



P.O. Box 1749  
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**Item No. 8.1**

**Halifax Regional Council**

**March 10, 2015**

**April 14, 2015**

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

Original signed by

**SUBMITTED BY:**

Richard Butts, Chief Administrative Officer

Original Signed by

Mike Labrecque, Deputy Chief Administrative Officer

**DATE:** February 2, 2014

**SUBJECT:** Porters Lake Canal, Highway 207, Seaforth/Three Fathom Harbour

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**ORIGIN**

Item 11.3.5, November 18, 2014: Regional Council approved a motion for municipal staff to provide a report pertaining to the ownership options for the Porters Lake Canal.

**LEGISLATIVE AUTHORITY**

Section 61(5)(a) of the Halifax Regional Municipality Charter; the Municipality may acquire property that it requires for its purposes or for the use of the public.

**RECOMMENDATION**

It is recommended that Halifax Regional Council not seek to acquire the Porters Lake Canal parcels.

## **BACKGROUND**

The Government of Canada acquired land and commenced construction of the Porters Lake Canal, circa 1911, to provide a route from Porters Lake to the ocean for the transportation of local lumber and quarried materials from Porters Lake to ships in Three Fathom Harbour (see Attachment 1 – Map). The canal bypasses the natural outlet of Porters Lake, ‘Rocky Run’, the mouth of which was reported to silt-up and form gravel bars after major storm events, and remains a section of fast-running water. Construction of the canal was halted in 1914 with the outbreak of the First World War, and was never fully completed, nor operated for its intended purpose. The construction of the Eastern Shore Railway and Highway 207 also contributed to rendering the canal obsolete. The Department of Fisheries and Oceans (DFO), on behalf of the Federal Government, owned the three canal parcels until DFO deemed the properties surplus to their requirements.

When a federally-owned property is determined to be surplus to federal purposes, a process of disposal is led by Public Works and Government Services Canada (PWGSC) on behalf of its client department (i.e., the designated federal property owner), in this case, the Department of Fisheries and Oceans. This process is known as the ‘Priority Circulation Procedure’. In addition to consulting with First Nations, the procedure requires PWGSC to make enquiries of other federal departments and agencies before seeking potential interest from the Province of Nova Scotia, and finally the Municipality. Barring any government interest, the property is then marketed on the open market. Should a government body express interest in a federal surplus property, a process of negotiation is then undertaken; property values may be discounted under condition the property continues to be used for public purpose.

The following is a summary of the Priority Circulation Procedure with respect to the subject property, between municipal staff and Public Works and Government Services Canada (PWGSC):

- 2010/11: Public Works and Government Services Canada (PWGSC) sent notice to the Halifax Regional Municipality (HRM), seeking municipal interest in potential acquisition of the subject property;
- June 2012: municipal staff meet with staff from PWGSC to discuss and review available information on the subject property;
- December 2012: municipal staff agree to re-visit discussions with respect to Porters Lake Canal, and the federal government’s market listing is postponed over the winter months so that municipal staff could complete a needs assessment, in order to determine if the property is required for municipal purposes;
- May 2014: municipal staff determine that the Porters Lake Canal corridor is not required for municipal purposes;
- August 2014: the subject property is listed on MLS by a real estate agency on behalf of PWGSC, with a market listing price of \$125,000;
- November 2014: the market listing expires; Regional Council request municipal staff for a report on ownership options;
- January 2015: PWGSC revisits their Priority Circulation Process (surplus property disposal process) as it relates to the canal property.

## **DISCUSSION**

The Canal occupies land that is approximately 750 metres long by 36 metres wide (42m at its widest), and joins Porters Lake to Three Fathom Harbour. The lands are made up of three parcels (see Attachment 2 – Site Plan):

- PID 40784985 - a 4.02 acre property between Porters Lake and the Trans Canada Trail;
- PID 41359704 - a 0.75 acre property between the Trans Canada Trail and Highway 207; and,
- PID 41359712 - a 1.7 acre property between Highway 207 and Three Fathom Harbour.

The November 18, 2014 Council motion requested a staff report pertaining to the ownership options for the Porters Lake Canal<sup>1</sup>.

### **Current Condition**

Sedimentation of the canal has been on-going for over 100 years, since its completion. As a result, the canal has become narrow and shallow (see Attachment 3 – Photographs<sup>2</sup>). While rocks litter the canal floor, its edges are inundated with vegetation and trees.

The canal is influenced by the ocean's tides, and thus, does not freeze. It is passable by small watercraft such as canoes, kayaks, and other narrow boats with a shallow draft. At low tide, it is presumably navigable from Three Fathom Harbour to approximately three quarters of the way up the canal toward Porters Lake, depending on tide height and a boat's draft, as reported by Canoe Kayak Nova Scotia's Director of Environment after paddling the canal in November 2014. Furthermore, the wooden bridge that supports Highway 207 is narrow and low (see Attachment 3 – photograph No. 4); boaters should be prepared to portage or turn-back when conditions warrant.

