


HALIFAX

P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 11.1.8
Halifax Regional Council
April 28, 2015

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: April 15, 2015

SUBJECT: Property Matter – 220 Lake Loon Road

SUPPLEMENTARY REPORT

ORIGIN

December 9, 2014 Motion of Regional Council:

MOVED by Deputy Mayor Nicoll, seconded by Councillor Hendsbee that Halifax Regional Council defer Recommendations 1 and 2 of the staff report dated November 17, 2014, and direct staff to:

1. Review the findings of the facility condition assessment with the Lake Loon Cherry Brook Development Association and the provincial government;
2. Undertake community consultation related to the proposed parkland project at 220 Lake Loon Road and potential future use of the lands at 266 Cherry Brook Road; and
3. Report the findings of the consultations to Regional Council by March 2015.

MOTION TO DEFER PUT AND PASSED

LEGISLATIVE AUTHORITY

The Municipality's powers with regard to the sale of the property at issue are set out in the *Halifax Regional Municipality Charter* at:

Section 61 (5)(b)

- 61 (5)** The Municipality may
(b) sell property at market value when the property is no longer required for the purposes of the Municipality;

Section 63

Sale or lease of municipal property

- 63 (1)** The Municipality may sell or lease property at a price less than market value to a non-profit organization that the Council considers to be carrying on an activity that is beneficial to the Municipality.
- (2)** A resolution to sell or lease property referred to in subsection (1) at less than market value shall be passed by at least a two thirds majority of the Council present and voting.

(3) Where the Council proposes to sell property referred to in subsection (1) valued at more than ten thousand dollars at less than market value, the Council shall first hold a public hearing respecting the sale.

(4) The Council shall advertise the public hearing at least twice, in a newspaper circulating in the Municipality, the first notice to appear at least fourteen days before the hearing.

(5) The notice of the public hearing shall include the date, time and place of the hearing, the location of the real property or a description of the tangible personal property, the estimated value of the property and the purpose of the sale. 2008, c. 39, s. 63

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Declare the property located at 220 Lake Loon Road, Cherry Brook (PID# 00624486 as shown on Attachment 1) surplus to municipal purposes and categorize the property as Community Interest for the purposes of Administrative Order 50, Respecting the Disposal of Surplus Real Property; and
2. Declare a portion of the property located at 266 Cherry Brook Road (PID#00624155 as shown on Attachment 1) surplus to municipal purposes and categorize the property as Community Interest for the purposes of Administrative Order 50, Respecting the Disposal of Surplus Real Property, if required to be subdivided for support services.

BACKGROUND

The Lake Loon Cherry Brook Community is the oldest African Nova Scotian community in the Preston area, dating back to the 1700's. The former Cherry Brook Community Centre is located at 220 Lake Loon Road. The Community Centre previously housed the Lake Loon School, which was a segregated school until 1964. In the mid 1960's, the Halifax County School Board began to regulate all schools including those previously segregated. In 1968, the Halifax County School Board relocated the students from Lake Loon School. The building was then converted to a community centre upon closure of the school. The building has not been in use since approximately 1990 and records indicate that the power to the building was disconnected in 2004. Due to the condition of the building, repair and recapitalization was not deemed to be an option. As a result, a tender was issued for the demolition of the building in 2009. However, the local Councillor requested that consultation with the community be completed prior to the demolition. The demolition was not completed and further discussions were initiated with the Lake Loon Cherry Brook Development Association (LLCBDA).

As a result, from approximately 2009 through to 2014, community consultations were primarily coordinated with representatives of the LLCBDA. Primary discussion related to the state of the former community centre and focused on the ownership of the building and whether it could be repaired. There was an indication that the Association may be interested in submitting a proposal to repair the building depending on its assessed condition and ownership status.

HRM completed a Facility Condition Assessment (FCA) of the building in May 2014. On December 9, 2014, staff presented a report to Regional Council outlining the findings of the FCA and recommended that the building be removed and the property be developed into a passive park that commemorates the historical value and community building aspects of the site.

