

INTRODUCTION

PURPOSE

The purpose of the Disposal of Surplus Property Policy is to dispose of surplus real property in a fair, legally compliant and impartial manner, which takes into account the highest financial return to the Municipality of East Hants balanced with economic and community development opportunities.

OBJECTIVES

The objectives of the Disposal of Surplus Property Policy are to:

1. Provide a proactive Land Management Program for the Municipality of East Hants that incorporates an ongoing inventory of municipally owned land holdings which may be declared surplus and deemed a marketable commodity;
2. Prioritize a list of surplus properties now owned by the Municipality of East Hants to be disposed of using appropriate property disposal methods as determined by Council;
3. Establish a diverse strategy for the disposal of surplus properties owned by the Municipality of East Hants using a variety of property disposal methods; and
4. Ensure surplus properties are disposed of in a fair, legally compliant and impartial manner.

POLICY

It is a policy of the Council of the Municipality of East Hants property deemed surplus by motion of Council be disposed of in accordance with a disposal methods included in this policy and as determined by Council.

POLICY STATEMENTS

1. Powers of Municipality to Acquire Property

There are a number of mechanisms available to municipalities to acquire property:

- a) A municipality may acquire and own property granted or conveyed to the municipality either absolutely or in trust for a public or charitable purpose¹.
- b) A municipality may acquire property, including property outside the municipality, that the municipality requires for its purposes or for the use of the public².
- c) A municipality, by an official or agent, may bid for and purchase land at a tax sale for any municipal purpose³.
- d) A municipality may acquire land by way of the subdivision process that is free of encumbrances for open space and public use “including parks, playgrounds and similar public purposes or any combination thereof⁴.

- a) A municipality may acquire title to land and/or buildings that have traditionally been seen as a community based entity (such as former schools, community clubs, halls or historically worthy sites).

1.2. Assessment and Usefulness of Municipally Owned Property

A municipality may sell property when the property has been deemed surplus to the needs of the municipality.

Criteria used to determine usefulness of a municipally owned property may include one or more of the following:

- a) No long term use has been identified for the property.
- b) It is no longer in the best interest of the Municipality to retain ownership of the property (i.e. cost to maintain the property outweighs the benefit of retaining).
- c) Retaining ownership exposes the municipality to liability or risk (i.e. a vacant building or land would be more vulnerable to vandalism and trespassing).
- d) A non-profit organization has an interest in acquiring the property to provide a service to the community.
- e) The abutting property owner(s) expressed an interest in acquiring the property.

1.3. Powers of Municipality to Dispose of Property

The manner by which the Municipality acquired a property must be considered when choosing the method of disposal. If a property was acquired for a community, charitable or recreational purpose, every effort should be made to ensure the sale of the property will facilitate a continued community, charitable or recreational vision.

There are a number of methods available to facilitate the disposal of surplus municipal property.

- a) **Call for Expressions of Interest**
Advertise a Call for Expressions of Interest to solicit sealed submissions for the purchase of the property. Should Council choose to proceed with this option, consideration should be given to the possibility that the highest bid may be from a non-profit organization that is offering less than market value. Should this be the case, see item 7 - Sale to Non-Profit Organizations.
- b) **Public Auction**
Advertise and hold a public auction. For sale by public auction, Council will set a minimum price.
- c) **Sale by Listing Agent**
List the property for sale by a real estate agent to obtain market value upon the sale of the property. Staff of the Municipality of East Hants, or the spouse of a staff member of the Municipality, are not permitted to place a bid or purchase property listed for sale by a real estate agent until (15) days have passed since the property was listed for sale. For the purpose of this policy, "spouse" is defined by the Province of Nova Scotia Municipal Conflict of Interest Act C.299 R.S.N.S. 1989 s.2(i).

d) Direct Sale to Abutting Property Owner

If the property is deemed “non-usable”, negotiate the sale of the property to the abutting land owner. If Council decides a negotiated sale to be the best approach then all owners of property immediately abutting the non-usable property shall be offered, in writing, an approximately equal portion of the parcel at the assessed value.

Where only one abutting property owner thereafter expresses in writing continued interest in a portion of the parcel, this owner shall be offered the entire parcel at the predetermined price.

e) Direct Sale on the Open Market

Surplus properties with high market potential may be disposed of by direct sale. Direct sale on the open market shall involve establishing a predetermined price and advertising the property for sale in newspapers appropriate for the sale.

Pricing shall be set at the appraised value as determined by an independent Certified Real Estate Appraiser.

Offers to purchase at the specified price shall be received in writing and accepted on a first come first served basis.

The term “first come first served” shall mean the first written offer received from an individual, in a situation where more than one person becomes interested in purchasing the same property. All written offers shall be dated and time stamped and initialed by the Chief Administrative Officer, or his/her designate, as received.

Subsequent written offers to purchase the same property shall be processed in the order of the date and time received, when conditions of sale to preceding offerors have not been met.

Staff of the Municipality of East Hants, or the spouse of a staff member of the Municipality, are not permitted to place a bid or purchase property listed for sale directly on the open market until (15) days have passed since the property was listed for sale. For the purpose of this policy, “spouse” is defined by the Province of Nova Scotia Municipal Conflict of Interest Act C.299 R.S.N.S. 1989 s.2(i).

f) Sale by Land Exchange

Wherever possible, direct land exchange of surplus properties may be employed as an alternative method for the acquisition of necessary lands to accomplish the needs of capital works projects, watershed protection, street widening, etc.

g) Sale to Non-Profit Organizations

Section 51 of the Municipal Government Act enables a municipality to sell property at a price less than market value to a non-profit organization if Council considers the organization to carry on an activity that is beneficial to the Municipality. The procedure for this process to occur includes a public hearing respecting the sale of property if the offer to purchase is more than ten thousand dollars less than market value, and a resolution of Council passed by at least two-thirds majority of the Council present and voting.

1.4. Unsolicited Proposals

When an unsolicited offer to purchase land owned by the Municipality of East Hants is received, staff will determine if that property has been deemed surplus by motion of Council. If already deemed surplus by motion of Council, the property will be disposed of in accordance with disposal methods included in this policy.

If the property has not been deemed surplus by motion of Council, the request will be presented to Council. Council will determine if the property is surplus to the needs of the Municipality. If deemed surplus, staff will proceed to dispose of the property using the most appropriate method.

1.5. Investment of Proceeds from the Sale of Municipally-Owned Property

The Municipal Government Act stipulates how funds received from the sale of property are to be invested, which include:

- a) Proceeds received from the sale of property, other than proceeds of the sale of land transferred to the Municipality during the subdivision process, shall be invested in the Municipality’s Capital Reserve Fund.

“A withdrawal from the capital reserve fund shall be authorized by Council, by resolution, and may only be used for:

- i. capital expenditures for which the Municipality may borrow;
- ii. repayment of the principal portion of capital debt; and
- iii. landfill closure and post closure costs.”⁵

- b) Proceeds from the sale of land transferred during the subdivision process shall be invested in the Municipality’s Open Space Fund. Proceeds received from the sale of land acquired by way of the subdivision process “shall be used for parks, playgrounds and similar public purposes within the Municipality.”⁶

1.6. Authority of Elected Officials and Staff of the Municipality to Purchase Surplus Property

Elected officials, the Chief Administrative Officer, or the spouse of an elected official or the Chief Administrative Officer are not permitted to purchase municipally owned property that has been deemed surplus to the needs of

the Municipality. For the purpose of this policy, “spouse” is defined by the Province of Nova Scotia Municipal Conflict of Interest Act C.299 R.S.N.S. 1989 s.2(i).

GOVERNANCE

ROLES AND RESPONSIBILITIES

| Title/Role | Responsibilities |
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| Policy Owner | The policy owner (see Version Log Section) is responsible for ensuring that the policy is implemented and being followed. In addition, the policy owner is responsible for reviewing the policy on a yearly basis for relevancy and potential updates. |
| Municipality of East Hants Staff | All personnel that fall within the scope of this policy (see Scope Section) must follow the policy statements within this document and must follow the governing authority of the policy owner. |

VERSION LOG

| <MANDATORY SECTION>Version Number | Amendment Description | Amendment/Policy Owner | Approved By | Approval Date |
|-----------------------------------|-------------------------------|----------------------------|-------------|---------------------------|
| 1.0 | Approval of Policy by Council | Director of Administration | Council | June 23, 2010 C10(255) |
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ENDNOTES

- 1 - Municipal Government Act, Part III, Powers, Powers of municipality regarding property, Section 50 (1)
- 2 - Municipal Government Act, Part III, Powers, Powers of municipality regarding property, Section 50 (5) (a)
- 3 - Municipal Government Act, Part VI, Tax Collection, Municipal purchase of tax sale property, Section 143 (1)
- 4 - Municipal Government Act, Part IX, Subdivision, Land or cash-in-lieu, Section 273 (2)
- 5 - Municipal Government Act, Part IV, Finance, Capital Reserve Fund, Section 99 (4)
- 6 - Municipal Government Act, Part IX, Subdivision, Land or cash-in-lieu, Section 273 (13)