




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

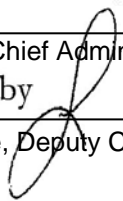
**Item No. 11.1.8**  
**Halifax Regional Council**  
**June 23, 2015**

**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:** May 27, 2015

**SUBJECT:** **Less than Market Value License to Shakespeare by the Sea Theatre Society  
for 5480 Point Pleasant Drive, Halifax**

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#### **ORIGIN**

October 7, 2014, Regional Council: Motion passes to rescind their motion of Council made March 18, 2014, authorizing staff to enter into a less than market value lease agreement with Shakespeare by the Sea Theatre Society (SBTSTS) for the building located at 5480 Point Pleasant Drive, Halifax and to enter into a month-to-month license agreement to allow ongoing use of 5480 Pleasant Drive, Halifax by SBTS subject to confirmation of any necessary approvals from the Federal Government.

#### **LEGISLATIVE AUTHORITY**

The recommended action complies with HRM Charter Section 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.

#### **RECOMMENDATION**

It is recommended that Halifax Regional Council authorize the Mayor and Municipal Clerk to enter into a less than market value license agreement with Shakespeare by the Sea Theatre Society for the building located at 5480 Point Pleasant Drive, Halifax, as per the key terms and conditions set out in Table 1 in the Discussion section of this report.

## **BACKGROUND**

Shakespeare by the Sea Theatre Society (SBTSTS) is a not for profit society, which provides summer and fall outdoor performances at Cambridge Battery, in Point Pleasant Park. SBTSTS has occupied the premises located at 5480 Point Pleasant Drive for eighteen (18) years for the purpose of an office, storage and rehearsal space. The original license agreement which commenced on June 1, 1997, included two renewal options. The final renewal expired on March 31, 2000. While the agreement has expired, SBTSTS continued to occupy the space and pay rent which has remained at \$1,200 per annum, including HST. Since the original agreement did not stipulate who was responsible to pay for the utilities, over the past eighteen years, HRM has continued to pay for the electricity, water, maintenance and capital repairs.

Shakespeare by the Sea Theatre Society has expressed their desire to renew their license for this location. At the March 18, 2014 Regional Council meeting, the staff recommendation for a less than market value lease agreement for SBTSTS was approved; however, once the lease agreement was drafted and sent to Legal Services for review, it was determined that HRM was not authorized to enter into a lease because of ownership issues. The building located at 5480 Point Pleasant Drive is within Point Pleasant Park, which is owned by the Federal Government. HRM has a long term agreement for the use and operation of the park, but the agreement does not authorize HRM to enter into any lease agreements; however, it does allow license agreements if they are approved by Parks Canada Agency.

On June 1, 2014, the building located at 5480 Point Pleasant Drive was vandalised by fire causing considerable cosmetic and structural damage. The building sustained damage to siding, soffit, trim, insulation, roof trusses and roof sheathing.

HRM has received approval from Parks Canada Agency to complete the required repairs on the structure which is anticipated to start in May 2015. At Regional Council on May 12, 2015, Council approved the funding for minimal repairs to the facility which includes replacement of the existing roofing system, improvements to the electrical panel, removal of noncompliant electrical wiring and fixtures, improvements to the electrical distribution system and repairs to the fire separations.

## **DISCUSSION**

In response to the direction of Council on the third motion of October 7, 2014, staff prepared a license agreement for Shakespeare by the Sea Theatre Society with the proposed terms and conditions outlined in this report. HRM has received written approval on May 28, 2015 from the Federal Government to enter into a license agreement with SBTSTS. Parks Canada Agency will formalize their approval with a consent document once the License Agreement between SBTSTS and HRM is executed.

It is proposed that the license be a cost-recovery agreement with no net revenue to HRM and full recovery of any operating costs, excluding major capital repairs. The market base rent for this space has been estimated at \$7.00 per square foot or \$20,090.00 plus HST per annum. The waiver of \$20,090.00 in net rent represents the equivalent of an 'operating grant' for the property's use and a less than market value license.

Point Pleasant Park is exempt from property taxes as it is owned by the Federal Government and maintained by HRM; however, Property Valuation Services Corporation has determined that the portion of the premises licensed to SBTSTS is taxable. SBTSTS therefore, will be responsible to pay all property taxes assessed in relation to the licensed premises.

Council directed staff to enter into a month-to-month license agreement with SBTSTS; however, a month-to-month agreement can continue indefinitely until one of the parties gives notice of termination. Staff is recommending a sixty-month license agreement with a 30-day termination clause, which provides a term with a fixed end date while maintaining the flexibility of a month-to-month agreement with the thirty day termination clause.

Staff propose a less than market value license provided that Shakespeare by the Sea Theatre Society maintain a current not-for-profit society status with the Nova Scotia Registry of Joint Stocks, they continue to be in good standing and are not in default of any of the terms of the agreement.

The proposed terms and conditions recommended by staff are outlined below in Table 1.

Table 1

<b>RECOMMENDED KEY TERMS AND CONDITIONS</b>	
<b>Property Address</b>	5480 Point Pleasant Drive
<b>Licensors</b>	Halifax Regional Municipality
<b>Licensee</b>	Shakespeare by the Sea Theatre Society
<b>Area (Facility Space)</b>	Approximately 2,870 sq. ft. (exclusive of public washrooms)
<b>Additional Conditions</b>	The Licensee shall be responsible to pay utilities. Electricity shall be paid direct to NSP and water/sewer charges shall be invoiced through HRM. The Licensee shall pay the water invoices as and when they fall due for the term of the lease. The Licensee shall be responsible for the installation cost of a sub-meter for tracking water consumption estimated at \$300+HST.
<b>Term</b>	Sixty (60) months (June 1, 2015 to May 31, 2020)
<b>Commencement Date</b>	Anticipated to be June 1, 2015
<b>Property Tax</b>	The Licensee is responsible to pay the Property Tax for the licensed premises.
<b>Permitted Use</b>	Office, storage and rehearsal space. Public performances and or public access are not permitted unless otherwise approved by the Municipality and a Municipal Occupancy Permit is issued.  The Licensee is permitted to have storage containers to support productions with written permission from HRM at its sole discretion.
<b>Insurance</b>	Commercial General Liability of at least \$2,000,000 and any other insurance required by HRM as set forth in HRM's standard license agreement. HRM is to be named on the tenant's policy as additional insured. HRM will continue to maintain appropriate insurance as a prudent Landlord would provide. (The Landlord's insurance does not include any tenant contents or tenant improvement coverage.)
<b>Notice Requirements</b>	Either party shall have the option to terminate this agreement upon providing 30 days written notice to the other party at any time and for any reason.  The Licensor may terminate the agreement if the Licensee defaults on any of the terms or conditions of the license. It is also understood that there will be no further obligation by either party.
<b>Zoning</b>	Halifax Peninsula Land Use By-Law permitted use under the RPK (Regional Park) Zone- 62ED(1) The following uses shall be permitted in any RPK Zone: (a) Recreation uses, (b) Conservation uses (c) Uses accessory to the foregoing uses.

