

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

**SUBMITTED BY:**

Original Signed by 

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Jacques Dubé, Chief Administrative Officer

**DATE:** January 21, 2020

**SUBJECT:** **Administrative Order 50 Disposal of Surplus Property – Request for Direct Sale Consideration PID 00424358 - 948 Pockwock Road, Upper Hammonds Plains**

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## **ORIGIN**

October 6, 2015 - Recommendation Report to Halifax Regional Council Administrative Order 50 – Disposal of Surplus Real Property – Package 03.15 the following motions were approved with amendments:

That Halifax Regional Council

1. Declare the properties contained in Attachments B, C, D and E of the staff report dated September 2, 2015, as surplus to municipal purposes; and
2. Declare surplus properties as categorized as specified in Attachments B, C, D and E of the staff report dated September 2, 2015, for the purposes of Administrative Ordre 50, Respecting the Disposal of Surplus Real Property.

948 Pockwock Road, Upper Hammonds Plains was included in the list of properties declared surplus in Attachment B of the October 6, 2015 Report.

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.

January 21, 2020 – Correspondence received from the Upper Hammonds Plains Community Development Association requesting it be given Direct Sale consideration to enable it to acquire 948 Pockwock Road, Upper Hammonds Plains.

**RECOMMENDATIONS ON PAGE 3**

## **LEGISLATIVE AUTHORITY**

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

**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.

*Administrative Order 50, the Disposal of Surplus Real Property Administrative Orders*

### **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.

- (2) The advertisement in accordance with subsection 1 must include:
- (a) the date the community interest property was declared surplus;
  - (b) the location of the property;
  - (c) the name of all the non-profit organizations that made the request for a Direct Sale; and
  - (d) the valuation and assessed value of the community interest property.

## **RECOMMENDATION**

It is recommended that Regional Council

1. Change the previous categorization of the property under an open Call for Submissions, to the Direct Sale method for 948 Pockwock Road, Upper Hammonds Plains pursuant to Administrative Order 50 Community Interest Properties Schedule 1; and
2. Invite the Upper Hammonds Plains Community Development Association to submit a written proposal within ninety (90) days of Council's approval to consider a Direct Sale.

## **BACKGROUND**

At the meeting of Regional Council on October 6, 2015, the subject property 948 Pockwock Road, Upper Hammonds Plains was (1) declared surplus to Municipal operational requirements and (2) was assigned to the Community Interest category wherein only proposals from non-profit and charitable organizations will be considered. At the time, the Administrative Order had only one method of disposal under the Community Interest category. Namely, an 'open' Call for Submissions.

During implementation of the new policy, staff were asked to consider possible revisions to include the capacity to consider a 'closed' process (referred to as a "Direct Sale" in the revised Administrative Order 50). The latter was considered prudent in cases where, for example, a non-profit or charity had constructed a building or amenities on land leased from the Municipality; to recognize a long-term tenant's capital investment in a property; to sustain existing programming; or where the property had been donated for a specific community benefit. Council subsequently approved substantive amendments to Administrative Order 50 regarding surplus property disposals under the Community Interest category that included the addition of a Direct Sale process:

*"...notwithstanding that some non-profit organizations are simply better positioned to take advantage of an opportunity when it arises, an existing long-term tenant might reasonably be expected to have an advantage relative to other interests given their familiarity with operating the subject property, any investment of non-municipal funds, and an established presence in the community. Under these circumstances, a Direct Sale may be preferable to any perception of a 'foregone conclusion' under the current Call for Submissions process. **Consideration might also be extended to a former non-profit owner of the subject property where the land was donated by a non-profit to the Municipality or conveyed without a reversion provision, or to properties purchased and developed through a local area rate**" [Emphasis added]<sup>1</sup>.*

Further, the proposed amendments to policy were not retroactive. If a Call for Submissions had been issued prior to January 28, 2018 the process had to be completed prior to any change in disposal category. However, due to the volume and technical issues associated with properties declared surplus in 2015 a Call for Submissions has not been issued and HRM has not convened an advertised public information meeting regarding disposal of 948 Pockwock Road, Upper Hammonds Plains.

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<sup>1</sup> Recommendation report to Regional Council meeting of March 27, 2018, Administrative Order 50: Disposal of Surplus Real property – Community Interest Category – Proposed Amendments, dated January 24, 2018, p.3.

