

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by 

SUBMITTED BY: Jacques Dubé, Chief Administrative Officer

DATE: July 11, 2018

SUBJECT: **Public Hearing for Less than Market Value Sale – Conservation Easement, Purcell’s Cove Backlands**

ORIGIN

September 5, 2017 Regional Council motion:

MOVED by Councillor Adams, seconded by Councillor Walker

THAT Halifax Regional Council:

1. Rescind the motion passed on July 18, 2017 regarding the Purcell’s Cove Backlands.
2. Approve the recommendations as a result of the discussion held at the September 5, 2017 In Camera Session.
3. Approve the recommendation that the private and confidential report dated August 28, 2017 not be released to the public. **MOTION PUT AND PASSED**

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter), 2008, S.N.S, c.39

Section 61 (5) (a); The Municipality may acquire property, including property outside the Municipality that the Municipality requires for its purposes or for the use of the public.

Section 63 (1) The Municipality may sell or lease property at a price less than market value to a non-profit organization that 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 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) Notice of the public hearing shall include the date, time and place of the hearing, the location of the real property or description of the tangible personal property, the estimated value of the property and the purpose of the sale.

.... RECOMMENDATION ON PAGE 2

Section 79(1)(k)(x)(ah)(aj); The Council may expend money required by the Municipality for:

- (k) recreational programs;
- (x) lands and buildings required for a municipal purpose;
- (ah) playgrounds, trails, including trails developed, operated or maintained pursuant to an agreement made under clause 73(c), bicycle paths, swimming pools, ice arenas and other recreational facilities;
- (aj) public grounds, squares, halls, museums, parks, tourist information centres and community centres;

RECOMMENDATION

Pending Regional Council's consideration of input from the public hearing, it is recommended that Halifax Regional Council:

1. Approve the sale of a conservation easement, respecting the lands to be acquired by Halifax Regional Municipality from Clayton Developments Limited (located adjacent to Williams Lakes in Halifax and identified on Map 1), to the Nature Conservancy of Canada for \$2,500,000, a less than market value sale, subject to the terms and conditions of Regional Council's Motion of September 5, 2017;
2. Authorize the Mayor and the Municipal Clerk, on the advice of the Chief Administrative Officer to enter into:
 - a) an agreement of purchase and sale with Clayton Developments Limited to acquire the lands, and;
 - b) an agreement of purchase and sale with the Nature Conservancy of Canada to sell the conservation easement across that portion of the lands excluding the parking area and trailhead; and
 - c) a Conservation Easement Agreement with the Nature Conservancy of Canada, if in the opinion of the Chief Administrative Officer, they meet the terms and conditions of Regional Council's Motion of September 5, 2017; and
3. Direct staff to include sufficient funds in the 2019/20 Operating Budget for park maintenance costs.

BACKGROUND

In 2016, Regional Council received a proposal from Clayton Developments Limited (Clayton) and the Nature Conservancy of Canada (NCC) for HRM to acquire Clayton's lands that are located adjacent to Williams Lake in Halifax for the purpose of establishing an urban wilderness park (Map 1). Under the proposal, the NCC would contribute to the acquisition in exchange for a conservation easement being applied to the lands that would protect their ecological values and limit their use as a wilderness park in perpetuity. Such a park would be largely managed to be retained in its natural state and used for non-motorized recreation, such as hiking.

On September 5, 2017, Regional Council directed staff to advance the acquisition of lands and the sale of the conservation easement, subject to the terms and conditions of Regional Council's motion of September 5, 2017. Under this arrangement:

- HRM would acquire the lands from Clayton for \$6,600,000;
- The park would be named after the Shaw family;
- Clayton would establish a park entrance and related infrastructure;
- HRM would sell a conservation easement to NCC for \$2,500,000, which would protect the ecological values of the lands and restrict their use to a wilderness park in perpetuity; and
- HRM would allow NCC to recognize financial contributors to the park through signage and the naming

of up to five pieces of infrastructure such as benches. As part of the transaction process, a public hearing is required to sell the conservation easement to NCC at a less than market value, which is the main subject of this report. In addition, this report provides information about a public meeting that was held as a condition of Regional Council's September 5, 2017 motion.

