

**Item No. 11.1.12**  
**Halifax Regional Council**  
**December 10, 2013**

**TO:** Mayor Savage and Members of Halifax Regional Council

**SUBMITTED BY:** Original signed by   
Richard Butts, Chief Administrative Officer

Original Signed by   
Mike Labrecque, Deputy Chief Administrative Officer

**DATE:** Dec 2, 2013

**SUBJECT:** Moirs Mills Pond/Jacks Lake Land Transfer

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**ORIGIN**

On Sept 2, 1999, Regional Council authorized staff to exchange 85 acres of HRM lands at Burnside for 856 acres of Provincial Lands at Jacks Lake, with the Province retaining the right to 50 acres at Jacks Lake to be transferred back to the Province at a later date.

On June 9, 2006, The Province and Sobeys Leased Properties entered into an agreement to exchange the 50 acres of lands owing to the Province at Jacks Lake, for a 6.7 acre water lot at Moirs Mills Pond owned by Sobeys.

**LEGISLATIVE AUTHORITY**

Halifax Regional Municipality Charter, Chapter 39, Section 61, Powers of the Municipality Regarding Property.

**RECOMMENDATION**

It is recommended that Halifax Regional Council:

- 1) Convey 50 acres from the HRM lands known as Jacks Lake, PID 40857138 to ECL General Partner IV Limited, at the request of the Province of Nova Scotia, in fulfillment of the 1999 agreement and as generally identified in attachment 1 of this report; and
- 2) Accept the Sobeys Leased Properties Ltd transfer of the property PID 40628638, a water lot within the Moirs Mills Pond, Bedford, on the condition that the lands be only used for public purpose, in perpetuity, and that its transfer coincide with the Jacks Lake lands transfer.

## **BACKGROUND**

In 1999, HRM and the Province of Nova Scotia entered into an agreement which saw 856 acres of Provincial land at Jacks Lake in Bedford transferred to HRM, in exchange for lands in Burnside for the Central Nova Scotia Correctional Facility and East Coast Forensic Hospital. The Province, however, retained the right to 50 acres within the Jacks Lake parcel, whose exact boundaries were to be defined and subdivided from the larger parcel at a later date. The purpose of the transfer to HRM was to create a future regional municipal park.

In 2006, the Province of Nova Scotia and Sobeys Leased Properties Ltd. entered into an agreement to exchange the 50 acres of land, currently owed by HRM, to the Province at Jacks Lake for a pre-confederation water lot making up a portion of Moirs Mills Pond, also in Bedford. The water lot is owned by Sobeys Leased Properties, which had federal permits to fill it in to create lands for commercial development. HRM was not a party to that agreement although it was aware of it.

The Province and Sobeys wish to conclude their agreement before December 31, 2013. The Province wishes to do this through direct transfer of lands between HRM and Sobeys. The Sobeys' company which will receive the Jacks Lake Lands is ECL General Partner IV Limited. HRM will receive the water lot directly from Sobeys. The Province feels this is the simplest method to fulfill the 1999 and 2006 agreements. This does not change the nature of the transaction for HRM whereby it transfers the 50 acres owing, and it is being gifted the water lot to be used for public purposes in perpetuity.

### ***Jacks Lake Lands:***

In 1999, HRM acquired 856 acres of land from the Province of Nova Scotia at Jacks Lake in Bedford. The land was held, long term, by the Nova Scotia Department of Housing for future residential development. The Province was no longer intending to be involved in the residential development business and the lands had been selected by the Province as the preferred site for the new Central Nova Scotia Regional Correctional Centre and East Coast Forensic Hospital. Amid community opposition to the Correctional Centre siting, the Province approached the Municipality to acquire lands in Burnside in exchange for the Jacks Lake Lands. The Jacks Lake lands were intended to be combined with HRM's Sandy Lake lands, to form a regional municipal park. The arrangement was approved by Regional Council in 1999. As part of that agreement, the Province retained the right to 50 acres of the Jacks Lake Lands in the area close to Hammonds Plains Road. The exact boundaries of these 50 acres were to be mutually determined, agreed upon and subdivided at a later date. The 2006 HRM Regional Plan officially designated the Jacks Lake lands to become a Regional Park, but acknowledged that 50 acres are to be turned back to the Province for their purposes.

