial capital financing

BUDGET IMPLICATIONS

Using the appraised market value of \$120,000, if the initial offer of \$1 was accepted HRM's potential revenue would decrease by \$119,999.

Under HRM's ownership the property has not been assessed for real property tax. A property sale will trigger a Commercial assessment based on use.

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. The HRM Grants Committee could overturn or amend staff's recommendation.
2. The HRM Grants Committee could amend staff's recommendation to register the property as a municipal heritage property in advance of any sale. In the alternative, the sale would be conditional upon the new owner pursuing registration.

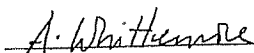
This action is not recommended: Given the local interest in protecting the school building from demolition or substantive alteration, registration by HRM prior to a sale would offer a higher level of assurance to the public.

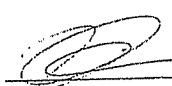
ATTACHMENTS

- A Map - 7962 Highway #7, Musquodoboit Harbour
- B Property Pictures - 7962 Highway #7, Musquodoboit Harbour

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.

Report Prepared by: Peta-Jane Temple, Team Lead Grants & Contributions, HRM Community Development 490-5469;
Betty Lou Killen, HRM Community Development; Christine Lavois, Team Lead Cultural Planning,
HRM Community Development, Carla Thistle, Real Estate Officer, HRM Transportation & Public
Works.

Report Approved by: 
Andrew Whittemore, Manager, Community Relations & Cultural Affairs, 490-1585

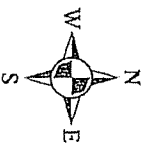
Report Approved by: 
Peter Stickings, Manager, Real Property, Transportation & Public Works, 490-6030

HALIFAX

REGIONAL MUNICIPALITY

ATTACHMENT 'A' Surplus School

Musquodoboit Harbour
Elementary
7962 Highway #7
Musquodoboit Harbour
Nova Scotia

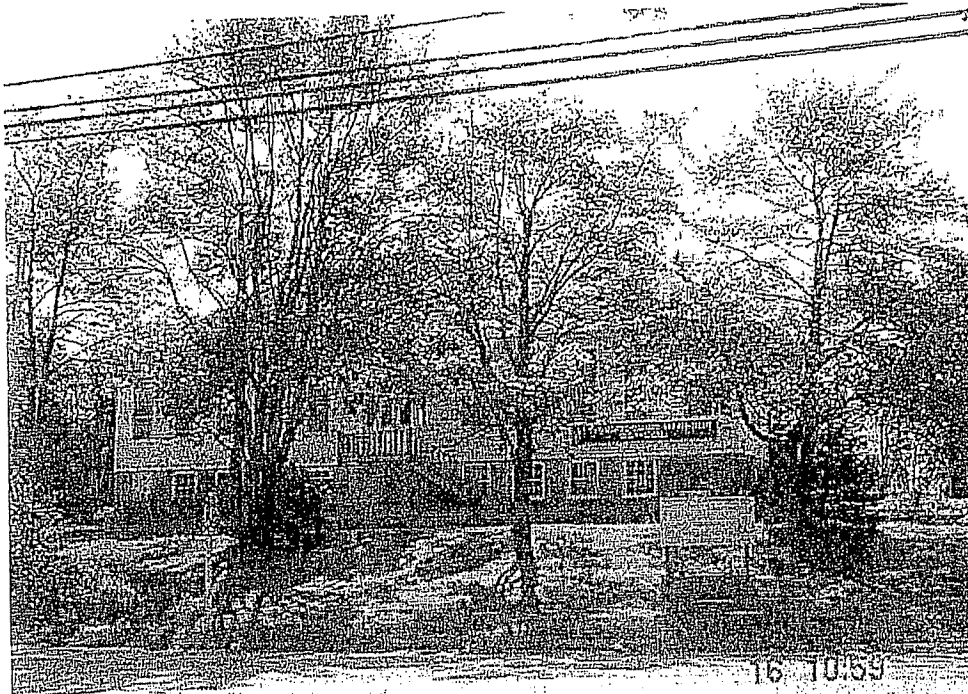


This map was produced for the internal use of Halifax Regional Municipality (HRM). HRM takes no responsibility for errors or omissions. Date of map is not indicative of the date of data creation.

Date: October 26, 2009
Prepared by: E. Wall



ATTACHMENT "B"
7962 Highway 7, Musquodoboit Harbour
Property Pictures





Real Property and Asset Management
P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

RECEIVED
21/01/10
JAN. 21/10

January 13, 2010

Without Prejudice

Ms. Laurie Cook
16864 Hymus Blvd
Kirkland, QC H9H 3L3

Dear Ms. Cook:

Subject: Offer of Purchase - 7962 Hwy. #7, Musquodoboit Harbour - Former Musquodoboit Harbour Elementary School

As you are aware, your proposal to purchase the former Musquodoboit Harbour Elementary School has been reviewed by HRM staff and is currently following the due process in place in attempting to receive Regional Council approval for a Less than Market Value sale. Final municipal approval can only be attained once Regional Council approves all the terms and conditions with a 2/3rds vote to accept.