### **FINANCIAL IMPLICATIONS**

The execution of this license agreement, if approved, will decrease the revenue (W202-5102) by \$1,200 per annum. However, the licensee will assume responsibility for the electricity charges and their proportionate share of the water bills which will result in an approximate saving of \$4,500 in the operating cost centres for electricity and water for a net saving to HRM of approximately \$3,300 per annum.

### **COMMUNITY ENGAGEMENT**

N/A

### **ENVIRONMENTAL IMPLICATIONS**

None associated with this report.

### **ALTERNATIVES**

Halifax Regional Council may choose not to renew the expired License Agreement.

### **ATTACHMENTS**

- Attachment A 5480 Point Pleasant Drive, Halifax
- Attachment B Halifax Regional Council Report, October 7, 2014 Item No. 11.1.1 Shakespeare by the Sea Building, Point Pleasant Park.
- Attachment C Halifax Regional Council Minutes, October 7, 2014 Item No. 11.1.1 Shakespeare by the Sea Building, Point Pleasant Park.

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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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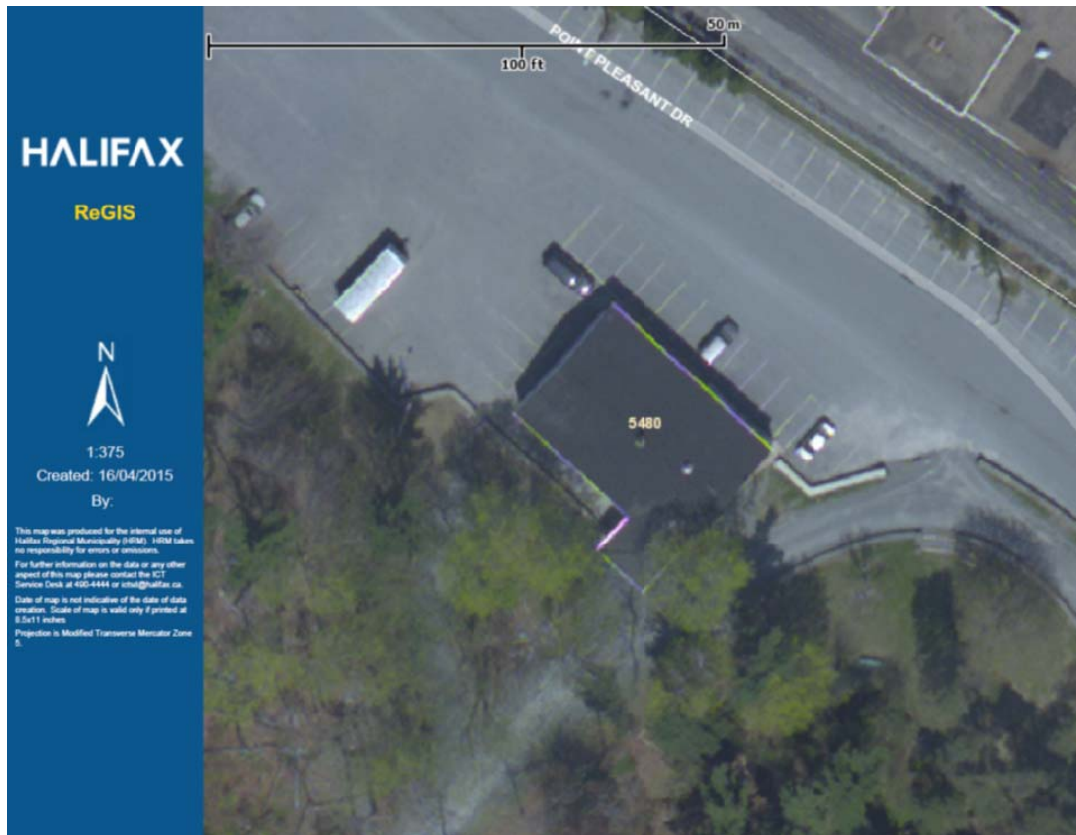
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Report Approved by: \_\_\_\_\_  
Jane Fraser, Director, Operations Support 902.490.7166

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# HALIFAX

## ATTACHMENT 'A' 5480 Point Pleasant Drive, Halifax



Public Washrooms  
(HRM operated)

(Rear of building)

Storage Trailer

Administration Office & Storage  
(Space approximately 2,780 square feet, excludes public washrooms)

Storage


(Front of building)



P.O. Box 1749  
Halifax, Nova Scotia  
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**Item No. 11.1.1**  
**Halifax Regional Council**  
**October 7, 2014**

**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:** August 14, 2014

**SUBJECT:** **Shakespeare by the Sea Building, Point Pleasant Park**

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**ORIGIN**

- August 5, 2014, Regional Council: Motion passes that Halifax Regional Council request a staff report, no later than the end of September 2014, regarding the restoration and repair of the fire damage to Park Place Theatre in Point Pleasant Park.
- July 29, 2014, Regional Council: Motion to direct staff to Develop a Cultural Spaces plan through a consultation, through the municipality's Arts Halifax committee, that includes other stakeholders and public engagement, and that shall include completion of a needs assessment, feasibility studies and identify potential partners and service delivery models that may include new cultural spaces and/or recapitalization of existing facilities.
- June 1, 2014, the Park Place Theatre suffered a fire as a result of vandalism.
- October 7, 2008, Regional Council: Motion passes that Regional Council endorse the Point Pleasant Park Comprehensive Plan in principle, as the guideline for the future restoration and improvements to Point Pleasant Park.

**LEGISLATIVE AUTHORITY**

- 1873 Articles of Agreement between City of Halifax and War Department (now Parks Canada);
- 1997 Memorandum of Understanding between HRM and Government of Canada; and
- HRM Charter, Power to Spend Money: 79 (x), lands and buildings required for a municipal purpose.