### ***Moirs Mills Pond:***

In 1972, Food City Ltd. (now Sobeys) was granted Moirs Pond. The company in-filled a portion of the water lot to create its present development on the site. In 2005, Sobeys were moving ahead with a proposed redevelopment of their lands located at the intersection of Hammonds Plains Road and the Bedford Highway. The plans included infilling and development of much of the remainder of their Moirs Pond water lot. The company held federal permits for the infilling of

the water body. Community interests in Bedford came forward calling for the preservation of Moirs Mills Pond. A general agreement was entered into between Sobeys and the Province for the preservation and transfer into public ownership of the Sobeys Moirs Pond water lot, in return for Sobeys acquiring the 50 acres the Province had retained at Jacks Lake. Discussions were held with HRM as to the terms of the agreement; however, HRM was not a signatory of the agreement, even though it required the Province and Sobeys to secure the agreement of HRM to accept ownership of the Moirs Mills Pond water lot, and provide municipal services to the edge of the 50 acres at Jacks Lake for residential development.

In working out the details of the exchange, after the agreement was signed, it became clear that without a municipal service boundary extension, upgrades to the Bedford Waste Water Treatment Plant by HRM and permission from NSTIR for an access road near the Hammonds Plains Road/Bi-Hi exit, the Jacks Lake lands had limited appeal for residential development. A servicing study by HRM indicated that there would be no servicing upgrades which would allow serviced development for a number of years. This is a similar situation faced by other private lands in the area. As for Moirs Mills Pond, the Province saw the municipality as being in a better position to hold and utilize the Moirs Mills water lot for urban public open space purposes.

With the passage of time, the road access issue at Jacks Lake has been sufficiently resolved with NSTIR through a traffic examination. Sobeys is willing to waive its requirement for municipal servicing as part of the agreement and hold the lands for future development. Both Sobeys and the Province do wish to ensure that the water lot property is only used for public purposes. The Provincial motivation is to ensure that the pond is protected as public space, which is the reason why it entered into the 2006 agreement with Sobeys. Sobeys wishes to ensure that no commercial use results from any sale and redevelopment of the water lot, which would negatively impact their adjacent development.

### **Planning Context**

#### ***Moirs Pond:***

On the Municipality's part, HRM and the Waterfront Development Corporation Ltd. conducted a master planning exercise for the Bedford Waterfront which included Moirs Mills Pond. The public preference falling from that exercise was to create a future park around Moirs Mills Pond in conjunction with future high density residential and commercial development on adjacent lands. That concept is in the Bedford Waterfront Master Plan, yet to be brought before Regional Council for consideration (See Attachment 2). Moirs Mills Pond consists of one other 1 acre privately owned water lot which has recently been partially infilled. Like the Sobeys Lot it is currently un-zoned. It is the intention of HRM to apply regulations through the Bedford Waterfront Planning Process.

#### ***Jacks Lake:***

The Jacks Lake lands are located just west of the Bicentennial Highway at Hammonds Plains Road. The lands are just outside the HRM Service Boundary for water and sewer services. The general area sits amongst Urban Settlement and Rural Commuter land uses; however, the lands themselves are a patch of Open Space and Natural Resource land use designation and zoned Regional Park (RPK), as the bulk of them are intended for a future Regional Municipal Park. The

HRM Regional Municipal Planning Strategy (Regional Plan) states:

HRM intends to create additional Regional Parks at various locations throughout HRM including the Western Common, Blue Mountain - Birch Cove Lakes, Feely Lake, Jacks Lake, Second Lake, and Porters Lake.

The Jacks Lake lands are under the ownership of HRM except for approximately 20 hectares (exact boundaries to be determined) in the ownership of the Province of Nova Scotia. HRM intends to carry out a study to determine the appropriate geographic boundaries of the Jacks Lake Park. Through the secondary planning process for the Sandy Lake Urban Settlement area, the remainder lands, including the lands owned by the Province, will be examined for re-designation to permit development as appropriate.

HRM staff has conducted an analysis of the Jacks Lake lands to determine where the 50 acres to be transferred back to the Province would best be located, in relation to future park development at Jacks Lake. These lands are generally indicated on Attachment 1, General Jacks Lake Lands. They are close to the transportation network and suitable to be considered for future development under a future secondary planning process to be directed by Council. The location of the 50 acres does not interfere with the future Regional Park.

## **DISCUSSION**

While the history is complex with third party requirements, the situation has now resolved itself to a fairly simple proposition.

The Province and Sobeys are willing to complete the land exchange with far fewer conditions.

The primary obligations are:

- 1) HRM is to define and transfer the 50 acres at Jacks Lake to ECL as directed by the Province;
- 2) HRM is to accept the transfer of ownership of the Moirs Mills Pond water lot to HRM with a covenant that the water lot shall only be used for public purposes; and
- 3) HRM is to complete the transfers concurrently, as requested by the Province.

Sobeys and the Province are willing to provide assurance that acceptance of these conditions by HRM would fulfill the 1999 agreement between HRM and the Province for lands at Jacks Lake and the 2006 agreement between the Province and Sobeys.

