

Roll Call

Council Members:

Mayor D. Henderson
Councillor G. Beach
Councillor J. Earle
Councillor J. Fullarton
Councillor L. Journal
Councillor M. Kalivas
Councillor L. Severson
Councillor S. Williams

Absent:

Councillor J. Baker
Councillor H. Noble

Staff:

Mr. B. Casselman, City Manager
Ms. D. Cyr, Director of Finance
Ms. M. Pascoe Merkley, Director of Planning
Mr. D. Paul, Director of Economic Development
Ms. S. Seale, City Clerk (Recording Secretary)

Others:

Mr. G. Bender, MMM Group
Mr. C. Tyrrell, MMM Group
Mr. Ron Zajac, Recorder and Times

MOTION TO MOVE INTO CLOSED SESSION (5:00 P.M.)

Moved by: Councillor Williams
Seconded by: Councillor Journal

THAT pursuant to Municipal Act, 2001, Section 239 Sub. 2 (c) & (e), Council resolve itself into the Committee of the Whole, In Camera, closed to the Public to consider:

1. a proposed or pending acquisition or disposition of land by the municipality or local board;

2. litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board.

CARRIED

REPORT OF THE COMMITTEE OF THE WHOLE IN CAMERA

Moved by: Councillor Severson
Seconded by: Councillor Fullarton

THAT Council rise from Committee of the Whole, In Camera and the Chairman report that all recommendations adopted in Committee of the Whole, In Camera, be adopted.

CARRIED

MAYOR'S REMARKS

Mayor Henderson reminded everyone that the municipal election was on October 25, 2010 and noted that voting was by internet or telephone and that no paper ballots were available.

DISCLOSURE OF INTEREST

Councillor Kalivas declared a conflict of interest with respect to Staff Report No. 2010-142-10 (Closed meeting) as a family member is employed by the party to which the report was concerning.

ADOPTION OF COUNCIL MINUTES

Moved by: Councillor Williams

THAT the minutes of the Council Meeting of September 28, 2010 be adopted and circulated as read.

CARRIED

MOTION TO MOVE INTO COMMITTEE OF THE WHOLE COUNCIL

Moved by: Councillor Severson
Seconded by: Councillor Kalivas

THAT we adjourn and meet as Committee of the Whole Council, with the Mayor in the Chair.

CARRIED

CORRESPONDENCE, COMMUNICATIONS AND PETITIONS

1. Flag of Remembrance
Royal Canadian Legion, Brockville Branch 96

Moved by: Councillor Fullarton

THAT in honour of Remembrance Day that the Flag of Remembrance be flown at Tunnel Bay from November 1st to November 12th, 2010.

CARRIED

2. Child Care Worker & Early Childhood Educator Appreciation Day
Ontario Coalition for Better Child Care and CUPE

Moved by: Councillor Fullarton

THAT in recognition of the many people who work providing care to children in our community that Wednesday, October 27, 2010 be proclaimed as Child Care Worker and Early Childhood Educator Appreciation Day.

CARRIED

3. Greek Independence Day
Brockville and District Multicultural Council Inc.

Moved by: Councillor Fullarton

THAT in honour of the Greek Independence Day on October 28, 2010 that the Greek flag be flown at Tunnel Bay from October 25th to November 1st, 2010.

CARRIED

4. Turkish Republic Day
Brockville and District Multicultural Council Inc.

Moved by: Councillor Fullarton

THAT in honour of the Turkish Republic Day on October 29, 2010 that the Turkish flag be flown at Tunnel Bay from October 25th to November 1st, 2010.

CARRIED

5. Go Purple for Prevention! Campaign
Boost: Child Abuse Prevention and Intervention

Moved by: Councillor Fullarton

THAT Council hereby proclaim October as Child Abuse & Neglect Prevention Month.

CARRIED

DELEGATIONS

Dr. Peter Culp, Citizens Brockville presented to Council "the MDC in our Perspective". *A copy of the presentation is attached to the minutes.*

STAFF REPORTS

2010-143-10
Gord Watts Municipal Centre
Solar Project

Moved by: Councillor Beach

THAT the proposal from Four-O-One Electric Ltd. to provide a turnkey operation of a Solar Photovoltaic (PV) system on the rooftop of the Gord Watts Municipal Centre including the reinforcement required on the easterly section of the roof at a cost of \$469,190.64 plus HST be accepted, subject to the completion of a Feed-in-Tariff Contract with the Ontario Power Authority; and

THAT the proposal from Four-O-One Electric Ltd. to provide yearly monitoring and maintenance on the Solar Panels for \$2,640 be accepted; and

THAT the project be funded from 9101000-9101004-3010.