**RECOMMENDATION**

It is recommended that Halifax Regional Council, as a result of the fire at Park Place Theatre:

1. Rescind their motion of Council made March 18, 2014, authorizing staff to enter into a less than market value lease agreement with Shakespeare by the Sea Theatre Society for the building located at 5480 Pleasant Drive, Halifax;
2. Direct staff to initiate the process to remove the fire damaged building at Point Pleasant Park, that is housing the public washrooms and the Shakespeare by the Sea Theatre Society;
3. Direct staff to offer space in the Point Pleasant Park Superintendents Cottage for interim office use by The Shakespeare by the Sea Theatre Society (SBTS); and
4. Direct staff to include the consideration and planning for a new building consistent with the Point Pleasant Park Comprehensive Plan in the development of the Cultural Spaces Plan.

## **BACKGROUND**

**Legal Requirements:** The 1873 “*Agreement Respecting Use of Point Pleasant Park*” (the “1873 Agreement”) made between the Directors of Point Pleasant Park and the Crown, governs HRM’s use of the park and requires HRM have the consent of the Crown for building construction/alteration on the lands. On October 27, 1997, HRM and the Crown executed a Memorandum of Agreement with respect to Point Pleasant Park agreeing that:

- HRM is the successor by statute effective April 1, 1996, to the Directors of Point Pleasant Park under and for all purposes of the 1873 Agreement, and assumes the rights and obligations of the Directors thereunder; and
- HRM and the Crown agree to undertake negotiations in good faith with a view to reaching agreement, by way of amendment or replacement of the 1873 Agreement, on new terms for the use and occupation by HRM of the Point Pleasant Park lands.

**Building:** The building, currently known as Park Place Theatre, was constructed in 1969 as a canteen. The building (approximately 3000 square feet) includes two external public washrooms. The washrooms will require substantial recapitalization in the near future.

Following years of vacancy, the building was secured by Shakespeare by the Sea (SBTS) to act as an office and storage facility. HRM supported the programming offered by SBTS and the synergy of SBTS being located within Point Pleasant Park, through a below market value agreement. Subsequently, the building was renovated to provide alternative theatre space, primarily for rain-dates. The facility is also used by Theatre Nova Scotia for Association meetings, workshops, and rehearsal space.

On June 1, 2014, the building suffered a fire as a result of vandalism. Subsequent to the fire, it was identified that the building was not compliant with Building Code requirements for use as a theatre venue. On June 17, 2014, Halifax Regional Fire and Emergency issued an Order to Take Action (File No. 2014-2388) requiring an Occupancy Permit be obtained prior to the facility being occupied as a Theatre, conforming to the requirements of the National Building Code. An Inspection Report was commissioned (Attachment A) outlining the compliance requirements. The estimate to put the building into minimum compliance, including Occupancy Permit for the existing theatre usage, is approx. \$600,000. Scope of work includes mechanical and electrical improvements, water supply, structure, sprinklers and the roof.

In July 2014, staff received a proposal (Attachment B) from Shakespeare by the Sea to fund/build a required expansion to meet the organizational and community needs for enhanced theatre space. Analysis of the proposal indicates that the estimated cost is underestimated. Staff estimate that an 8000 square foot facility would cost approximately \$300 per square foot (or \$2.4 million), based on unit pricing from comparable projects and understanding of theatre space needs, which is anticipated to be a financial barrier. On September 8, 2014, Regional Council received a letter from SBTS (Attachment C) requesting the development of a 200 seat venue and the restoration of the existing facility for the interim.

Note: in accordance with the 1873 “*Agreement Respecting Use of Point Pleasant Park*”, HRM is required to have the consent/approval of the Crown before erecting or altering buildings. Time required for this process was not clear at the time of the preparation of this report.

**Shakespeare by the Sea (SBTS):** Founded and incorporated in 1994; has presented over 70 productions and performed for over 200,000 people; was incorporated as a not-for-profit charity called The Shakespeare by the Sea Theatre Society; aside from Point Pleasant Park, has performed in locations all over the Halifax Regional Municipality as well as in Wolfville, NS; in 2000, the troupe toured its production of Romeo and Juliet to The Minack Theatre in Cornwall, England; is dedicated to the development of Canadian theatre artists; is a member of Theatre Nova Scotia, The Greater Halifax Arts Coalition, and The Professional Association of Canadian Theatres; is the largest outdoor summer theatre east of Montreal; and was recognized with a Theatre Nova Scotia Robert Merrit Legacy Award in 2013. SBTS used the building for office space, storage, rehearsals and rain-date performances.

**Lease:** SBTS has occupied the space since June 1997; however, has been without an agreement since

2000. On March 18, 2014, Halifax Regional Council authorized the Mayor and Municipal Clerk to enter into a less than market value lease agreement with Shakespeare by the Sea Theatre Society. However, prior to execution it was discovered that, subject to the 1873 Agreement, HRM may enter into a license agreement with SBTS but was unable to grant a lease agreement. As a result, staff is recommending that Regional Council rescind the motion of Council made March 18, 2014, authorizing staff to enter into a less than market value lease agreement with SBTS. SBTS has paid rent continuously since 1997 and, as such, has established a good renter relationship with the municipality. Staff may seek future direction from Regional Council to enter into a less than market value license agreement with SBTS, subject to direction on this report.

**Insurance:** The building is an insured asset under Halifax's insurance policy, subject to a \$100,000 deductible. The policy will respond to the lower cost of repair or replacement of the structure with one of similar kind and quality.

***Policy Direction:***

*Point Pleasant Park Comprehensive Plan:* On October 7, 2008, Regional Council approved in principle the Point Pleasant Park Comprehensive Plan. The plan can be viewed at: [www.pointpleasantpark.ca](http://www.pointpleasantpark.ca). One of the aspirations of the Plan was to remove the existing structure and see a new facility built. The plan articulates the Greenbank Multi-use building, with the following key points:

- Built near existing harbor entrance parking area;
- Provide central point for activities and programs;
- Building will be based on LEED certification;
- Maximize harbor views;
- Invite park visitors;
- House multiple program elements;
- Landmark orientation point;
- Building should respect tree height and topography.

*Economic Strategy:* The 2011 – 2016 Economic Strategy has a Regional Centre objective of celebrating and enriching a variety of arts and culture initiatives.

