

HALIFAX

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

Item No. 14.1.7
Halifax Regional Council
January 15, 2019

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: January 7, 2019

SUBJECT: Request for Transfer of Ownership of Public Art - "The Sailor", Atlantic Chiefs and Petty Officers Association

ORIGIN

Correspondence dated March 1, 2018 from the President of the Atlantic Chiefs and Petty Officers Association (ACPOA).

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, Section 70(1)

- (1) The Municipality may
 - (a) beautify, improve and maintain property owned or leased by the Municipality;
 - (b) pay grants to a body corporate for the purpose of promoting or beautifying a business district and for airport, wharf or waterfront development;
 - (c) identify and promote a business district as a place for retail and commercial activity.

HRM Public Art Policy Section 1.3

- Policy 1.3: Notwithstanding Policy 1.2, HRM will accept public art as a donation where:
- it satisfies the acquisition criteria, as set out in the HRM Public Art Procedures;
 - an acceptance agreement transferring ownership to HRM is provided;
 - a funding donation for the maintenance, conservation and restoration of the work being donated is provided.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Accept the donation of the bronze sculpture "The Sailor" situated on the property of Sackville Landing, Summit Plaza, Lower Water Street (PID 40536906), from the Atlantic Chiefs and Petty Officers Association to the Municipality, and authorize the Mayor and Municipal Clerk to execute a Deed of Gift (Attachment 1) to transfer the ownership; and
2. Waive the requirement, under Policy 1.3 of the HRM Public Art Policy, for the provision of a funding donation for the ongoing maintenance of the work.

BACKGROUND

In March 2018, correspondence was sent to then Deputy Mayor Wayne Mason from the President of the Atlantic Chiefs and Petty Officers Association (ACPOA) requesting that the Municipality accept the donation of the artwork known as “The Sailor” per a motion from the Association’s membership. The correspondence (Attachment 2) indicates that the Association is planning to wind up its operations by December 31, 2018 due to declining membership and attrition.

The ACPOA was formed in 1987 by a group of retired naval officers with the mission statement “*To preserve the unique relationship and mutual respect of those who have served and are serving as Chief Petty Officers and Petty Officers in Her Majesty’s Canadian Ships (HMCS) and HMC establishments*”.

The Association has, over the course of its lifetime, undertaken several public realm initiatives, of which the commissioning of “The Sailor” statue was the first. The current location of the “The Sailor” in Sackville Landing was approved by Halifax Council in October 1990. The sculpture at this location, on municipally owned lands of Sackville Landing, adjacent to Lower Water Street, replaced another sculpture at that site, known as the ‘Bird of Spring’, which was relocated to the Art Gallery of Nova Scotia’s exterior courtyard. The Sailor statue was unveiled in 1991 and is presently under the sole ownership and stewardship of the ACPOA.

DISCUSSION

HRM’s Public Art Policy, approved in 2008, outlines the process by which the Municipality may accept donations of public art (Section 1.3). Through that process HRM may accept donations which have been, or will be, funded and installed by others. In addition to the installation, the donation must also include funding for the ongoing maintenance of the public art. This request has been considered using that process.

In general, to ensure compliance with the Public Art Policy, consideration of the donation of any proposed piece of public art requires review in the following areas:

- Policy Consideration
 - Acquisition Rationale
 - Site Consideration
 - Maintenance (Material and Technical Considerations, Current Condition)
- Project Funding
- Deed of Gift

Accepting the donation of The Sailor takes into consideration that the artwork is already installed. Therefore, accepting the work required review in the following areas:

Policy Consideration

Consideration of the ACPOA proposal has application to the Public Art Policy under three principle sections: (1) Acquisition Rationale (2) Site Approval and (3) Maintenance.

Acquisition Rationale

The artwork is already installed, is an existing artwork within HRM public open space, and is noted in the Public Art Inventory outlined in the 2008 HRM Public Art Policy.

Site Approval

Approval of the current location of “The Sailor” was given by Halifax Council in October 1990.

Maintenance (Material and Technical Considerations, Current Condition)

- **Description:** Bronze figure of a sailor, mounted on raised, polished granite base. Artist, Peter Bustin.
Base: Consists of polished grey granite slab mounted to a concrete base. Base is four-sided with an angled and sloped four-sided secondary elevation that supports the polished grey granite slab area on which the statue is mounted. A stainless-steel tube railing system is mounted on the top edge of the lower base section, creating a barrier. The sloped and angled section houses two copper alloy and painted plaques.
Dimension: 36" height x 106" width
Plaques: Copper alloy with raised relief text and naval ship silhouettes
Dimension: 8" height x 56" width
Statue: Silicon bronze, cast statue depicting a sailor in uniform with duffle bag. Attachment point is through the feet, with armature into base.
Dimension: 96" height
- **Condition:**
Base: Granite is in excellent condition.
Bronze: Very good condition, with few areas of visible corrosion or patina loss. Surface is smooth, with some minor scratches and abrasions. Wax coating has worn and surface is quite grimy, expected due to location adjacent to heavy trucking route and nearby construction. Caulking around anchor points could be replaced. Cast at the ArtCast Foundry, ON.
Plaques: Sound condition with some minor corrosion and paint loss. Treatment is not required at this time.
- **Suggested Maintenance:**
Only cleaning and minor maintenance, including waxing of the statue, is required.

