



REPORT

To: Committee of the Whole

Report Number: CS-COW-001

From: Trish Morgan, General Manager of Community Services

Date: June 15, 2020

Subject: Transferring Community Recreation Facilities

RECOMMENDATION: [Corporate Unweighted]

That the Committee of the Whole receive the June 15, 2020 report titled "Transferring Community Recreation Facilities" for discussion.

BACKGROUND/RATIONALE:

The PRRD has title or license to 13 rural community recreation grounds and facilities (hereinafter called 'properties'). These properties have been acquired over a number of years, for a number of purposes, to fulfill an important role as community hubs and gathering spaces. Many of the properties owned by the PRRD have been acquired through Free Crown Grants, transfers from Provincial Ministries, or through the private sale or donation. Acquisition of these properties has taken place since the late 1970s.

The properties in question are:

- Area B
 - Buick Creek Recreation Grounds
 - Cache Creek Community Hall
 - Golata Creek Community Hall and Recreation Grounds
 - Goodlow Recreation Area (formerly Moose Creek)
 - Halfway Community Hall
 - Halfway Community Gymkhana Grounds
 - Northland Trailblazers Recreation Grounds and Chalet
 - North Peace Fall Fairgrounds
 - Osborn Community Hall
 - Rose Prairie Grounds
- Area D
 - Kelly Lake Community Centre
- Area E
 - Jackfish Community Centre
 - Moberly Lake Community Centre

The Regional Board passed the following resolution on May 7, 2020

MOVED, SECONDED, and CARRIED

That the Regional Board be provided with a report on options for transferring ownership of Society run Peace River Regional District recreational facilities to the Societies that operate/lease them at a future Committee of the Whole meeting.

Considerations for Transfer of PRRD Owned Properties

The following considerations may impact the process of transferring of PRRD owned or leased properties.

Regional Parks Bylaw

Bylaw 860, 1994 provides for the regulation and use of community and regional parks. At the time of its adoption (1994), a number of the properties in question were included within the bylaw. At this time, it is unclear whether the inclusion of these properties in a regulatory bylaw as a Regional or Community Park gives these properties 'park' status; however, identification of these parks in this bylaw is at least an indication of possible formal park status. The following mechanisms may have been used to dedicate the properties as regional or community parks:

- Resolution by the Regional Board
- Landowner dedication as a park by depositing a plan in the land title office
- Dedication by bylaw (affirmative vote by at least 2/3 of all Regional Board members)
- Dedication of a regional park under the *Park (Regional) Act* (repealed)
- Transfer in trust from a private landowner

In order to determine whether a property is a regional park, further information would need to be gathered regarding the particular properties for a legal review. Should a legal review confirm that properties are regional or community parks, there are additional considerations that may affect the transfer process.

If a property was dedicated or reserved as a park as described above, the Regional Board must adopt a bylaw to cancel the dedication or reservation in order to dispose of the property, and the Regional Board may only adopt the bylaw if it first receives the approval of the electors of the entire region (can be obtained by way of an Alternate Approval Process or Assent Voting). The PRRD must also place any money received from the sale in a reserve fund to acquire alternate regional parks, community parks, or trails.

At this time, of the 13 properties in question, only the North Peace Fall Fair has been identified as a regional park by the PRRD's legal counsel, as it was dedicated by resolution of the Regional Board. Further investigation is needed to determine if any of the other 12 properties are considered regional or community parks.

'Regional Parks' without Park Status

If these properties do not have legal status (that would attract the statutory or other restrictions on how parks may be used or sold) the PRRD can use the land as a park, without any legal formality, and may be free to cease using such land as park. The PRRD could also sell the land, without going through any type of public approval process, or having to apply to the court or to the Province. The Regional Board could simply pass a resolution to authorize the sale.

Specified Use

The PRRD has title to nine community recreation facilities, eight of which were obtained from the Crown and one that was purchased in a private sale.

Where the PRRD has obtained title to a piece of land through a Crown Grant, the Crown included restrictions on the title for how the property is to be used. For the eight properties acquired through the Crown, the title extends “for so long as the land is used for community recreation purposes”. Should the land NOT be used for the purpose specified in the Crown Grant document, the Minister may cancel the disposition (title). Therefore, it may be possible for the PRRD to transfer the properties, but the Societies will be required to continue to use the properties as stipulated on the title. In order for the PRRD to sell an affected property to a society free of such a use restriction, the Crown would need to release the ‘specified use’ condition. The Crown may expect to receive fair market value in return for giving up these use restrictions.