*Regional Plan:* The 2014 revision to the Regional Plan broadened the scope to include social heritage and cultural development policy that align with best practices in the culture and heritage field with the new urban design. The Community Facilities Master Plan includes program opportunities for community based arts and culture. The Culture and Heritage Priorities Plan is to be integrated with the Regional Centre Plan.

***Preliminary Need:***

- The Point Pleasant Park Comprehensive Plan provides direction for a new multi-use building. The fire incident and the financial implications of reinstatement, provide Regional Council with the opportunity to consider timing of that implementation.
- Shakespeare by the Sea, supported by the members of Theatre Nova Scotia, has articulated the need for year round space for a theatre in Halifax to meet the cultural objectives of the Regional Plan and Economic Strategy. The preliminary stated requirement by SBTS is for a year round 200 guest theatre with functional theatre design, and external public washrooms (for park visitors).

The two needs have a high degree of conceptual compatibility and align with the various policy directions. A comprehensive Needs Assessment is required for staff to complete a facility recommendation.

**Problem Statement:** With a substantial investment required to reinstate the building to meet theatre space requirements, subject to permission from the Government of Canada, the municipality needs to consider:



- a. The value of the cultural service that is provided with the facility; and
- b. Which investment option maximizes value to the municipality.

## **DISCUSSION**

As a result of the fire incident at Park Place Theatre and resulting building assessment, strategic decisions regarding the long term location of cultural and recreation programming within Point Pleasant Park are required. In addition, while those long term decisions are being considered, short term solutions to enable and accommodate the current programming are required. The recommendations outlined in the report address both the long term and short term requirements and a summary of background information for each is presented below:

### ***Recommendation #1***

As HRM does not have the legal capacity to enter into an agreement without the consent of the Crown and the building is not currently fit to be leased, HRM staff are recommending that the motion directing HRM staff be rescinded.

### ***Recommendation #2***

HRM staff has reviewed 3 options for the existing building namely:

**Option #1** – Renovate the building to an office function at an estimated cost of \$125,000 (not recommended). The cost to restore the building for office space/storage occupancy is estimated at \$125,000. This option would not permit the building to be used as a theater. A letter received on September 8, 2014, from SBTS requested that the building be repaired as an interim option which would allow some usage by the group. While this interim option would allow some usage by SBTS, it is contrary to the direction of the Point Pleasant Park Comprehensive Plan, which states that the building is to be removed.

**Option #2** – Renovate the building for use by SBTS at an estimated cost of \$600,000 (not recommended). The current facility is a former canteen that the SBTS has creatively and innovatively repurposed for 20 years. The existing building does not have heat; it is not barrier free; cannot accommodate current requirements of SBTS; the configuration provides limited options for alternative uses; and, the aesthetics, which include vinyl faux stone, are well below a municipal standard. The standard of the building does not reflect or add value to the regional amenity of Point Pleasant Park. Staff estimates the project, which would include minor refinishes to architectural interiors and exteriors, would cost approx. \$600,000. This option would return Shakespeare by the Sea Theatre Society to the facility with the existing theater size. However, it is understood, and articulated in their July 2014 proposal, that the existing facility is too small and not functional. The risk of unforeseen construction deficiencies being uncovered with this option are considered high.

**Option #3** – Demolish the building at an estimated cost of \$50,000 (recommended). As the existing building has limited value to the Municipality and is costly to renovate, HRM staff are recommending that it be demolished. Since the fire, a fire order has restricted access to the building. Fire Services did amend the order to permit access to the building by SBTS for office usage and storage but no public access. As a result, they have found alternate locations for rehearsals but have not been able to offer rain-date performances. The SBTS season ended on August 31<sup>st</sup>, and the permission under the fire order to access the building expired at the end of October. Depending on Council's direction, SBTS may require alternative office, storage and rehearsal space for at least next season, if not longer.

### ***Recommendation #3 - Interim Options for Shakespeare by the Sea:***

In order to maintain a presence in Point Pleasant Park for SBTS, and to maintain the long term relationship between HRM and SBTS, staff has explored alternatives for interim space within Point Pleasant Park. The Point Pleasant Park Superintendents Cottage is currently used for cultural

programming but has space available. It is recommended that HRM offer SBTS office space in the building co-located with the artist in residency program. However, the building does not have sufficient space or configuration to accommodate rehearsal or storage space.

While options exist for temporary storage and rehearsal space, there would be additional costs to SBTS to consider those options. Further, options for rain-date locations exist; however, they also would require additional costs and may be challenging to maintain the performances within Point Pleasant Park. Regional Council recently approved Administrative Order 2014-007-ADM Interim Professional Arts Organization Grant Program which just opened for submissions. SBTS is eligible to submit an application through that program for funding to assist with any additional costs required as a result of the recommended demolition of the existing building.

***Recommendation #4 - Long Term Strategic Decisions:***

As noted, the Point Pleasant Park Comprehensive Plan provides direction for a new multi-use building. The planned multi-use building and the proposed SBTS theatre may have a high degree of conceptual compatibility and align with the various policy directions. However, there is insufficient data and evidence at this time for the municipality to consider what a major building reinvestment specifically should achieve, therefore the municipality should consider the appropriate use and need for a potential replacement building within Point Pleasant Park. The next step in this process is to prepare a needs assessment.

The needs assessment would:

- Clearly articulate the desire and need of Shakespeare by the Sea Theatre Society and Theatre Nova Scotia for Theatre Space, including understanding:
  - Frequency of use
  - Facility Requirements (lighting, functional theatre design, capacity)
  - Financial Capacity
- Articulate other community and municipal potential needs for a facility at Point Pleasant Park, including examining opportunities for Recreational or other Community Programming.

The objective of the needs assessment is to develop the spacial requirements. The activity will enable staff to collaborate with the community and stakeholders with ideas, such as the proposal from SBTS, and refine these two options for consideration by Regional Council. The commitment to partnerships from other stakeholders will need to be clarified.

Council has directed staff to develop a Cultural Spaces Plan to identify potential partners and service delivery models that may include new cultural spaces and/or recapitalization of existing facilities. While the scope and timing of that work is expected to be significant, it is expected to be able to provide a comprehensive assessment of cultural space requirements for HRM. Provided short term solutions to the SBTS programming and public washroom facilities are provided (there are other public washrooms in the park), consideration of future needs within Point Pleasant Park for these uses would be best completed within the overall Cultural Spaces Plan, to ensure that all cultural requirements are considered comprehensively rather than in isolation of each other.