At the request of the area Councillor, Sobeys has also stated that it is willing to allow existing level public trail activity on the 50 acres at Jacks Lake, to continue until such time as the lands are altered for development or HRM develops its adjacent park property.

The essential terms will be incorporated into an Agreement of Purchase and Sale of the Moirs Mill water lot. It is noted that the accepting of a covenant which attaches to the land in perpetuity means that HRM will not be able to sell the property except with the same restriction of its use unless both other parties to the covenant agree to release or change it.

**Table 1**

<b>KEY BUSINESS TERMS AND CONDITIONS OF TRANSACTION</b>	
<b>Property Address</b>	Moirs Mills Pond Water Lot - Bedford Highway
<b>PID #</b>	40628638
<b>Zoning</b>	Unzoned
<b>Vendor</b>	Sobeys Inc.
<b>Purchaser</b>	Halifax Regional Municipality
<b>Area to be Sold</b>	6.7 acres
<b>Market Value</b>	HRM has neither received nor carried out a valuation of this property.
<b>Purchase Price</b>	\$1.00
<b>Conditions</b>	HRM agrees that it will only use the property for public purposes in perpetuity.

**Table 2**

<b>KEY BUSINESS TERMS AND CONDITIONS OF TRANSACTION</b>	
<b>Property Address</b>	Jacks Lake Lands, Hammonds Plains Road, Bedford
<b>PID #</b>	Portion of PID 40857138
<b>Zoning</b>	RPK – Regional Park
<b>Vendor</b>	Halifax Regional Municipality
<b>Purchaser</b>	Sobeys Inc.
<b>Area to be Sold</b>	50 acres
<b>Market Value</b>	HRM has neither received nor carried out a valuation of this property.
<b>Purchase Price</b>	\$1.00
<b>Conditions</b>	<p>Sobeys agrees to permit current public use of the existing trails until such time as HRM develops alternatives trails as part of the future park development or Sobeys moves ahead with development.</p> <p>Sobeys will be responsible for carrying out and costs of the survey and subdivision of the 50 acre parcel.</p>

### **FINANCIAL IMPLICATIONS**

Sobeys will be responsible for their costs with respect to the conveyance. Furthermore Sobeys has agreed to prepare the survey and plan of sub-division for the Jacks Lake lands at their cost. HRM will be responsible for its costs with respect to the conveyance. These are anticipated to be under \$1500 to be withdrawn from W700 6399.

There is no requirement or commitment for HRM to provide a public park or other facility on the Moirs Pond water lot. Therefore, there are no costs associated with holding the property outside of the occasional clean-up of litter along the pond slopes.

If HRM determines to move forward with ideas to create a public park (see Attachment 2) through partial infilling of the pond sometime in the future, it would be through the normal budget processes of Council or possibly through development agreements for redevelopment of adjacent lands. Both of those processes require the approval of Council for any expenditure of funds and assignment of operational budgets.

### **COMMUNITY ENGAGEMENT**

Moirs Pond was identified by the community, through the area Councilor and the Bedford Waterfront Plan community consultation, as being an area for preservation to retain the view and to create a future waterside park.

### **ENVIRONMENTAL IMPLICATIONS**

In Nova Scotia all environmental issues regarding lands are the responsibility of the land owner under the Environment Act. Staff have been advised that harbour water lots may not be currently regulated by the Province.

The Jacks Lake lands are raw lands with no known environmental concerns. The Moirs Pond water lot is a former industrial site having been the location for wooden box production for the Moirs Chocolate Company. It also may contain some remnant wharf structures with some historical interest. In securing permits in 2005 for infilling, Sobeys conducted the necessary environmental screening. That study has been provided to HRM for review. It indicates the water quality to be reasonably good, although the CN rail causeway limits tidal flushing of the pond. Papermill Lake and Run do supply it with a source of freshwater. It was also found that the Pond's bottom held industrial deposits, including heavy metals and organic material which were best left undisturbed. Any dredging would re-suspend sediment containments which would require containment and any disposal of dredgings would likely be costly. Proper precautions would also have to be put in place for infilling. Sobeys was granted permits to infill over the bottom. The environmental screening provided to HRM is for information purposes only. HRM has no legal recourse with the authors of the study as it was conducted for Sobeys and not HRM. Additionally, HRM has no recourse with Sobeys once the land has been transferred. HRM has not conducted its own environmental assessment but has only reviewed the screening document.

More recently, salmon have been seen moving through the pond and up the Paper Mill Run to Paper Mill Lake, which is a positive sign of better environmental health. HRM would be required to accept the water lot on a where is/as is basis and would be responsible for mitigation if it wished to disturb the bottom.