It may be possible to change the specified use of the properties but this would require an application to the Province. For instance, if the PRRD wanted to co-locate another community amenity that is not for recreational purposes (such as a cistern to supply water for fire protection), the PRRD could apply to add such a use.

For the title privately obtained, the PRRD is under no restriction for use upon sale, but the transfer still may be affected by other factors, such as a regional park dedication.

Agricultural Land Reserve Restrictions

Many of the properties either owned or tenured to the PRRD are within the Agricultural Land Reserve. In many cases, through the acquisition process for the properties, the Agricultural Land Commission provided approval for non-farm use. Should the Regional Board be in favour of transferring properties that have been approved for non-farm use within the ALR, it will need to be noted as a condition of transfer/sale.

Co-Located Facilities

Two of the properties in question are co-located with other PRRD assets. In the first case of the Northland Trailblazers, the Society subleases part of Montney Centennial Park, which is tenured to the PRRD through a License of Occupation. The second being the Moberly Lake Community Hall, which is located on the same property as the Moberly Lake Volunteer Fire Hall. The PRRD may be able to pursue a subdivision of these properties, though this would require the authorization of both the Ministry of Transportation and Infrastructure and Northern Health.

Notice of Disposition

Prior to the Regional Board selling or leasing (or even entering into an agreement to sell or lease) a property to a non-profit Society, the PRRD must publish notice of the intended disposition in a newspaper. The PRRD is not required to provide a public acquisition opportunity here, as the proposed transfers are to non-profit organizations; however it should be confirmed that each proposed transferee Society is incorporated and in good standing and is not member-funded.

Notice of Assistance

If the Society will be paying a purchase price (or lease rent) that is less than fair market value, the PRRD will be providing ‘assistance’ to a Society. Pursuant to the *Local Government Act*, the PRRD may provide such assistance if it considers the assistance will benefit the community. The PRRD must

publish a newspaper notice of its intention to provide such assistance, before it sells or leases, or even enters an agreement to sell or lease.

“Reverter” Clause

Another consideration that may affect the transfer of properties to the Society operators is the ‘reverter’ clause found in the four properties tenured through a License of Occupation, as well as eight of the nine properties acquired as a free crown grant. Should the PRRD no longer require the tenure, the license documents state that the land is to be ‘reverted’ to the Crown.

A condition subsequent, or the possibility, of reverter does not prevent the PRRD, as the owner, from selling the affected land but it does require that the PRRD obtain consent of the Crown to do so. The Society, as a new owner of the land, would take ownership of the property, subject to the possibility of the reverter clause. The Society would then be restricted from selling the land in the future, and if no longer required, would be returned to the Crown.

In order for the PRRD to sell an affected property to a society free of ‘reverter’ status, the Crown would need to release the condition, and the Crown may expect to receive fair market value in return for giving up these use restrictions.

Other Charges

There may be other charges on the title to a property that could affect a proposed disposition (for example, judgements, certificates of pending litigation, options to purchase, and rights of first refusal). Each property would require a legal review to understand potential implications.

Liability Issues

The PRRD, through the terms of a transfer agreement with a Society, may to some extent be able to transfer risk and liability associated with the property to the Society, provided that the Society is willing to accept such terms. However, it is possible for the PRRD to have continuing risk and liability after it has been transferred. Accordingly, before committing to the transfer, it is recommended that investigation be completed, specifically in relation to the environmental condition of the property.

Transferring Ownership of Properties

The following are options for transferring properties, should the above conditions be met:

Sell Properties for Fair Market Value

The PRRD could initiate the sale of any properties that it has title to. Current property assessment valuation could provide a basis for determining market value. Property transfer tax may apply as a result of the sale.

Sell Properties for \$1

The PRRD could initiate the sale of any properties that it has title to for a less-than-market value, as approved by the Regional Board.

Leasing (long-term) Properties Owned by the PRRD

The PRRD may wish to consider disposing of the property by way of a long-term lease, rather than a sale if the PRRD has a continuing interest in the property. This would give the PRRD better assurances that the expected use of the property would continue for as long as the PRRD requires. The PRRD may, under such a lease, give the Society substantial control over the property for the term of the lease (which may be long-term), while including basic requirements as to use. This would give the PRRD the ability to cancel the lease if the Society ceases to exist or ceases to operate the property as a public park or community recreation facility or amenity.

Leasing (long-term) Properties Leased (through a License of Occupation) to the PRRD

Where the PRRD does not own the land in fee simple and has only a License of Occupation from the Province, the PRRD cannot lease the land and it must continue to sublicense (or transfer the lease, as discussed below).

