



*Office of the Auditor General*

**Review of the City's Acquisition of Land for Soccer Fields**

**Tabled at Audit Committee - March 12, 2015**





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## ***Introduction***

This review was conducted as a result of a complaint to the Fraud and Waste Hotline in late 2012 regarding the City's acquisition of land for soccer fields in 2010.

## ***Background***

In July 2010, Council approved the Agriculture and Rural Affairs Committee (ARAC) recommendation to approve the acquisition of property known municipally as 5650 Mitch Owens Drive for sports fields from Centaurus Partnership, formerly Manotick Land Development Partnership for \$1,300,000 plus applicable taxes.

The report to Committee and Council indicated that the \$1,300,000 purchase amount was "a reconciliation of values derived from two appraisals completed for the respective parties, and includes values for both the land and site improvements. There is no inclusion of a donation receipt for future income tax purposes." The consultation section of the report referred to numerous meetings held with Ottawa South United Soccer Association (OSUSA) representatives to arrive at this mutually agreed upon purchase price and obligations over future operations.

Council also approved the Agriculture and Rural Affairs Committee (ARAC) recommendation to approve the negotiated sports field agreement with Ottawa South United Soccer Association for the development of a parcel of land at 5650 Mitch Owens Drive, to be known as George Nelms Sports Park. This was previously discussed October 2009, when ARAC and Council recommended and approved that the land acquisition from Centaurus Partnership was subject to the negotiation and execution of a sports field partnership agreement with OSUSA.

## ***Objective and Scope***

The objective was to assess if the City processes were properly followed for the acquisition of the land. The scope focussed on City processes exclusively.

## ***Results***

### ***Appraisals***

The City acquired 32 acres of land for use as soccer fields for \$1.3 million plus applicable taxes in October 2010 from Centaurus Partnership which was identified as a partnership within the meaning of the Limited Partnership Act. The Partnership had paid \$250,000 for the property in 2006.

The July 2010 report to Committee and Council indicated that the \$1,300,000 purchase amount was a reconciliation of values derived from two appraisals completed for the respective parties and included value for both land and improvements.

The City's Acquisition Policy requires an appraisal by a qualified City staff appraiser or an independent real estate professional, "in accordance with current standards of practice within the real estate industry". Where the estimated market value is \$750,000 or greater, one of the appraisals is to be undertaken by an independent real estate professional. In addition, the October 28, 2009 Report to Council directed the Real Estate Partnerships and Development Office (REPDO) to negotiate the acquisition of the parcel of land "at a mutually agreed upon Fair Market Value (FMV)...the FMV will be supported by independent appraisals prepared by appropriately qualified appraisers which will address both the raw land value as well as the improvements already made to the site to create an active recreational facility."

For the City's May 2010 appraisal of \$1.1 million to \$1.25 million, REPDO used the seller's May 2008 appraisal for the estimated value for the improvements. The seller's appraisal included improvements completed and to be completed of \$1 million. The City's "appraisal" noted that the seller's improvement costs were deemed reasonable by Parks and were adjusted to \$762,000 for the percentage completion verbally provided by Parks. The land value was appraised at \$320,000 to \$480,000. There was no documentation (notes, emails, reports, etc) in support of the findings and conclusions for the City's REPDO appraisal relating to REPDO's reliance on Parks determination of reasonability of the seller's estimated improvement costs or Parks determination of level of completion for the improvements.

The City's appraisal was identified as an internal appraisal and indicated that the author reserves the right to complete an appraisal in accordance with the standards of the Appraisal Institute of Canada at a later date. Management indicated that the Appraisal Institute of Canada's standards were used as a guideline only.

The July 2010 Sports Field Agreement indicated that Centaurus Partnership together with the OSUSA had constructed certain improvements on the Lands including the six soccer fields and a public parking area. The Report to Council indicated that the four additional fields had already been developed at OSUSA's cost and there was also rough grading of a secondary parking lot. The total dollar value of the improvements, which portion of the improvements was paid for or was donated and whether it was by Centaurus or OSUSA was not specified in the sports field agreement or in the report to Council.

During the course of the review, Parks subsequently provided the Sports Field Strategy Potential Phasing and estimated Capital Costs for soccer fields from 2003 as justification for improvement costs. In our opinion, this would not be directly comparable to the estimated improvement costs as they were general estimates.

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The report indicated the acquisition would be in cash only allowing OSUSA the opportunity to reinvest some of the cash received for the development of a field house. However, the purchase was from Centaurus and not OSUSA. There was no explanation as to how the funds would be provided by Centaurus to OSUSA. Although known to the City by May 2010, there was no mention of the \$250,000 which Centaurus planned to donate to the City for the Fieldhouse project.

The consultation section of the report referred to numerous meetings held with OSUSA representatives to arrive at this mutually agreed upon purchase price and obligations over future operations. However, the purchase and sale was not with OSUSA but was with Centaurus Partnership Inc, the property owner.

Records requested as part of this review with respect to the timing of the determination of the \$1.3 million as the acquisition price were not available in the files provided nor were they subsequently provided. However, based on estimated improvements of \$762,000 this would result in an implied value for the land in the amount of \$538,000. This valuation of land in the amount of \$538,000 was \$288,000 more than the \$250,000 the members of the partnership paid in 2006.

In summary, although there were two appraisals, the City's May 2010 appraisal relied on the seller's May 2008 appraisal for the estimated cost of \$762,000 for improvements. This resulted in the City not receiving the benefit of two separate independent appraisals which did not meet the intention of the Acquisition Policy and the October 28, 2009 Report to Council.

### ***Reporting to Committee and Council***

The July 14, 2010 Report to Council submitted by the City Manager and Deputy City Manager, City Operations with contact persons in REPDO and Recreation, Parks and Culture indicated that "there is no inclusion of a donation receipt for future income tax purposes". In fact, there were tax donation receipts issued that were contingent on the land sale. This was evidenced by the November 3, 2010 letter from the Solicitor for OSUSA and Centaurus referring to the "completion of the sale of the lands comprising the George Nelms Sports Park where the individual partners now wished to make their respective contributions to the City's Major Community Partnership Major Capital Program each in the amount of \$62,500 for a total of \$250,000". The letter included the names and addresses for each of the partners where their tax receipts should be issued.

The plan for Centaurus to donate \$250,000 to the City's Major Community Partnership Major Capital Program aimed at the community aspect of the project was known by the Department in May 2010 (or earlier) prior to the approval and transfer of the land. The legal letter from the law firm of Wilson Law Partners, representing the Centaurus

Partnership and Ottawa South United Soccer Association dated November 3, 2010 accompanied the donation cheques. The Program Manager, Recreation, Planning and Facility Development signed the letter to confirm the receipt of funds and the conditions of the contribution. The City should consider whether the issuance of tax donation receipts is appropriate in this situation as the donations appeared to be contingent upon the completion of the transaction.

The July 2010 Sports Field Agreement indicated that Centaurus Partnership was a partnership between Bill Michalopoulos, Duncan Campbell, Peter McGann and Stephen Campbell. Although not indicated in the report to Council or the sports field agreement, the OSUSA website listed three of these names as members of the OSUSA Board of Directors as the President, Vice President, and Club Treasurer and the fourth name as a Founding Board Member 2003 and Director, Developmental. Prior reports to Council indicated that Centaurus was affiliated with OSUSA. However, the report did not disclose that the sellers were also on the Board of Directors of OSUSA with whom the City was negotiating the sports field agreement for the site or disclose a conflict of interest.

The same report to Council also did not disclose the extent of the reliance of the City's appraisal on the seller's appraisal for the cost of improvements.

The examples above have demonstrated that inaccurate and incomplete information was reported to Council relating to this land transaction

### **Conclusion**

Although there were two appraisals, the City's appraisal relied on the seller's appraisal for the cost of improvements. This resulted in the City not receiving the benefit of two separate independent appraisals which did not meet the intention of the Acquisition Policy and the October 2009 Report to Council.

Inaccurate and incomplete information was reported to Council relating to this land transaction as the July 2010 report to Council:

- Did not disclose the reliance of the City's appraisal on the seller's appraisal for the improvements of \$762,000;
- Indicated that there was no donation receipt issued for income tax purposes when in fact tax donation receipts were to be issued to the sellers for a total of \$250,000 for a cash donation provided to the City upon completion of the transaction; and,
- Did not disclose that the sellers were also on the Board of Directors of OSUSA with whom the City was negotiating the sports field agreement for the site.

## ***Recommendations and Management Responses***

### **Recommendation 1**

**That management ensure that appraisals for all property acquisitions are completed in accordance with the City's Acquisition Policy and that appropriate supporting documentation is retained.**

#### **Management Response**

Management agrees with this recommendation and it has been implemented. As per the City's Real Property Acquisition Policy, two appraisals were completed for only the vacant land component. The City's estimate for the cost of improvements should have been vetted by a third party to arrive at an overall value of the land and improvements.

Management will ensure that appraisals for all property acquisitions are completed in accordance with City's Acquisition Policy and that supporting documentation is retained in accordance with the City's Corporate Records Management Policy.

### **Recommendation 2**

**That Management ensure that they accurately and completely report land and other related transactions to Committee and Council.**

#### **Management Response**

Management agrees with this recommendation and it has been implemented.

More information should have been provided within the Committee and Council report as to how staff arrived at the value of the improvements.

Management will ensure that when reporting land and other related transactions to Committee and Council that the information provided in the report is complete, providing Council with the level of detail they need to support effective decision making.

### **Recommendation 3**

**That the City considers whether the issuance of tax donation receipts in this situation was appropriate and take action as necessary.**

#### **Management Response**

Management agrees with this recommendation.

Finance staff, in conjunction with the City Clerk and Solicitor department, have reviewed the circumstances around the issuance of the donation tax receipt and confirmed that the City's Donation Receipt Policy/Procedures and Canada Revenue Agency legislative requirements were adhered to. Finance will be reviewing the



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corporate policy and procedures related to donations as part of their 2015 work plan and will complete the review by Q4 2015.

### ***Acknowledgement***

We wish to express our appreciation for the cooperation and assistance afforded the review team by management.