### **Review of Property**

Municipal staff from recreation, trails, heritage planning, parks, and real estate reviewed the canal properties in 2012/13, at the request of PWGSC, as part of the federal Priority Circulation Procedure. The following considerations were explored in order to determine any municipal need for the site:

- Historic and Cultural Interpretation and Protection
- Park and Open Space
- Community Connections and Trails
- Water Access for Swimming and Boating

Municipal staff also considered existing public access to parks, open spaces, and water access in the vicinity, based on the municipality's acquisition of the Seaforth Beach in 2012, which is approximately 3km eastward from the canal, along the Atlantic View Active Transportation Greenway. As well, Lawrencetown Beach Provincial Park is approximately 5km to the west of the canal.

Given the canal parcels' physical constraints, limited access and utility (from Highway 207), sparsely-populated surrounding communities, existing beaches, existing open space opportunities, public investment that would be required to secure, improve, and maintain the property, increased risk assumed by the municipality, as well as the opportunity cost of selecting this acquisition as a priority over other prioritized acquisitions, it was deemed that this acquisition opportunity was not warranted.

Furthermore, the municipality's participation ought to be rationalized against the fact that there is currently no budget allocated for this matter. As well, such acquisition would be made in absence of a broad-scope municipal plan for open space distribution and financial allocation, which is now being developed.

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<sup>1</sup> As well, letters requesting public retention of the canal were received by the municipality.

<sup>2</sup> Photographs appearing in Attachment 3 are complements of Mr. Dusan Soudek, Director of Environment, Canoe Kayak Nova Scotia.

In order to help Regional Council determine an economically and environmentally sustainable strategy for the equitable maintenance and distribution of parks and open spaces throughout the municipality, a “Greenbelting and Public Open Space Priorities Plan” is now being prepared. High level policy objectives are anticipated to be before Regional Council by 2016. One outcome of this plan is to provide Regional Council with recommendations regarding municipal open space acquisitions. Until such Greenbelting and Public Open Space Priorities Plan is approved by Regional Council—and barring any interim deliberation by Regional Council about the merits of individual, un-prioritized park and open space acquisitions—it would be premature to recommend such acquisition relative to those already approved or anticipated through approved master plans. Furthermore, the financial impact of such unbudgeted acquisition, capital improvement, and on-going maintenance would set-up an opportunity-cost scenario, potentially preventing or postponing land acquisition and improvement already approved as priorities.

### **Ownership Options**

1. Federal: on-going federal ownership is unlikely, given that Public Works & Government Services Canada is attempting to dispose of the canal properties, and has been working on their disposal for several years;
2. Provincial: the Province of Nova Scotia (PNS) declined the federal offer to acquire the subject parcels in 2010/11. PNS currently owns Highway 207 (and its bridge), which crosses the canal. The Provincial Department of Natural Resources (DNR) owns the Atlantic View Active Transportation Greenway, whereas Halifax contributes funds toward the AT’s capital and operating maintenance via partnership agreement with the Atlantic View Trail Association;
3. Municipal: municipal staff recommend the canal parcels are not required for municipal requirements, thus acquisition of canal parcels is also, hereby, not recommended;
4. Agency/Non-Profit: a public agency (e.g., such as Shubenacadie Canal Commission) or a non-profit organization may seek to acquire the canal property, but such organizations’ terms of reference or other legal documentation, which incorporate or authorize their scope, would have to be amended;
5. Private: the canal parcels had been advertised for sale in the fall of 2014, but at the end of November, the listing had expired, and PWGSC did not renew the listing. If another level of government or agency does not acquire the parcels, PWGSC may re-list the parcels with a real estate agency.

### **FINANCIAL IMPLICATIONS**

There are no immediate financial implications associated with the recommendation of this report. Obtaining ownership of these lands, however, would require Regional Council approval in order to engage PWGSC in negotiation over the parcels’ acquisition cost. In addition to the original cost of purchase, commitments to develop and maintain the properties would require an increase to the Capital Budget (e.g., initial development, trail/trailhead/destination node development, canal dredging, portage improvements, future recapitalization of assets/structures) and Operating Budgets (e.g., annual grounds, trails and sign maintenance, plus any potential programming costs.)

If Regional Council were to approve acquisition, a thorough analysis would need to be undertaken by municipal staff, resulting in a subsequent report recommending specific cost implications and appropriate funding sources. In particular, an assessment would be needed to discern the impact of committing funds to this parcel of land in the absence of a Greenbelting and Public Open Space Priorities Plan and priority criteria.

