



P.O. Box 1749  
Halifax, Nova Scotia  
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**Item No. 14.1.6**  
**Halifax Regional Council**  
**February 7, 2017**

**TO:** Mayor Savage and Members of Halifax Regional Council

Original Signed by 

**SUBMITTED BY:**

\_\_\_\_\_  
Jacques Dubé, Chief Administrative Officer

Original Signed by 

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Jane Fraser, Acting Deputy Chief Administrative Officer

**DATE:** December 23, 2016

**SUBJECT:** **Property Disposal, PID 41287137, Highway 101 and Margeson Drive, Middle Sackville, Cobequid Cultural Society**

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**ORIGIN**

- March 23, 2015 - North West Community Council motion to direct staff to provide the following transfer of funds from the Sackville Community Compensation Fund: \$100,000.00 to the Cobequid Cultural Society (CCS) upon successfully negotiating a long term lease agreement between CCS and the Halifax Regional Municipality (Halifax Transit) for the construction of an Arts and Cultural Centre in HRM owned land located at the intersection of Margeson Drive and Highway 101 in Middle Sackville.
- August 4, 2015 - Regional Council motion requesting a staff report exploring the potential for a long term lease agreement between CCS and HRM (Halifax Transit) for the construction of an Arts and Cultural Centre on HRM owned land located at the intersection of Margeson Drive and Highway 101 in Middle Sackville.
- October 27, 2015 - Regional Council motion to direct staff to (1) request that a formal business plan be submitted by the CCS regarding their proposal to construct an Arts and Cultural Centre on HRM owned land; and (2) evaluate the business plan provided by the CCS and report to Council regarding the proposal once the detailed design for the Transit Park & Ride project is more advanced, and (3) direct staff to work with the CCS to review the terms and conditions needed to be met to allow for a long term lease.
- February 11, 2016 - correspondence from CCS indicating that they would prefer entering into an agreement of purchase and sale for the property rather than a less than market lease.
- May 19, 2016 - Community Planning & Economic Development Standing Committee Information Report updating status of CCS request.

**LEGISLATIVE AUTHORITY**

Clause 61(5) (b) of the Halifax Regional Municipality Charter (Halifax Regional Charter); "The Municipality may...(b) sell property at market value when the property is no longer required for the purposes of the Municipality".

Subsection 63(1) of the Halifax Regional Charter; "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".

**RECOMMENDATIONS ON PAGE 2**

Subsections 120(1)(3) of the Halifax Regional Charter; (1) “The Municipality shall maintain a capital reserve fund.

(3) The capital reserve fund includes:

(a) Funds received from the sale of property”;

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

### **RECOMMENDATION**

It is recommended that Halifax Regional Council:

1. declare 2.0 acres of PID 41287137, Highway 101 and Margeson Drive, Middle Sackville, as shown on Attachment “A”, as no longer required for the purposes of the Municipality and surplus to municipal requirements, and categorize the parcel, as ‘Economic Development’, as per Administrative Order 50;
2. direct Planning and Development staff to review and advise CCS respecting the planning application approvals required in order to facilitate the development proposal on this site inclusive of addressing land use, subdivision, shared parking, vehicle access and egress, proximity to Provincial right of ways, as well as the size and location of septic fields, and report back to Council as may be required; and
3. following the resolution and determination of the planning approval process return to Council with the recommended terms of the shared parking agreement and terms of the property conveyance for final approval by Council.

### **BACKGROUND**

In October 2008, the subject HRM property, PID 41287137, was acquired by the Municipality from a third party for the planned Highway 101 interchange, the southward alignment of Margeson Drive, and a future Halifax Transit Park & Ride facility in Middle Sackville. The 21 acre property was acquired and the interchange was constructed, leaving a remaining 8.9 acres of vacant land. The section of Margeson Drive between the interchange and Highway No. 1 was completed, north of the subject property.

In March 2014, the CCS made a written request to the area Councilor for a less than market lease for a portion of the HRM property planned for the Halifax Transit Park and Ride. Their request was to facilitate the construction of a proposed new Arts Centre for the visual and performing arts.

In February, 2016 CCS changed their request from a less than market lease to an acquisition of the subject parcel.

