

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY:

Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: February 16, 2021

SUBJECT: Administrative Order 50 – Disposal of Surplus Property – Request for Direct Sale Consideration PID 40283285, 41403130, and Parcel 2 - Portion of 41435561– 5802 Highway 357, Elderbank

ORIGIN

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 and a Direct Sale option in addition to the existing Call for Submissions process.

December 16, 2020 – Correspondence received from the Musquodoboit Valley Ground Search and Rescue Team requesting it be given Direct Sale consideration to enable it to acquire the former Halifax Regional Fire & Emergency Services Fire Station #37, 5802 Highway 357, Elderbank (“the Former Fire Station”). This report also originates from the requirement to rectify the title issues involving the location of portions of the said former Fire Station #37 which encroaches upon four parcels of land, one of which is not owned by the Municipality.

LEGISLATIVE AUTHORITY

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

Section 61

- (1)** The Municipality may acquire and own property granted or conveyed to the Municipality either absolutely or in trust for a public or charitable purpose.
- (2)** Where property is conveyed to the Municipality in trust for a public or charitable purpose, the Municipality holds the property according to the terms of the trust and may do anything necessary to carry out the objects of the trust.
- (3)** The property vested in the Municipality, absolutely or in trust, is under the exclusive management and control of the Council, unless an Act of the Legislature provides otherwise.
- (4)** Possession, occupation, use or obstruction of property of the Municipality does not give an estate, right or title to the property.
- (5)** The Municipality may
 - (a)** acquire property, including property outside the Municipality, that the Municipality requires for its purposes or for the use of the public;

- (b) The Municipality may (b) sell property at market value when the property is no longer required for the purposes of the Municipality;
- (c) lease property owned by the Municipality at market value.

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.

Section 64 Sale to abutting owner – Where the Municipality holds land that is of insufficient size or dimensions to be capable of any reasonable use, in the opinion of the Council, all or part of the land may be sold to the owner of any lot abutting that land and may be consolidated with such lot and, notwithstanding Section 63, the sale price of the land so sold may be set by the Council at a price that is less than market value at the time of the sale. 2008, c. 39, s. 64.

Administrative Order 50 - Respecting the Disposal of Surplus Real Property

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.

Section 12. Direct Sale – General Procedure

12. A Direct sale shall be allowed as determined by Regional Council.

13. Unless Council directs otherwise, a Direct sale may be considered without
(a) a public advertising; and

(b) a public meeting.

14. (1) If Council directs that a public advertisement be made, such advertisement must be placed in a newspaper circulating throughout the Municipality and must be placed before the required public hearing to consider a less than market value sale, or if a public hearing is not required by the HRM Charter, before the Council meeting where Council will consider whether to proceed with a Direct Sale.

Administrative Order Number 2018-004-ADM Respecting Real Property Transactions

Section 10 (1) Subject to the provisions of this Administration Order, Council delegates the approval authority and signing authority for Property Transactions as follows:

Approval authority for Agreements of Purchase and Sale having a maximum financial commitment of \$25,000 is delegated to the Manager and signing authority is delegated to the Director.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. declare Parcel 2 – A portion of PID 41435561, 5802 Highway 357, Elderbank, as shown in Attachment A – Site Plan and Photograph, surplus to municipal purposes and categorize it as 'Remnant', in accordance with Administrative Order 50 - Respecting the Disposal of Real Property;
2. subject to subdivision approval, authorize the CAO to negotiate an agreement of purchase and sale with the abutting owner of Parcel 1 (a portion of PID 40547366, 5812 Highway 357, Elderbank shown on Attachment A), for the sale of Parcel 2 to the abutting owner in exchange for the acquisition by HRM of Parcel 1 from her, for the nominal consideration of \$1.00;
3. upon completion of the subdivision and land exchanges referred to in Recommendation 2, declare Parcel 1 – a portion of PID 40547366, with the HRM lands identified as PID's 40283285, 41403130, and 41435561, located at 5812 and 5802 Highway 357, Elderbank as shown in Attachment A – Site Plan and Photograph (collectively referred to as "the Property"), surplus to municipal purposes and categorize the Property as Community Interest Property for direct sale disposal pursuant to Administrative Order 50 - Schedule 1;
4. authorize the CAO to invite the Musquodoboit Valley Ground Search and Rescue Team to submit within ninety (90) days of Council approval of the foregoing recommendations, a written proposal to acquire the Property addressing the items set out in the discussion section of this Report and Recommendation and other information in support of a direct sale consideration under Schedule 1 of Administrative Order 50 and schedule a public hearing for Regional Council in due course;
5. waive the requirements for a public information meeting and an advertisement notifying the public of Council's consideration of the direct sale of the Property contemplated in Recommendation 3; and
6. authorize the CAO to enter into a short term less-than-value market lease of the former Fire Station 37 to the Musquodoboit Valley Ground Search and Rescue Team for immediate occupancy which shall require the tenant to pay all utilities, security and maintenance in lieu of market rent.

