



Subject: *Skating Pond - Belnan Avenue & Garden Road*
To: Parks, Recreation & Culture Committee
Date Prepared: January 30, 2025
Related Motions: C20(290)
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Approved by: Alana Tapper, Director of Parks, Recreation & Culture

Summary

In October 2020, staff were directed to secure title to two properties on Belnan Avenue, PIDs 45332715 and 45332731. These properties were previously maintained as park space by the Elmsdale and District Recreation Association. Direction was also given indicating that following the transfer of the two PIDs, staff were to investigate a third property (PID 45396785) at the corner of Belnan Avenue and Garden Road that was historically maintained as a recreation space by the non-profit with a pond used for skating during the winter.

The titles of the former PIDs 45332715 and 45332731 have been secured, are consolidated into PID 45332715 and are now owned by the Municipality. This report outlines the operations, risk and liability considerations before exploring municipal ownership of PID 45396785.

Financial Impact Statement

Should Council wish to explore owning and operating PID 45396785, it can be expected that there would need to be additional Parks staff throughout the winter season, increases to cover staff wages, specialized training and equipment.

This will be a new service and there may be impact on insurance premiums given the unique risks associated with outdoor ponds. Unlike a rink where access is controlled, a skating pond represents a risk at all times; should an accident occur and a claim be made, the impact to the taxpayer would be significant and long-term.

Recommendation

It is recommended that the Municipality not enter into any agreement to take ownership of PID 45396785 and to not operate any public skating pond operations on Municipal land at this time.

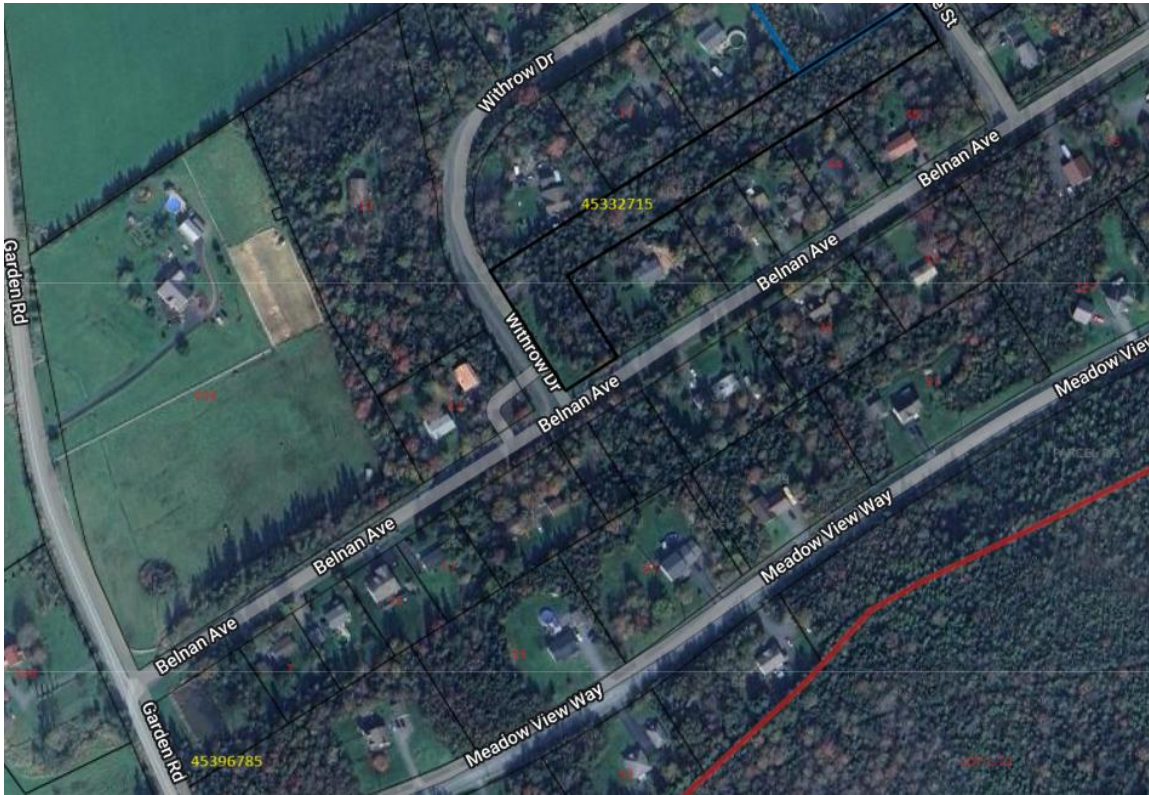
Recommended Motion

Move that the Parks, Recreation and Culture Committee recommend to Council that Council direct the CAO to:

- 1. Not enter into any agreement to take on ownership or operations of PID 45396785; and, that*
- 2. The operations and maintenance of public skating ponds as a level of service is not offered by the Municipality at this time.*

Background

PID 45396785 (see image below) at the corner Belnan Avenue and Garden Road has come up for discussion at Council multiple times in regards to the Municipality taking over ownership of the parcel.



For many years the property was operated as a recreation space that included a public skating pond by Elmsdale and District Recreation Association. The organization is no longer in operation and was struck off the Registry of Joint Stocks in January 2007.

In 2015, Comac Holding - the original subdivision developer - sent a letter to the Municipality stating that they still owned the property and that they wished to rid the company of the liability. The group wanted to give the parcel to the Municipality so that it could continue to be operated as a recreation space and skating pond. The offer was turned down at the time.

In October 2023, motion C20(290) was passed that stated that Council wished to be informed once ownership has been confirmed for the skating pond (in Belnan) for further discussion at that time.

While the Elmsdale and District Recreation Association has dissolved and has not been active on Registry of Joint Stocks since January 2007, PID 45396785 is still listed as owned by the association and used as a neighborhood skating area with members of the community testing the ice and clearing the snow. When the Association was “struck off” the Registry of Joint Stocks, their assets were vested to the Province; therefore, PID 45396785 is understood to be in the possession of the Province. East Hants would have to make an application to the Department of Justice (“DOJ”) under Section 9 of the *Corporations Miscellaneous Provisions* act to acquire PID 45396785 from the Province. This is a lengthy process and may require a survey and appraisal, per DOJ requirements.

Discussion

Staff have reviewed past correspondence regarding PID 45396785, assessed the property via site visits, accessed information from Halifax Regional Municipality (HRM) relating to outdoor ice testing and reviewed information provided by Intact Public Entities on their “Centre of Excellence” document site.

There are concerns with assuming operations and maintenance of PID 45396785, specifically around the liabilities associated with the pond, the costs associated with operating a skating pond and mitigating risk. The Municipality would face potential liabilities where it is operated as a skating pond or not, especially because the pond was operated as a public skating area in the past.

LIABILITY ASSOCIATED WITH OPERATING A SKATING POND

Skating on natural bodies of water requires an additional set of guidelines in order to ensure safety to both staff and users. Considerations have to be given to:

- Ice thickness
- Method of testing the ice including using a team of staff and the appropriate equipment
- Regular inspections taking place whenever there is a significant change in the temperature
- Documentation and filing of all inspections and tests that are conducted
- Signage - risk signage, ice condition signage and information on user requirements
- Staff safety with staff wearing floatation devices or floatation suits and having an ice rescue plan in the event that a staff person falls through the ice.

If the Municipality were to assume operations and maintenance of PID 45396785, including the skating pond during the winter, there would be significant winter cost to minimize potential liabilities. Additional staff would be required to test the ice daily, clear snow, install appropriate signage, provide safe access and parking. Ice testing programs require specific training and safety equipment and requires 2-3 staff at all times to ensure staff safety.

There would also be consideration to requiring waivers from users and to ensure all appropriate equipment, such as helmets, are being used.

The Municipality has previously received information from our insurer, Intact, about skating and outdoor rinks. The information provided indicated that much like an indoor rink the Municipality is responsible to meet a standard of care and take steps to minimize risks associated with skating. This is much easier to meet with an indoor rink facility with staff that is in a controlled environment versus an outdoor skating surface that is impacted by temperature fluctuations.

In January 2024, HRM made the decision to no longer operate their ice testing program because of impacts from climate change reducing the number of days where ice can be tested.

RISK & LIABILITY IN OWNING PID 45396785

Even if the Municipality took ownership of the land with the intention not to operate it as a skating pond, the Municipality would face potential liability if it didn't prevent individuals from using the pond during the winter for skating. It would be difficult to prevent individuals from using the pond and would likely create displeasure in the area as this has historically been used by the local community for skating.

OPTIONS FOR RISK & LIABILITY REDUCTION

Some of the typical risk mitigations the Municipality uses for indoor events cannot apply when the venue cannot be secured from access. For events, the Municipality would normally consider the following, typically managed through PerfectMind:

Waiver Requirement - Requiring users to sign a waiver may reduce liability, but it does not guarantee immunity, as waivers can fail in court. Additionally, a waiver covers only the person who signed it, not third

parties injured as a result of using the skating pond. Guests or other family members would not be covered under the singular waiver and enforcement would be very difficult. It is important to note that waivers are not iron-clad and may be found to be unenforceable by the courts.

Hold-Harmless and Indemnification Agreements - Agreements that require individuals to hold the Municipality harmless and provide indemnity would necessitate their ability to cover potential claims (e.g., through insurance). While feasible for contractors with insurance, it's more challenging for individuals. Homeowners' insurance might provide coverage, but this would need to be verified for each user and managing this would be incredibly challenging. Similar to waivers, indemnities are also not iron-clad and would require the Municipality to sue to enforce.

Group-Based Insurance Requirement - Requiring users to form an organized group and secure liability insurance would add another layer of protection. Under this option, it may not be practical for residents to form a group in order to access group-based insurance.

STRATEGIC ALIGNMENT

This contributes to the East Hants 2021-2024 Strategic Plan by promoting safe, sustainable communities, encouraging responsible stewardship, and ensuring that residents have access to safe recreational opportunities.

FINANCIAL CONSIDERATIONS

Should Council wish to explore owning and operating PID 45396785, it can be expected that there would need to be additional Parks staff throughout the winter season, increases to cover staff wages, specialized training and equipment.

This will be a new service and there may be impact on insurance premiums given the unique risks associated with outdoor ponds. Unlike a rink where access is controlled, a skating pond represents a risk at all times; should an accident occur and a claim be made, the impact to the taxpayer would be significant and long-term.

Alternatives

1. Start a seasonal ice management program
 2. Support the local community in starting up a non-profit to maintain the skating pond
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