POLICY CS-60: Land Purchase and Sale Policy

Employee and Business Services

Approval Date: **July 12, 2011**
Approval Authority: **Council, Resolution No. 15 By-Law 2011-116**
Effective Date: **July 12, 2011**
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Purpose:

This policy is to comply with Section 270 of the Municipal Act, 2001, S.O. 2001, c. 25 (the Act) which requires a municipality to adopt and maintain a policy with respect to the sale and other disposition of land.

Definition:

“Appraisal” means a valuation of the fair market value of the land prepared by an appraiser with an AACI or CRA designation.

“Clerk” means the Clerk of The Corporation of Norfolk County.

“Council” means the Council of The Corporation of Norfolk County.

“County” means The Corporation of Norfolk County.

“Land” means land owned by the County, whether vacant or not, or any other proprietary interest in land owned by the County, and without limiting the generality of the foregoing, includes easements, rights-of-way, any interest in lands under an agreement of purchase and sale, parks, parking lots, open space, buildings, and lands laid out or intended to be laid out as highways.

“Local Board” means a municipal service board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities.

“Person” includes an individual and a corporation or any other legal entity and the successors, assigns, heirs, executors, administrators, or any other legal representatives of a person to whom the context may apply according to law.

“Purchase” means any transaction whereby an interest in land is transferred to the County with or without consideration.

“Sale”, “Sell”, “Selling” and “Sold” means any transaction whereby an interest in land is transferred or disposed of with or without consideration, including disposal by way of a

lease or leaseholds exceeding 21 years or longer**.** Sale does not include land temporarily conveyed to the County for municipal purposes intended to be reconveyed to the grantor, or a Quit Claim Deed made by the County for the purpose of correcting or clarifying title or boundaries of its land or land not owned by the municipality.

1.0 Sale Procedure

Unless an exemption is provided in this policy, before selling any land, Council shall:

1.1 Declare Land Surplus

At a meeting open to the public, Council may by by-law or resolution, declare land to be surplus to the needs of the municipality and authorize County staff to negotiate the sale of the land. The passage of such by-law or resolution does not obligate the County to sell such lands, and such a declaration may be rescinded at any time before a binding Agreement of Purchase and Sale has been entered into by the County.

Any resolution passed by Council for the sale of lands in accordance with this policy shall be endorsed by passage of a confirming by-law at some time thereafter.

1.2 Obtain a Valuation of Land

Where land needs to be valued, it will be valued by a method determined to be satisfactory by the Manager, Corporate Support Services who is authorized to negotiate the sale, including, but not limited to:

- An appraisal as defined herein
- The value assigned by the Municipal Property Assessment Corporation
- An opinion of value by a licensed real estate broker
- Such other means as may be specifically determined as appropriate by Council in the circumstances

2.0 Land Exempt from Sale Procedure

2.1 Land sold under section 110 of the Municipal Act, 2001 (municipal capital facilities).

2.2 Classes of land described under Part XI of the Municipal Act, 2001 (tax sales).

2.3 Land being reconveyed to the person that originally conveyed it to the County, or such other person as that person may designate in writing, where:

- The land is held by the County in trust or subject to a condition, obligation or legislation that requires a specific conveyance by the County.

- Land is held by the County as security for the performance of obligations for that person pursuant to an agreement between the person and the County.

- Land conveyed to the County for municipal purposes determined not to be necessary and intended to be re-conveyed to the transferor.

2.4 Land that was transferred to, or vested in the County by by-law, operation of law or otherwise which neither the County nor the registered owner intended to vest or be transferred.

2.5 Land 0.3 metres or less in width which was acquired for road purposes or planning approval or other decision, and subsequently sold to the adjoining landowner, any municipality, local board, school board, conservation authority, government or government related agency.

2.6 Easements.

2.7 Land less than 10,000 square feet in area, sold to any municipality, local board, school board, conservation authority, government or government related agency.