Regional Council deferred decision on the site and removal of the building, and directed staff to share the findings of the facility condition assessment with the community association and provincial government, as well as complete additional community consultation to the proposed parkland project at 220 Lake Loon Road and potential future use of the lands at 266 Cherry Brook Road prior to returning to Regional Council in March with the findings.

DISCUSSION

Pursuant to Regional Council's direction, there were two primary actions to be undertaken by staff, namely the presentation of the FCA and community consultation.

Review of Facility Condition Assessment

Since the December Regional Council meeting, three additional meetings have been held with representatives of the LLCBDA, the local provincial member of the legislative assembly (MLA), and the local councillor. Prior to the first meeting, representatives were provided with copies of the FCA on the building.

Further to Regional Council's direction, the FCA was formally presented to the group by HRM staff and a representative of Capital Management Engineering Limited, the company that completed the assessment. That presentation provided an opportunity to expand on certain aspects of the assessment and answer questions related to the details in the assessment. The presentation also emphasized the poor state of the building and why there should be no unauthorized, unsupervised entry into the building.

Community Consultation

Regional Council directed that staff complete community consultations regarding a future parkland project at 220 Lake Loon Road. Subsequent to Regional Council's December direction, the LLCBDA engaged legal counsel and formally disputed HRM's ownership of 220 Lake Loon Road. The LLCBDA's position is that the building and property are owned by the community and that the building needed to be retained. As a result, both parties agreed that community consultation as directed by Regional Council on a parkland project would not be productive without resolution of the legal matter regarding the land ownership. Therefore, community consultation has not been completed beyond HRM's discussions with LLCBDA.

HRM Real Estate and Legal staff have confirmed HRM ownership of the property based on the 1950 Crown Grant.

Potential Disposal of 220 Lake Loon Road

Discussions between HRM Legal Services and the LLCBDA legal counsel have resulted in consideration of the disposal of 220 Lake Loon Road through a below market sale to a not for profit community group.

According to civic address data, there are approximately 475 households in the Cherry Brook and Lake Loon area, which would translate to a population of around 1200 people. As outlined in the report presented to Regional Council in December 2014, there is no municipal requirement for a community centre at this location. The East Preston Community Centre, North Preston Community Centre and Cole Harbour Place are located 6.7km, 7.9km and 3.6km, respectively from this site. Further, the Black Cultural Centre is located 1.8 km away and is able to be used for community events. As well, in 2001, HRM supported the enhancement of the Graham Creighton Junior High School which is within 1.6km of the site. HRM has also recently invested in enhancing the gymnasium at Cole Harbour District High School (3.6 km away) to enable community access to the gymnasium and cafetorium. Therefore, the building located at 220 Lake Loon Road is not required for municipal recreation services.

The property does have cultural and historical value that should be retained. However, retention of that historical value could be achieved through consideration of a transfer of the property to a not for profit community group in accordance with Administrative Order 50 (AO50), attached.

In addition, while the property was intended to be used for a trail connection, there are other HRM owned properties in the area that could meet that need. As a result, the property is also not required for strategic parkland needs. Provided confirmation that preservation of the historical value of the property is able to be achieved through the disposal process, it is recommended that Regional Council declare the property as surplus to municipal needs and initiate the community interest process.

Adjacent Lands

In 2009, HRM purchased 266 Cherry Brook Road, adjacent to and surrounding 220 Lake Loon Road. The property was purchased for potential future municipal use including onsite services, parkland and parking. Currently, there are no defined plans for the future use of this property. In order to meet current regulations for the operation of a building on 220 Lake Loon Road, a septic field and parking is required. There is insufficient space to accommodate these uses on 220 Lake Loon Road. Therefore, it is recommended that a portion of the parcel at 266 Cherry Brook Road be subdivided and consolidated with 220 Lake Loon Road to accommodate these requirements. The general configuration of the portion of the lands required to accommodate the parking and septic field is shown in Attachment 1. Through the AO50 process, staff would be required to confirm the configuration of the parcel required and complete a subdivision and consolidation process.