The Cultural Spaces Plan will enable the consideration and planning of a potential municipal facility construction project for SBTS as well as municipal programming within Point Pleasant Park, along with other cultural space needs. This will ensure that the assessment of cultural space will be comprehensive and allows for consolidated strategic decisions. It will clarify problems, identify interventions or solutions, and clarify, with evidence, what potential options Regional Council may consider. In the absence of a data driven needs assessment, staff are limited to assumptions in considering a variety of ideas for facility solutions.

**FINANCIAL IMPLICATIONS**

There is funding availability for the immediate demolition in Environmental Remediation/Building Demolition Project No CBX01162.

There is funding availability for the completion of a needs assessment in Consulting Project No CBX01268.

Direction to undertake further capital expenditures upon the results of the Cultural Spaces Plan would require Council to approve a new addition to the Capital Budget.

The Shakespeare by the Sea Theatre Society will be offered interim office use at no additional cost to their current arrangement.

### **COMMUNITY ENGAGEMENT**

There has been no engagement completed on this report. The Cultural Spaces Plan will require stakeholder engagement.

### **ENVIRONMENTAL IMPLICATIONS**

None

### **ALTERNATIVES**

Alternative 1: Regional Council may direct staff to complete the \$600,000 restoration project of the facility. This is not recommended as the facility has limited use options, does not meet municipal standards, and is contrary to the Point Pleasant Park Comprehensive Plan.

Alternative 2: Regional Council may direct staff to undertake a needs assessment for the construction of a potential new facility, separate from the Cultural Spaces Plan previously directed by Regional Council.

### **ATTACHMENTS**

Attachment A: Occupancy Inspection Report, EFI Global

Attachment B: Proposal from SBTS

Attachment C: SBTS Theatre Letter to Council

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.

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## OCCUPANCY INSPECTION REPORT

Site Location:

Shakespeare by the Sea (occupants)  
Point Pleasant Park  
Halifax, Nova Scotia

July 4, 2014

Prepared For:

Halifax Regional Municipality  
P. O. Box 1749  
Halifax, NS B3J 3A5

**ATTENTION:** **Hector Ferguson**

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EFI Global File No. 950559531289

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### **SCOPE OF WORK:**

On June 1, 2014 a fire damaged the north corner of the subject building (Photo 1), as well as the roof structure. As part of the building assessment being conducted by IIRM after the fire, and considering that the Tenant has been performing interior modifications unchecked for the last number of years, on June 16, 2014 IIRM requested EFI Global to determine whether the building (Photos 2 to 4) in its current state would meet the standards of occupancy based on its history of use. That would be inclusive of all areas of the building.

### **INSPECTION:**

EFI Global attended the site on June 21, 2014 to conduct the occupancy inspection. As part of the inspection, a few holes had to be cut in the interior walls (Photos 13 & 14) to check the construction methods and materials present in the building.

Electrical and mechanical items are not addressed in this report.

This report does not include the fire damaged items discussed in EFI's "Structural Assessment Report" dated June 10, 2014. Schematic SP-01 is included to illustrate the location and direction of photos related to this report.

### **FINDINGS:**

With reference to Table 3.1.2.1 in Clause 3.1.2.1 "Classification of Buildings" in Part 3, of the National Building Code of Canada 2010 Edition, the subject building is classified as Group A, Division 1 "Assembly occupancies intended for the production and viewing of the performing arts". **Since the buildings in Division 1 require sprinklers and fire alarms, this building is automatically disqualified.** However, the following comments are prepared with the view that the building could be serviced with sprinklers. It is noted that a sprinkler service would be acquired from the Halterm Property and could be 100 meters distant. The nearest hydrant is in excess of 122 meters distant from the building.



The major infractions are discussed and a contingency provided for additional minor items.

Clause 3.2.2.22. governs Group A, Division 1, One Storey, Sprinklered buildings. The conditions of Sentence 3.2.2.22.1, other than sprinklers, such as the building height, auditorium location, no other occupancy and the occupant load is less than 300 are met. Sentence 3.2.2.22.2 acknowledges that the building could be of combustible or non-combustible construction and that a 45 minute fire resistance rating is required on fire separations and structural loading bearing members. The main structural component is a concrete block superstructure founded on a concrete slab on grade, which have the required 45 minutes fire rating. The stage and public corridor partitions (Photos 5 to 8) do require an upgrading as does the steel beam (Photos 9 & 10) supporting the metal ceiling in the assembly area.

Sometime in the past, a pre-engineered truss roof was installed over the existing flat BUR roof (Photo 35) which was left in place. At this point, the flat roof became a ceiling assembly which is not in conformance with the Code and as such should be removed. It is expected that half of the peaked shingle roofing will be replaced due to the recent fire and since the remaining roofing is at the end of its useful life, it should be replaced.

The theater space contains non-fixed seats requiring 8 square feet per person. It appears the seating area is accomplished by placing prefabricated wood panels in the shape of bleachers (Photos 5 & 6). Since the floor is painted black except for a 12'x 37.5' – 450 square feet we estimate the bleachers cover 450 square feet plus one row of seating in front of the bleachers, which translates into a total 560 square feet of seating for 70 patrons. (85 chairs are stacked in the audience area presently.)

Emergency exits are provided through the corridor to the lobby and behind the stage through the costume room, which could be hindered at times and circuituous (Photos 25 to 27).

Although there are washrooms located in the behind the scenes preparation area, they are not barrier free and may not be intended for public use since the access is past the kitchen and costume rooms. The barrier free washrooms are located outside at the south corner of the building but the travel distance is restrictive especially during inclement weather. As well, the maintenance and upkeep of the washrooms is in question. A corridor could be provided from the assembly area to the washroom locations.

The following table lists some of the items that were inspected and whether they meet the code requirements. For clarity purposes, not every single section, article, and sentence of the building code was listed in this table, only the ones applicable to this type of building and relevant for determining the standards of occupancy based on its current use.

