

Item No. 11.1

Halifax Regional Council

October 17, 2017

November 14, 2017

TO: Mayor Savage and Members of Halifax Regional Council

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

DATE: September 25, 2017

SUBJECT: Administrative Order 50 Disposal of Surplus Property – Community Interest, 1018 Fall River Road, Fall River

ORIGIN

August 6, 2013 - Regional Council approved the surplus status and disposal of 1018 Fall River Road, Fall River but amended the disposal category from Section 4(1)(c) Ordinary to Section 4(1)(e) Community Interest.

February 11, 2017 - Call for Submissions was issued for the subject property with a June 22, 2017, submission deadline.

LEGISLATIVE AUTHORITY

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 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. 2008, c.39, s.63.

Section 120(1)(3) The capital reserve fund includes (a) funds received from the sale of property.

Administrative Order 50 Respecting Disposal of Surplus Real Property.

Administrative Order 2014-015-ADM Respecting Reserve Funding Strategies.

Reserve Business Case, Obligation Reserve – Q526 Capital Reserve Fund

HRM Tangible Capital Assets Policy (2009).

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Schedule a public hearing to consider the sale of PID 00507459 1018 Fall River Road, Fall River, to the Fall River Minor Football Association as per the proposed terms and conditions set out in Table 1 of this report; and
2. Subject to the outcome of the public hearing, approve the sale and authorize the Mayor and Municipal Clerk to enter into an Agreement of Purchase and Sale with the Fall River Minor Football Association as per the terms and conditions set out in Table 1 of this report.

BACKGROUND

Municipal Policy: Administrative Order 50 is a standardized process for the sale or lease¹ of surplus real property according to the intent of the sale. 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.

Section 4(1)(l). In the event that Council rejects any or all non-profit organizations' submissions to purchase at less than market value, Council may direct staff to proceed to sell the property at market value.

In 2013, the subject property was declared surplus by Regional Council and assigned to the Community Interest category of Administrative Order 50. An open Call for Submissions was issued on February 11, 2017. As of the application deadline of June 22, 2017, one (1) proposal was received. The offer of purchase is from the Fall River Minor Football Association.

Property Description: The subject property is a 21,600 square feet parcel of land fronting Fall River Road. The land has been improved with a single-level wood-framed building believed to have been constructed in the early 1950's for use as a public school. The building is approximately 2,156 square feet with two classrooms, two washrooms and kitchenette. Much of the site is paved for parking (approximately 27 stalls). The property has been used primarily for a commercial daycare, monthly meetings of The Friendly Group of Senior Citizens club, and assorted recurring and non-recurring rentals. The subject property is not serviced with municipal water and sewer services; in 2016, HRM located and emptied the on-site septic holding tank and installed a new cover to aid in location and servicing.

Zoning: The subject property is zoned R-1B Suburban Residential Zone which permits single and two-unit dwellings up to a height of 35 feet and daycare facilities for up to fourteen (14) children in conjunction with permitted dwellings subject to certain requirements with respect to floor coverage, outdoor storage and signage, parking and no direct sale of goods stored on the premises. Community uses may be permitted provided they conform to Part 22 of the Municipal Land Use By-law: Planning Districts 14/17 (Shubenacadie Lakes) including parks and open space; educational and denominational institutions, day care facilities and a single dwelling unit in conjunction with a day care facility; fire or police station; government offices and public works; hospital or medical clinic; public library, museum or gallery; community centre; community hall; recreational uses; nursing home or residential care facility.

Property Valuation and Assessment: In July 21, 2011, HRM retained Altus Group Limited to provide an appraisal of the subject property. The appraised value is included in a confidential companion In Camera Information Report dated September 19, 2017. In 2016, the assessed value of the property was \$165,800 but decreased to \$152,900 in fiscal year 2017. The land has appreciated modestly but the building continues to depreciate in value probably due to the age of the building and a lack of substantial re-capitalization.

¹ Within the context of a disposal the term lease infers an option of a lease-to-purchase.

History of Ownership and Use: In 1947, a parcel of land was conveyed by private owners to the Trustees of School Section #48 in the District of Halifax West. The conveyance appears to have been for construction of the Fall River West School. When the school ceased operations the property ceded to the former Municipality of Halifax County.

