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Item No. 3
Halifax Regional Council
April 15, 2014

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by Director

SUBMITTED BY:

Jane Fraser, Director of Planning and Infrastructure

Original Signed by Director

John Traves, Q.C., Director, Legal Services

DATE: March 12, 2014

SUBJECT: Award – Settlement of MacLennan Drive Expropriations

INFORMATION REPORT

ORIGIN

With the approval of the Regional Municipal Planning Strategy in 2006, a Transportation Reserve Zone was established for MacLennan Drive in Middle Sackville. At its meeting of May 5-6, 2009 (item 13.3), Halifax Regional Council authorized the acquisition of properties needed for the MacLennan Drive corridor through the Expropriation Act and authorized funds totaling \$403,000, the appraised fair market value for those lands.

LEGISLATIVE AUTHORITY

Section 61(5)(a) of the HRM Charter states that the Municipality may acquire property, including property outside the Municipality, that the Municipality requires for its purposes or for the use of the public. Section 35(2)(d)(i) states the CAO may make or authorize expenditures, and enter into contracts on behalf of the Municipality, and may delegate this authority to employees of the Municipality.

BACKGROUND

At its meeting of September 13, 2005, Halifax Regional Council endorsed the creation of three road corridors in the Lucasville-Middle Sackville-Beaver Bank area, one of which is now referred to as MacLennan Drive. A Transportation Reserve Zone was established for the corridor in the 2006 Regional Municipal Planning Strategy. Four property owners requested their lands within the Transportation Reserve Zone be purchased and they were offered assessed market value. That offer was refused and in 2009 HRM proceeded to expropriate the lands. At its meeting of May 5-6, 2009 (item 13.3), Halifax Regional Council authorized the acquisition of properties needed for the MacLennan Drive corridor through the Expropriation Act and authorized funds totaling \$403,000, the appraised fair market value for those lands. The four property owners then filed a claim for additional costs including injurious affection under the *Expropriation Act*.

That claim was heard by the Nova Scotia Utility and Review Board (NSURB) in February 2013. On January 20, 2014, the NSURB issued a decision regarding the claim for compensation from four claimants in relation to the expropriation of lands for MacLennan Drive. The NSURB determined that injurious affection was payable to the landowners in the amount of \$868,000, plus interest, along with the legal fees they incurred totalling \$144,513.68, and disbursements for retention of experts totalling \$121,928.10.

DISCUSSION

Staff gave careful review to the NSURB decision and found no grounds for appeal. The claim for legal expenses was also reviewed and determined to be appropriate.

A judgement by NSURB to award money is not a discretionary expense and was therefore approved by the Chief Administrative Officer on March 5, 2014. Full payment of \$1,396,634.57 (net HST included) has now been made from Project No. CTU00897 – Road Corridor Land Acquisition.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this information report.

COMMUNITY ENGAGEMENT

There was no community engagement associated with this information report.

ATTACHMENTS

There are no attachments to this report.

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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Business Unit Review: _____
for Austin French, Manager, Planning, 490-6717