Clause #	Requirements	Existing Conditions	Photo #	Criteria Met
3.1.4.2.1	Foamed plastics to be protected	Top 2' of wall not protected	14	No
3.2.2.22.2	45 minute fire rating	Not met for steel beam in assembly area and plywood partitions between assembly and public corridor and stage	5 to 9	No
3.2.5.5.	Access route for Firefighting	Not defined – no hydrant within 90 meters of the building	No photo	No
3.2.7.3.	Emergency lighting	Due to black walls and floor should have additional emergency lighting.	6	No
3.3.1.4.1	Fire separation required between corridor and assembly area.	Plywood walls do not extend to underside of ceiling.	8, 16	No
3.3.1.5.1	2 exits required	Provided	16, 25 to 27	Yes
3.3.1.8.	80.7" door headroom clearance	Provided	16, 25 to 27	Yes
3.3.1.9	43" wide corridor	Provided	16, 25	Yes
3.3.1.11	Doors swing out	Provided	No photo	Yes
3.3.1.13.1	31.5" minimum door width	Provided	16, 25 to 27	Yes
3.3.1.13.2	Release mechanism	Not provided on front (main) door	No photo	No
3.3.1.19.2	Tempered door glass	Not provided on front (main) door	No photo	No
3.3.2.13.1	Stage shall have deluge sprinkler	Not provided	6	No



Clause #	Requirements	Existing Conditions	Photo #	Criteria Met
3.3.2.13.2	1 hour fire rating required between stage and ancillary spaces	Provided by concrete block wall	To left in 7	Yes
3.3.2.13.3	A sprinkler deluge system required in front of stage	Not provided	No photo	No
3.3.2.13.5	2 fire vents required above stage	Not provided	No photo	No
3.4.1.8	Safety or wired glass on exits	Not provided on front door	No photo	No
3.4.2.1.2	2 exits per floor area	2 provided	16, 25-27	
3.4.2.6	At least one entrance door should meet the <i>Exit</i> requirements	Not provided. Hardware is an issue on the front door.	No Photo	No
3.4.3.2.8	32" doorway width 44" hallway width	Provided Provided	25, 26, 27	Yes Yes
3.4.3.4.4	80" height	Provided	15, 16	Yes
3.4.4.1.1	Exits should be separated from the remainder of building by a fire separation	Plywood partitions at public corridor and the stage are not 45 min rated.	7, 15, 16	No
3.4.5.1.7	Exit signs (@ egress	Provided	16, 26, 27	Yes
3.4.6.12	Doors open in direction of travel	Provided	No photo	Yes
3.4.6.16.1	Proper door release hardware	Not provided on front (main) door	No photo	No
3.7.1.1.1	6'-11" clear ceiling height	Provided	15, 16	Yes
3.7.2.2.1	1 men's WC, 2 Ladies	Provided with outside WC	25, 30, 32, 33	Partially
3.8.1.2.1	50% of exits to be barrier free	Double doors at the front to be opened simultaneously. Behind stage exit could be blocked during activities.	27	Partially
3.8.2.3.2	Barrier free washroom within 45 meters	Barrier free washrooms are outside the building and greater than 45 meters by sidewalk	1, 3, 4	No

Clause #	Requirements	Existing Conditions	Photo #	Criteria Met
3.8.3.3.2	Minimum unobstructed door opening 800 mm	Double front door meets requirements but leafs open separately	No photo	Partially

**BUDGETS:**

The following budgets are based on past history of projects and may vary in 2014 depending upon resource availability, preparation of engineering drawings & specifications.

Item #	Description	Totals
1	Sprinklers including watermain from Halterm, hydrant, deluge system, alarm panel, remote monitoring, fire vents at stage, smoke and fire detectors	\$135,000
2	Interior upgrades – fire separations & fire proofing	\$14,000
3	Hardware & tempered glass for Emergency Exits	\$9,600
4	Roof replacement (other than fire damage) & BUR removal of existing roofing on metal decking	\$21,000
5	Painting and housekeeping items	\$15,000
6	Barrier free washrooms accessed from inside building	\$26,000
7	Mechanical and Electrical	Unknown
	Contingency	\$30,000
	Engineering & Inspections	\$28,000
	15% HST	\$41,790
	Total	\$320,390

**CONCLUSIONS:**

Given the site layout, materials and equipment found inside, and the information provided by Shakespeare By The Sea company's representative, this building is currently being used "for the production and viewing of the performing arts".

## Occupancy Inspection Report

This building is not suitable "for the production and viewing of the performing arts". In other words, this building is not suitable to be used as theatre where functions are performed inside with the presence of public.

The main deficiencies correspond to a lack sprinklers and fire alarms. Other deficiencies are related to fire separations and characteristics of Exits.

Given the absence of a water main nearby, it is noted that the cost to upgrade the building may be prohibitive.

Yours truly,

**Michael  
Geislinger**

Digitally signed by Michael  
Geislinger  
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Michael Geislinger, P.Eng.  
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FS/dpm

### Enclosures:

1. Photographs
2. Drawing SP-01

Cc: Andrea Digdon ([digdona@halifax.ca](mailto:digdona@halifax.ca))





Photo 1

The arrow points to the north corner of the building which is also the point of origin of a recent fire.



Photo 2

This is the east corner of the building. Note the deteriorated condition of the roof.



Photo 3

This is the south corner showing the public barrier free washrooms.



Photo 4

This is the west view of the building. The electrical room is in this corner and the front entrance to the right.





Photo 5

This is a view of the theater from the south corner looking north. The arrows locate the plywood partitions constructed of plywood and are not considered a fire separation.



Photo 6

This is a view of the stage area. The mahogany coloured panels are the back drop and constructed of plywood.



Photo 7

This is a cross sectional view of the stage back drop noted in Photo 6. The plywood panels are framed with 2"x 3" wood studs.



Photo 8

The plywood partitions shown in Photo 5 are constructed of 1/2" plywood with 2"x 4" framing and are secured to the metal deck pan ceiling.



Photo 9

The deflection of the steel beam supporting the metal deck ceiling has minimal deflection. The new pre-engineered roof trusses transfer the snow load to the exterior block walls.





**Photo 10**

The steel beam was supported by a steel pipe column in the earlier life of the building. Since the snow load was no longer bearing on the flat roof the pipe column was removed.



**Photo 11**

The ends of the steel beam in the theater are rest on the concrete block wall.



**Photo 12**

The metal decking of the remainder of the building is supported on the east concrete block wall of the hallway.





Photo 13

In the theater area, the concrete block wall is strapped with 2 layers of wood and covered with 5/8" fire rated gyproc.



Photo 14

The rigid insulation above the top of the gyproc to the underside of the metal decking is exposed in the theater area



Photo 15

This is a view of the corridor from the lobby to the theater looking northwest. The arrow locates the wood partitions and the theater entrance.