### **COMMUNITY ENGAGEMENT**

Not applicable.

## **ENVIRONMENTAL IMPLICATIONS**

There are no negative environmental implications to not acquiring the parcels. If the canal property were to be acquired, then the municipality would have to undertake a due diligence assessment for any potential contaminants of the property associated with its construction. As well, potential improvements to the canal, such as vegetation removal from its banks or in-stream work (e.g., dredging), may have restrictions related to riparian buffers or aquatic habitat, depending on the type of improvement planned.

## **ALTERNATIVES**

1. Regional Council may choose to seek acquisition of the canal parcels and leave the property as-is, thereby accepting additional risk of unimproved open space, assuming on-going public use;
2. Regional Council may seek acquisition of the canal for potential infrastructure improvements. This alternative also assumes that additional capital and operating costs may be expected, and which are listed, but not costed, in the Financial Implications section of this report.

## **ATTACHMENTS**

Attachment 1 – Map  
Attachment 2 – Site Plan  
Attachment 3 – Photographs

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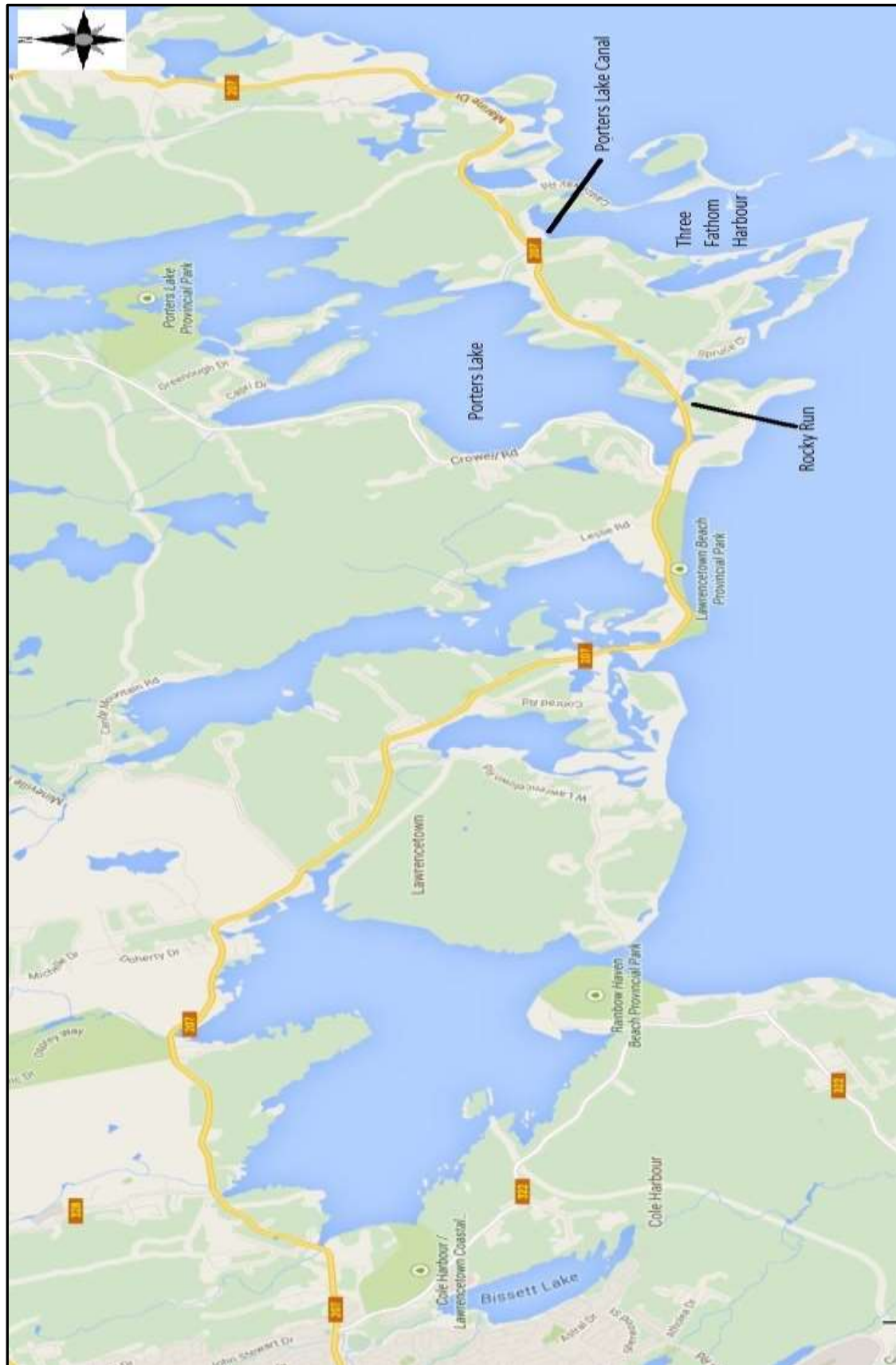
A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

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## Attachment 1 – MAP

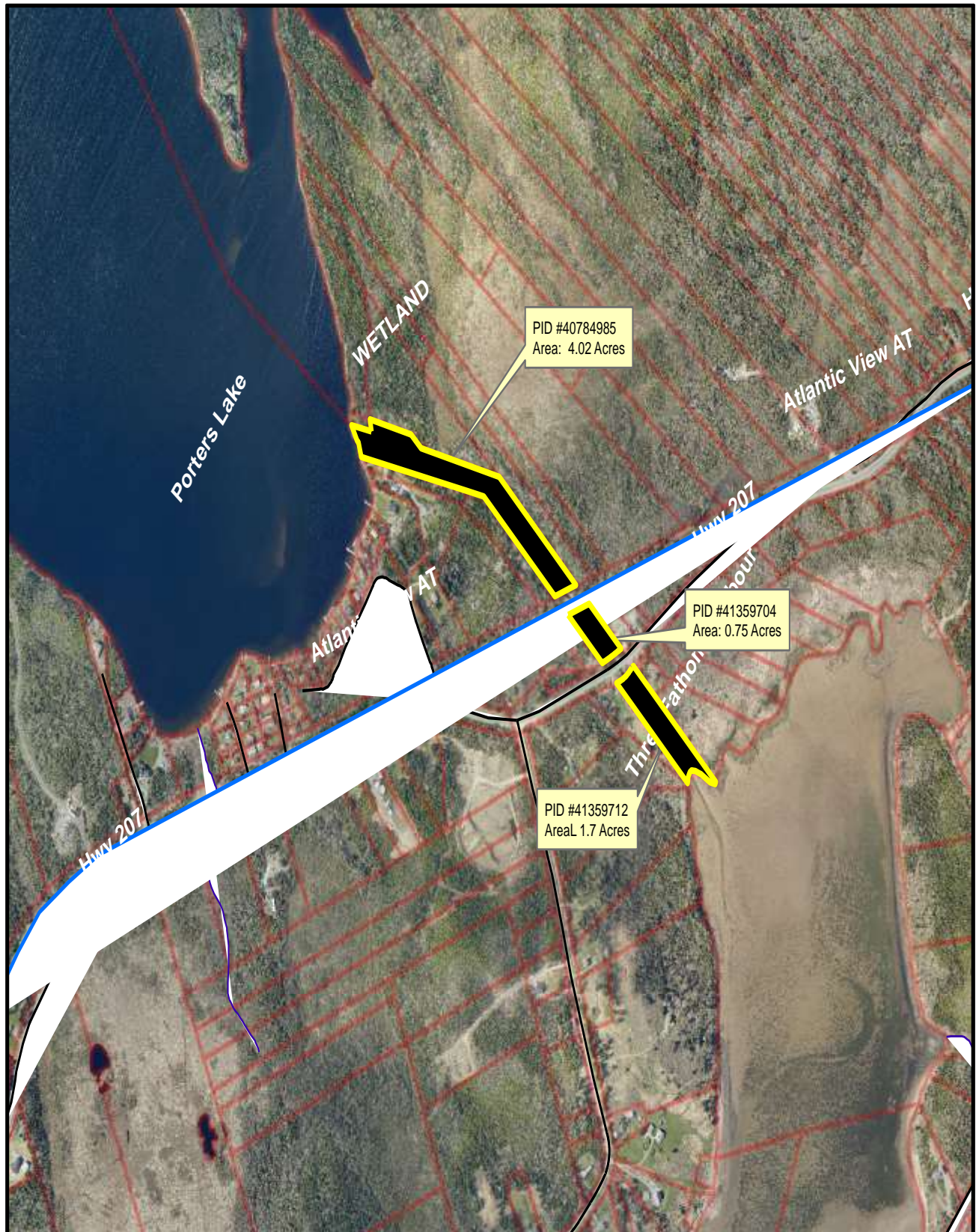
### REGIONAL COUNCIL REPORT – Porters Lake Canal





## Attachment 2 – Site Plan

### REGIONAL COUNCIL REPORT – Porters Lake Canal





## Attachment 3 - Photographs REGIONAL COUNCIL REPORT – Porters Lake Canal



1 Canal Sign



5 Canal between Hwy 207 & AT



2 Canal from Three Fathom Harbour



6 Bridge - Atlantic View AT at High Tide



3 Bridge - Highway 207 at High Tide



7 Upper Canal at High Tide



4 Bridge - Highway 207 at Low Tide



8 Canal Mouth at Porters Lake & Private Dock (Background)