

## **Administrative Policy # 2021-01**

### **Council Disposal of Surplus Property Policy**

#### **PURPOSE:**

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

#### **OBJECTIVES:**

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

1. Provide a proactive Asset Management Program for the Town of Digby that incorporates an ongoing inventory of Town owned land which are declared surplus and deemed a marketable commodity.
2. Prioritize a list of surplus properties now owned by the Town of Digby to be disposed of using methods as determined by Council
3. Ensure surplus properties are disposed of in a fair, legally compliant and impartial manner.

#### **POLICY:**

It is a policy of the Council of the Town of Digby that property deemed surplus by motion of Council is to be disposed of in accordance with 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 purpose. *(MGA Section 50(1))*

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b) A municipality may acquire property, including property outside the municipality that the municipality requires for its purposes or for the use of the public. *(MGA Section 50 (5) (a))*

c) A municipality, by an official or agent, may bid for and purchase land at a tax sale for any municipal purpose. *(MGA Section 143 (1))*

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 thereof. *(MGA Section 273(2))*

e) 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.

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### **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 g) – 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 Town of Digby, or the spouse of a staff member of the Town, 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 initialled 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 Town of Digby, 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 Town of Digby 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.”(MGA Section 99 (4))

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.”(MGA Section 273 (13))

**1.6. Authority of Elected Officials and Chief Administrative Officer of the Town of Digby 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 Town of Digby. 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).

**1.7 ROLES AND RESPONSIBILITIES**

The Chief Administrative Officer 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.

All personnel fall within the scope of this policy and must follow the policy statements within this document and must follow the authority of the Chief Administrative Officer.

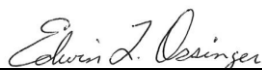
**Clerk's Annotation for Official Policy Book**

Date of Notice: **January 18, 2021**

Date of adoption: **February 2, 2021**

Policy effective date: **February 2, 2021**

I certify that this **Council Disposal of Surplus Property Policy** was adopted by Council as indicated above.



**Clerk**

February 1, 2021

**Date**