BACKGROUND

The former fire station, an approximately 1,400 square foot, two (2) bay building located at Civic 5802 Highway 357, Elderbank, was constructed by the Elderbank Volunteer Fire Department Association and community volunteers circa 1987/88. It was built to predominantly service the community of Elderbank but also to support fire stations in the neighbouring communities of Middle Musquodoboit and Meagher's Grant. Staff have been advised the former fire station's kitchen, washrooms and meeting room were also used for annual community barbeques and weekly card and dart league nights. At amalgamation in 1996, Halifax Regional Fire & Emergency ('HRFE') assumed responsibility of the operation of this fire station, identified as Fire Station #37.

Municipal records indicate that the ownership of the four lots on which former fire station was built first came into question in 1996. It was discovered then that the foundation of the building encroached upon four separate properties, of which the former Halifax County owned only one, PID 40283285. (See Attachment 'A' – Site Plan).

In 2001, the HRM was successful in acquiring legal title to two of the three privately owned properties, PID 41403130 & 41435561. A remaining fourth property on which a portion of the building encroaches (PID 40547366), is privately owned. Municipal records indicate that the owner previously asked HRM to survey her entire property in exchange for a deed for the encroaching portion. However, as HRM could not survey land it would not be acquiring, the transfer of the encroaching portion of private land was not completed, and the building encroachment continued.

Due to a lack of volunteer fire fighter members, HRFE was forced to close Station #37 in October 2012. Reviews for the disposal of the fire station building began in 2017. HRM re-engaged in discussions with the adjacent owner about acquiring ownership of the portion of her property upon which the building encroaches so as to rectify the title and enable it to be sold.

DISCUSSION

The adjoining landowner is willing to exchange a portion of her land, identified as Parcel 1, for a portion of the Municipality's land, identified as Parcel 2 on Attachment "A" – Site Plan and Photograph. The acquisition of Parcel 1 from the abutting landowner would rectify the encroachment problem and would allow for the sale of the former fire station property. Staff recommends that in exchange for Parcel 1, Parcel 2 be subdivided from the Municipality's property and conveyed to the said abutting landowner for consolidation with her land, on which she resides. In fact, the landowner has traditionally maintained Parcel 2 as if it was a part of her front yard.

Table 1 below summarizes the key business terms of the proposed land exchange.

Table 1: Proposed Key Business Terms (Land Exchange)

Property Address	Civic 5812, Highway 357	Civic 5802, Highway 357
PID No.	40547366 (Parcel 1 – portion of)	41435561 (Parcel 2 – portion of)
Zoning	MU (Mixed Use) Zone – Musquodoboit Valley – Dutch Settlement LUB	
Property Owner	Private Owner	HRM
Property Area	1,695 sq. feet (157.5 square meters)	2,099 sq. feet (195 square meters)
Purchase price	\$1.00	
Sale price		\$1.00

Staff reviewed the municipal purpose of the former fire station and lands and concluded there is no identified future municipal use for the building or surrounding lands except for the front asphalt parking area and thus recommends that Council declare it surplus so it can be disposed of. As HRM owns and maintains a tennis court and ballfield across the street, HRM Parks & Recreation recommends that HRM retain an easement to allow for any required overflow parking in front of the former fire station building (without obstructing the garage doors).

As Parcel 2 is located to the east of the front asphalt parking area, the subject parcel is considered by staff to be surplus to future municipal purposes. Staff recommends that it be categorized as “Remnant” as per Administrative Order 50 – Disposal of Surplus Real Property and that it be conveyed to the abutting landowner as set out above.