Project Funding

The "Sailor" was constructed and installed in 1991 at an estimated cost of \$300,000.

Deed of Gift

The ACPOA has requested the transfer of "The Sailor" sculpture's ownership from the ACPOA to HRM. In addition to the statue, ownership and rights for a miniature replica die held by Seagull Pewter would also be transferred to HRM. It is recommended that Council authorize the Mayor and Municipal Clerk to execute a Deed of Gift, included herein as Attachment 1, formally transferring the ownership of the artwork to the Municipality. In accepting ownership of the sculpture, the Municipality would therefore assume the ongoing operational costs of maintaining the artwork.

Maintenance Funding

Section 1.3 of the municipal Public Art Policy regarding Gifts requires a funding donation be made to the Municipality for ongoing maintenance, conservation and restoration of artworks intended for municipally-owned property, prior to the installation of the artwork.

Given that the artwork is already currently installed on HRM property, and with the understanding that the Atlantic Chiefs and Petty Officers organization is in the process of winding up its operations, staff further recommend that the maintenance requirement set out in the Public Art Policy be waived. The ACPOA has maintained the sculpture over its nearly-30-year history but has indicated they do not have the available resources to provide funding toward ongoing maintenance, per the requirements of the Policy. Should the municipality choose not to accept the artwork, and the organization be dissolved, the alternative would be to request that the organization remove the artwork from its current location. Should the organization not be in a position to remove the statue, maintenance of the statue would fall to HRM as it is located on municipal lands.

As current maintenance requirements for the piece are considered minimal, substantive capital investment is not required or anticipated in the short term. Regular maintenance of the artwork can be assumed under the Parks & Recreation annual budget. Should the condition of the artwork deteriorate significantly, the attached Deed of Gift places all care and control of the artwork within the purview of the Municipality, and allows flexibility of decision-making in terms of repair, relocation or removal of the artwork, in accordance with the municipal Public Art Policy.

FINANCIAL IMPLICATIONS

Should Regional Council approve the transfer of the statue to HRM and have the requirement for the group to provide maintenance funding, Parks and Recreation would assume the ongoing operational costs of maintaining it within their budget. Current maintenance requirements for the piece are considered minimal (see 'Maintenance Requirements' section under Discussion).

RISK CONSIDERATION

There are no significant risks associated with the recommendations in this Report. The risk is considered rate Low. Assessment of reputational risk rates minor in so far as the statue is on HRM land and by accepting ownership HRM will maintain the statue in a state of good repair. In reaching this conclusion, consideration was given to operational, financial and public safety risks.

COMMUNITY ENGAGEMENT

None.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications to this recommendation.

ALTERNATIVES

Alternative 1: Regional Council may choose to direct staff not to transfer the ownership of "The Sailor" and request that the Atlantic Chiefs and Petty Officers Association remove the statue.

ATTACHMENTS

Attachment 1: Proposed Deed of Gift - "The Sailor"

Attachment 2: Letter of Request to Councillor Waye Mason from President of the Atlantic Chiefs and Petty Officers Association

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: Jamie MacLellan, Culture & Events, 902.490.1039
Kellie McIvor, Cultural Asset Manager, 902.490.1955

Attachment 1: Proposed Deed of Gift- "The Sailor"

THIS DEED OF GIFT made the _____ day of _____, 2019

BETWEEN:

ATLANTIC CHIEFS AND PETTY OFFICERS ASSOCIATION
(the "Donor")

- and -

**HALIFAX REGIONAL MUNICIPALITY, a municipality pursuant to
the *Halifax Regional Municipality Charter, S.N.S. 2008, c. 39***
(the "Municipality")

WHEREAS the Donor is the absolute owner, free of encumbrances, of the property described in "Schedule A" attached hereto and forming part hereof (the "Property"), and is entitled to dispose of the Property;

AND WHEREAS the Municipality wishes to promote the Halifax Waterfront as a place for retail and commercial activity, active as well as passive public recreation;

AND WHEREAS, to promote the mandate of creating safe, attractive and interesting commercial places, and specifically to provide enhanced maintenance and beautification to enhance the street level experience of the Halifax Waterfront, the Donor desires to make an absolute gift to the Municipality of all of the Donor's right, title, and interest in and to the Property, subject only to the exceptions noted herein;