**ALTERNATIVES**

HRM Regional Council may choose not to accept the Moirs Pond water lot, which would result in a requirement for Sobeys and the Province to come to other terms or Sobeys to proceed with the infilling and expansion of their commercial properties. HRM is still obligated to transfer the 50 acres of lands at Jacks Lake to the Province in accordance with the 1999 agreement.

**ATTACHMENTS**

- Attachment 1 – General Jacks Lake Map
  - Attachment 2 – Bedford
  - Attachment 3- Moirs Mills Pond
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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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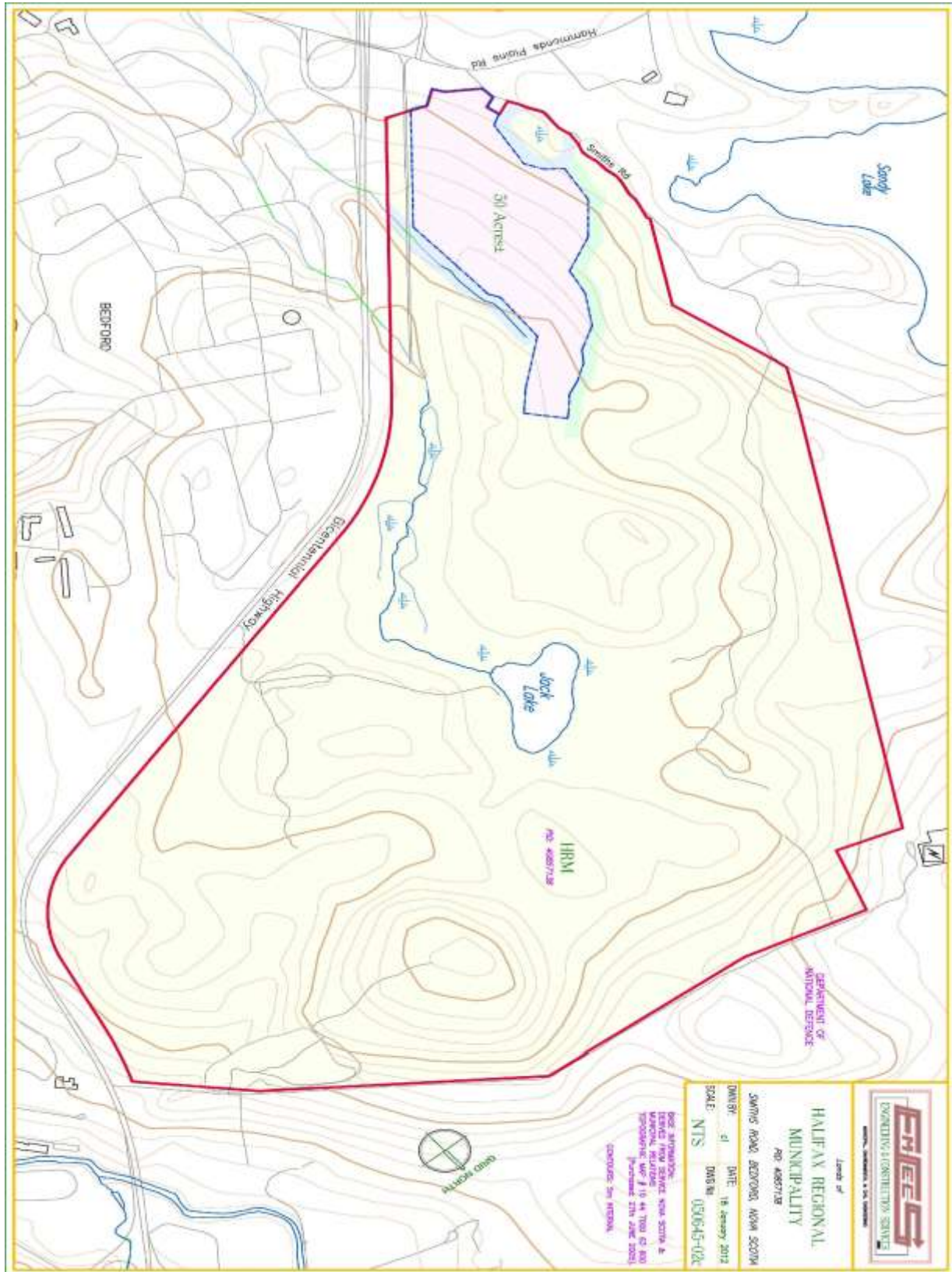
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Attachment 1 General Jacks Lake Lands





Attachment 2 Bedford Waterfront Plan