Photo 16

This is the view of the corridor looking southeast towards the lobby and the office. The plywood partitions and theater entrance is on the right. The



Photo 17

The main entrance to the lobby is at the left of the photo and the office is located through the open door.



Photo 18

The lobby connects to the corridor in the background. The concrete block wall between the administration and the theater is evident.





Photo 19

The electrical room is accessed through the office.



Photo 20

The office is immediately adjacent to the office and has viewing into the kitchen at the left of the photo.



Photo 21

The electrical room is clean and well maintained.



Photo 22

This is a view of a storage room located off the lobby and provides access to the kitchen.



Photo 23

This is a view of the kitchen area looking southwest from the storage room located off the lobby. The concrete block bearing wall for the metal ceiling is to the right of the photo.



Photo 24

The hallway is located to the left of the northwest end of the kitchen. The door on the right leads to the storage room located off the lobby.



Photo 25

The second emergency exit is behind the stage and exits off the hallway to the right (southwest).

The washrooms are at the end of the hallway, men's on the left and women's on the right.



Photo 26

This is a view from the southwest end of the hallway looking back towards the stage. The doorways are 32" wide.





Photo 27

With reference to Photo 25, this is the continuation of the fire exit from the theater area.



Photo 28

This is a view of the costume room looking south from the line of exit shown in Photo 27



Photo 29

This is the north side of the exit location from Photo 27.



Photo 30

The men's washroom is located at the end of the hallway depicted in Photo 25. It is not barrier free.



Photo 32

The inside women's washroom at the end of the hallway is not barrier free.



Photo 33

The exterior men's washroom located outside at the south corner of the building is barrier free.





Photo 34

The exterior of the concrete block walls have been strapped with 2 layers of 1"x 3" with 1.5" rigid Styrofoam insulation. The assembly has been cladded with faux brick vinyl siding.

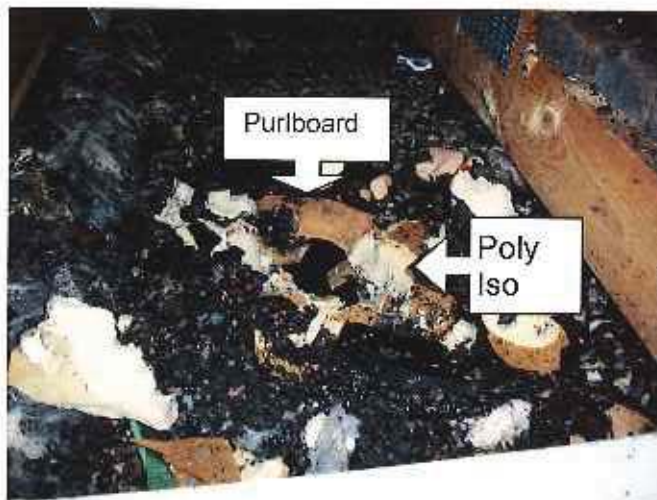


Photo 35

The existing BUR is now superceded with pre-engineered roof trusses and shingles

There are 2 shades of rigid insulation. The darker shade may be Purlboard and the lighter shade a first generation polyisocyanurate insulation.



Photo 36

Some of the asphalt flood coat and pea gravel ballast of the original roof has been replaced with a sheet of plywood; reason is unknown.



Photo 37

Pre-engineered roof trusses replace the original flat roof and may be about 35 years old.



Photo 38

Longitudinal bracing of the webs are missing for the rear half of the roof. The gable ends have the proper trusses.



Photo 39

A recent fire has been addressed in EFI report dated \_\_\_\_\_.





Photo 40

The R20 fiberglass batts cover the original flat roof.



Photo 41

2"x 4" bearing plates for the roof trusses have been installed over the metal decking and does not appear to have locally overloaded the decking.



Photo 42

The cantilevered soffit is supported by the end of the trusses by 2"x 4" plates.

Photo 43

The rear elevation of the peak roof has had a building felt hot mopped over deteriorated asphalt shingles.



Photo 44

The roofing does not extend under the wooden cupola and is a potential source of water intrusions.



Photo 45

The shingle dormer over the exterior washrooms at the south corner of the building are deteriorated due to moss.



Photo 46

The shingles on the front elevation are in an advanced deteriorated state.







## **SHAKESPEARE BY THE SEA THEATRE ADDITION Proposal**

**SBTS** would like to build a second story 200 seat theatre addition above the current building, and continue to use the main floor as office, rehearsal hall, costume and property rooms and as washrooms and improve the insulation situation.

SBTS would like to recreate in form and feeling the Block House fort that stood on Citadel Hill built in 1776 and which was, on occasion, used as a theatre. The form is also similar to the Globe Theatre. The theatre would be built from heavy timber which meets building code requirements for non-combustible construction and have the feeling inside of a traditionally constructed wooden tall ship. Entering the theatre would be an historic experience in and of itself.



The theatre would have full handicap accessibility, and be able to be used all year. This will enable SBTS to extend its season into the fall and invite more schools to regularly attend its shows. SBTS is proposing to transform the “canteen” into a modest but “historic landmark destination” feature of Halifax, and one that would serve the long term sustainability of the company and add a tourist destination to Halifax.

The current space is about 3000 square feet. The new addition would add about 5000 sq ft in total. A “ballpark” cost estimate is \$ 1,500,000 for this work at \$200.00 per sq. ft. plus furnishings and equipment. The current main floor and walls would be retained and incorporated, more or less as they are. Our initial

structural analysis indicates that the structure “as is” can accommodate a second story without significant alteration, but this will need to be confirmed.

The current site is already developed as a building within the park. It has already plumbing and electrical service, and is clearly in need of improvements. It has significant parking that is mostly underused already in place.





Attachment C

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902-422-0295

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Charitable Tax # 899072938 RR0001

Joint Stocks Registration # 2365312

TO WHOM IT MAY CONCERN:

On behalf of the Board of Directors of Shakespeare By The Sea Theatre Society, I am formally requesting permission from the city of Halifax to allow the development of a 200 seat performing arts as a second story addition to 5480 Point Pleasant Drive.

Shakespeare By The Sea is a professional theatre company that has operated in Point Pleasant Park since 1994. Each year we perform for thousands of residents and tourists in the city of Halifax. As a result of the fire that occurred on June 1, 2014, the company has lost the use of the building as an indoor performance venue, which is used primarily as a rain space on inclement weather days. Throughout the "off-season", (September to May), the venue is also rented as a rehearsal and performance studio venue for many theatre companies, independent artists, and filmmakers.