AND WHEREAS the Council of the Municipality, by resolution passed on _____, desires to accept a gift of the Property;

NOW THIS DEED WITNESSETH as follows:

Transfer of Title and Copyright

1. The Donor represents and warrants that:
 - a) the Donor has good and complete right, title, and interest in and to the Property;
 - b) the Donor has full authority to give, transfer and assign its right, title and interest in and to the Property; and
 - c) the subject of this gift is free and clear of all encumbrances and restrictions.
2. The Donor hereby gifts, assigns and transfers all of the Donor's right, title, and interest in and to the Property, to the Municipality, for its own use absolutely, subject only to the terms of this Deed.
3. The Property includes the items and things listed on the schedule(s) attached hereto at the time this Deed is executed.

4. The Property includes all subsisting copyright, except any exceptions noted on the corresponding schedule(s).
5. The Property is deemed to be gifted and transferred as of the date indicated on the corresponding schedule(s).
6. Except as provided for in this Deed of Gift, it is understood and agreed by the parties hereto that the Municipality shall at all times retain control and actual possession of the Property.
7. The Municipality hereby accepts the absolute gift of the Property from the Donor, subject only to the terms of this Deed.

Retention of the Property

8. It is the Municipality's intention to hold the Property in perpetuity. Notwithstanding, the Municipality shall not be obligated to retain the Property indefinitely, and the Municipality may transfer or dispose of the Property in accordance with standard museum principles. Such disposal may include the transfer of some or all of the Property to another institution which, in the opinion of the Municipality, is more appropriate to house the subject Property.
9. The Municipality will take reasonable care to protect the Property while it is in the possession of the Municipality.
10. The Municipality shall not be obligated to retain the Property in its current location, and may elect to relocate it to another location which is, in the opinion of the Municipality, more suitable for the Property.
11. The Donor consents to being publicly identified as the donor of the Property.

General Terms

12. Should any provision of this Deed be void or unenforceable, such provision shall be deemed severed and omitted, and this Deed, with such provision omitted, shall remain in full force and effect.
13. This Deed is binding on the parties hereto, and their respective heirs, executors, administrators, successors and assigns.
14. This Deed constitutes the entire agreement between the parties, and all previous agreements, proposals or communication relating to the subject of this Deed are hereby superseded and of no force or effect. There are no warranties, representations, terms, conditions or collateral agreements, express or implied, other than as set out herein.
15. The Donor will hold harmless and indemnify the Municipality for any and all claims related to the Donor's right, title, and interest in and to the Property, including, where applicable, all subsisting copyright, and particularly, the Donor's right or authority to gift the Property to the Municipality on the terms contained herein.

16. The Property will be at the risk of the Donor, until the date the Property is gifted and transferred, as indicated on the corresponding schedule(s).

17. This Deed is governed by the laws of the Province of Nova Scotia, and any dispute hereunder shall be referred to the exclusive jurisdiction of the Supreme Court of Nova Scotia.

IN WITNESS WHEREOF the parties have executed this Deed effective as of the day and year first above written.

)	
Witness signature)	_____ (seal)
)	Atlantic Chiefs and Petty Officers Association
)	Per:
		I have authority to bind the Society

)	
Witness signature)	_____ (seal)
)	Atlantic Chiefs and Petty Officers Association
)	Per:
		I have authority to bind the Society

HALIFAX REGIONAL MUNICIPALITY

Witness signature

Mayor

Witness signature

Municipal Clerk

SCHEDULE "A"
To a Deed of Gift

**From the Atlantic Chiefs and Petty Officers Association to
the Halifax Regional Municipality**

The following property is gifted to the Halifax Regional Municipality as of the _____ day of _____, 2018.

1. "The Sailor" a bronze statue by sculptor Peter Bustin, located on Sackville Landing in the Halifax Regional Municipality.



Location: Sackville Landing, Summit Plaza Lower Water Street PID 40536906

Description: Bronze figure of a sailor, mounted on raised, polished granite base. Artist, Peter Bustin.

Base: Consists of polished grey granite slab mounted to a concrete base. Base is four-sided with an angled and sloped four-sided secondary elevation that supports the polished grey granite slab area on which the statue is mounted. A stainless-steel tube railing system is mounted on the top edge of the lower base section, creating a barrier. The sloped and angled section houses two copper alloy and painted plaques.

Dimension: 36" height x 106" width

Plaques: Copper alloy with raised relief text and naval ship silhouettes.

Dimension: 8" height x 56" width

Statue: Silicon bronze, cast statue depicting a sailor in uniform with duffle bag. Attachment point is through the feet, with armature into base.