Transferring Lease of Crown Land Properties Tenured to the PRRD

To transfer the PRRD's interest in a lease of provincially owned land (any properties tenured under a License of Occupation) the PRRD would assign the lease to the receiving Society. Each lease would include provisions addressing the ability of the PRRD to make such an assignment. It is likely that a consent from the Province will be needed for each property in order for the PRRD to assign a lease to a non-profit Society. A newspaper notice of the PRRD's intention to dispose of the land will be required.

Operation of Community Halls as a Regional District Service

Beyond the Recreational and Cultural Grants-in-Aid program, fundraising, and outside grant funding, most of these community halls receive no funding for the upkeep, operation, or capital improvements for the facilities – with the exception of the Kelly Lake Community Centre, where there is a service function to provide for operations, maintenance and capital upgrades. It is generally understood that many of the societies have been struggling with volunteer capacity for fundraising, maintenance, etc. There has also been an increase in requirements governing the use of these facilities (e.g., more recently COVID-19 requirements, liquor control for events, changes to the BC Building Code impacting capital upgrades, WorkSafe BC), which put stress and pressure on the remaining volunteers. Should the PRRD choose to keep these properties, it may be possible to provide funding either through the establishment of a local service area, or one that covers the entire electoral area, to assist with funding. If the Regional Board chooses to operate the properties as a PRRD service, it will need to adopt an establishing bylaw for the service(s) and would be required to conduct an elector approval process.

Pros and Cons of Transferring Ownership

Volunteerism

Although groups of very enthusiastic volunteers, who are committed to the facilities, operate the facilities, volunteerism is on a steady decline in the PRRD and across the country. Long-term volunteers are generally scarce and the ability to comply with Provincial legislation, WorkSafe standards, and best practices, while fundraising and providing community events, can put significant pressures on the volunteers and the societies. Many of the societies have noted challenges in recruiting and retaining volunteers, and as a result some have come close to going defunct (even in

the last year). Many societies have experienced challenges in completing capital projects that are funded via electoral area grants, due to low number of volunteers to complete the work.

If any of the properties are transferred to the operating societies, it will be important to include language in the transfer agreement that if the society goes defunct, that the property will be transferred back to the PRRD.

Capital Replacement Considerations & Asset Management

The PRRD cannot borrow funds for capital infrastructure (replacement, upgrades, etc.) on properties that are not owned by the PRRD. Many of the properties are nearing the end of their useful life and consideration needs to be given to whether they should be replaced and if so, how the replacement costs will be funded. Should the PRRD transfer the properties to the operating Societies, the PRRD will effectively be giving up the opportunity to create a local service area to raise money for capital replacement or upgrades.

In 2014, the PRRD conducted a facility inventory and conducted a high level condition assessment of most of the properties in the North Peace (see facility profile for each assessment).

Name of Facility	Age of Facility	Estimated Remaining Useful Life As of 2015	Asset Condition Rating (scale 1-10)
Golata Community Hall	61 years	5 years (2020)	2.0
Cache Creek Community Hall	30 years	10-15 years (2025-2030)	4.0
Goodlow Recreation Grounds (formerly Moose Creek Gymkhana)	37 years	Indefinite	1.0
Halfway Community Hall	30 years	15-20 years (2030-2035)	4.0
Halfway Rodeo Grounds	40 years	Indefinite	2.5
North Peace Fall Fair Grounds	70 years	Most buildings 15 years (2030)	4.5
Osborn Community Hall	40 years	10 years (2025)	2.5

Osborn Community Hall

In 2019, a more detailed condition assessment of the Osborn Community Hall was conducted to determine whether to replace the facility or to consider building a new facility. As a result of the condition assessment, the following resolution was passed by the Regional Board on November 28, 2019:

MOVED, SECONDED, and CARRIED

That the Electoral Area 'B' Director and PRRD staff be authorized to meet with the Osborn Community Hall Society to further review the "Facility Conditional Assessment Report – Osborn Hall" and discuss options to remediate the facility or investigate a new facility.

In February of 2020, the Rural Budgets Administration Committee reallocated the remaining financial commitment to the Osborn Facility Condition Assessment (\$13,828) to further study the following:

- Determining the needs of the community
- Bringing forward options and costs for a replacement (modular unit)
- Costs of demolition and site servicing

Once the study is complete (as outlined above), the Electoral Area Director and Regional Board, in consultation with the operating society, will need to consider how, or if, to fund the replacement of the Osborn Community Hall.

Kelly Lake Community Centre

The Kelly Lake Community Centre is a well-used community asset, and the only public gathering space in Kelly Lake. The facility is in need of a major renovation to ensure that the Centre is safe and accessible for years to come. A detailed Facility Condition Assessment and Design Study were completed in 2019 in order to gather sufficient information and create design options to apply for grants to offset the cost of the anticipated renovation. Before moving forward any further, a hazardous materials study will be completed during the summer of 2020 to further inform the renovation process.

