

TO: Mayor Savage and Members of Halifax Regional Council

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

DATE: November 10, 2020

SUBJECT: Revised Contribution - Nova Scotia Nature Trust

ORIGIN

1. July 21, 2020 Motion of Regional Council:

MOVED by Councillor Zurawski, seconded by Councillor Whitman
THAT Halifax Regional Council:

1. Authorize and approve the withdrawal of up to \$750,000 from the Parkland Development Reserve Q611 as set out in the alternative section of the staff report dated June 19, 2020;
2. Direct the Chief Administrative Officer to negotiate a contribution agreement to a maximum of \$750,000 with the Nova Scotia Nature Trust for its acquisition of the subject lands identified on Attachment A based on the terms and conditions set out in Table 3; and
3. Authorize the Chief Administrative Officer to execute the resulting agreement on behalf of the Municipality. Under the new Covid-19 Administrative Order, Council may authorize this withdrawal without a recommendation from the Audit and Finance Standing Committee, and that the purchase of the lands be completed in accordance with the July 31, 2020 deadline.

MOTION PUT AND PASSED UNANIMOUSLY.

2. Letter from the Nova Scotia Nature Trust (November 9, 2020).

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter:

- 79A (1) Subject to subsections (2) to (4), the Municipality may only spend money for municipal purposes if (a) the expenditure is included in the Municipality's operating budget or capital budget or is otherwise authorized by the Municipality;
- 283 (5) Where cash is paid in lieu of transferring land, the Council shall use the funds for the acquisition of, and capital improvements to, parks, playgrounds and similar public purposes and may use the interest on any funds not expended for those purposes for the operation and maintenance costs of parks, playgrounds and similar public purposes.
- (6) Notwithstanding subsections (5) and (14), the Council may transfer

- (a) the funds referred to in subsections (5) and (14) to a non-profit organization that is providing parks, playgrounds or other recreational facilities in the Municipality to be used for the acquisition of and capital improvements to those parks, playgrounds or other recreational facilities; and
- (b) the interest on the funds referred to in subsections (5) and (14) to a non-profit organization that is providing parks, playgrounds or other recreational facilities in the Municipality to be used for the operation or maintenance of those parks, playgrounds or other recreational facilities.

Administrative Order 2020-009-ADM, the COVID-19 Administrative Order

3 Notwithstanding any other policy of Council, a

- (c) withdrawal from a reserve may be authorized by Council without the Audit and Finance Standing Committee reviewing and making a recommending on the impact to the Reserve.

RECOMMENDATION

It is recommended that Halifax Regional Council modify the key terms and conditions for a contribution agreement with the Nova Scotia Nature Trust, as originally approved by Regional Council on July 21, 2020, to reflect that approximately 559.5 acres will be held in perpetuity for conservation and recreation uses and approximately 15.5 acres, may be the subject of a reconveyance to the adjoining property owner, as identified on Attachment B.

BACKGROUND

On July 21, 2020, Regional Council approved funding to the Nova Scotia Nature Trust (NSNT) for its purchase of 575 acres (subject lands) associated with the Blue Mountain-Birch Cove Lakes area, located between two provincial protected Wilderness Areas (Attachment A)¹. The funding was for 30% of its acquisition costs to a maximum of \$750,000, subject to key terms and conditions to be included in a contribution agreement (see Origin). Consistent with the Nova Scotia Nature Trust proposal, one such key term was that the entirety of the subject lands be held in perpetuity for conservation and recreation uses.

Time was of the essence as Regional Council directed that the funding be arranged by July 31, 2020 to meet the NSNT's closing requirements. The contribution agreement was prepared by HRM staff and agreed to in principle by NSNT prior to July 31, 2020, but the NSNT then advised that it had been able to arrange a later closing date and that the need to execute the agreement was no longer as pressing.

The NSNT subsequently advised the municipality of a pre-existing arrangement, whereby an approximately 15.5 acre area along the south-west border of the subject lands could be the subject of a reconveyance to the adjoining property owner. This arrangement is to be carried-forward with the NSNT's acquisition of the subject lands. The 15.5 acres is currently the subject of a subdivision application to create it as a separate lot. On this basis, the NSNT requested that the contribution agreement be modified to reflect a change to the amount of land being held in perpetuity for conservation and recreation purposes. However, due to the fact that Regional Council's approval of the requested contribution was based on the NSNT proposal which included the full 575 acre land mass, staff did not have the authority to revise the terms. As a result, NSNT has requested a modification of Regional Council's approval to reflect the reduction in land area that would be held in perpetuity for conservation and recreation uses which would then allow for the requested modifications to the contribution agreement terms. NSNT has indicated that this amendment is required before December 15, 2020, the new closing date for the acquisition.

¹ <https://www.halifax.ca/sites/default/files/documents/city-hall/regional-council/200721rc11111.pdf>

DISCUSSION

The reduction in the land area is minor based on the overall size of the subject lands that are being acquired by NSNT. The primary consideration is the configuration and location of the 15.5 acres with respect to future public access. The subject lands will not be readily accessible by the public until development occurs around them. Through the subdivision and parkland dedication process associated with the adjoining lands, public access points would be obtained.