2.8 Land to be used for the establishment and carrying on of industries and industrial operations and incidental uses.

3.0 Land Exempt from Valuation Procedures

Valuations are not required for the following classes of land or type of transaction, provided the purchaser is not a manufacturing business or other industrial or commercial enterprise:

3.1 Closed roads if sold to the owner of land abutting the closed road.

3.2 Land formerly used for railway lines if sold to an owner of land abutting the former railway land.

3.3 Land that does not have direct access to a highway if sold to the owner of land abutting that land.

3.4 Land repurchased by an owner in accordance with the *Expropriations Act.*

3.5 Land sold under sections 107 (general power to make grants) and 108 (small business assistance) of the *Municipal Act, 2001*.

3.6 Land sold to any municipality, local board, school board, conservation authority or government authority.

3.7 Land that is exempt by Regulation made by the Minister of Municipal Affairs and Housing.

3.8 Any other land for which Council in its discretion determines a valuation is unnecessary, subject to the requirement to obtain fair market value from a manufacturing business or other industrial or commercial enterprise.

4.0 Methods of Sale

Land may be sold by any of the following methods, as may be authorized by Council at its sole discretion:

- Public tender in accordance with the County's Purchasing Policy EBS-02
- Call for proposal
- Listing with a real estate firm or broker
- Land exchange
- Negotiation with County staff, ratified by Council
- Auction
- Such manner as Council deems appropriate

5.0 Sale Price

Council may authorize the sale of land for less than the fair market value if, in the opinion of Council, it is in the best interest of the County to sell the land for less than the fair market value, subject to the requirement to obtain fair market value from a manufacturing business or other industrial or commercial enterprise.

6.0 Terms of Disposition

The Agreement of Purchase and Sale shall be prepared in accordance with the conditions Council deems appropriate in the circumstances.

Upon confirmation by the Clerk that the Agreement of Purchase and Sale is in accordance with Council's direction, the Mayor and Clerk shall be authorized to take all actions and execute all documentation required to finalize the sale.

The sale including price, purchaser and property location shall be made posted publicly by the County within 60 days of the finalization of the sale.

7.0 Purchase of Land

Council shall set appropriate negotiation terms for staff via resolution at a meeting all or part of which may be open or closed to the public, as determined by Council in accordance with the provisions of the Municipal Act.

Unless signing authority is otherwise delegated by Council, the Mayor and County Clerk (or in the absence their Deputy(s)) shall sign off upon Agreements of Purchase and Sale within Councils approved terms. If the conditions of the Agreement of Purchase and Sale are subsequently accepted they represent a legally binding agreement upon the municipality and therefore a final Council decision.

All land purchases, including price and property location, shall be made posted publicly by the County within 60 days of the County taking possession of the lands.

7.1 Road Purposes

The General Manager of Public Works and Environmental Services or designate is authorized to negotiate the purchase of land that is in their opinion required for road purposes in accordance with this policy.

The purchase of land for road widening is budgeted for annually in the Capital Budget for each proposed road reconstruction project when road widening is a requirement.

If a landowner is required to convey property to the County as a condition of a severance or minor variance or for road widening purposes, Public Works and Environmental Services Property Purchase Policy PW-08 will be adhered to.

Where the closure of the road allowance will create a building lot on its own or when added to the adjacent property, an appraisal of the property may be used to determine the value of the land.

The value applied to the sale of a road allowance, lane or alley will, in most instances, be based on the value Norfolk County compensates landowners for road widening purposes, as identified in the Property Purchase Policy PW-08.

7.2 Expropriation

Where it is deemed necessary by Council to expropriate land, the requirements of the *Expropriation Act* will be followed.

8.0 General Provisions

8.1 Minimum Requirements

The procedures set out in this policy are minimum requirements, and at their discretion Council or staff may exceed the requirements.

8.2 Non-Fettering

Nothing will fetter the discretion of Council to retain, sell or purchase land on such terms and conditions as may be fixed by Council, to or from whomever Council deems appropriate.