In 1982, the Municipality leased the property to the Riverlake Residents' Association² for \$1.00 per annum in lieu of the tenant assuming operating costs. The lease included a year-to-year holdover clause. The premises operated under the name of the Riverlake Community Centre and the Residents' Association petitioned the Municipality for an area rate to support recreation amenities and programs in the area. In addition to funding the Windsor Junction Community Centre the area rate has been used to issue "grants" to support recreation amenities in Fall River, Lakeview, Lockview, and Windsor Junction³, local non-profit groups, and events.

The operations of the Riverlake Residents Association ceased in 1998 and thereafter occupancy of the subject property has been primarily 'self-directed'. The premises were used primarily by a private daycare operator until Regional Council's decision to dispose of the property. After the daycare re-located the property has been used by a variety of local community groups including The Friendly Group of Senior Citizens (one morning a month for meeting/social activities), peer support groups, fundraising and social functions. There is no lease, license, or a facility management agreement in effect with any users. In error, the property has not been assessed as taxable.

DISCUSSION

Proponent Profile: The Fall River Minor Football Association (the "Association") began operations in 2005. Programming encompasses children and youth at varying skill levels. Registration has almost doubled over the last five (5) years to a total of 107 registered players in 2016. Operations rely on registration fees supplemented by canteen sales, fundraising, non-recurring grants and corporate sponsorship. The Association is in the third year of a 7-year land lease agreement with a private property owner. The 4.3 acres is to be developed into a playing field scheduled to open in the Fall of 2017. The land lease includes a 3-year renewal option.

Proponent's Intended Property Use: The Association intends to use the property as a "clubhouse" to facilitate their on-going activities such as meetings, instruction and certification, off-field training, fundraising and social events. As space and scheduling permit, the Association intends to make the premises, to be re-named The Old Schoolhouse, available to other community groups with priority afforded current user groups. The goal is to foster programming for seniors, adults, and youth while raising operating revenue to aid sustainability.

Proponent's Terms and Conditions of Offer: The Association's offer includes a purchase price of \$1.00 and a desired closing date of August 4th, 2017. A Buy-Back Agreement giving HRM right-of-first refusal within ten (10) years of the Agreement of Purchase and Sale is proposed with a purchase price "equal to or less than the original purchase price". The submission omitted reference to payment of all or some portion of 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 a proponent's proposal. The first step requires a technical evaluation by a staff team followed by overall consideration by Regional Council using different criteria.

Staff Evaluation Results

An inter-disciplinary team of staff was convened to evaluate submissions. Led by Finance, the team

² The Riverlake Residents Association incorporated as a non-profit society in 1976 and ceased operations in 1998².

³ The Laker, May 4, 2017.

included Grants & Contributions, Real Estate, Parks & Recreation, and Finance. In accordance with Section 4(1)(f) of Administrative Order 50, staff evaluates submissions on four (4) criteria:

- Content Compliance;
- Viability;
- Compensation;
- Benefit to the Municipality.

Key Findings:

1. **Content Compliance** – Except for the omission of closing costs, the application met the requirements as set out in Section 4(1)(e) of Administrative Order 50.
2. **Viability** – The operations of the Association are well established with stable revenues from player registration. However, although the Association’s submission included a multi-year capital and operating plan for the facility, the organization has limited property management experience. The proponent’s financial and volunteer capacity with respect to undertaking both the development of a sports field and operation of an older building with third party users is unknown but conceivably the two amenities could generate synergy.
3. **Compensation** – A proposed purchase price of \$1.00 is significantly below the appraised and assessed value of the property.
4. **Benefit to the Municipality** – The property will first and foremost serve the Association’s affiliated teams and sport-related activities but room rentals to local non-profit groups could maintain or expand community-based activities in the Fall River area. It appears that current user groups are expected to maintain their affiliation with the subject property but alternate hourly room rentals are available at other facilities including the Gordon R. Snow Community Centre.

In summary, the submission scored 60/100 based on the information provided by the applicant. The intended use is compatible with current zoning and provides a transitional opportunity for current user groups. Re-branding the building as The Old Schoolhouse might also broaden the facility’s appeal and afford new programming and/or revenue opportunities.

Buy-Back Agreement

In 2014, Regional Council approved a policy with respect to the use of Buy-Back Agreements in property sales to non-profit organizations⁴. The policy states that a Buy-Back Agreement shall have an initial term of 25 years followed by an automatic review by Regional Council to consider continuation, amendment or release. The Buy-Back normally forms a first option on the property in favour of the Municipality and is in priority to any financial encumbrances granted by the Purchaser after the sale closes. During the term of the Buy-Back Agreement, the owner may apply to the Municipality for postponement of the Buy-Back Agreement to secure financing of up to 65% of the property’s market value as of the date of the request. The purpose of the Buy-Back Agreement is to uphold the intent of a less than market value sale.