DISCUSSION

Conservation Easement Sale

The municipality has completed a property appraisal on the lands and determined that the fair market value of the property is \$6,600,000. However, its value with the restrictions of a conservation easement in perpetuity is reduced to 50 percent of its total value, or \$3,300,000. NCC has offered to contribute \$2,500,000 towards the lands in exchange for the conservation easement, which stems from a condition it has to pay less than an appraised value. As a result, the inclusion of the conservation easement in exchange for the NCC offer represents a less-than-market value sale, which requires a public hearing pursuant to the *HRM Charter*. Although NCC's contribution may not be indicative of the full appraised value of the conservation easement, conservation groups regularly contribute less than full value as a means of ensuring that a property owner recognizes the value in the conservation of their lands.

As indicated, the *HRM Charter* requires that Regional Council hold a public hearing prior to considering any less than market sale. Therefore, Regional Council needs to consider submissions from the public as part of a public hearing in order to determine if it wants to advance the acquisition of the lands from Clayton and sale of the conservation easement to NCC. Further, the *HRM Charter* requires that any decision to sell the conservation easement at less than market value must be passed by two-thirds of Regional Council members present and voting at the meeting.

Public Information Meeting

A public information meeting was held on October 5, 2017 at the Captain William Spry Centre, where staff provided an overview of topics such as the proposed park and the restrictions on its use, the acquisition arrangements with Clayton and NCC, and details such as park infrastructure and entrance features. There were questions and comments about matters such as the financial terms, the use of the park, and the dam on Williams Lake. The proposal was generally well received by attendees and the meeting minutes are included as Attachment A.

Other Terms and Conditions

In order to complete both the sale of the conservation easement to NCC and the purchase of the lands from Clayton, two documents, specifically a conservation easement and agreement of purchase and sale need to be finalized. Since September 5, 2017, staff has been working with NCC and Clayton to reach agreements over matters such as restrictions over the lands through the conservation easement, sponsorship allowances, the terms for the development of a future management plan, subdivision and development approvals, and the establishment of park entrance infrastructure including a parking area and associated entrance trails pursuant to terms and conditions outlined by Regional Council. These matters are advancing with Clayton and NCC. On this basis, pending the public hearing, staff recommend that Regional Council authorize the Mayor and Municipal Clerk, on the advice of the CAO to enter into prospective agreements with Clayton and NCC on the basis of Regional Council's September 5, 2017 motion and its terms and conditions. Since the negotiations are still ongoing, it is recommended that Regional Council authorize the Chief Administrative Officer to review and confirm the two documents meet the terms and conditions outlined in Regional Council's direction prior to the execution of both by the Mayor and Municipal Clerk. The finalization of the documents is anticipated to be completed in time for the prospective closing date for the property of February 28, 2019.

FINANCIAL IMPLICATIONS

The financial implications associated with the recommendations made within this report include sale price for the conservation easement to be placed on the land. Funds received from that sale would be placed in HRM's Parkland Development Reserve account, Q611.

Budget Summary: Q611 – Parkland Development Reserve

Balance in Reserve May 31, 2018	\$ 4,149,650
Projected revenue to March 31, 2019	\$ 488,389
Approved withdrawals to March 31, 2019	<u>\$(3,258,541)</u>
Projected net available balance, March 31, 2019	\$ 1,379,498
Recommendation 1 (contribution to reserve)	<u>\$ 2,500,000</u>
Projected net available balance, March 31, 2019	\$ 3,879,498

Opportunity Reserve – Q611 Parkland Development Reserve

Purpose of reserve is to manage cash-in-lieu of parkland dedication fees received through the development and subdivision process. Funds are received from these fees, as well as funds received from sale of lands no longer needed for parks, playgrounds or similar public purposes. Withdrawal of funds is for the acquisition of, and capital improvements to, parks, playgrounds and similar public purposes. This reserve is governed by the Halifax Regional Municipality Charter Section 283. The recommendation complies with the reserve business case. The recommendation does not have a negative effect on the reserve, as this sale is an unbudgeted contribution to the reserve.

As indicated in the background section, Council has approved in principle, the purchase of the said lands, pending the outcome of the public hearing. The full purchase price of the property, \$6.6m, was not included in the 18/19 capital budget, as the public hearing had not taken place. Capital Account CP180004 Parkland Acquisition had \$2.5 million allocated in 2018/19 which most can be used towards this purchase, pending outcome of public hearing. As the balance in the account is insufficient to cover the \$6.6m, a report will be presented to Council at a later date to request a budget increase and will also identify the funding source for the budget increase, if required, pending the result of the public hearing. The net available funds in the Parkland Acquisition Reserve, outlined above would be available to fund the future budget increase.

Capital Funding

The proposal from Clayton and NCC includes development of an entrance into the lands, therefore, it is not anticipated that HRM will need to budget capital funding for improvements to the Purcell's Cove Backlands, as the conservation easement will require that the lands remain primarily in their natural state.

Operating Funding

HRM would be responsible for all maintenance of the lands. While the lands are intended to remain primarily in a natural state and be monitored by community steward(s), there would still be municipal costs associated with the management, maintenance, and operation of the wilderness park. Based upon current park maintenance costs, staff estimates the annual operating costs could range up to \$50,000/year (to be confirmed), which is not currently budgeted. Therefore, it is recommended that Regional Council direct staff to include sufficient operating funds in the 2019/20 budget.

RISK CONSIDERATION

The recommendation in this report establishes future financial and other obligations for the acquisition of the lands from Clayton and the granting of a conservation easement to NCC. There will be sufficient conditions in the proposed agreements of purchase and sale to allow HRM not to proceed should any terms and conditions associated with Regional Council's September 5, 2018 motion or other closing terms not be met.

Staff is aware of recent possible claims associated with the lands by a third party. Through the purchase and sale agreement, the lands would not be able to be transferred to HRM until any possible outstanding claims or encroachments are resolved to HRM's satisfaction. Therefore, the terms of the purchase and sale agreement would mitigate any risks associated with possible claims.

COMMUNITY ENGAGEMENT

A public information meeting was held on October 5, 2017 at the Captain William Spry Centre (Attachment A).

ENVIRONMENTAL IMPLICATIONS

As part of the transaction, HRM will be assessing the potential for any environmental issues that might be associated with the lands. There are no known issues at this time.

ALTERNATIVES

Alternative 1: On the basis of the public hearing, Regional Council could decide not to proceed with the acquisition of the lands and the sale of the conservation easement.

Alternative 2: On the basis of the public hearing or other conditions, Regional Council could decide to modify the terms and conditions for the acquisition of the lands and the sale of the conservation easement. This may require additional discussions with Clayton and NCC and a further staff report.

ATTACHMENTS

Map 1 Reference Map
Attachment A Public Information Meeting Minutes

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.


Report Prepared by: Richard Harvey, Manager Policy & Planning, Parks & Recreation, 902.476.5822




Map 1 - Subject Property Location


Regional Council Report - Purcell's Cove, Shaw Group / NCC Proposal

Produced by Parks and Recreation
Policy and Planning

 Shaw Lands

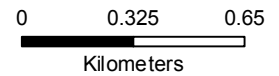
 Parcels

 Streams

 Street



HALIFAX



The accuracy of any representation on
this plan is not guaranteed.



**Shaw Wilderness Park Proposal Public Information Meeting
MINUTES
October 5, 2017**

Hosted by:

Richard Harvey, Manager of Public Policy and Planning, Parks and Recreation

Also present:

Craig Smith, Nature Conservancy of Canada
Alan Shaw, Clayton Developments/Shaw Group
Mike Hanusiak, Clayton Developments/Shaw Group
Kevin Neat, Clayton Development/Shaw Group

Councillor Steve Adams, District 11 Spryfield, Sambro, Prospect Road

The following does not represent a verbatim record of the proceedings of this meeting.

1. CALL TO ORDER

Richard Harvey, Manager of Public Policy and Planning, Parks and Recreation called the meeting to order at 6:35 p.m. at the Captain William Spry Community Centre, 16 Sussex Road, Spryfield. They asked that all in attendance sign in for the record on the sheets provided.

2. PUBLIC PARTICIPATION

Richard Harvey reviewed the agenda and noted that minutes will be taken and included in the staff report which will be prepared for Regional Council. This is a joint proposal between Shaw Group, Nature Conservancy of Canada and the Municipality to develop an urban wilderness park. With an overhead map the site context was described noting that Williams Lake, Colpitt Lake, Purcell's Cove Road and private lands border this space. It is presently undeveloped, rugged terrain with some single-track trails. Richard Harvey reviewed the planning and development context identifying the various regional plan designations used by the municipality. This land is presently designated UR, urban reserve, where it is set aside as undeveloped until 2031 when the city can re-visit development depending on the municipality's growth. It is also zoned UR, urban reserve, where subdivision is not permitted. It was noted that the adjacent crown lands provided connectivity to green open space. The ecological and cultural context was then reviewed. The Purcell's Cove Backlands are noted for their glacial outcrops and unique birds and vegetation including jack pine stands. It also falls within the Williams Lake Watershed Boundary. Within the Green Network Plan this area has been noted for its connectivity for wildlife passage and as having ecological and cultural significance identified by the public.

Richard Harvey shared the proposal details. The municipality will purchase the land for \$6.6 million. The Nature Conservancy of Canada (NCC) will acquire a conservation easement for \$2.5 million, paid to the municipality, which will ensure the lands are maintained in their natural state. These lands will be named Shaw Wilderness Park. Shaw Group will develop the park entrance. The NCC will be conducting public fundraising to raise the easement fee. The municipality and the NCC will develop a management plan along with determining direct community involvement. Preliminary park plans were outlined. The trails will

Attachment A - Public Information Meeting Minutes

continue to be rugged, single track in the wilderness area. The main entrance area could have some accessible paths and amenities near Williams Lake. They will be working with the Royal Nova Scotia Yacht Squadron on the development of the parking area. Richard Harvey reviewed the next steps which include tonight's public consultation and the development of a staff report. Regional Council will then hold a public hearing to allow for the easement sale and then NCC's fundraising will begin.

Craig Smith, Nature Conservancy of Canada, was pleased that the proposal has reached this point which will provide an opportunity to protect ecological and recreation space for the municipality. They acknowledged the positive response from the community and the determined efforts of the many community groups. This project reflects citizen's values for a 21st century city. This will become a long-term partnership with the municipality. Craig Smith thanked all involved for their forward-thinking approach. They noted that they would be happy to share more information about the NCC with those in attendance.

Richard Harvey then invited the public to share their views and ideas, noting that all opinions were respected and welcome. They shared three themes that may assist in the discussion: idea of establishing a park; acquisition and agreement with NCC; park design and uses.

Dale Ann Alder, Spryfield, stated that this was a great idea and a long time coming. They felt the single-track trails were in keeping with the natural state of the park.

Cameron Little, Williams Lake, asked about the boundary of the park at the end of Williams Lake and whether the dam was included.

Richard Harvey noted that the dam has been part of a community led effort in the past and that while the municipality may help organize the community, the dam is not viewed being its responsibility.

Lawrence Plug, Herring Cove, mentioned that there are already trails being developed which extend into the crown lands. They felt there was an opportunity to leverage this and connect the trail systems. They asked about the other two land parcels adjacent to the park. They noted the potential for connectivity around Colpitt Lake. The opportunity to provide active recreation was appreciated.

Richard Harvey confirmed that these are both are privately owned and designated UR, urban reserve, until 2031.

Bob Saunderson, Williams Lake, noted that the lakes fall at the park boundaries and wondered who is responsible to maintain these lakes. Lake levels have been receding over the years and they were concerned about the lake water quality being preserved.

Richard Harvey stated this was under the Province's jurisdiction.

Beth McCarthy, Ferguson's Cove, asked how the price of \$6.6 million was reached. Was this market value or an assessed value and by whom. They also wondered about the timeline for fundraising and if there was a deadline.

Richard Harvey shared that there were appraisals done by the municipality, Shaw Group and the NCC to determine this figure.

Craig Smith, NCC, gave a deadline of 2019 for fundraising efforts.

Bob McDonald, Clayton Park, noted that as this was the only wilderness park in HRM were there any guidelines in place for what infrastructure and activities would be considered and allowed.

Richard Harvey stated that it would be planned and managed to ensure it was maintained in its natural state with trail markings. The park entrance area would be planned and managed a bit differently but in keeping with what is experienced at provincial parks.

Attachment A - Public Information Meeting Minutes

Robert White, Williams Lake, is concerned with the health of the lake; the shores are in peril, it is dead in its deepest parts and road salts and contaminants are a problem. It is necessary that this area be protected as it a part of a wetland and makes this proposal very important.

A local resident (name not heard) would like to congratulate Mr. Shaw and Kathleen Hall who have been the driving forces behind this proposal. They feel this is critical for the longevity and fabric of what HRM stands for. They are very proud of what we have in our city.

Nick Ross, Williams Lake Conservation Company, stated this was an excellent proposal and very important for the area. He noted how valuable it is to the functioning of an ecosystem. It provides a precious heritage both environmentally and physically by connecting neighbourhoods.

Melanie Dobson, Williams Lake Conservation Company, commended the Shaw Group. It was important that this step was taken now, providing the opportunity to protect the space for the future as the urban reserve designation would not protect it forever.

Leslie Randall, Spryfield, stated that having this space still exist defied the odds. It is important to take the long view and be empowered to do what is right.

Patricia Manuel, Halifax, has been studying this landscape for 30 years with her Dalhousie students. It has been invaluable to have them educated here. In addition to the ecological and community value it should be noted that its educational value for all levels of learners is important.

Alan Ruffman, Ferguson's Cove, stated that the questions surrounding the city's chief planner's departure has diminished his faith in the municipality's planning effectiveness. He asked for clarification on the proposed park entrance and what its budget is. They felt a wilderness park doesn't need a parking lot and that the number of spots should be kept to a minimum. Accessing the park using public transit should be encouraged. They noted that this is a sensitive land site and that the size and design of the parking must be considered properly.

Jennie Legere, Ecology Action Centre, noted that this area is presently a best kept secret but that public awareness should be a part of the future planning strategy. She supports Trips by Transit and the use of route 15. She congratulated everyone on the proposal and is excited about it, commenting that this is a way to attract young people to the city.

Cameron Edwards, Trips by Transit, shared that their group have brought many young people and newcomers to experience the park.

Meredith Baldwin, Trips by Transit, hopes that this area will be maintained as a wilderness area and perhaps expanded in future.

Carrie Shofer, Purcell's Cove, stated that the park was a wonderful idea and that people should be encouraged to visit. It is important to note that young families need parking spaces, many presently park on the road which is unsafe.

Richard Harvey emphasized that the parking area was planned close to Purcell's Cove Road to prevent it being further into the park and that they would be working with the Yacht Squadron on the details.

Philip Howard, Halifax, asked what protections from disturbance would be in place relative to the adjacent areas and the pressures of development, using Governor's Brook area as an example.

Richard Harvey explained that there are privately held lands on both sides of the core wilderness area as well as the on extremities of Colpitt Lake. They all hold the UR, urban reserve designation. There is an area by Governor's Brook that is still to be determined in the proposal.

Attachment A - Public Information Meeting Minutes

Beth McCarthy, Duncan's Cove, shared her experiences where the nature reserve in Duncan's Cove is not presently being respected. It was felt that this example needs to be noted as they develop the management plan for the park.

Adam Shore, Williams Lake, has enjoyed the lake and area having grown up here. The community work with Governor's Brook has provided experience, education and learnings for the area. Congratulations on this park proposal.

Nathalie Saint-Jacques, Halifax, mentioned the health benefits of living near green spaces and felt this was also an important investment in public health.

Nathan Brent, Purcell's Cove, remarked that this land, the crown lands and the Nova Scotia Nature Trust land together protect two-thirds of the area. More work will need to be done to ensure the ecological value of the area is not diminished should private lands be developed in future.

Kaarin Tae, McIntosh Run Watershed Association, is very supportive of this proposal and sees it as an important first step. The opportunity to create continuity in habitat with McIntosh Run is significant.

John Brett, Halls Road Williams Lake, strongly supports the project and encouraged all to make donations to the NCC in order to raise the required \$2.5 million. They asked about how fire prevention would be managed and what responsibility HRM has in this regard. They shared some examples of what other areas such as Spain and California do in this regard, where the municipality and landowners share responsibility as one approach to consider.

Richard Harvey noted fire prevention and land use activities would be considered in the parks management plan.

Michelle Raymond, Halifax, noted that the lake is valued greatly and is a major part of this municipality. They asked about the alternative should this project not move forward and is concerned about more urban sprawl and increase in serviced areas.

Richard Harvey stated that the land would remain an UR urban reserve owned by the Shaw Group. They shared that the public has been very clear about the value of this area.

Hal Jones, Oceanview Drive, feels this is a wonderful project. They suggested the yacht squadron should chip in on the parking area as their patrons would likely be using it as well.

Alan Ruffman, Ferguson's Cove, questioned Parks and Recreation's policies for the use of public spaces, using the skating oval on the Halifax Commons as an example. They mentioned the Eastern Shore's Wild Islands initiative and how their public management plan was being developed. The management plan for this park should include a wide cross section of the public and not just special interest groups in order to be effective and its membership should be shared publically.

Richard Harvey asked for any other speakers and then thanked all those in attendance for taking part in the meeting. They pointed out that the Nature Conservancy Council has a table and literature available at the back of the room. Councillor Steve Adams attendance was acknowledged.

3. ADJOURNMENT

The meeting was adjourned at 7:47 p.m.

Sharon Chase, Legislative Assistant