Administrative Order 50

Through the community interest category outlined in AO50 (Section 2 (2) b), not for profit community groups are provided an opportunity to obtain properties that are no longer required for municipal purposes. Since the subject property has been determined to not be required for municipal services, there would be no requirement of consideration of alternate service delivery on behalf of HRM. Rather, the community group becomes the owner of the facility and is not bound by expectations to operate within any municipal mandated service provision. In addition, ownership leverages a group's ability to secure independent financing and/or eligibility to apply for corporate, philanthropic or government grants.

Through the AO50 process, any not for profit community group would be able to submit a proposal for the purchase of the property at 220 Lake Loon Road. Should Regional Council consider a proposal that is below the market value of the property, Section 63 of the *HRM Charter* outlines the conditions and steps required for a below market sale. Specifically, Regional Council can only consider the sale of a property to a non-profit entity at a below market value. Prior to the sale, Regional Council must hold a public hearing respecting the sale. The public hearing would provide an opportunity for community input regarding the potential sale of the property to a non-profit organization. The decision to proceed with a below market sale must be approved by a two-thirds majority of Council.

While there is strong interest in the property by the LLCBDA, AO50 (Section 4 (1) e) requires that properties being considered for disposal under the community interest category be advertised for sale to any not for profit community group. Therefore, the property cannot be directly sold to the LLCBDA. All non-profit organizations must be provided the opportunity to consider the property and the above noted process carried out, pursuant to AO50.

Safety and Security

The current state of the building is such that safety concerns have been raised. The building is currently boarded and is not useable. HRM has assessed the building under the Dangerous and Unightly Premises By-law as the result of a complaint. This assessment determined that "The current state of the building makes it non-occupiable..." and further recommended demolition of the structure to ensure public safety. This assessment was consistent with the findings of the Facility Condition Assessment. Therefore, should Regional Council choose to direct staff to initiate the AO50 process to dispose of the building, the new owner would need to ensure safety on the site is continually maintained and that proper building condition is achieved over time. This requirement to maintain the site in a safe condition, as well as an appropriate timeline for completion of building work, would need to be included in any agreement of purchase and sale in order to mitigate the safety concerns.

The proposed conditions of sale would include a Buy-Back Agreement giving the Municipality the option to re-acquire the property in the event that the property was not used for the purposes outlined in the proposal or was being considered for conveyance to a third party. This supplementary agreement does not oblige HRM to acquire title to the property but does ensure that a formal decision of Regional Council would be sought in the event of dissolution, or if a change in ownership/intended use were proposed.

In addition to safety concerns related to the building structure, there are additional concerns related to its close proximity to a playground structure. With the disposal of the property, HRM may be requested to

relocate the playground structure to HRM owned lands. The LLCBDA has requested that HRM relocate the playground to the adjacent HRM parcel at 266 Cherry Brook Road for improved use by the community. The playground was reportedly installed on a skid which will allow it to be moved. Through the disposal process, staff would determine an appropriate plan that outlines a specific location, access, necessary funding and timeline for the relocation of the playground structure, if required.

Conclusion

The current state of the vacant building at 220 Lake Loon Road creates significant safety concerns for the community and potential liability for HRM. The facility condition assessment shows that there are several significant issues with the building and which would require significant cost to repair. Further, with multiple community and recreation facilities within close proximity of this property, there is no requirement for a recreation facility at the site. However, discussions with the LLCBDA indicate there is significant community value and interest in retaining and restoring the building. Therefore, it is recommended that the vacant building and subject property be declared surplus to municipal purposes and categorized as Community Interest for the purposes of Administrative Order 50, Respecting the Disposal of Surplus Real Property.

FINANCIAL IMPLICATIONS

Disposal of a property through the community interest stream allows for the consideration of a below market sale. In the event of a discounted sale price of \$1.00, HRM's potential revenue would be reduced by \$64,300 (2015 commercial exempt assessed value) and reduction of deed transfer tax revenue of \$964.50 for a combined in-kind contribution of \$65,264.50. However, a sale will create future annual property tax revenue where previously there were none and relieve HRM of any immediate liability costs and future re-capitalization, investment and ongoing annual maintenance.

Further, the transfer of a portion of 266 Cherry Brook Road would further decrease in HRM's potential revenue. Based on the assessed value of 266 Cherry Brook Road, disposal of a portion of that parcel would result further in-kind contribution of \$37,100 and reduction of deed transfer tax revenue of \$556.50.

COMMUNITY ENGAGEMENT

To date consultation has only taken place through the LLCBDA. Further community engagement will be carried out in accordance with the requirements of AO50.

ENVIRONMENTAL IMPLICATIONS

The Facility Condition Assessment outlined various hazardous materials in the building. Any repairs to demolition of the building will require properly handling of any identified hazardous materials according to environmental regulations.

ALTERNATIVES

Alternative 1: Regional Council could direct staff to initiate the process to remove the vacant building at 220 Lake Loon Road, Cherry Brook, to achieve necessary safety at the site and retain the land and the property into a park that commemorates the historical and community gathering aspects.

Alternative 2: Regional Council could direct staff to retain and recapitalize the building and lease the building to the community for use. Since there is no municipal requirement for the building, there is no case to be made for HRM to expend taxpayer funding to repair it. In this scenario, ongoing costs that would be required to operate the facility would be the responsibility of the group leasing the facility; however, there would be risk to HRM for potential requirement or expectation of funding for the ongoing operation of the building. This alternative is not recommended.

Alternative 3: Regional Council could direct staff to remove the building and refer both properties (220 Lake Loon Road and 266 Cherry Brook Road) for consideration of disposal in accordance with Administrative Order 50. This alternative is not recommended for the reasons provided within this report.

ATTACHMENTS

Attachment 1: Map of 220 Lake Loon Road, PID# 00624486, and 266 Cherry Brook Road, PID#00624155

Attachment 2: Administrative Order Number 50 Respecting the Disposal of Surplus Real Property

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> 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: Denise Schofield, Manager, Program Support Services, 490-6252



HRM Owned Parcels
PIDs 00624155, 00624486



PID 00624155
Owner: HRM

PID 00624486
Owner: HRM

Approximate area for
parking and septic field

Cherry
Brook
Park

0 25 50 m
Aerial Photography Date: May 2014
HALIFAX

ATTACHMENT 2
ADMINISTRATIVE ORDER NUMBER 50
RESPECTING THE DISPOSAL OF SURPLUS REAL PROPERTY

Be it resolved as an Administrative Order of the Council of the Halifax Regional Municipality as follows:

SHORT TITLE

1. The Administrative Order may be cited as Administrative Order Number 50, the Disposal of Surplus Real Property Administrative Order.

INTERPRETATION

1A In this Administrative Order,

(a) “government” means the Government of Canada, Government of the Province of Nova Scotia, a corporation that is an agent of Her Majesty in Right of Canada or the Province, and a municipal unit; and

(b) “municipal unit” means a regional municipality, town or county or district municipality as set out in the *Municipal Government Act*.

POLICY STATEMENT AND CATEGORIZATION

2. (1) The Municipality can acquire and sell real estate within its legislative provisions. Real estate holdings can be a “corporate” asset necessary for municipal functions and purposes of the business units or may be held for particular use of inhabitants of HRM for example, parks and institutional uses. Corporate assets are subject to corporate review by the Asset Owner Business Unit for continuing requirement. Where the business units of HRM have determined that properties no longer serve an operational requirement of the corporation or otherwise appear to be surplus to the needs of the Municipality, then the policy of disposal to be followed in all cases, excepting municipal property which requires particular process through statute or common law or property available in the Municipal Business Parks, is as directed by this policy of Council.

(2) The Municipality will dispose of real property Council determines is no longer required for the purposes of the Municipality. Staff will identify surplus properties by the following categories:

Economic Development

(a) Strategic properties having Economic Development potential ought be sold to:

- (i) maximize use or value;
- (ii) achieve the attraction of targeted industries and employment or the regeneration of neighborhoods;

- (iii) to advance development opportunities; and
- (iv) to generate financial return to the Municipality.

Community Interest

(b) Properties known to have potential for community use, in particular where:

- (i) there has been a prior community or institutional use of the property; or
- (ii) by location or scarcity of available property the consideration would reasonably arise.

Ordinary Sale

(c) Properties of an:

- (i) ordinary or routine nature;
- (ii) which no longer have a municipal purpose.

Remnant

(d) Properties which are remaining or subdivided lands which:

- (i) by nature of their size or dimensions have limited or no reasonable use;
- (ii) but which may have utility for abutting property owners, and can be disposed under s. 64 of the Charter allowing Council to set a price that is less than market value.

Extraordinary

(e) Properties having an historic or legal distinction which include conditions or extraordinary process with respect to their preservation or disposal including but not limited to:

- (i) the Halifax Commons;
- (ii) the Dartmouth Commons;
- (iii) streets;
- (iv) any municipal properties, including parks, which are held in trust, or upon condition, or with reserving interests, or like constraints;
- (v) and parkland acquired through subdivision process.

Intergovernmental Transfer

(f) Properties requested by another level of government which:

- (i) will be used for a public purpose; and
- (ii) sold for market value.

PROPERTY REVIEW AND DECLARATION OF SURPLUS

3. (1) Real Estate and Land Management staff will facilitate at least one annual review of the Municipality's real property inventory in order to identify potentially surplus properties.

(2) All Business Units will be solicited to identify any municipal requirements for those properties identified as potentially surplus.

(3) Upon completion of Business Unit reviews and identification of the operationally surplus property the Real Estate and Land Management Unit will categorize the nature of the inventory of the properties and list them by category.

(4) Local Councillor and Community Council will be informed of the inventory of the properties and the proposed categories by staff. Local Councillor will then have the opportunity to contact local community to discuss potential surplus properties to gauge interest in potential disposal methods for the properties with area residents. The result from these potential community consultations will then be included in the surplus property report that comes to Council.

(5) Real Estate and Land Management staff will prepare a Surplus Property Report at least one a year to Council which will attach lists of properties by category. The report will recommend that all lists of properties should be declared by Council to be surplus property, that each category be approved by Council, and that the disposal method recommended for each list under this policy be approved by Council.

(6) Council may approve the recommendations, may remove any property from any list, and may move any property from one list to another list, and may declare the lists, or any of them, surplus to the Municipality's requirements.

DISPOSAL METHODS

4. (1) Following Council approvals under Part 2, staff shall proceed to dispose of the properties as determined by category.

Ordinary Properties

- (a) These properties shall be placed on the market by Real Estate and Land Management. The sale of market properties may be achieved through:
 - (i) direct marketing by staff;
 - (ii) listing contracts with licensed real estate brokers;
 - (iii) public tenders; or
 - (iv) proposal call methods.
- (b) Determination of the achieving market value will be supported by appraisal or through the receipt of sufficient offers over an appropriate exposure period.
- (c) Approval of final conveyances shall be under delegated authority or by approval of Council as required.

Economic Development Properties

- (d) These properties viewed by Council to be strategic may be disposed through individually recommended processes contained in the Surplus Properties Report, and may include referral to a special committee or task force of HRM created for the purpose of overseeing the strategic use and disposal of a property.

Properties under this category are required by the Charter to be sold at market value and can include partnership models between private developers and non-profits and municipally defined public use or service delivery components.