CARRIED

REPORTS BOARDS AND COMMITTEES

ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE

Councillor J. Baker, Chair
Councillor M. Kalivas,
Councillor S. Williams

Meeting held October 5, 2010

EDP - REGULAR AGENDA

2010-140-10
Proposed Amendment to Sign By-Law 84-89
For Somerville Frozen Foods
3026 Parkedale Ave. West
Owner: 1534458 Ontario Ltd.
Applicant: Steven & Jennifer Moore

Moved by: Councillor Kalivas

THAT the application to amend Sign By-law 84-89 to allow two (2) ground signs on the commercial property Somerville Frozen Foods, located at 3026 Parkedale Avenue, City of Brockville, be approved, subject to a site specific prohibition on portable signage otherwise permitted.

CARRIED

COUNCIL WORKSHOP

Discussion of Public Submissions to the Official Plan

Mr. Chris Tyrrell, MMM Group made a presentation to Council with respect to recommended amendments to the draft Official Plan.

Moved by: Councillor Journal

THAT Highway 29 from Laurier Blvd. to Centennial Road be designated for development and a strategy plan be developed to move this process forward.

CARRIED

Councillor Journal asked for clarity as to how a commercial property was discounted for land inventory purposes. Mr. Tyrrell explained that the "marketability" of the property was not taken into account for land inventory purposes. Although the analysis for land needs shows lots of available land to accommodate the projected growth, Council may at any time undertake a review of the Official Plan and re-designate lands with the appropriate basis/rationale for the inclusion of additional lands.

Councillor Earle stated his concern with the amount of time required to make changes to the Official Plan. Mr. Tyrrell explained that a review of the Official Plan was much quicker than the development of a new Official Plan. The expansion of urban boundaries would require some time but should be accomplished within 6 to 12 months dependent on Council's direction to staff.

Councillor Fullarton commented that she sees an interruption in commercial activity on Highway 29 between Brockville and Elizabethtown-Kitley and wondered if this was considered when reviewing the land inventory/designation. Mr. Tyrrell indicated that the growth in Elizabethtown-Kitley was considered.

Councillor Kalivas asked about the ability to strengthen the wording for the Highway 29 corridor in the Official Plan to address "potential" commercial corridor with no commitment for services before development and growth.

Moved by: Councillor Journal

THAT the property known as Reynolds Park be re-designated as Parks and Open Space area.

CARRIED

Mr. Tyrrell highlighted the proposed amendments to the Official Plan. He noted that the Urban Design Policies would be clarified and enhanced. He noted that the provisions for continuous frontages were removed where Water Street is the southernmost road to the waterfront.

Councillor Journal indicated his agreement to the changes to the continuous frontages on Water Street. He continued to state that he believes that it was always Council's intent that Reynolds Park would not have any commercial development

and would be parks/open space. He questioned the implementation of policy with respect to height and density along the waterfront. Mr. Tyrrell explained that the Official Plan defers to the Zoning By-law for site development parameters; the Official Plan policies include building mass.

Moved by: Councillor Fullarton

THAT the draft Official Plan subsection 3.5.1.2, Affordable Housing sentence 2 that the "may" be changed to "shall".

CARRIED

Moved by: Councillor Kalivas

THAT Council direct MMM Group to draft additional policies to encourage affordable housing.

CARRIED

Moved by: Councillor Kalivas

THAT Council direct MMM Group to include enhanced statements respecting public areas and acquisition of waterfront lands in Section 4.2.3 of the draft Official Plan.

CARRIED

MOTION TO RETURN TO COUNCIL

Moved by: Councillor

THAT we revert from Committee of the Whole Council, to Council.

CARRIED

ADOPTION OF REPORT OF THE COMMITTEE OF THE WHOLE COUNCIL

Moved by: Councillor Severson

Seconded by: Councillor Kalivas

THAT the report of the Committee of the Whole Council be adopted and that the necessary actions or by-laws be enacted.

CARRIED

BY-LAWS

- 076-2010 A By-law to amend City of Brockville Sign By-law 84-89 (3026 Parkedale Avenue West, Sommerville Frozen Foods) Report 2010-140-10
- 077-2010 By-law to Authorize the Execution of a Tax Increment Equivalent for Rehabilitation and Redevelopment (TIERR) Commitment and Grant Agreement (24 Perth Street – TIERR 03/09

BYLAWS FIRST AND SECOND READING

Moved by: Councillor Fullarton
Seconded by: Councillor Kalivas

THAT By-laws Numbered 076-2010 to 077-2010 be introduced and the same be now read a first and second time.

CARRIED

BYLAWS THIRD READING

Moved by: Councillor Fullarton
Seconded by: Councillor Kalivas

THAT By-laws Numbered 076-2010 to 077-2010 be now read a third time, signed by the Mayor and Clerk, sealed with the Seal of the Corporation and be recorded.

CARRIED

CONFIRMATORY BYLAW FIRST AND SECOND READING

Moved by: Councillor Fullarton
Seconded by: Councillor Kalivas

THAT By-law Number 078-2010 to confirm the Proceedings of Council at its meeting held on October 12, 2010 be read a first and second time.