Dimension: 96" height

2. Die of miniature replica of Sailor Statue and reproduction rights, held by Seagull Pewter.

Witness signature

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Atlantic Chiefs and Petty Officers Association
Per:

Witness signature

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Atlantic Chiefs and Petty Officers Association
Per:



The Atlantic Chief and Petty Officers Association
Instituted 1987 - Incorporated 1988

March 1 2018

Halifax, Nova Scotia

Councillor Wayne Mason

Sir, Sir,

Attachment 2: Letter of Request to Councillor Wayne Mason
from President of the Atlantic Chiefs and Petty Officers
Association

Our association consists of retired Chief and Petty Officers of the Royal Canadian Navy and was incorporated in 1998 here in Halifax. As we are members of the older Navy, we have a problem encouraging the new Chief and POs to join with us as time has changed the style of life and tradition in today's Navy from our camaraderie of yore. Attrition has shrunk our ranks to a point that we feel we shall have to 'weigh anchor and sail into the sunset' this December 31 2018.

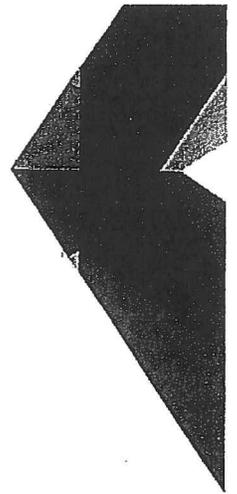
Over the years our Association has been involved in a great many projects that have been of benefit to our Navy, our city, our province and our country. I would be able to list them all if required, but I shall mention a few here.

1. the saving of the Carleton Hotel from demolition,
2. the large shipment of clothing to Bosnia
3. the shipment of medical supplies to Haiti
4. the continuing support for Veterans Memorial Building

One project that we are especially proud is that of placing the statue of 'The Sailor' in downtown Halifax at our expense without the use of public funds. He has received world wide recognition as a tribute to the sailor and his love for the sea. He is so noted that a replica, from our plans and detail, has been erected in Londonderry, Ireland. We have given much thought as to the projects that we will be leaving behind as we depart as an organization. A motion has been brought forward that we contact the HRM authorities for the donation of the statue to the city.

I would ask of you for the information as to whom I would contact in order to discuss his matter and of your feelings on our proposal.





April 11, 2018

Dear Mr. Kingston,

Thank you for your letter of March 1, 2018. I am sorry to realize that The Atlantic Chief and Petty Officers Association shall have to 'weigh anchor and sail into the sunset' by the end of this year. Your Association has greatly contributed to the Royal Canadian Navy and our community for many years.

Your dedication to the work on the statue of 'The Sailor' is a testament to the Navy's service to HRM and our Country. The statue is a very fitting tribute, to the sailor and the love for the sea, seen by residents and the millions of visitors and tourists who visit our great city.

I am happy to work with you regarding the future of 'The Sailor' statue. I have copied Jamie MacLellan on this letter. Jamie is a Community Developer with HRM and will be able to advise of the next steps.

Again, thank you to the Atlantic Chief and Petty Officers Association for the many projects and contributions over the years. You have made the Canadian Armed Forces, Canada, and the Halifax Regional Municipality a better place. I am very proud of your work and accomplishments.

Sincerely,



Waye Mason
Councillor | Le Conseiller | Comhairlaiche | Wunaqapeme'
District 7 - Halifax South Downtown
Halifax Regional Municipality
902.490.8462 (Tel); 902.430.7822 (Cell)
waye.mason@halifax.ca

c: Jamie MacLellan, Community Developer, Parks & Recreation

HALIFAX

Halifax Regional Municipality
PO Box 1749, Halifax, Nova Scotia
Canada B3J 3A5

halifax.ca

Deed Gift

Dear Mr. Kingston,

Thank you for your letter dated March 1, 2018 regarding the Atlantic Chiefs and Petty Officers Organization and the possible donation of 'The Sailor' statue located in Sackville Landing.

I am of course familiar with the statue and the work of your organization. I greatly appreciate the diligence and stewardship that the Chiefs and Petty Officers have shown over the years in preserving essential elements of our history. Though saddened to hear that the organization is winding up its affairs, I am nonetheless heartened to reflect upon the incredible legacy that it will leave behind.

I would be very pleased to meet with members of your organization to discuss conveying ownership of The Sailor to the Halifax Regional Municipality. Please contact me at your convenience via any of the information listed below. In the meantime, I will convene with the relevant staff people on my end to better understand the process involved and the necessary steps to be taken.

Thank you once again for your letter. I will look forward to hearing from you.

Sincerely,

Jamie MacLellan

Community Developer
Culture and Events, Parks and Recreation
Halifax Regional Municipality

Tel 902.490.1039
Cell 902.456.8384
Email maclelaj@halifax.ca

Cc: Councillor Wayne Mason, District 7- Halifax South Downtown
Elizabeth Taylor, Manager, Culture and Events, Parks & Recreation

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