Community Interest Properties

- (e) Properties with this potential will be advertised by staff, led by Grant Program Staff, with support of Community and Recreation Services, after being the subject of a public information meeting in the area of the property. After advertising the opportunity to submit proposals, non-profit organizations will have a minimum of 90 days and a maximum of 120 days to submit a written proposal for the use of the property. Submissions should set out:
 - (i) the name, composition and legal status of the group, its purpose and management structure, including office-bearers;
 - (ii) the nature of the activities proposed;
 - (iii) a financial statement;
 - (iv) a business plan for the first five years; and
 - (v) a clear statement of the terms the group is prepared to offer for the purchase or lease of the property.
- (f) All submissions received on or before the last day of submissions will be evaluated by a cross-disciplinary staff committee, including finance and community resources expertise, enlisted by the Grants Program staff for content compliance, viability, compensation, and for benefit to the Municipality. Grants staff will develop criteria that will be publically available

for scoring the community interest projects.

- (g) Staff will report to Council on the submissions received and the evaluation by staff, including the advisability of a Buy-Back Agreement and the terms of any suggested Buy-Back Agreement.
- (h) Council may determine to select a submission which would be considered on the basis of s. 63(1), (2), (3), (4), (5) of the Charter, the statutory mandate for Council being whether Council considers the non-profit organization to be carrying on an activity that is beneficial to the Halifax Regional Municipality.
- (i) Council will also consider the overall context of the disposal, including:

 - (i) the market value of the property as appraised;
 - (ii) the Planning Strategies of the area of the property;
 - (iii) the benefit of any cost saving to the Municipality;
 - (iv) the consequences, beneficial or otherwise, to the community or the Municipality as a whole;
 - (v) the beneficial considerations of any submission against the benefit to the Municipality of selling the property at market value; and
 - (vi) whether or not a Buy-Back Agreement is a condition of a sale.
- (j) If Council decides to consider the disposal at less than market value, if a property is worth more than \$10,000, under s. 63(3), Council must first hold a public hearing respecting the sale and advertise as per s. 63(4), (5):

63(4) The Council shall advertise the public hearing at least twice, in a newspaper circulating in the Municipality, the first notice to appear at least fourteen days before the hearing.

(5) The notice of the public hearing shall include the date, time and place of the hearing, the location of the real property or a description of the tangible personal property, the estimated value of the property and the purpose of the sale. *2008, c. 39, s. 63.*

- (k) The resolution of approval for sale requires passage by at least a two-thirds majority of the Council present and voting.
- (l) In the event that Council rejects any or all non-profit organizations' submissions to purchase at a less than market value, Council may direct staff to proceed to sell the property at market value.

Remnant properties

- (2) Staff will negotiate the sale of such parcels with any interested abutter of such lands and at such price as supported by appraisal or set by Council directly or through policy adopted by Council.

Extraordinary properties

- (3) This category of properties will be dealt with as required by legislation, common law, or contract that governs any disposal by the Municipality, and may be omitted from this policy.

Intergovernmental Transfer

- (4) This category of properties will be dealt with as directed by Council.

APPRAISALS

5. At least one appraisal of the current market value of any Ordinary property, Community Interest property, Economic Development property, or Intergovernmental Transfer property will be obtained as part of the disposal process. Appraisals will remain confidential until the sale is completed.

IMPLEMENTATION

6. This policy shall apply as of the date of approval of Council, excepting properties which are:
- (i) already approved by Council as surplus;
 - (ii) under agreement of purchase and sale through delegated approval as of the date of Council approval of this policy;
 - (iii) going to Council for approval by individual report up to and including March 31, 2013.

Done and passed in Council this 9th day of April, 2013.

Mayor

Municipal Clerk

I, Cathy Mellett, Municipal Clerk of Halifax Regional Municipality, hereby certify that the above noted Administrative Order was passed at a meeting of Halifax Regional Council held on April 9, 2013.

Cathy Mellett, Municipal Clerk

Notice of Motion:	March 26, 2013
Approval	April 9, 2013

Amendment # 1 – addition of category – Intergovernmental Transfer

Notice of Motion:	February 24, 2015
Approval:	March 10, 2015