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Item No. 9.1.2
Grants Committee
September 11, 2023

TO: Chair and Members of the Halifax Regional Municipality Grants Committee

Original Signed

SUBMITTED BY:

Cathie O'Toole, Chief Administrative Officer

DATE: June 28, 2023

SUBJECT: **Graham's Grove Building - Less Than Market Value Leases**

ORIGIN

December 12, 2017, meeting of Regional Council, Item 14.1.10

MOVED by Councillor Austin, seconded by Councillor Mancini

THAT Halifax Regional Council direct staff to:

1. Include a new multi-use building at Kiwanis Graham's Grove Park with a net budget of \$800,000 for consideration in the 2019/20 capital budget process to be prioritized against other capital priorities;
2. Return to Regional Council to confirm the funding commitment once the building design is complete; and
3. Negotiate leases for space in the new building with the Kiwanis Club of Dartmouth and the Dartmouth Dragon Boat Association and return to Regional Council for approval of the resulting lease agreements, such that they are in place for the opening of a new building.

MOTION PUT AND PASSED UNANIMOUSLY

LEGISLATIVE AUTHORITY

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

Section 61:

- (3) The property vested in Municipality, absolutely or in trust, is under the exclusive management and control of the Council, unless an Act of the Legislature provides otherwise.

Section 63

- (1) 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; and
- (2) A resolution to sell or lease property referred to in subsection (1) at less than market value shall be passed by at least two thirds majority of the Council present and voting.

RECOMMENDATION ON PAGE 2

The Grants Committee Terms of Reference states:

"The HRM Grants Committee shall review, evaluate and make recommendations to Regional Council regarding annual cash grants, rent subsidies, property tax exemptions, less than market value property sales and leases to registered non-profit organizations and charities managed by a duly appointed Grants Committee."

RECOMMENDATION

It is recommended that the Grants Committee:

1. Recommend that Halifax Regional Council approve entering into a less than market value lease agreement with the Kiwanis Club of Dartmouth Charitable Foundation for a portion of the premises located at 45 Graham's Grove with key terms set out in Table 1 of this report, and that Council authorize the Mayor and Municipal Clerk to execute the less than market value lease agreement.
2. Recommend that Halifax Regional Council approve entering into a less than market value lease agreement with the Dartmouth Dragon Boat Association for a portion of the premises located at 45 Graham's Grove with key terms set out in Table 2 of this report, and that Council authorize the Mayor and Municipal Clerk to execute the less than market value lease agreement.

BACKGROUND

The Kiwanis Club of Dartmouth (KCD) is a registered charity and regional chapter of Kiwanis International, a global volunteer organization. Since KCD was chartered in 1943, the organization has developed a variety of annual fundraising events for charitable reinvestment in the Dartmouth community. KCD has made major contributions to the construction of the Dartmouth Ferry Terminal Park playground and the Kiwanis Sullivan's Pond Fountain.

In 1971, through the help of municipal grants, KCD developed the park located at 45 Grahams Grove. In recognition of the \$75,000 contribution, the City of Dartmouth officially named the park as "Kiwanis Grahams Grove Park". The 5.43-acre park is located on the north-eastern shore of Lake Banook and currently includes a parking lot, public washrooms, open field, boat house, picnic tables, benches, beachfront water access and multi-use trails. Since 2007, KCD has operated a seasonal ice cream canteen from a trailer and hosted a long-standing annual Christmas tree lot for approximately 15 years on the site. Both the ice cream canteen and tree lot are compliant with all Municipal by-laws, licenses and Provincial requirements.

Another user of the facilities at Kiwanis Graham's Grove Park is the Dartmouth Dragon Boat Association (DDBA). This non-profit society, incorporated in 2009, was established to promote and foster dragon boat paddling within HRM. The DDBA offers numerous public programming offerings, including HRM day camps, recreational and competitive paddling, and paddling programs for the visually impaired/partially sighted. DDBA operated out of an HRM owned boathouse facility through a less than market value lease agreement executed in 2009.

On April 7, 2016, KCD gave a presentation to the Harbour East-Marine Drive Community Council (HEMDCC) outlining a proposal to construct a permanent facility at the Kiwanis Grahams Grove Park. HEMDCC requested a staff report.

On September 8, 2016, staff delivered a report to HEMDCC which assessed the proposal based on public benefit, cost analysis, and policy alignment. HEMDCC requested staff to work with the KCD on their proposal to ensure it met certain criteria including inclusive public programming, barrier-free access to the building, a lease agreement consistent with other HRM partnerships, and cost recovery for HRM services.

On December 12, 2017, Regional Council directed staff to include a new multi-use building at Kiwanis

Graham's Grove in the capital budget and to negotiate lease agreements with the Kiwanis Club of Dartmouth and Dartmouth Dragon Boat Association. The intent, as described in the staff report, was to build a new facility that would replace all existing structures on the site.

DISCUSSION

Consultations between KCD and DDBA regarding the proposed new building began in the summer of 2018. These meetings were attended by the architect hired by HRM to develop renderings of the building. The purpose of the initial meetings was to get feedback from the groups on the conceptual design features and confirm building requirements to meet their usage needs. Additional meetings were held in September 2018 and both the KCD and DDBA confirmed their support and approval of the revised architect drawings.

The 2,500 square foot multi-use building incorporates the needs of HRM, KCD, and DDBA, while maintaining a suitable building style that is designed to fit in with the surrounding community. Removal of the aging HRM washrooms, DDBA boathouse and KCD canteen trailer allows for a better designed park entrance and reduces the impact on the park's green spaces.

The building project broke ground in early May 2022 with substantial completion reached in May 2023.

Kiwanis Club of Dartmouth

A Contribution Agreement was executed August 4, 2022, to outline the terms of the KCD donating funds towards the new building at Kiwanis Graham's Grove Park. The KCD contributed \$300,000 towards the project and were offered the opportunity to negotiate a less than market value lease agreement. HRM then negotiated a 20-year lease agreement with the KCD, with an option to renew the lease for an additional 5 years, at a less than market value rate. In deference to the KCD's contribution, it was negotiated that should HRM terminate the lease with the KCD prior to the natural expiration of the initial term of the lease in 2043, HRM shall repay any unamortized portion of the KCD contribution back to the KCD.

Comparable rents for retail space in the Dartmouth area are estimated at \$16.46 per square foot plus an estimated \$9.66 per square foot additional rent and property taxes based on a Market Rate Survey in 2021 by HRM's broker of standing, Cushman Wakefield. The KCD contribution funds were considered a Contribution in Lieu of Base Rent, and as such, the KCD were offered a base rent of one dollar (\$1.00) per year. The less than market value base rent, plus the Contribution in Lieu, results in an equivalent of an 'operating grant' for the property's use in the amount of \$103,250.00 over the length of the agreement. The operating grant term is used to represent the opportunity cost associated with HRM leasing the space at less than market value.

KCD will be responsible for paying their proportionate share of operating costs and other associated costs related to the leased premises. The operating costs are estimated at \$4.66 per square foot for year one. This is based off the \$9.66 per square foot average additional rent for the area, which is comprised of \$4.66 per square foot in operational costs and an estimated property tax of \$5.00 per square foot. The operating costs will be reconciled and adjusted at the end of year one once the true costs are known and shall increase by 3% each lease year thereafter.

KCD will also be responsible for their proportionate share of the property tax plus HST, which will be billed by HRM. The KCD may apply for tax relief under the *Administrative Order 2014-001-ADM Tax Relief for Non-Profit Organizations* once a lease is executed.

The lease agreement will be the Municipality's standard less than market value lease agreement. The terms and conditions to be included in this lease agreement are outlined below in Table 1.

Table 1. Recommended Key Lease Terms and Conditions

Property Address	45 Graham's Grove, Dartmouth, Nova Scotia PID 00209692.
Tenant	Kiwanis Club of Dartmouth Charitable Foundation.
Landlord	Halifax Regional Municipality.
Premises	Approximately 1,225 sq ft within the building, and approximately 960 sq ft of

	exterior deck space (a portion of PID 00209692).
Initial Term	Twenty (20) years commencing on or about September 1, 2023.
Renewal Term	Five (5) year renewal.
Permitted Use	A retail canteen, deck, club offices, community programming and events space.
Termination	Either party shall have the option to terminate this agreement upon providing twelve (12) months written notice to the other party at any time and for any reason.
Base Rent	\$1.00 per annum plus HST
Waived Market Value Rent:	\$5,162.50 per annum, which is market rent (\$16.46 per sq. ft) less the Contribution in Lieu and payable Base Rent.
Additional Rent	Tenant is to pay \$4.66 per sq ft for year one, reconciliation and adjustment at the end of year one.
Property Tax	KCD is responsible for their proportionate share of property tax levied upon the property. Estimated property taxes are \$34,576.81 for year one of the lease, based on the assessment provided to HRM by the Property Valuation Services Corporation, and will be payable as invoiced in 2024.
Tenant Responsibilities	General repairs, building operating expenses, telephone and internet, interior cleaning, 4 stream waste removal, maintaining applicable licensing maintaining non-profit status with Registry of Joint Stocks, snow removal from the Premises entrance to the common areas.
HRM Responsibility	<ul style="list-style-type: none"> • Maintenance of the Property and Building common areas. • Public washroom maintenance, cleaning and stocking. • Snow removal in common areas including breezeway deck, public washroom doors and parking lot. • Structural repairs to the building. • Capital repairs to the building. • Installation, maintenance, and repair of any life safety systems.
Insurance	Commercial General Liability no less than \$2,000,000. Contents and Directors and Officers insurance and any other insurance required by the Landlord as set forth in the lease. If alcohol is served, stored or consumed at any time then the Commercial General Liability no less than \$5,000,000 is required with liquor liability included. Halifax Reginal Municipality is to be on the policies as additional names insured.
Common Areas	The KCD, their staff and any invitees, are granted non-exclusive right to use the public parking lot, washrooms, park lands, building breezeway in kind with all other users during the hours which may be set by the Landlord.
Special Clauses	<ul style="list-style-type: none"> • The KCD will have exclusive use and control of the exterior deck for the building. HRM has the right to book the deck at any time for civic events; bookings will be free of charge with six months' notice to the KCD. Each booking may be up to 72 hours in length. • The KCD will have the right to allow short-term rentals of the Premise, including the exclusive use deck, to third party users. All short-term rentals must follow the same rules and regulations as the lease and are required to carry additional insurance if alcohol is being consumed. HRM will not collect any monies from such rentals, however HRM reserves the right to cancel or terminate any rental at any time and for any reason. • The KCD has the exclusive right to operate a temporary tree lot in the public parking lot and/or on Municipal Park lands from December 1 to January 1 each year. Exact dates, locations and size of the tree lot may be determined and approved by the Landlord, acting reasonably. • Right to First Offer – KCD has the right to first offer to negotiate a lease should other space at the facility become vacant and HRM chooses not to retain the vacant space for municipal use.

Dartmouth Dragon Boat

Comparable rents for retail space in the Dartmouth area are estimated at \$16.46 per square foot plus an estimated \$9.66 per square foot additional rent and property taxes based on a Market Rate Survey in 2021 by Cushman Wakefield. The DDBA were offered a base rent of one dollar (\$1.00) per square foot in recognition of their in-kind free programming. This base rent difference represents the equivalent of an 'operating grant' for the property's use in the amount of \$68,797 over the length of the agreement. The operating grant term is used to represent the opportunity cost associated with HRM leasing the space at less than market value.

The DDBA will be responsible to pay for operating costs and other associated costs related to the leased premises. The operating costs are estimated at \$2.00 per square foot for year one for the DDBA space as the Premises does not contain a kitchen or bathroom and, as such, their costs are estimated to be significantly less than other occupants of the building. The operating costs will be reconciled and adjusted at the end of year one once the true costs are known and shall increase by 3% each lease year thereafter.

The DDBA will be responsible for their proportionate share of the property tax plus HST, which will be billed by HRM. The DDBA may apply to the *Administrative Order 2014-001-ADM Tax Relief for Non-Profit Organizations* once a lease is executed.

The lease agreement will be the Municipality's standard less than market value lease agreement. The terms and conditions to be included in this lease agreement are outlined below in Table 2.

Table 2. Recommended Key Lease Terms and Conditions

Property Address	45 Graham's Grove, Dartmouth, Nova Scotia PID 00209692.
Tenant	Dartmouth Dragon Boat Association.
Landlord	Halifax Regional Municipality.
Premises	Approximately 890 sq ft within the building and 914 sq ft of non-exclusive space within the Exterior storage (a portion of PID 00209692).
Initial Term	Five (5) years commencing on or about September 1, 2023.
Renewal Term	Two (2) additional renewal terms of five (5) years.
Permitted Use	Programming, storage space, office space and boat storage for the operation of the DDBA.
Termination	Either party shall have the option to terminate this agreement upon providing twelve (12) months written notice to the other party at any time and for any reason.
Base Rent	\$1.00 per sq ft plus HST.
Waived Market Value Rent:	\$13,759.40 per annum, which is market rent (\$16.46 per sq. ft) less the payable Base Rent.
Additional Rent	\$2.00 per sq ft. for year one, reconciliation and adjustment at the end of year one.
Property Tax	DDBA is responsible for their proportionate share of property tax levied upon the property. Estimated property taxes are \$14,081.80 for year one of the lease, based on the assessment provided to HRM by the Property Valuation Services Corporation, and will be payable as invoiced in 2024.
Tenant Responsibilities	General repairs, building operating expenses, telephone and internet, interior cleaning, 4 stream waste removal, maintaining applicable licensing maintaining non-profit status with Registry of Joint Stocks, snow removal from the Premises entrance to the common areas.
HRM Responsibility	<ul style="list-style-type: none"> • Maintenance of the Property and Building common areas. • Public washroom maintenance, cleaning, and stocking. • Snow removal in common areas including breezeway deck, public washroom doors and parking lot. • Structural repairs to the building. • Capital repairs to the building.

<p>Insurance</p>	<ul style="list-style-type: none"> • Installation, maintenance, and repair of any life safety systems. <p>Commercial General Liability no less than \$2,000,000. Contents and Directors and Officers insurance and any other insurance required by the Landlord as set forth in the lease. If alcohol is served, stored, or consumed at any time then the Commercial General Liability no less than \$5,000,000 is required with liquor liability included. Halifax Regional Municipality is to be on the policies as additional names insured.</p>
<p>Common Areas</p>	<p>The DDBA, their staff and any invitees, are granted non-exclusive right to use the public parking lot, washrooms, park lands, building breezeway and public deck in kind with all other users during the hours which may be set by the Landlord.</p>
<p>Special Clauses</p>	<ul style="list-style-type: none"> • DDBA shall provide free programming to HRM citizens up to a maximum value of \$3,600 each year to qualify for the less than market value base rent. • DDBA will have the right to allow short-term rentals of the Premise, all short-term rentals must follow the same rules and regulations as the lease and are required to carry additional insurance if alcohol is being consumed. HRM will not collect any monies from such rentals, however HRM reserves the right to cancel or terminate any rental at any time and for any reason. • DDBA may provide boat storage space rentals in their designated space in the exterior storage cage to club members or third parties, at the DDBA discretion. The DDBA may assign rental rates and is responsible to obtain a certificate of insurance from all renters. • The DDBA is responsible for the maintenance, repair, insurance, and winterization of the existing dock. The DDBA is in no way responsible for any HRM docks located on site.

FINANCIAL IMPLICATIONS

The market base rent for a retail space in Dartmouth is \$16.46 per square foot, as determined by HRM's broker of standing Cushman Wakefield. The annual value of the market base rent for the KCD space would be \$20,163.50 per annum, and the annual waived market rent for KCD will be \$5,162.50. This represents the total market base rent, less the annual value of Kiwanis's Contribution in Lieu (\$15,000.00 per annum) and the payable base rent (\$1.00 per annum).

The annual value of the market base rent for the DDBA space would be \$14,649.40 per annum, and the annual waived market for DDBA will be \$13,759.40. This represents the total market base rent, less the payable base rent (\$890.00 per annum).

The waived market rent represents the equivalent of an "operating grant" for each tenant's use of space in the facility. The term "operating grant" represents the opportunity costs associated with HRM leasing the space at Less Than Market Value rather than full Market Value. The total value of the operating grant with HRM leasing the space to KCD is \$103,250 and to DDBA is \$68,797, over the term of each lease respectively.

General Revenue will collect and deposit revenues into operating account W400-5151 in Corporate Real Estate. Expenses related to maintenance of the leased spaces will be coded to operating account W213 in Facility Maintenance and Operations.

If municipal priorities change during the 20-year lease with the KCD, and HRM terminates the lease at its convenience, HRM shall be responsible to pay back any unamortized portion of the \$300,000 contributed by the KCD to the capital project. The contribution shall be amortized over 240 months, decreasing at a rate of \$1,250.00 per month. This represents a potential financial risk to HRM of between \$1,250 and \$298,750, depending on the remaining lease term. This unamortized portion must be included in the budget for any project contemplating the termination of the KCD lease.

RISK CONSIDERATION

The risks associated with the recommendations in the Report are consideration low. The proposed tenants are well established, using the Kiwanis Grahams Grove Park for many years. They are both registered not-for-profit organizations.

COMMUNITY ENGAGEMENT

No community engagement required for the completion of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

Alternative 1: The Grants Committee could recommend that Regional Council direct staff to execute leases at 45 Graham's Grove at Market Value.

Alternative 2: The Grants Committee could recommend that Regional Council direct staff to negotiate different terms for the leases at the building at 45 Graham's Grove.

ATTACHMENTS

Attachment 1 – Location Map

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.

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