The NSNT has indicated that the 15.5 acres would only be consolidated with the adjoining lands and would not impede public access to the remaining 559.5 acres. This will address the matter of future possible public access to the subject lands that will ultimately be secured through the final subdivision of the adjoining lands and discussions with NSNT and the province, which owns the designated Wilderness Areas.

Regional Council's terms and conditions for its contribution is for 30% of the acquisition costs, to a maximum of \$750,000, with funds from the Parkland Reserve. With the recommendation outlined in this report, the terms would be modified to reflect that 559.5 acres would continue to be held in perpetuity for ecological protection and recreation use. NSNT further indicates that should the adjacent land owner opt to not execute on the pre-existing arrangement for the 15.5 acres, those lands would also form part of the overall NSNT protected area. As the proposed reduction in the land area is minor, the acquisition costs are not envisioned to be reduced, and the amount of the municipality's contribution is still anticipated to be the maximum amount of \$750,000. The actual funding amount will be confirmed as the NSNT provides the municipality with a full accounting of its acquisition costs.

The NSNT's acquisition of the subject lands is important and is not diminished by the reduced land area. The purchase will secure ecological and recreational connectivity between the designated provincial Wilderness Areas. It is therefore recommended that Regional Council modify its key terms and conditions for the contribution agreement to accommodate the potential reconveyance of the 15.5 acres by the NSNT.

FINANCIAL IMPLICATIONS

Regional Council has already approved a withdrawal of funds, to a maximum of \$750,000 from the municipality's Q611 Parkland Development Reserve. This would continue to be the source of the funds for the contribution to the NSNT. With Regional Council's approval, the contribution agreement can be finalized, and no issues are foreseen in meeting the NSNT's timing requirements.

RISK CONSIDERATION

The risk in not approving the revised terms and conditions is that the NSNT will not be able to obtain the subject lands and they will not be available for ecological protection and public recreation.

COMMUNITY ENGAGEMENT

There has been no community engagement in the preparation of this report.

ENVIRONMENTAL IMPLICATIONS

The conservation of the subject lands has overall environmental benefits within the municipality, although these have not been quantified for this report.

ALTERNATIVES

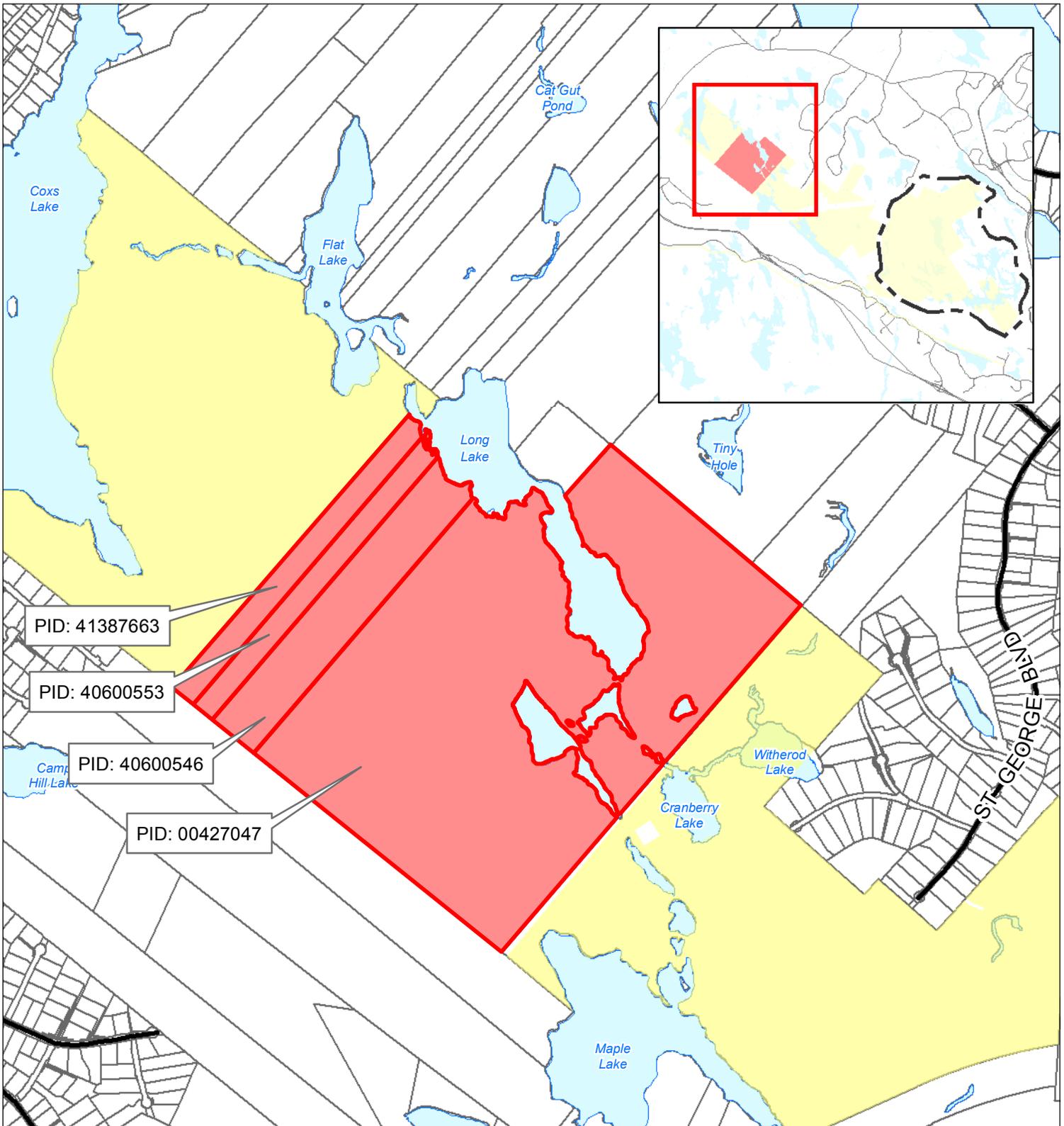
1. Regional Council may choose not to revise its terms and conditions. This is not recommended for the reasons outlined in this report.
2. Regional Council may choose different terms and conditions, which may necessitate further discussion with the Nova Scotia Nature Trust and a new staff report. This will also have an impact on closing requirements as outlined in this report.