It is recommended that the sale of PID 00507459 1018 Fall River Road, Fall River, include a 25-year Buy-Back Agreement. However, a repurchase price “equal to or less than the original purchase price” as proposed by the Association would not recognize any capital improvements made by the Purchaser.

In the alternative, it is recommended that the Association would be compensated for capital improvements⁵ that extend the useful life of the asset, less depreciation and excluding any municipal investment (eg. cash grants or in-kind donations).

⁴ Report to Regional Council dated June 23, 2014, entitled “Use of Buy-Back Agreements in Property Sales to Non-Profit Organizations” approved on July 22, 2014.

⁵ The term ‘capital improvement’ is recognized and defined in real estate, law, and accounting practices.

For clarity, the method of depreciation is included in Table 2 of Attachment 1 of this report. The proposed amortization rates are adapted from Appendix C: Thresholds and Amortization Rates of the current HRM Tangible Capital Assets Policy. Although this approach is intended for the mutual protection of both HRM and the Purchaser should the Buy-Back Agreement be invoked it does require good record-keeping on the part of the new owner.

Table 1. KEY TERMS AND CONDITIONS (PROPOSED)	
Civic Address	1018 Fall River Road, Fall River
Land Area	21,600 square feet
Zoning	R-1B Suburban Residential Zone
Assessed Value	\$152,900 (Updated to 2017 assessed value)
Appraised Value	See: In Camera Information Report dated November 14, 2017.
Tax Status	Commercial Exempt.
Proposed Purchase Price	\$1.00
Terms of Offer	Property to be sold as is and as zoned. The Association shall be responsible for all operating and capital costs including annual real property tax.
Proposed Use	Fall River Minor Football Association administration and programming with room rentals to local community-based groups and private rentals as feasible.
Conditions of Sale	Property to be conveyed "as is" and as zoned.
Buy-Back Agreement	A Buy-Back Agreement with an initial term of 25 years shall apply to this conveyance followed by an automatic review by Regional Council. In the event the Buy-Back Agreement is invoked prior to the conclusion of the first term the owner shall be entitled to claim capital improvements made to the subject property independent of any municipal funding, less annual depreciation as per the amortization rates by asset class identified in Table 2 of Attachment 1 of this report.
Closing Date	Within three (3) months of Regional Council's approval.
Cost of Sale Recoveries	The Association shall pay up to a maximum of \$2,500 (HST included) for legal/deed migration fees at closing upon receipt of an itemized invoice issued by HRM. Excludes payment for independent appraisal report which is HRM's responsibility.

Council's Consideration

Upon review of staff's evaluation, Council must review the submissions based on criteria set out in Section 4(1)(i) 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 the Municipality;
- (iv) the consequences, beneficial or otherwise, to the community or to the Municipality as a whole;
- (v) the beneficial considerations of any submission against the benefit to the Municipality of selling the property at market value; and
- (vi) whether or not a Buy-Back is a condition of a sale.

The following information is provided for Council's consideration:

- the assessed value of the property is \$152,900 (revised to 2017 fiscal year);
- the appraised market value "as is/as zoned" is included in a separate In Camera Information

- Report⁶;
- the proponent's intended use complies with current zoning.

FINANCIAL IMPLICATIONS

If approved, the terms of conveyance recommended by the staff review constitutes a less than market value sale because the solicitation of offers has been restricted to only non-profit proponents.

Based on the 2017 assessed value of \$152,900, if approved the conveyance of 1018 Fall River Road, Fall River, to the Fall River Minor Football Association for \$1.00 represents an in-kind contribution of \$152,900 by HRM. If Council decides to proceed with disposal, funds will be directed to the Capital Fund Reserve Q526.

Budget Summary - Obligation Reserve – Capital Fund Reserve Q526

Balance in Reserve (June 30, 2017)	\$ 15,253,873
Projected revenue (to March 31, 2018)	\$ 4,079,062
Commitments (to March 31, 2018)	<u>\$(12,513,020)</u>
Projected net available balance (March 31, 2018)	\$ 6,819,915

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 Fund Reserve 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. The recommendation does not have a negative impact to the reserve balance: proceeds from sale would be a contribution to the reserve.

Using the 2017 assessed property value of \$152,900 and a sale price of \$1.00 the deed transfer tax opportunity cost to HRM would be \$2,293.50.

Acceptance of an estimated \$2,500 towards HRM's closing costs in completing a title search, deed and legal description, and migration to the Nova Scotia Land Registry represents a further in-kind contribution of approximately \$3,500 which includes the cost of an independent appraisal. Conveyance will release HRM from any insurance and future re-capitalizations costs.

Conveyance of the subject property will necessitate a review of the property's current classification as Commercial Exempt and the assessed value by Property Valuation Services Corporation.

RISK CONSIDERATION

Low. Although the Association has no prior history of property ownership the inclusion of a Buy-Back Agreement protects the public interest should the non-profit cease operations or wish to sell or convey the subject property.

COMMUNITY ENGAGEMENT

A mandatory public information meeting was held on October 26, 2016, at 1018 Fall River Road, Fall River. The meeting was publicized in a newspaper advertisement Saturday, October 15, 2016. The purpose of the meeting was to inform the public on the legislated process to purchase municipal property and specific details about 1018 Fall River Road, Fall River. Approximately twenty-two (22) members of the public attended the meeting.

A Call for Submissions was issued Saturday, February 11, 2017. With an application deadline June 22,

⁶ Section 5 of Administrative Order 50 requires appraisals remain confidential until the sale is completed.

2017. A site visit was scheduled for March 21, 2017, 10:00 am to 12:00 noon with four (4) people in attendance.

ENVIRONMENTAL IMPLICATIONS

No environmental testing has been undertaken at this location.

ALTERNATIVES

1. Regional Council could direct staff to negotiate a higher purchase price with the Fall River Minor Football Association and prepare a Supplementary Recommendation Report for the Council's consideration prior to setting a date for a public hearing.
2. Regional Council could decline the offer of \$1.00 and direct staff to proceed to sell the property at market value in accordance with Section 4(1)(l) of Administrative Order 50.
3. Regional Council could propose amended terms and conditions of conveyance as deemed advisable.

ATTACHMENTS

1. Buy-Back Agreement: Proposed Amortization Rates for Capital Improvements.
2. Site Map and Photograph.

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 902.490.4210, or Fax 902.490.4208.

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ATTACHMENT 1

Proposed Amortization Rates: Capital Improvements

Table 2. Proposed Amortization Rates: Capital Improvements		
Asset Class	Items	Useful Life
Parking Lot	Improvements to land such as asphalt or gravel.	20 years.
Structural	Foundation, load-bearing walls, floor and roof framing system.	40 years.
Roof	Covering on the upper most part of the building that protects the building and its contents from the effects of weather.	40 years.
Interior	Interior architecture including elevator, stairs, non load-bearing walls, ceilings, flooring, fixed cabinetry and millwork.	15 years.
Exterior	Exterior architecture elements that enclose the structure including windows, exterior doors. Excludes roof.	20 years.
Electrical	Building systems: wiring, lighting, security alarm or camera system.	40 years.
Mechanical	Building systems: heating, ventilation, air conditioning, plumbing, waste disposal, fixed sprinkler system.	20 years.
Site Work	Landscaping improvements including walkways, storm drainage, exterior lighting/lampposts, waste water, well and septic systems, fixed (permanent signage). Excludes parking lot.	20 years.
<p>Excludes equipment such as office furniture, soft furnishings (eg. window coverings, carpet), fixtures, appliances, audio-visual or computer hardware and software, interior decorating (eg. painting or decorative installations), exterior painting, landscape plants or outdoor furnishings.</p> <p>Excludes: operating, recurring preventive maintenance and minor repairs.</p>		

The “amortization rate” is applied to the cost of the capital improvement using the following formula:

$$\frac{\text{Cost of Item}}{\text{Lifecycle Expectancy}} = \text{Annual Depreciation.}$$

Example: a replacement roof costs \$100,000

$$\frac{\$100,000}{20 \text{ Years}} = \text{depreciates } \$5,000 \text{ per year}$$

In this example, the asset (roof) would be valued at \$50,000 after 10 years.

Note: The value of donated goods and services towards all or a portion of a capital improvement shall be verified by documentation as of the time of the donation (not retroactive estimates) and may be subject to independent verification in the absence of an income tax receipt or vendor’s original invoice, receipt or similar instrument.

ATTACHMENT 2