The Cobequid Cultural Society (CCS) is both a non-profit organization and, a registered charity that is proposing to build a \$15 million state of the art visual and performing arts center, which would include a 750 seat purpose built performance space and concert hall; multi-purpose space; art gallery; dance studio; and administrative space. CCS has requested the acquisition of 2.0 acres of the HRM property, located closest to the now completed Highway 101 interchange. The CCS planned date for construction is 2019 with 2020 occupancy.

The proposed 2-acre surplus property is too small to accommodate both the CCS building and parking requirements. As a potential solution CCS is seeking a partnership model for shared use of Halifax Transit’s future Park and Ride facility that is planned for the subject property in 2019/20. The proposed shared use agreement would see Transit customers using the parking during week days, and CCS would utilize the parking during off peak times; evenings and weekends.

## **DISCUSSION**

### *Administrative Order 50*

As per Administrative Order 50, the request was reviewed and the staff recommendation was that the 2.0-acre portion of the property CCS is interested in is surplus to the requirements of the Municipality. However, this is subject to Transit's Park and Ride requirements being met, and any portions required for the future Margeson Drive southward alignment. That said Margeson Drive has been built to the entrance to Indigo Shores development, so this has been determined. Discussions with Halifax Transit and CCS have taken place and there is agreement in principle to the concept of the joint use between the two users; final terms and conditions would form part of a shared use agreement between CCS and Halifax Transit.

Under the Administrative Order 50 review two potential categories were considered for the 2.0 acres; Community and Economic Development.

Community properties are known to have potential for community use, in particular where there has been prior community or institutional use of the subject property; or by location or scarcity of available property the consideration would reasonably arise.

The subject property has not had any prior community or institutional use and it is unlikely that the subject property would meet the definition of a Community Interest category.

The second category considered, Economic Development, is intended for strategic properties having economic development potential to be sold to:

- maximize use or value;
- achieve the attraction of targeted industries and employment or regeneration of neighborhoods;
- to advance development opportunities; and
- to generate financial return to the Municipality.

Staff is recommending the Economic Development categorization as the proposed Cultural Centre will attract the arts community and support economic development. It will maximize the use of the property, allowing a market sale of surplus lands, while retaining lands for the Park and Ride facility.

### *Planning Implications*

The 2.0 acres of land will need to be subdivided from the 8.9 acres in accordance with the requirements set out in the Regional Subdivision By-law.

One of two possible planning processes may be required in order for the Arts and Cultural centre to be facilitated for under planning regulation. The first possibility is for the centre to meet the standards of Institutional uses within the existing Mixed Use 2 zone of the Land Use By-law. The Mixed Use 2 Zone does allow for institutional uses which could be considered to include an Arts and Culture centre.

At this early stage in project development, it is not possible to determine definitively if the proposed facility will meet the standards of the zone. With this said, it is important to note that if the development were to meet the standards of the zone, dedicated on-site parking would be required. Dedicated parking would need to come in the form of parking stalls which were available to the Arts and Cultural Centre use 100 percent of the time. A permit issued under the standards of the Land Use By-law would not have the ability to stipulate site specific parameters around the timing of access, or the sharing of parking stalls with an adjacent use. This would require land use by-law amendments and, if adopted, could be clarified through further conversations between the CCS and Halifax Transit.

The second possible planning process to facilitate the project would be a site specific amendment to the Municipal Planning Strategy to allow for the building and use to be located on the subject lands. This policy may allow for the application of a Development Agreement to the property, or may create a new zone for the lands.

As the Municipality cannot enter into a Development Agreement on lands which the Municipality itself owns, more clarity regarding the land ownership arrangement will be necessary prior to definitively identifying what planning process will be necessary to facilitate for the centre. Additionally, it will be important to fully understand the nature of the Cultural Centre and all of its proposed uses in order to ensure the land use permissions reflect the intent of the operators. Finally, further research and engagement with the CCS and other stakeholders on the project will be required to ensure the project would adhere to vehicle access regulations, required setbacks from Provincial roadways, as well as standards for septic fields on the site. Additional clarity in these issues would be available once plans were to be further developed following Council direction to move forward with the project.

Shared Parking Agreement

Any shared parking agreement would need to address matters related to the potential for conflict in uses between Transit Park and Ride and parking for the Cultural Centre including enforcement and maintenance. The shared parking agreement would also need to set out the municipality's schedule and conditions related to its construction of the Transit parking facility.

Table 1 below outlines general terms and conditions presented to the Cobequid Cultural Society Board on November 7, 2016.