The Musquodoboit Valley Ground Search & Rescue Team (‘MVGSART’) has asked the Municipality to give them immediate occupancy of the Elderbank former fire station to replace its existing facility located in the former bus depot building at Civic 11974, Route 224 in Middle Musquodoboit which MVGSART currently leases from HRM at less than market value, and which has sustained significant structural damage including mould issues. Despite their best efforts with volunteer resources and limited funding, MVGSART can no longer operate in this building. In the interim, MVGSART has held meetings at other locations which has created expenses and inconvenienced its members. There is urgency for MVGSART to gain occupancy of the former fire station in Elderbank as soon as possible to establish a consistent meeting location and storage for its equipment which includes a mobile command center trailer.

During a property review of the former fire station by HRM staff and the MVGSART Executive, it was discovered that the existing septic system is missing a septic disposal field. Current conditions appear to indicate that the existing septic tank has an outflow pipe which leads in the direction of the pond behind the building. MVGSART has agreed that, prior to their occupancy, they will close off the outflow pipe and will undertake a schedule to have the septic tank pumped when required during its tenancy. With an anticipated few meetings per month, MVGSART expressed confidence that its use of the septic tank will only be minimal. If MVGSART obtains ownership of the property from HRM, their long-term plans are to install an upgraded septic system.

At this time, staff are recommending a short-term less than market value lease arrangement with MVGSART to enable occupancy of the property prior to Parcel 2 becoming available for disposal. Immediate occupancy of the building is advantageous to HRM because it will reduce the security and deterioration risks. During the lease period, it is anticipated MVGSART will make an application in support of a less than market value sale which will be evaluated by staff in accordance with Schedule 1 of Administrative Order 50. A separate recommendation report regarding the conveyance request is required to accommodate the review findings, the specific terms and conditions of sale as applicable, and a public hearing.

If Council approves a Direct Sale the applicant(s) must provide the following in their proposal:

- proof of registered status and copy of their Articles of Incorporation;
- a description of the organization and its programs or services;
- describe the intended use for the property;
- financial statements for the prior 3 years¹;
- a simple 5-year capital and operating plan, as applicable; and
- the proposed terms and conditions of the offer of purchase (purchase price, requested closing date, costs as described in Schedule 2 of the Administrative Order, deed transfer tax² and other requirements).

¹ If an applicant organization has not been incorporated for the prior 3 years’ they may submit financial reports for the years’ they were incorporated.

² Deed transfer tax is 1.5% of the purchase price.

HRM staff will provide the applicant with copies of any technical reports on file (building condition and energy assessment, HRM's current holding costs for a vacant building as available and environmental assessment). The applicant has up to 90 days to submit the required documentation and an inter-departmental evaluation team will be convened by Finance (Grants & Contributions).

FINANCIAL IMPLICATIONS

Due to the rural location of the subject property and absence of comparable lease arrangements, market value could not be determined. Due in part to the short anticipated time frame of less-than-market value lease occupancy (less than 12 months) following Council approval, staff identify the takeover of utilities, security and improvements to the building by MVGSART shall serve as less-than-market rent in lieu of a market rent.

Aside from the relief of building operating costs, estimated at approximately \$4,300 annually, there are no associated financial implications with this report at this time.

If Regional Council declares the properties surplus to Municipal purposes as recommended in this report, the recommended terms and conditions of the sale for the subject properties will be the subject of a separate recommendation report within which HRM's opportunity costs will be identified.

The execution of a less-than-market lease and/or conveyance of the property will trigger an assessment by Property Valuation Services Corporation and the building assessment will change from tax exempt to taxable. Application can be made to the Tax Relief for Non-Profit Organizations Program for assistance but in the interim the Musquodoboit Valley Ground Search and Rescue Team is in receipt of operating assistance through the Grants to Ground Search and Rescue/EMO Organizations Program.

RISK CONSIDERATION

Low. There are no associated risks with this report.

COMMUNITY ENGAGEMENT

As it is a housekeeping requirement to address the encroachment of the former fire station being located on private property, and it is a requirement of the encroached party to complete a land exchange, no community engagement was obtained for this report. Where is it anticipated by staff that the former fire station will adequately meet the needs of MVGART and the communities for which it provides ground search and rescue service, community engagement has not been done. As the former fire station building has been vacant since 2012 and where MVGSART provides an essential community service compromising of community volunteers, staff do not anticipate community opposition.

Should Council approve Direct Sale consideration, legislation requires that the less than market value sale of a property valued at \$10,000 or above shall be the subject of a public hearing.