In February of 2020, the Rural Budgets Administration Committee passed the following resolution;

MOVED, SECONDED, and CARRIED

That the Rural Budgets Administration Committee allocate \$15,000 from Gas Tax to the Kelly Lake Community Centre 2020 budget (Function 225) for the purpose of conducting a hazardous materials study, in preparation for conduction further renovations of the facility and amend the 2020 Draft Budget for Function 225 – Kelly Lake Community Centre to:

1. Increase Transfer from Gas Tax Reserve - \$15,000
2. Increase Contract for Services - \$15,000

Prior to transferring ownership, the PRRD may wish to conduct detailed condition assessments on the properties to inform both the societies that may be receiving the property and PRRD of the remaining useful life, necessary capital upgrades, and the costs to fund repairs or whether replacement of the entire facility is needed.

Insurance Considerations

The PRRD pays for the property insurance on all PRRD owned facilities. The cost of insurance for these properties is \$8,600 annually under the Regional District's insurance policy. Should the PRRD relinquish ownership of these properties, the insurance costs would be borne by the operating societies, and it is expected that the costs will be far greater than what is currently paid through the Municipal Insurance Association.

Taxation Considerations

Local governments are not required to pay property taxes on community or institutional facilities. Should the Regional Board sell or transfer properties to the operating societies, they would have to pay the additional expense of property taxes. In 2013, the Regional Board passed a policy stating that the PRRD would not grant permissive tax exemptions.

Future Use & Ongoing Interest

While many of the properties have restrictions on the use of the property for “community recreation only”, the Regional Board may wish to consider if holding the properties for future development of other community uses is important. For instance, depending on the size of the property, could a fire hall, water tankloader facility, recycling drop off, etc. be sited on the property in the future? (subject to approval of the Crown) If so, the Regional Board may wish to consider whether relinquishing a property is in the best interest of the PRRD and the tax payers in the long-term. Further consideration should be given to the follow questions:

- Does the PRRD expect the property to continue to be used as part of a PRRD service? If yes, then operating agreements should be updated or maintained.
- Does the PRRD wish to restrict the use of the property? If yes, then the PRRD may wish to consider requiring the registration of a Section 219 covenant on title to the property, setting out the restricted use.
- Does the PRRD wish to re-acquire the property after a period of time or if the society ceases to operate the property? If yes, the PRRD may wish to register an option to re-purchase the property or by placing a possibility of reverter on the properties in favour of the PRRD.

Next Steps

The initial steps to transfer properties, no matter how they were obtained or what restrictions were placed upon them, are as follows:

1. Legal review of the title to properties and charges.
2. Identify applicable Regional District bylaws and resulting requirements.
3. Review documentation respecting Regional District acquisition and administration of properties as parks, to determine if they have legal park status.
4. Consider whether an environmental investigation is required.
5. Identify and review leases, licenses, contracts and other agreements pertaining to the properties.
6. Consider ongoing operating, maintenance, repair, and replacement costs with respect to the property and potential need for PRRD role/contribution.
7. Consider PRRD interest in the property for both current and future use.
8. Determination of what ongoing interest, if any, the PRRD wishes to have in a property, should it be transferred to a society.

Should the Regional Board be in favour of moving forward with the process to transfer properties to their respective operating societies, additional research will be required:

- What is the desire of the community associations that operate these facilities?
- What is the desire of the public to transfer these properties?
- Review of PRRD bylaws pertaining to the property and park services to determine if any amendments are required or any other steps that need to be taken in relation to the applicable service.

ALTERNATIVE OPTIONS:

1. That the Committee of the Whole identify and prioritize the society run properties that are owned or licensed by the PRRD, and recommend that the Regional Board investigate the identified properties to

determine the requirements of transferring those properties to the operating societies; further that the Committee of the Whole recommend that the Regional Board authorize consultation with the operating societies to determine their interest in obtaining the properties they operate.

2. That the Committee of the Whole provide further direction.

STRATEGIC PLAN RELEVANCE:

☒ Not Applicable to Strategic Plan.

FINANCIAL CONSIDERATION(S):

Should the Regional Board pursue further investigation on transferring properties to operating societies, there will be expenses for legal review. Staff time will be required to research historical records and files to determine whether there are official dedications to community or regional parks.

COMMUNICATIONS CONSIDERATION(S):

None at this time.

OTHER CONSIDERATION(S):

None at this time.

Attachment:

1. Property Profiles
2. PRRD Owned Community Halls Presentation