<b>Table 1 – Terms of the Conveyance</b>	
<b>Property Address</b>	Lot 8A, Highway No. 101, Middle Sackville
<b>PID Number</b>	Portion of 41287137 ( <i>PID 41287127 is 8.9 acres in area</i> )
<b>Vendor</b>	Halifax Regional Municipality
<b>Purchaser</b>	Cobequid Cultural Society
<b>Proposed Lot Area</b>	2.0 acres, subject to final survey and subdivision approval
<b>Consideration</b>	\$435,600
<b>Appraised Value</b>	\$435,600 (\$5.00 per sq. ft.)*
<b>Deposit</b>	\$5000.00
<b>Closing</b>	December 15, 2018. Closing date may be extended by mutual agreement between parties

<b>Conditions</b>	<ul style="list-style-type: none"> <li>• The Agreement of Purchase and Sale is subject to the CCS satisfying itself that the property is suitable for its intended use including site conditions, functionality and plan and development approvals;</li> <li>• The Agreement of Purchase and Sale is subject to approval of the necessary planning application processes to permit the CCS proposal;</li> <li>• The Agreement of Purchase and Sale is subject the parties entering into a Shared Parking Agreement for the Transit Park and Ride lot;</li> <li>• The Agreement of Purchase and Sale would be the municipality’s standard form which would provide for 180 days’ due diligence period for the purchaser to determine if the property is suitable for its intended use; and</li> <li>• The Agreement of Purchase and Sale would include the provision for a Buy Back Agreement in the event the Purchaser does not commence construction within 5 years of the Closing Date.</li> </ul>
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\*July 2016 Appraisal by Turner Drake & Partners Limited.

**FINANCIAL IMPLICATIONS**

HRM will achieve market value consideration for the property of \$435,600. The net proceeds from the sale of the property will be placed in the Obligation Reserve - Capital Fund Reserve, Q526. HST applies to this transaction.

**Budget Summary, Obligation Reserve - Capital Fund Reserve, Q526**

Balance in Reserve, November 30, 2016	\$ 11,671,573
Projected revenue to March 31, 2017	\$ 4,429,232
Commitments to March 31, 2017	<u>\$(10,786,268)</u>
Projected net available balance, March 31, 2017	\$ 5,314,537
Contribution per recommendation	<u>\$ 435,600</u>
Adjusted projected net available balance, March 31, 2017	\$ 5,750,137

**Obligation Reserve - Capital Fund Reserve, Q526.** One of the funding sources to this reserve is from the sale of property, other than the sale of Business/Industrial Parks land, the sale of land conveyed to HRM for parks, playgrounds or other similar public purposes, and the sale of specific properties identified to be contributions to the Strategic Capital Reserve. The sale of this parcel meets the reserve business case for deposit of funds to this reserve, and the recommendation will not negatively impact the reserve as this is a contribution to the reserve.

A public hearing is not required for a market sale.

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications as this time. Any due diligence is the responsibility of the purchaser.

**RISKS IMPLICATIONS**

There are a number of risks that may result in the project not proceeding following the Purchaser’s due diligence; detailed site investigations; and planning reviews and approvals.

Furthermore, should the Agreement of Purchase and Sale proceed it is conditional on the necessary vendor and purchaser approvals and would terminate if conditions are not met.

**ALTERNATIVES**

1. Regional Council could direct staff not to consider the 2.0-acre portion of PID 41287137 surplus and retain the property for future municipal interest.
2. Regional Council could direct staff to enter into a less than market value lease with the Cobequid Cultural Society. This is not recommended but remains an alternative. Although a less than market value lease of the land is consistent with the Society's initial request, the scale of proposed development, the plan amendments required and associated capital construction costs and financing may prohibit a less than market lease arrangement as a mechanism.
3. Council could declare the subject portion surplus to the Municipality's requirements and direct consideration under Section 4(e) of Administrative Order 50: Community Interest category. This option has not been recommended on the basis that in accordance with Section 2(b) of Administrative Order 50, the subject property has no (i) prior community or institutional use or (ii) by location or scarcity of available property the consideration would reasonably arise. Furthermore, if directed to pursue disposal through Community Interest category the Call for Submissions would be open to all non-profit interests.

**ATTACHMENTS**

Attachment A – Site Plan.

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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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