ENVIRONMENTAL IMPLICATIONS

All environmental records have been shared with the MVGSART which has also agreed to accept the risk associated with the existing septic system and to be responsible for its upgrade upon acquiring the property.

ALTERNATIVES

Halifax Regional Council could instruct staff to not declare Parcel 2 as surplus under Administrative Order 50, and for HRM to retain ownership. This is not recommended as the subject remnant of land is not required for municipal purposes and retention prevents resolving the issue of a portion of the former Fire Station #37 encroaching on private property.

ATTACHMENTS

Attachment "A" - Site Plan & Photo

Attachment "B" - Correspondence from the Musquodoboit Valley Ground Search & Rescue Team.

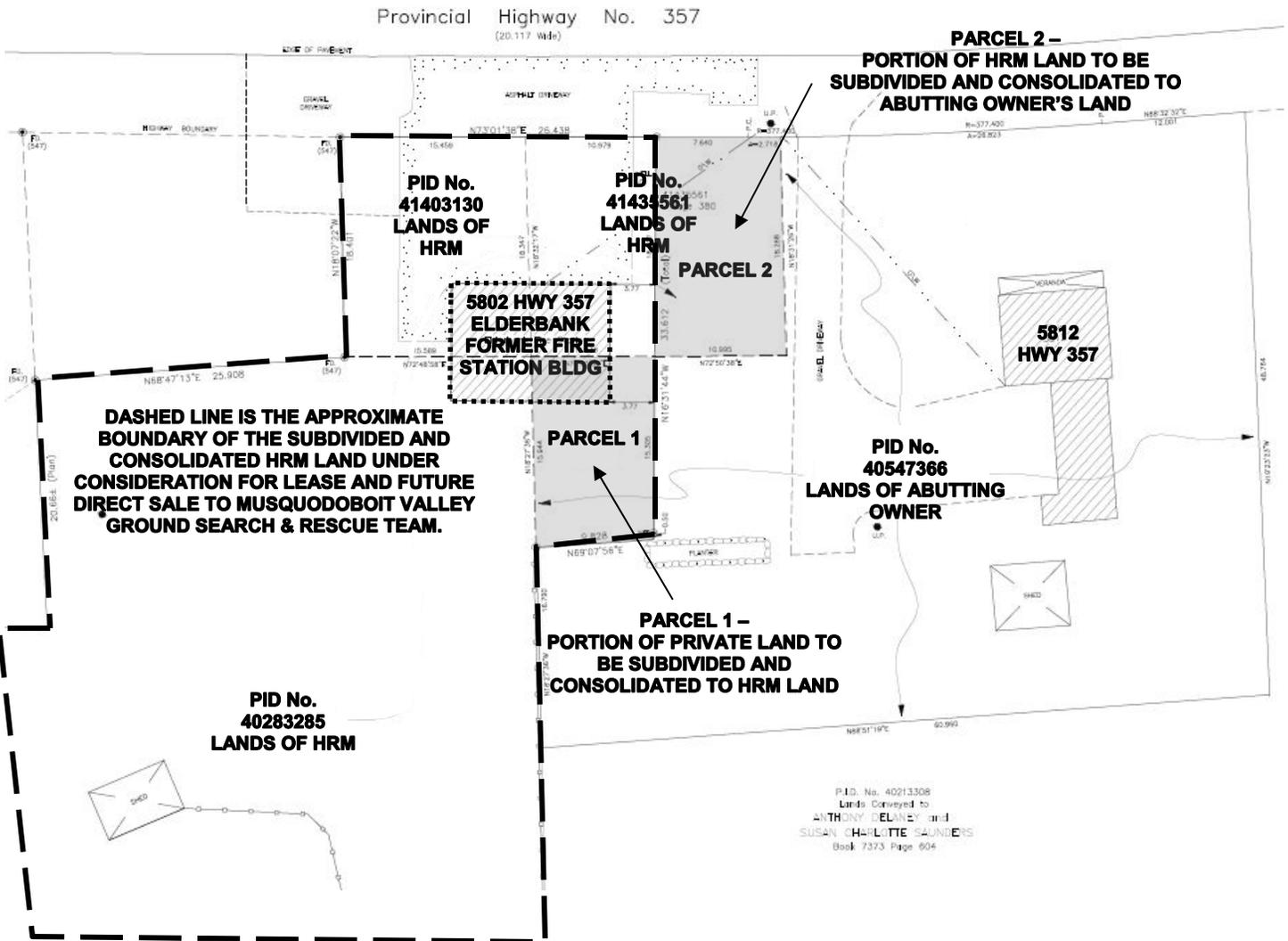
A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Chad Renouf, Senior Real Estate Officer, Finance, Asset Management & ICT

Peta-Jane Temple, Team Lead Grants & Contributions, Finance, Asset Management & ICT.

HALIFAX

ATTACHMENT 'A'- SITE PLAN & PHOTO



STREETVIEW OF 5812 (ABOLIT) & 5802 FORMER FIRE STATION (HRM), HIGHWAY 357 ELDERBANK.



HALIFAX

ATTACHMENT 'B'- CORRESPONDENCE



Musquodoboit Valley Ground Search & Rescue
11974 Hwy. 224, Middle Musquodoboit, N.S.
BON 1X0

July 8, 2019

Erica Fleck
Division Chief
Emergency Management
Halifax Regional Fire & Emergency
P.O. Box 1749
Halifax, N.S.
B3J 3A5

Dear Division Chief Fleck,

I am writing on behalf of the Musquodoboit Valley Ground Search & Rescue Team to request a less than market value lease agreement with the eventual goal of assuming ownership of the property located at 5802 Route 357 in Elderbank, N.S., formerly known as Halifax Regional Fire & Emergency Station #37.

The Musquodoboit Valley Ground Search & Rescue headquarters has been located at 11974 Route 224 in Middle Musquodoboit since September 1, 2000. The current property and premises is owned by Halifax Regional Municipality. Our current lease is month to month, for \$0.00 per month, and leased to us on an "as is" basis, requiring that all maintenance, repairs, replacements, and code upgrades be provided by the team. Of note, the facility has never had running potable water, and was in a dilapidated state when the lease was signed. Over the last 18+ years, the building has fallen into a further state of disrepair, despite our best efforts to maintain it. The roof leaked when we signed the lease and repairs have been attempted numerous times over the years at a significant cost to our team, with no improvement. The roof continues to leak and has caused severe mould to form in the entire building. Since September 2018, we no longer conduct any business in our current headquarters due to safety concerns regarding air quality for the team members. At this point, as a non profit society, we can not continue to throw good money after bad on band-aid repairs. We received a quote to replace the roof which was in excess of \$100,000, and this does not include the cost of mould remediation. Our current headquarters building is several times larger than we need, and is mostly vacant space. At the time of lease signing, it was the only municipally owned property that was available. Our team vehicle and numerous other high value assets are temporarily stored at various locations in the Musquodoboit Valley since we can no longer occupy our current headquarters. This creates unnecessary time delays when responding to lost person incidents.

In October 2018, an inspection of the former Station 37 at 5802 Route 357 was conducted by our team. The building has been vacant for at least 6 years, and despite that, it is still dry and in an acceptable state of repair. Measurements were taken, and the building was found to be a sufficient size to store our team assets, hold our monthly meetings, and conduct training sessions. It also has an adequate water supply provided by a well located on the property. The proposed building is centrally located in our search area, and is visible in the community, which are both assets to a volunteer organization in a rural area that struggles to maintain volunteer numbers. The land parcel is also of a sufficient size that would allow us to conduct outdoor training sessions on site. For the last two years, we have saved a considerable amount of money from grants and fundraisers with the intention of putting the funds into the proposed property to make minor improvements to suit our business needs. The building is structurally sound, roughly five times smaller than our current headquarters, and as such, is within our means to maintain.

On several occasions, members of the Musquodoboit Valley Ground Search & Rescue team have been approached by community members expressing their support for the team to take over the building, as they would prefer to see the building being used instead of sitting vacant with little maintenance being conducted. The team is also aware that the local church group has used the building on several occasions in the past for fundraising functions, a use that we would see continue after taking possession.

In closing, I am requesting this proposal be given due consideration as soon as possible. The relocation to the former Station 37 building is instrumental for the team to continue to effectively provide our mandate to the community during a lost person incident. I see a less than market value lease as a temporary method to relocate as soon as possible, with the team eventually assuming ownership of the property and premises at a later date.

Sincerely,

A black rectangular redaction box covering the signature of Paul Morash.

Paul Morash
President
Musquodoboit Valley Ground Search & Rescue