From our discussions with other arts organizations, it is clear that there is a demonstrated need for a venue of this size in Halifax. We feel that the opportunity to expand upon the current building would not only be of great benefit towards to sustainability of the company, but would also add to the cultural vibrancy of the city.

The Board of Directors realizes that the process of developing this venue will take some time. As an interim measure, the company is requesting to have the current 80-seat theatre restored to A-type occupancy through City of Halifax insurance so that the company can continue to operate without incurring significant financial hardship.

Thank you for your time,

Original Signed

Elizabeth Murphy  
Managing and Co-Artistic Director

**Join us in 2012 for our TWENTIETH season in Point Pleasant Park**



Shakespeare By The Sea

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Charitable Tax # 899072938 RR0001

Joint Stocks Registration # 2365312

**Join us in 2012 for our TWENTIETH season in Point Pleasant Park**

**9. PUBLIC HEARINGS**

- 9.1 Cases 18288 and 18684 – Cole Harbour/Westphal Municipal Planning Strategy (MPS) and Land Use By-Law (LUB) Amendments and Development Agreement for a Mixed Residential Development Adjacent to Lake Loon, Westphal (Joint Public Hearing with Harbour East and Marine Drive Community Council)**

This matter was dealt with later in the meeting. See page 12.

**10. CORRESPONDENCE, PETITIONS & DELEGATIONS****10.1 Correspondence**

The Clerk noted that correspondence was received for items: 9.1, 11.1.1, 11.2.1, and Information Item 8. This correspondence was circulated to Council.

For a detailed list of correspondence received refer to the specific agenda item.

**10.2 Petitions - None****11. REPORTS****11.1 CHIEF ADMINISTRATIVE OFFICER****11.1.1 Shakespeare by the Sea Building, Point Pleasant Park**

The following was before Council:

- A staff recommendation report dated August 14, 2014
- A minute extract from Regional Council on March 18, 2014
- Correspondence dated October 6, 2014 submitted by Elizabeth Murphy, Managing and Co-artistic Director, Shakespeare By The Sea

**MOVED by Councillor Mason, seconded by Councillor Whitman that Halifax Regional Council, as a result of the fire at Park Place Theatre:**

- 1. Rescind their motion of Council made March 18, 2014, authorizing staff to enter into a less than market value lease agreement with Shakespeare by the Sea Theatre Society for the building located at 5480 Pleasant Drive, Halifax;**
- 2. Direct staff to initiate the process to remove the fire damaged building at Point Pleasant Park, that is housing the public washrooms and the Shakespeare by the Sea Theatre Society;**
- 3. Direct staff to offer space in the Point Pleasant Park Superintendents Cottage for interim office use by The Shakespeare by the Sea Theatre Society (SBTS); and**
- 4. Direct staff to include the consideration and planning for a new building consistent with the Point Pleasant Park Comprehensive Plan in the Development of the Cultural Spaces Plan.**

Councillor Mason advised that he had concerns with the staff recommendation, and pointed out that he would be interested to find out if the Municipality actually needs permission from the Federal Government to repair the building and ask if staff reviewed past lease arrangements. Councillor Mason added that it was his understanding the building does not need sprinklers to operate as a Type D occupancy, which is what the Shakespeare by the Sea Company has been using it for since the fire, i.e. use as office and rehearsal space only. Councillor Mason referenced the staff report and noted that it states it would cost \$125,000 to restore the building. He questioned the level of restoration this would bring.



In response, Mr. Terry Gallagher, Manager, Facility Development advised that \$125,000 would enable modest repairs to the building which would allow the theatre company to use it for office and storage space, and rehearsal space, but it would not bring the building up to 'like new' condition or allow for use as a theatre.

Councillor Mason indicated that he supported the idea of repairing the building to the point that Shakespeare by the Sea could continue using it for office, storage, and rehearsal space, while the Society continued to explore other possibilities with regard to theatre space. He encouraged Council to defeat the motion on the floor and advised that, if this was done, he would then bring forward an alternate motion.

Councillor Hendsbee supported the staff recommendation, adding that if the recommendation by staff is that the building should be demolished, then it should come down. He suggested there were other spaces within the Park that could be used for storage and accommodations.

Councillor Karsten advised that he would support an alternate motion by Councillor Mason, with a caveat that the matter go to the Audit and Finance Standing Committee because it is an unplanned expenditure, and staff would have to identify funding for the restoration costs.

**MOTION PUT AND DEFEATED. (1 in favour, 16 against)**

In favour: Councillor Hendsbee

Against: Mayor Savage; Deputy Mayor Fisher; and Councillors: Dalrymple, Karsten, Nicoll, McCluskey, Mason, Watts, Mosher, Walker, Adams, Rankin, Whitman, Johns, Craig, and Outhit

**MOVED by Councillor Mason, seconded by Councillor Watts that Halifax Regional Council direct staff to:**

1. **Rescind their motion of Council made March 18, 2014, authorizing staff to enter into a less than market value lease agreement with Shakespeare by the Sea Theatre Society (SBTS) for the building located at 5480 Pleasant Drive, Halifax;**
2. **Complete minimal cost repairs to Park Place Theatre to allow ongoing use as office, storage and rehearsal space as a temporary solution while long term plans are developed for consideration of Council, subject to review and recommendation by Audit & Finance.**
3. **Enter into a month to month license agreement to allow ongoing use of 5480 Pleasant Drive, Halifax by SBTS subject to confirmation of any necessary approvals from the Federal Government;**
4. **Direct staff to provide information and work with staff of SBTS while SBTS explores cost effective, objective based solutions for a viable, code-compliant theatre at 5480 Pleasant Drive, subject to further consideration of Council;**
5. **Direct staff to include the consideration and planning for a new building consistent with the Point Pleasant Park Comprehensive Plan in the development of the Cultural Spaces Plan.**

**MOTION PUT AND PASSED. (16 in favour, 1 against)**

In favour: Mayor Savage; Deputy Mayor Fisher; and Councillors: Dalrymple, Karsten, Nicoll, McCluskey, Mason, Watts, Mosher, Walker, Adams, Rankin, Whitman, Johns, Craig, and Outhit

Against: Councillor Hendsbee

**11.1.2 Case 19514 – Amendments to the Halifax Municipal Planning Strategy and Mainland Halifax Land Use By-Law – the Former Motherhouse Lands, Bedford Highway, Halifax**

The following was before Council: