

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 
Jacques Dubé, Chief Administrative Officer

DATE: July 15, 2020

SUBJECT: **Administrative Order 50 Disposal of Surplus Real Property – PID 00424358**
948 Pockwock Road, Upper Hammonds Plains

ORIGIN

October 6, 2015 - Recommendation Report to Halifax Regional Council Administrative Order 50 – Disposal of Surplus Real Property – Package 03.15 the following motions were approved with amendments:

That Halifax Regional Council

1. Declare the properties contained in Attachments B, C, D and E of the staff report dated September 2, 2015, as surplus to municipal purposes; and
2. Declare surplus properties as categorized as specified in Attachments B, C, D and E of the staff report dated September 2, 2015, for the purposes of Administrative Order 50, Respecting the Disposal of Surplus Real Property.

948 Pockwock Road, Upper Hammonds Plains was included in the list of properties declared surplus in Attachment B of the October 6, 2015 report.

March 27, 2018 - Regional Council approved substantive amendments to the Community Interest category that included the inception of Schedule 1 and Schedule 2 with respect to the disposal of Community Interest properties.

January 21, 2020 – Correspondence dated January 12, 2020 was received from the Upper Hammonds Plains Community Development Association, a non-profit organization, requesting to purchase, by a Direct Sale, 948 Pockwock Road, Upper Hammonds Plains.

February 25, 2020 – Regional Council approved reassignment of 948 Pockwock Road, Upper Hammonds Plains from the Call for Submissions process to the Direct Sale process in response to the request from the Upper Hammonds Plains Community Development Association.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, 2008, S.N.S c.39

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.

Administrative Order 50, the Disposal of Surplus Real Property Administrative Orders

Section 2(2)(b) Community Interest.

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.

Schedule 1 Disposal of Community Interest Properties

Section 11 Direct Sale Request

- (1)** A non-profit organization may make a request to purchase, by Direct Sale, a community interest property owned by the Municipality.
- (2)** If a request to purchase a community interest property by Direct Sale is received by the Municipality and the subject property has not been declared surplus and classified as a community interest property, the request must:
 - (a) be included in the next review provided to Council pursuant to subsection 3(1) of this Administrative Order; or
 - (b) be forwarded to Council with a report and recommendation respecting the property.
- (3)** No action may be undertaken by the Municipality in respect of the request to purchase except those actions required to satisfy subsection 2 of this section.
- (4)** For greater certainty, the property may only be sold by Direct Sale if the property is declared surplus by Council, is categorized as community interest property by Council in accordance with this Administrative Order, and sections 7, 8, 9, 11, 12 13, and 14 are satisfied.
- (5)** If Council decides to proceed by Direct Sale, such decision must be made at the same meeting where the property is categorized as community interest property.
- (6)** An applicant will have up to 90 days to submit to the Municipality the information that would otherwise be required under section 8.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Set a date for a public hearing to consider the sale of 948 Pockwock Road, Upper Hammonds Plains, identified as PID 00424358, to the Upper Hammonds Plains Community Development Association as per the terms and conditions outlined in Table 1 of this report; and
2. Subject to the outcome of the public hearing, approve the sale and authorize the Chief Administrative Officer to negotiate an agreement of purchase and sale with the Upper Hammonds Plains Community Development Association, to be executed by the Mayor and Clerk on behalf of the Municipality, as per the terms and conditions outlined in Table 1 of this report.

BACKGROUND

Municipal Policy: Administrative Order 50 is a standardized process for the sale of surplus real property. Section 2(2)(b) defines Community Interest properties as 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.

In 2015 the subject property was declared surplus by Regional Council and subsequently assigned to the Community Interest category of Administrative Order 50. In February 2020, Council approved a request from the Upper Hammonds Plains Community Development Association (“the Association”) for Direct Sale consideration. Following Council’s decision, a technical package was sent to the Association which included an application form, technical reports commissioned by HRM, the Municipality’s annual holding costs, and the property’s appraised and assessed value (2020). The deadline for the submission of a proposal was July 4, 2020.

Property Description: The subject property is located on Pockwock Road. The immediate neighbourhood is sparsely populated with single family homes. Large tracts of undeveloped land comprise the balance of the area. The site is not serviced by municipal water and sewer services. The building – a former fire station – is approximately 51 years old and is of masonry and steel frame construction on a poured concrete slab. The premises include a 4-bay garage, a small kitchen, washroom, and utility room. The building’s condition is considered average.

Zoning: GU-1 (General). This zoning is very permissive and allows for Residential or Commercial development except for industrial uses, commercial entertainment, mobile home parks, landfill, hazardous waste, construction or demolition disposal sites.

Property Valuation and Assessment: In February 2020 HRM retained the services of Kempton Appraisals Limited to conduct an appraisal of the subject property. A market value of \$155,000 was based on property values in the immediate area, the value of the building less depreciation, and site improvements (well, septic, and paving). The 2020 assessed value of the property is \$68,900. Conveyance will trigger a re-evaluation through Property Valuation Services Corporation from Commercial Exempt to Commercial taxable.

History of Ownership and Use: In 1966, local resident Mrs. Elizabeth Mantley donated a parcel of land identified as Lot A-1 in support of establishing a volunteer fire department in Upper Hammonds Plains. The deed was registered in the name of the Municipality of the Halifax County in 1969. It is believed that the County held title because the Upper Hammonds Plains Volunteer Fire Department did not incorporate until 1976 although the station was operational in 1970.

At amalgamation in 1996 title ceded to HRM. Under HRM’s Fire & Emergency Services the building was identified as Fire Station #51. In 2002, operating and capital funding for volunteer and core fire departments coordinated by HRM Fire & Emergency Services was included in the general tax rate effective January 1, 2003¹. Over the next ten (10) years smaller operations were merged and a number of fire stations were used in an auxiliary capacity, for example, for equipment storage. In 2012, HRM Fire & Emergency Services undertook a service review and the following year five (5)² volunteer fire stations were de-commissioned including Upper Hammonds Plains Fire Station #51 due to insufficient volunteers, low call volume, and/or opportunities for consolidation. Residents suggest that with notification of the fire station’s closure it was understood HRM’s intent was to “return the property to the community”.

¹ Recommendation report to the Regional Council meeting of December 17, 2002, Tax Structure Recommendations, dated December 10, 2002.

² The other de-commissioned stations were Mooseland, Terence Bay, Ketch Harbour, and Elderbank.

Since de-commissioning, the building has been vacant but used informally for the storage of equipment and the former society's files. As proposed, the contents of the building are to be included in the conveyance of title: the stewardship of documentation and artefacts related to the local fire service will thus revert to the community.

DISCUSSION

Proponent's Profile: Incorporated as a non-profit society in 1970 the Association's mandate is to foster social and economic development for the community. Prior to amalgamation the Association had operated the Upper Hammonds Plains Community Centre funded through an area rate. When title ceded to HRM a lease agreement was put into effect. In 2015, the area rate was discontinued; annual operating funds are now provided through HRM Parks & Recreation. Project-specific grants and hall rentals supplement revenue. Programming includes free or low-cost recreational activities (e.g. summer day camps), a seniors' club, community meals, the *Nova Scotia Brotherhood Initiative* an outreach program of the Nova Scotia Health Authority for African Nova Scotian men, a weekly youth drop-in night, a *Cultural and Academic Enrichment Program* in collaboration with the Black Educators Association of Nova Scotia, and an annual *CanJam Festival* (a basketball tournament and Canada Day celebration).

Proponent's Intended Property Use: The Association proposes to adapt the building for use as a venue to commemorate community achievements, including the historical significance of the volunteer fire service, and to host arts and recreational activities for local youth.

Proponent's Terms and Conditions of Offer: The Association proposes a Purchase Price of \$1.00 and request that no Buy-Back Agreement be applied to the conveyance. Although the Association's Articles of Incorporation are silent on the disposition of assets upon dissolution, Section 7 stipulates that where members decide the Association shall sell, mortgage, purchase or otherwise deal with property, a meeting of all members shall be called, and motions carried by a majority vote. The Association also requests that all contents be included in the conveyance, some of which have cultural and/or historical significance to the community. An amount of \$3,497.50 is offered towards HRM's closing costs.

Administrative Order 50 – Community Interest Category

Consideration under the Community Interest category is a two-step process to determine the feasibility of the applicant's proposal. The first step requires a technical evaluation by a staff team followed by overall consideration by Regional Council.

1. Staff Evaluation Results

An inter-disciplinary team of staff was convened to evaluate the Association's submission. Led by Finance (Grants & Contributions, Real Estate, Accounting), Parks & Recreation (Culture & Events), and Human Resources (Diversity & Inclusion). In accordance with subsection 15 (3) of Administrative Order 50, staff evaluates submissions on four (4) criteria:

- Viability.
- Benefit to the Community.
- Benefit to the Municipality.
- Compensation.

Key Findings:

1. **Viability** – The Association has been a viable and successful organization for over 30 years and during that time has delivered an array of programming for residents in the former segregated school located at 711 Pockwock Road that was built on land owned by the Emmanuel Baptist Church. Conversion of the former fire hall to accommodate arts and recreational activities for youth that are culturally appropriate and inclusive is a desirable goal; one that also addresses limited access to public facilities and a lack of public transit.

The Association has established working relationships with government, non-profit organizations, and the private sector that generate financial resources. For example, in 2016, the Upper Hammonds Plains Community Development Association entered into a funding agreement (Community Sustainability Funding Agreement) with Pockwock Wind Limited Partnership. As a partner the Association receives 1% of the project's gross annual revenues to be used for the benefit of residents of Upper Hammonds Plains. A portion of this funding will be dedicated to the annual operating budget of the proposed Upper Hammonds Plains Youth Creative Arts and Recreation Centre. Notwithstanding this agreement, operations may rely to a significant extent on non-recurring grants from various levels of government particularly if programming is exclusively youth; this age group may have limited income and discretionary spending capacity.

In July 2020, the Association indicated their interest in applying to the *Social Development Partnership Program – Supporting Black Canadian Communities* administered by Employment and Social Development Canada. The program targets non-profit organizations that are led by and primarily serve members of the Black community. Grants of up to \$100,000 may be awarded for equipment purchases or renovations to improve the functionality of a facility, space or location. The program has an application deadline of July 27, 2020. To assist the Association with their application HRM is examining the feasibility of a temporary lease agreement under HRM's *Real Property Transaction Policy*. Access to the property will accommodate site visits by contractors and strengthen day-to-day property stewardship.

2. **Benefit to the Community** - Conveyance of the subject property would enable expanded youth programming, supported by a community with an established record in volunteerism, within the geographic area in which the youth reside thereby reducing barriers to access due to the proximity of public facilities in the area and transportation limitations. Further, the Association's plan recognizes the historical significance of the building and the importance of preserving and presenting this heritage.
3. **Benefit to the Municipality** – Ownership and operation by a local, well-established non-profit organization is considered desirable given the cultural and historical significance of the former Upper Hammonds Plains Volunteer Fire Department. The proposed use also aligns with several municipal goals in terms of: (i) youth access to low cost, inclusive services regardless of academic, cultural, or financial background; (ii) access to facilities and natural assets to enable a range of choices for structured and unstructured recreational and leisure activities; and (iii) upholding the principles of diversity and inclusion.
4. **Compensation** – A proposed purchase price of \$1.00 is below the property's appraised and assessed value but is considered appropriate given that the Municipality has no operational requirement for the premises and evidently only held title because the local volunteer fire service was not incorporated at the time of Mrs. Mantley's donation of land.

Summary and Recommendation Rationale

In summary, the submission scored 88/100 based on information provided by the applicant. The review concluded that ownership of the subject property should revert to the Association unencumbered by a Buy-Back Agreement. In the event the Association elect to sell or convey the property at some future date the Municipality has no interest in a repurchase. Proceeds from any future sale or conveyance would be to the Association and any liabilities associated therewith.

Buy-Back Agreement

It is recommended that a Buy-Back Agreement not be applied to the proposed conveyance of 948 Pockwock Road, Upper Hammonds Plains based on the following:

- the donation of land by a local resident to support the establishment of a volunteer fire service;

- the deed did not include a reversion clause should the land cease to be used for a volunteer fire service or upon merger or dissolution of the volunteer fire department;
- the investment of resources, including non-monetary, by local community members in the construction and operation of the subject property including a local area rate;
- the property’s significance to the community of Upper Hammonds Plains, the history of firefighting, members of the donor’s family, and in the preservation and presentation of Black history.

Proposed Terms and Conditions of Conveyance

Table 1. KEY TERMS AND CONDITIONS (PROPOSED)	
Civic Address	948 Pockwock Road, Upper Hammonds Plains
Area	15,521 sf
Zoning	GU-1 (General Use)
Assessed Value	\$68,900
Appraised Value	\$155,000
Tax Status	Commercial Exempt
Proposed Purchase Price	\$1.00
Terms of Offer	The Association shall be responsible for all operating and capital costs including annual real property tax.
Proposed Use	Operation as a youth and cultural centre, including the commemoration of the first all-Black volunteer fire department within HRM, Nova Scotia and Canada
Conditions of Sale	Property to be conveyed “as is/as zoned” including contents.
Buy-Back Agreement	There shall be no Buy-Back Agreement applied to the proposed conveyance.
Closing Date	Within 3 months of Regional Council’s approval.
Cost of Sale Recoveries	The Purchaser shall pay up to a maximum of \$2,500+ HST towards closing costs ¹ .

Notes to Table 1.

1. Schedule 2, Schedule of Transaction Fees: Community Interest Real Property Disposal, of *Administrative Order 50* applies payment thresholds to (a) migration and deed fees of up \$2,500 per property and (b) appraisal/comparative market value analysis as the lessor of 50% of the cost or \$2,500 per property transaction.

Council’s Consideration

Upon review of staff’s evaluation, Council is to review the submission based on criteria set out in Section 17 of the policy, namely:

- (i) the market value of the property as appraised;
- (ii) the Planning Strategies of the area;
- (iii) the benefit of any cost saving to HRM;
- (iv) the consequences, beneficial or otherwise, to the community or to the Municipality as a whole;
- (v) the beneficial consideration 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 sale.

The following information is provided for Council's consideration:

- the assessed value is \$68,900;
- the appraised value is \$155,000;
- the proponent's intended use complies with current zoning.

Virtual Public Hearing

The public hearing, if held during the Nova Scotia State of Emergency, must be held virtually pursuant to the direction of the Minister pursuant to the *Emergency Management Act* and pursuant to schedule 1 of the Covid 19 Administrative Order.

FINANCIAL IMPLICATIONS

If approved, the terms of conveyance recommended by the staff review constitute a less than market value sale (i) assignment to the Community Interest category restricts the opportunity to acquire title to only non-profit and charitable organizations, and (ii) acceptance of a purchase price of \$1.00. Conveyance will release HRM from insurance and any future re-capitalization costs.

If Council decides to proceed with disposal, funds received will be directed to the Capital Fund Reserve Q526.

Budget Summary, Obligation Reserve – Capital Fund Reserve Q526

Projected Net Available as at June 30, 2020	\$33,514,147
Add: Proceeds of Sale as per report	\$ 1
Projected Net Available Balance to March 31, 2021	\$33,514,148

Obligation Reserve – Capital Fund Reserve Q526

The reserve is funded by the sale of land in HRM, other than Business/Industrial parks or sale of land conveyed to HRM for parks, playgrounds or similar public purposes. Several other large properties are now excluded from deposit to this reserve and are being redirected to the Strategic Capital Reserve Q606. The Capital Reserve Fund is governed by the Halifax Regional Municipality Charter Section 120 (1), (3) and (4). Withdrawals from the reserve are for capital expenses for which the Municipality may borrow.

RISK CONSIDERATION

Low – The Association has experience in operating the HRM Upper Hammonds Plains Community Centre but will assume all operating and capital costs. Should the Association cease operations or elect to sell or convey the Property all proceeds shall to be the Association.

COMMUNITY ENGAGEMENT

A public information meeting in the vicinity of the subject property is not mandatory under the Direct Sale category of Administrative Order 50.

November 21, 2019 – The Upper Hammonds Plains Community Development Association convened a meeting of residents to discuss their interest in acquiring the property and potential uses. HRM staff were invited to attend and provided information and responded to questions of clarification.

ENVIRONMENTAL IMPLICATIONS

A Phase I environmental assessment found no major concerns but an overfill of an oil tank during the 1990's may have resulted in seepage under the concrete pad despite remediation. This presents no risk if undisturbed.

ALTERNATIVES

1. Regional Council could decline the offer of \$1.00 in favour of a higher sale price.

This action is not recommended: the land was donated by a local resident for a community benefit (a volunteer fire service) and the building was constructed through the fundraising efforts of volunteers. The building has limited marketability due to its size and specialized configuration.

2. Regional Council could apply a Buy-Back Agreement for an initial term of 25 years as per policy (2014) or apply other terms and conditions as Council may deem appropriate to protect the interest of the Municipality or the historical significance of this site in relation to Black history.

This action is not recommended: This intent of the proposed conveyance is to return land donated to the community for the benefit of residents by whom the building was constructed

ATTACHMENTS

Attachment 1 - Site map

Attachment 2 - Photograph

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: Peta-Jane Temple, Team Lead Grants & Contributions, Finance, Asset Management & ICT 902.490.5469;
Colin Walsh, A/Project Manager, Finance, Asset Management & ICT 902.579.2824.

ATTACHMENT 1



ATTACHMENT 2