As part of that process, staff submitted your proposal to the Grants Committee on December 7, 2009 to clarify some points that the Grants Committee recommended previously. With those points being clarified, we wish to outline the following general provisions in which HRM would be prepared to move forward to the next step in the required municipal approval process for a Less than Market Value sale.

- ▶ Purchase Price: \$1.00 plus any additional costs associated with the conveyance of the properties including, but not limited to, survey, migration, and legal costs.
- ▶ Deposit: \$1.00
- ▶ Closing Date: June 30, 2010, providing all terms and conditions as outlined below have been satisfied by this date. The Manager of Real Property, Transportation & Public Works for the Municipality is authorized to change the Closing Date on behalf of the Municipality, provided such change is in the interest of the Municipality.

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TRANSPORTATION & PUBLIC WORKS, Real Estate & Facility Services

<i>Real Estate & Facility Services</i>	<i>Metro Transit</i>	<i>Traffic & Right of Way</i>	<i>Capital Projects</i>	<i>Design & Construction</i>	<i>Municipal Operations</i>	<i>Fleet Services</i>	<i>Service Delivery & Quality Improvement</i>
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- ▶ Use: The Purchaser shall use the property for cultural/recreational space or uses relating to culture/recreation for the benefit of the community.
- ▶ The Agreement of Purchase and Sale would be Halifax Regional Municipality's standard form. Final discussion on the document to be concluded within thirty (30) days of receiving Regional Council approval.
- ▶ The Property shall be conveyed "as is" subject to any Encumbrances, Easements, Restrictions or Covenants that affect the Property.

Conditions:

- ▶ The Purchaser must take Early Occupancy of the property within thirty (30) days of receiving Regional Municipal Council approval, and subject to the Purchaser completing the following within those thirty (30) days:
 - a) Formally register as a non-profit organization and submit constitution and by-laws for same.
 - b) the Purchaser must indemnify the Municipality against all liabilities, costs, fines, suits, claims, demands and actions, and causes of action of any kind for which the Municipality may be considered or become liable for by reason of the Purchaser taking early possession of the Property. Without limiting the generality of the Purchaser's responsibility to indemnify the Municipality, the Purchaser shall maintain and pay all premiums for general public liability insurance with a minimum coverage of \$2 million. The Purchaser shall furnish to the Municipality satisfactory written evidence that such insurance is in full force and effect.
 - c) the Purchaser must apply for a Development Permit and provide written confirmation of same.
 - d) the Purchaser will assume sole responsibility for all utilities.

Should the Purchaser fail to meet the requirements listed above for Early Occupancy within thirty (30) days of receiving Regional Municipal Council approval, this Offer to Purchase shall become null and void.

...continued page 3

TRANSPORTATION & PUBLIC WORKS, Real Estate & Facility Services

<i>Real Estate & Facility Services</i>	<i>Metro Transit</i>	<i>Traffic & Right of Way</i>	<i>Capital Projects</i>	<i>Design & Construction</i>	<i>Municipal Operations</i>	<i>Fleet Services</i>	<i>Service Delivery & Quality Improvement</i>
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Tel: (902) 490-5477 Fax (902) 490-6030
E-mail: thistle@halifax.ca Web Site: www.halifax.ca

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- ▶ Prior to the Closing Date of June 30, 2010, the Purchaser must complete the following:
 - a) Environmental Assessment;
 - b) confirm the organization's financial capacity to cover the building's ongoing maintenance costs, including but not limited to:
 - building and liability insurance
 - basic utilities ie: power, water, heat
 - c) well and septic inspection
 - d) building inspection
 - d) confirm the organization's financial capacity to cover the cost of sale expenses (legal fees, survey, deed migration)
 - e) confirmation of initial capital financing.

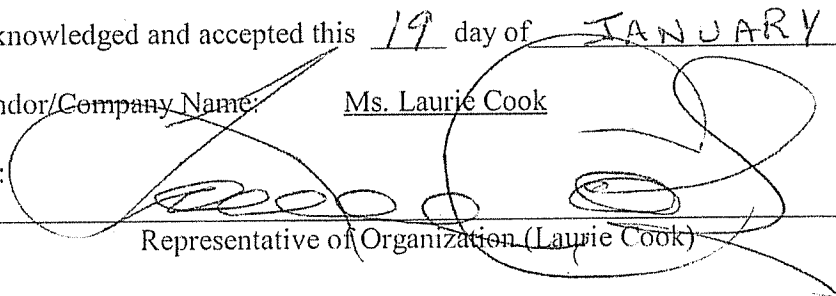
- ▶ All costs in association with this conveyance will be the sole responsibility of the Purchaser which may include legal, survey, and migration of the lands.

- ▶ The Purchaser must sign a Buy-Back Agreement on the Closing Date to provide HRM with the right of first refusal to re-purchase the property at a later date should the organization elect to sell the property or change the Use as defined herein.