The purpose of this report is to request Regional Council approve the disposal method as Direct Sale based on the following:

- the donation of land by a local resident to support the establishment of a volunteer fire service;
- the deed did not include a reversion clause should the land cease to be used for a volunteer fire service or upon merger or dissolution of the volunteer fire department;
- the investment of resources, including non-monetary, by local community members in the construction and operation of the subject property including a local area rate;
- equipment and documents stored informally on-site which have significance to local residents;
- the property's historical and cultural significance to the community of Upper Hammonds Plains, the history of firefighting, members of the donor's family, and in the preservation and presentation of Black history - the latter does not necessitate retention of the building but does suggest that some form of commemoration is appropriate and desirable; and
- a Call for Submissions has not been issued in regard to the subject property.

Because the subject property is valued over \$10,000 a public hearing will be required in accordance with subsection 63(1)(3) of the HRM Charter. Any member of the public can attend the public hearing or submit written comment through the Office of the Municipal Clerk.

If Council approves the staff recommendations, the proponent will be notified in writing and will have up to 90 days to submit a proposal to purchase. The proposal will be evaluated by an inter-departmental staff team according to the criteria set out in policy and a recommendation report will be sent to Regional Council for a decision.

## **DISCUSSION**

**Context:** The earliest known inhabitants of the area now known as Upper Hammonds Plains were Mi'kmaq seasonal encampments linked to the Bedford Basin by informal trails. With the establishment of a British colony in Halifax occupancy licences were issued in the late 1700's; although rich in natural resources the area was hard to develop and transportation routes to markets were minimal and sometimes impassable. Early homesteaders supplemented their income with paid labour in forestry, farming and shipping. Following the War of 1812, from circa 1813 to 1816, Black refugees from the United States arrived in Nova Scotia (also referred to as Chesapeake Blacks<sup>2</sup>) and established local settlements notably in Preston, Upper Hammonds Plains, and Beechville. Despite the harsh conditions these settlers created communities with African Baptist churches, established their own schools and small businesses. Hence, Upper Hammonds Plains has an important historical standing for Nova Scotians of African descent. The community's historical significance includes the Emmanuel Baptist Church (1839), the Madeline Symonds Middle School named for a local resident who was the first Black teacher to graduate from the Provincial Normal College (1928), and the first all Black volunteer fire department in Canada. Ownership and expropriation of land and water resources, transportation, and encroaching development have been major issues of concern for the community.

With respect to the Upper Hammonds Plains Volunteer Fire Department, concerns with respect to inconsistent service standards or denial of service prompted residents to consider the formation of their own volunteer fire service in 1964. Two years later Lot A-1 (an area of approximately 15,221 sf) owned by local resident Mrs Elizabeth Mantley was identified and donated to the community to support the establishment and operation of a volunteer fire department. The deed was registered in the name of the Municipality of the Halifax County in 1969. Volunteers constructed a two-bay fire station and a Ladies

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<sup>2</sup> Refugees came from Georgia and the Chesapeake region of Maryland and Virginia. Reference: <https://novascotia.ca/archives/africans>.

Auxiliary organized fundraising for equipment and general operations. It is believed that the County held title because the Upper Hammonds Plains Volunteer Fire Department did not incorporate until 1976<sup>3</sup>.

Following the amalgamation of four municipalities to create the Halifax Regional Municipality ("HRM") in 1996, title ceded to HRM. Under Fire & Emergency Services the building was identified as Fire Station #51 Upper Hammonds Plains. In 2002, a review of the municipal tax structure recommended that operating and capital funding for volunteer and core fire departments coordinated by HRM Fire & Emergency Services be included in the general tax rate effective January 1, 2003<sup>4</sup>. Over the next ten (10) years smaller operations were merged and a number of fire stations were used in an auxiliary capacity, for example equipment storage. In 2012, HRM Fire & Emergency Services undertook a service review and the following year five (5) volunteer fire stations were de-commissioned including Upper Hammonds Plains Fire Station #51 due to insufficient volunteers, low call volume, and/or opportunities for consolidation. Residents suggest that with notification of the fire station's closure it was understood HRM's intent was to "return the property to the community".

**Direct Sale Submission Requirements:** 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 years<sup>5</sup>;
- 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 tax<sup>6</sup> etc).

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 a proposal.

**Evaluation Process and Criteria:** An inter-departmental staff team will evaluate the proposal in accordance with the criteria set out in Section 15 of the Administrative Order. The evaluation of applications differs slightly based on the property's value: for property valued at \$250,000 or below more points are awarded for Benefit to the Community and Benefit to the Municipality. The weighting is shown below in Table A.

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<sup>3</sup> The Nova Scotia Registry of Joint Stocks Companies indicates that the Upper Hammonds Plains Volunteer Fire Department's registration ceased in 2008. The reason cannot be verified but may have been in relation to a merger with Hammonds Plains Volunteer Fire Department (dissolved 2002). This was/is Station #50.

<sup>4</sup> Recommendation report to Regional Council meeting of December 17, 2002, Tax Structure Recommendations, dated December 10, 2002.

<sup>5</sup> If an applicant organization has not been incorporated for the prior 3 years' they may submit financial reports for the years' they were incorporated.

<sup>6</sup> Deed transfer tax is 1.5% of the purchase price.

<b>Table A. Weighted Scoring Property Valued \$250,000 or below</b>		
<b>Criteria</b>	<b>Description</b>	<b>Points</b>
<i>Viability</i>	The probability of the applicant's ability to operate the property based on past experience or related successes, financial stability, and demonstrated planning.	35
<i>Benefit to the Community</i>	The extent to which the intended use of the property will benefit the local geographic community or an identified non-profit sector in terms of program or service continuity; addressing a gap in a program, service or amenity; or the property's cultural or historical significance.	35
<i>Benefit to the Municipality</i>	This is a statutory, legislated criteria and must be included in Council's decision. Applicants should clearly describe and demonstrate the need for the program or service to be offered using the property.	20
<i>Compensation</i>	The purchase price and closing costs included in the offer to purchase.	10
		100

**Public Advertisement:** If Direct Sale consideration is granted by Regional Council, a public notification is at Council's discretion. Given that the request for a Direct Sale originates with residents of Upper Hammonds Plains, many of whom were active volunteer firefighters or members of the society's Ladies Auxiliary, and that the property is believed to have limited marketability, staff are not recommending a public notification.

**Public Information Meeting:** Administrative Order 50 requires that a public information meeting be held in the vicinity of the subject property. This meeting is held to share technical information about the subject property and to explain the decision-making process. However, this requirement may be waived for a Call for Submission if the property is valued under \$250,000 and for Direct Sales. This approach recognizes that some Community Interest properties are of modest value, have limited marketability, or are vacant land holdings.

On their own initiative, the Upper Hammonds Plains Development Association convened a meeting of community residents in November 2019. In addition to sharing information with respect to the process to acquire title, participants discussed options for the property's use. Further, staff's recommendation is based on the intent of disposal – that being to return a property gifted by a local resident back to the community.

**FINANCIAL IMPLICATIONS**

None. This report addresses policy and procedures for the disposal of a surplus municipal property. If Council approves a Direct Sale, the financial implications of a less than market value sale will be provided in a supplementary recommendation report.

**RISK CONSIDERATION**

Low. The recommendations in this report are procedural.

### **COMMUNITY ENGAGEMENT**

September 9, 2019 – There was an on-site visit with HRM staff and community representatives to confirm ownership of the contents. The property is to be sold “as is/where is” but it is essential that nothing be discarded that may have historical or sentimental value. The only item identified for removal by HRM is the Lenel swipe access system, which is complex and of limited utility to a new owner; the intruder alarm system will remain. Staff have been asked not to remove items other than to request an abutting property owner remove used tires and debris encroaching the rear property boundary.

September 12, 2019 – HRM issued notice to an abutting private property owner to remove materials that encroached the rear boundary of the subject property.

November 21, 2019 - At the invitation of the Upper Hammonds Plains Community Development Association staff from the Grants & Contributions office (Finance) and Diversity & Inclusion office attended a meeting of residents convened by the Association at the Upper Hammonds Plains Community Centre, 711 Pockwock Road, Upper Hammonds Plains. The purpose of the meeting was for residents to discuss their interest in the property and potential uses. HRM’s attendance was requested to answer any technical questions on policy or process. A copy of the Sale of Surplus Municipal Real Property: Community Interest and a copy of Administrative Order 50 were provided to the meeting host.

January 21, 2020 – Formal written request for Direct Sale consideration received from the Upper Hammonds Plains Community Development Association.

### **ENVIRONMENTAL IMPLICATIONS**

An environmental assessment of the subject property has been conducted and will be shared with the applicant.

### **ALTERNATIVES**

Regional Council could proceed with the disposal via the Community Interest Category and an open Call for Submissions.

### **ATTACHMENTS**

Attachment 1 - Correspondence from the Upper Hammonds Plains Community Development Association, January 2020.

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Peta-Jane Temple, Team Lead Grants & Contributions, Finance, Asset Management & ICT 902.490.5469

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## ATTACHMENT 1

Upper Hammonds Plains Community Development Association  
711 Pockwock Road, Upper Hammonds Plains, NS – B4B 1N8

January 12, 2020

Grants & Contributions  
PO Box 1749  
Halifax, NS B3J 3A5

**RE: Request for Direct Sale of 948 Pockwock Road, Upper Hammonds Plains – the former Upper Hammonds Plains Volunteer Fire Department**

Dear Peta-Jane Temple:

The Upper Hammonds Plains Community Development Association is writing to officially request acquisition of title by Direct Sale for Station 51- Fire Hall, located at 948 Pockwock Road, Upper Hammonds Plains, NS, B4B 1P1. We wish to preserve and to regain ownership of this property because of its rich historical and cultural legacy and as a creative arts and recreational facility for our community's youth. Therefore, we submit the following information to Halifax Regional Municipality staff and Council for your careful consideration of our request.

As the site of the historic Upper Hammonds Plains Volunteer Fire Department, organized in 1966 as the First All Black Volunteer Fire Department in Canada, the property at 948 Pockwock Road embodies the proud history, selfless contributions and indomitable resilience of the community of Upper Hammonds Plains. The overt anti-Black racism endured by community members in that day necessitated that the UHP community form its own fire department. Refusal of service by local fire departments during community fires which placed our homes, businesses, livelihood and our lives at risk demanded that the community band together to create their own fire department that would be ready and willing to answer their call for help in emergencies.



Despite the discrimination they faced from nearby communities and naysayers who thought the residents of UHP were too poor to attain this goal, by the end of 1966 a volunteer department was formed with forty-eight members. UHP resident Elizabeth Mantleys' generous donation of a parcel of land (948 Pockwock Road) to the cause of a community volunteer fire station made the community's dream a reality. The construction of the fire station itself was only made possible through the leadership of the Ladies Auxiliary and men of the community who actively fundraised to purchase building supplies. Finally, the community's men came together to physically construct the firehall with their own hands and expertise.

The official opening of the hall occurred in 1970 and numerous dignitaries including then Premier George Smith were in attendance. Extremely proud of this accomplishment, the community celebrated the opening over a three-day period, complete with a formal dedication and ribbon cutting, speeches, parade and dance. It was a grand culmination of a significant community effort and demonstration of enormous sacrifice!

Until its closure in 2013, the Upper Hammonds Plains Volunteer Fire Department served the community of UHP diligently and admirably, leaving an honorable example and legacy for all UHP members, particularly our youth. Considering this history and the grave community struggles and sacrifices to attain this station, it was unforeseeable that a time would come when UHP community members could lose such an important legacy space. We question whether Elizabeth Mantley was aware that in signing her property over to the then Halifax County for the construction of the fire hall that it would then belong to the County and not to the UHP Volunteer Fire Department or her fellow community members. Was Ms. Mantley aware that a day would come when the fire station would cease to operate, and the community would have to apply to the municipal government and pay to re-gain ownership? As we reflect on the historic racial discrimination suffered by the community of UHP, we are doubtful that this ANS woman, in offering her property for the upbuilding of her community, fully understood the ramifications of the land transfer. We also speculate that since the UHP Volunteer Fire Department was not incorporated until June of 1976, Ms. Mantley may have had no other choice but to give the property to former Halifax County, as the fire department would not have been legally able to take ownership until incorporation, which occurred ten years after the formation of the department and six years after the hall's official opening.

Built by descendants of Chesapeake Bay Blacks of 1815 who settled UHP, this building and its grounds have a deeply spiritual meaning and connection to UHP community members. It speaks to the tenacity, courage, hard work and determination of our foremothers and forefathers who sacrificed much for the safety and well-being of their community.

It is in the spirit of these principles that the UHPCDA seeks to carry the torch forward to use this building as a net of safety and protection for our youth against the negative social elements of our time. We are requesting that title be granted to the UHPCDA so that the Association can preserve the former UHP Volunteer Fire Department's site as a legacy space while repurposing it as a Creative Arts and Recreational Centre to meet the social and well-being needs of our community's youth.

Although anti-Black racism is now not always as overt as it was in the 1960s when our elders built the fire hall, the impact of historic, intentional, systemic segregation through residential isolation and geographic and social marginalization has resulted in our youth having very little access to positive recreational activities and opportunities to this very day. Our community is located approximately ten kilometers from the St. Margaret's Centre and Tantallon Library, and thirteen kilometers from the Bedford Hammonds Plains Community Centre, the two nearest recreational facilities and nearest library in our area. In the absence of local Halifax Transit service to the UHP community, our youth (as are young adults and our elders) are excluded from the opportunity of readily accessing these facilities' services, leaving them restricted to their own devices for recreation. As an Association, we are deeply concerned about providing healthy, welcoming, culturally responsive spaces for our youth to grow and develop into the productive future leaders of our community and the wider HRM community. Point two of HRM's *Youth Services Plan* underscores that "All youth **should be able to access recreation** services. Low cost, inclusive services serve youth. All youth should be able access services regardless of their academic, cultural, or financial background" ([www.halifax.ca](http://www.halifax.ca)). Through the ownership and refurbishment of 948 Pockwock Road, we wish to join with our municipality in ensuring that UHPs youth have an accessible youth-centred and safe space where they can grow and develop.

Using the philosophy of placemaking as a guide, we aim to preserve the history of the officers, members and patrons of the UHP Volunteer Fire Department on the walls and within the general space of the Youth Creative Arts and Recreational Centre. Placemaking is centred on community-based participation and is effective because of its focus on "local community's assets, inspiration, and potential, and it results in the creation of quality public spaces that contribute to people's health, happiness, and well being" (<https://www.pps.org/article/what-is-placemaking>). This process will help us to pay close attention to safeguarding the physical, cultural, and social identities that define the UHP community and specifically the members, officers and patrons of the volunteer fire department. We envision repurposing the fire hall into a space where youth can hang out to express themselves and develop through creative arts and other physical recreational activities, while surrounded by walls with murals and written history telling the stories of people like Elizabeth Mantley, George Marsman (first chief), and

Wesley Anderson ( first deputy chief). It is crucial that our youth know and understand the contributions of these community members who are no longer with us, so that they can observe their stories as excellent examples of good citizenship and leadership.

The UHPDA is more than capable of taking on such a task as it has a history of providing community activities for UHP youth and leading initiatives that preserve the history of our community. For the past 30+years, the Association has been organizing a Summer Day Camp program for the community's children, also providing summer employment for our youth. Additionally, the Association supports other youth centred activities that take place at the UHP Community Centre including *The Cultural and Academic Enrichment Program* in partnership with the Black Educators Association, which takes place two evenings per week for school-aged children and youth during the school year. The Association has partnered with the Saint Mary's University Enactus Program to host a series of coding workshops for community youth, and it also sponsors the annual *Can Jam Basketball Tournament* and Canada Day celebrations. During the summer of 1999, the Association gained a grant to employ one youth of UHP to research the history of the community and preserve it through the creation of monuments noting significant historic landmarks. One such landmark is present at the 948 Pockwock Road property. In addition to the fact that the UHPCDA oversees the UHP Community Centre as well, these examples demonstrate that this community organization has a positive record of creating safe youth-centred spaces that nurture the growth and development of UHP youth, as well as preserving our community's history.

We request that the UHPCDA be given an opportunity, through the Community Interest Sales category of disposal of HRM property, to gain title to 948 Pockwock Road. Our Association wishes to have the opportunity to regain this community space to preserve the history of the UHP Volunteer Fire Department, which is one of great significance to our community, HRM, Nova Scotia and the entire country of Canada; and to protect and nurture the well-being of our youth through a Youth Creative Arts and Recreation Centre. We anticipate your thoughtful consideration of our request and look forward to your positive reply.

Sincerely,

Gina Jones-Wilson

President

Upper Hammonds Plains Community Development Association

Cc. Councillor Matt Whitman