ATTACHMENTS

Attachment A Subject Lands
Attachment B Nova Scotia Nature Trust Submission

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.

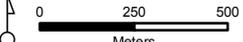
Report Prepared by: Richard Harvey, Manager of Policy and Planning, 902.476.5822



SUBJECT LANDS

-  Conceptual Wilderness Park Boundary
-  BMBCL Wilderness Area (NSE)
-  Subject Lands

HALIFAX
Parks & Recreation
Policy & Planning



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November 9, 2020

Dear Mayor Savage and Councillors,

On behalf of the Nova Scotia Nature Trust, please accept our sincere thanks for your generous and unanimous support for our acquisition of the Blue Mountain Wilderness Connector, a large keystone property at the heart of the beloved Blue Mountain-Birch Cove Wilderness. We are so pleased to be working as a partner to the City and the Province in securing lands to protect this irreplaceable urban wildland for Halifax.

I am writing to seek your support in overcoming an administrative hurdle that is preventing us from moving ahead to acquire the property by the deadline of December 15, 2020. There has been a slight change in the proposed protected area acreage (less than 3%), and while minor, the acreage no longer aligns with the associated Council Motion. HRM staff are unable to finalize the contribution agreement without Council's consideration of this small amendment.

More specifically, on July 21, 2020, Council approved a grant of up to \$750,000 towards our project. The Council Motion refers to specific conditions for funding, including reference to a property map (referred to as Attachment A in the Council Motion) which reflects acreage of 575 acres. As is common in major land projects, new information emerged as we moved through the boundary confirmation and land acquisition process. The acreage of the lands for which we seek HRM funding have been amended slightly to accommodate a pre-existing boundary-related arrangement which we now know *may* potentially impact up to 15.5 acres. If required some or all of the 15.5 acres may be consolidated with the adjacent parcel as per the pre-existing agreement with the neighbouring owner. There will be no impact on potential public access to our protected area. If not required for this purpose, all of the 15.5 acres will become part of the Nature Trust's Blue Mountain Wilderness Connector protected area.

To meet the conditions of HRM funding, i.e. to guarantee that the lands secured with HRM funding will remain parkland in perpetuity, we are excluding these few acres from our funding request. We do so in the spirit of transparency and to protect HRM's investment, and both HRM's and the Nature Trust's credibility and integrity, ensuring that for the lands we use your funds to secure, we can guarantee permanent conservation and public enjoyment. We have attached an updated map to this letter.

While this represents a very minor change, and we have been working diligently with your staff to find a way forward, due to the way the Motion was drafted, staff cannot finalize our contribution agreement without this update being approved by Council. All other conditions of the July 21, 2020 Motion will be met.

With Council's July funding commitment in place we were able to convince the vendors to extend the property closing date to December 15, 2020 to ensure enough time to meet all requirements for completion, but that deadline is now fast approaching. Staff will be bringing this matter to Council at the first opportunity. We kindly ask that you please support the staff recommendation on this matter (i.e. allowing the contribution agreement to proceed with slight change in acreage).

We know that protecting the Blue Mountain-Birch Cove Wilderness has long been a priority for the community and for Council and we look forward to achieving a major milestone with you and the community on December 15.

Thank you in advance for your consideration of this request. If you have any questions or concerns, we would be happy to speak with you.

Sincerely,

Bonnie Sutherland
Executive Director

Enclosure:

Updated Blue Mt Wilderness Connector Map for HRM (Nov 2020)