The above sets forth the general terms we are prepared to advance. We would request that you agree in principle to the above general terms and conditions so we may proceed.

Acknowledged and accepted this 19 day of JANUARY, 2010.

Vendor/Company Name: Ms. Laurie Cook

Per: 

Representative of Organization (Laurie Cook)

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TRANSPORTATION & PUBLIC WORKS, Real Estate & Facility Services

<i>Real Estate & Facility Services</i>	<i>Metra Transit</i>	<i>Traffic & Right of Way</i>	<i>Capital Projects</i>	<i>Design & Construction</i>	<i>Municipal Operations</i>	<i>Fleet Services</i>	<i>Service Delivery & Quality Improvement</i>
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Tel: (902) 490-5477 Fax (902) 490-6030
E-mail: thistle@halifax.ca Web Site: www.halifax.ca

Offer of Purchase - 7962 Hwy. #7, Musquodoboit Harbour - Former Musquodoboit Harbour Elementary School
January 13, 2010

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This Letter of Offer is open until January 31, 2010 after which this Offer becomes null and void.

In the interim please do not hesitate to call me if you have any questions. Until binding agreements are entered into, we each understand and agree that this Letter is non-binding on either party.

Yours truly,



Carla Thistle
Real Estate Officer
490-5477

cc: Tom Crouse, TPW
Peta-Jane Temple, Finance

TRANSPORTATION & PUBLIC WORKS, Real Estate & Facility Services

<i>Real Estate & Facility Services</i>	<i>Metro Transit</i>	<i>Traffic & Right of Way</i>	<i>Capital Projects</i>	<i>Design & Construction</i>	<i>Municipal Operations</i>	<i>Fleet Services</i>	<i>Service Delivery & Quality Improvement</i>
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Tel: (902) 490-5477 Fax (902) 490-6030
E-mail: thistle@halifax.ca Web Site: www.halifax.ca

Extract of HRM Grants Committee Draft Minutes - December 7, 2009

7.1 Property Matter: Former Musquodoboit Harbour Elementary School, 7962 Highway #7, Musquodoboit Harbour - Amended Recommendation and Proposed Terms of Conditions of Sale - Clarification

- A copy of an email from Ms. Laurie Cook, on behalf of the Old School Gathering Place Development Team, to Ms. Peta-Jane Temple, Team Lead, Grants & Contributions, dated November 30, 2009, with attached Old School Gathering Place Initial 6 month Cash Flow statement, was before the Committee.
- A staff report dated August 27, 2009 was before the Committee.

Ms. Peta-Jane Temple, Team Lead, Grants & Contributions, provided an update to the Committee. She noted that staff has sent a letter to the proponent to confirm if they still have an interest in the property. The proponent has been instructed to respond as to whether they wish to proceed or withdraw.

Ms. Temple advised that an environment assessment should be done on the property under the terms and conditions prior to acceptance.

It was indicated by staff that a building assessment may have been done but not a soil assessment.

Councillor Jim Smith entered the meeting at 1:12 p.m.

Ms. Temple asked the Committee whether they had a time frame in mind to provide early occupancy to the proponent. Ms. Carla Thistle, Real Estate Officer, Transportation and Public Works, advised she has had no response in this regard. She suggested making a condition that would attach to the occupancy permit.

Ms. Temple asked whether the Committee is willing to give an extension should the proponent not be able to meet the conditions before June 2010.

MOVED BY Mr. Andrew Higdon, seconded by Councillor Barry Dalrymple, that the HRM Grants Committee recommend that Regional Council:

- 1. Accept the offer of \$1 for the purchase of the property located at 7962 Highway #7, Musquodoboit Harbour;**
- 2. Approve early occupancy by the group in advance of the closing date of sale effective the date the Occupancy Permit is issued and subject to proof of applicable insurance coverage; further, that any Agreement of Purchase and Sale include specific conditions, intended to reduce certain risks to HRM, be met by the end of June 2010. Such conditions would include but are not limited to:**

- a) **Environmental Assessment;**
- b) **Formal registration as a non-profit organization and submission of constitution and by-laws for same;**
- c) **Confirmation of the organization's financial capacity to cover the following immediate costs:**
 - building and liability insurance**
 - basic utilities ie. power, water, heat**
 - well and septic inspection**
 - building inspection**
 - permit fees as applicable**
 - cost of sale expenses (legal fees, survey, deed migration)**
 - confirmation of initial capital financing**

3. Agree that if the proponent is unable to meet the conditions as of June 30, 2010, then the matter would come back to the HRM Grants Committee for review; and

4. Set a date for a public hearing.

Ms. Temple confirmed that a minimum heat level would be kept on in the building but the lights would remain off.

Mr. Higdon asked who is responsible for paying the insurance. Staff advised that HRM is responsible at this time but upon early occupancy, the proponent would obtain their own insurance. This would be included in the Purchase and Sale Agreement.

During the ensuing discussion, it was noted that the environmental assessment will ensure protection for both the proponent and HRM. The Committee requested that staff clarify the impact of early occupancy.

MOTION PUT AND PASSED.