CARRIED

CONFIRMATORY BYLAW THIRD READING

Moved by: Councillor Fullarton
Seconded by: Councillor Kalivas

THAT By-law Number 078-2010 to confirm the Proceedings of Council at its meeting held on October 12, 2010 be now read a third time, signed by the Mayor and Clerk, sealed with the Seal of the Corporation and be recorded.

CARRIED

ADJOURNMENT

Moved by: Councillor Fullarton
Seconded by: Councillor Kalivas

THAT Council adjourn its proceedings until the next regular meeting scheduled for November 9, 2010.

CARRIED

The meeting adjourned at 9:45 p.m.

Mayor

City Clerk

Presentation to Council - "MDC In Our Perspective"

Honorable Mayor, Council, City staff and fellow citizens, I would like to thank city staff and Bob Burchette for their time and patience answering our questions and providing us with information. There have been many meetings, calls, and emails. Thank you.

I would like to reaffirm our support for the citizens comprising of the MDC Steering Committee in their tireless dedication and commitment to the MDC project. Their integrity and stoicism have never been in question. We thank and appreciate their efforts and courage in taking on this dauntless task in serving the citizens of Brockville.

Citizens Brockville **is** committed to an appropriate MDC and supports the assets belonging to the city. Assets acquired through public taxes; Municipal, Federal and Provincial.

Our purpose is to identify and mitigate the risks we feel are present with some of the agreements in place and others pending to ensure a successful and viable MDC. Citizens Brockville feel it is the responsibility of city council and the city employees representing Brockville in these ongoing negotiations to reduce the risks and improve the position for the rate payers of Brockville.

True Costs

Within Citizens Brockville we have a working group devoted to the MDC. This group is made up of 5 dedicated knowledgeable individuals who have devoted hundreds of hours researching the documents, agreements and government reports pertaining to the MDC. Many of these documents are complicated and convoluted. The Citizens Brockville MDC working group is likely one of the most knowledgeable collectives with regard to the mountains of information regarding the MDC and we invite the city of Brockville to tap into this resource.

I would like to site a number of major concerns that we have with the project. Our group has completed a cost benefit analysis for the MDC. It has determined the Capital and Operating Costs for the 1st five years will be in the range of \$5.1 million +. See the attached document for details of this analysis.

This tax impact analysis reflects a tax rate impact of an additional 2.3% over each of the next ten years. (And translates into a one year tax rate equivalent that is quite substantial) It could be even higher if Phase 2 & 3 do not come to fruition.

Parking

In the Aug, 23 MDC/TSL presentation, it was said by the chairman of the MDC steering committee, that "*Study after study has proven that downtown needs parking*". However, the study by Genivar who was commissioned by the City in July 2008 says "*No parking needed*".

If the MDC and TSL need parking, say so!

Because of the complexity of this issue we would prefer not to get into the details tonight but instead defer to the attached report that Citizens Brockville produced "*Parking, Commentary & Questions*" and discuss this at a future date with City and Council.

Parking Continued:

The City's interest may be better served by having a parking structure separate from the MDC that would be totally owned by the City so that in the event the MDC was ever to be sold the title and parking would not be tied up in the dissolution. Might the city's contribution of \$1.07M and the \$820,000 MDC contribution for parking be more wisely spent on a separate parking structure on city land?

Conflict of Interest

With respect to the Build Canada Fund Agreement, both the City of Brockville and the Fuller group seem to be in Conflict of Interest and operating outside the recommended terms for competitive process. Section 5.5 states that "*Municipalities must follow their established procurement protocol as directed by the Municipal Act*". And also that "*The requirement for a competitive process may be waived with prior written approval by OMAFRA if the City is purchasing something specialized that is not readily available or the City has done it's research and knows the prevailing market costs for the equipment, services or supplies purchased* "

Does the City of Brockville have written approval from OMAFRA?

Council needs to pass a bylaw to override and suspend their procurement bylaws. Reference is made to this in the Amended Terms of Agreement for the MDC Jan 12, 2010, paragraph 12. "*the city agrees to waive compliance with it's purchasing by-law with reference to the construction phase of the MDC*" We have not seen any documentation to confirm this has been done.

I would refer you to Section 12.1 of the Build Canada Fund Agreement. This deals with conflict of interest and confidentiality. TSL in it's capacity as the Developer AND partner, or even volunteer with the MDC also has "*an interest in an organization that is carrying out work related to the Project*" How can we negotiate in good faith when the Developer is also one of the purchasers?

I know this may sound petty, but if the city does not comply with this protocol set out by the Provincial and Federal government we are putting this \$11 million dollar grant at risk!

Hotel/Restaurant

The developer mentioned at the Aug 23 MDC/TSL presentation that he was planning on using the CIP and Brownfield's development money of \$4.6 and \$3.6 million being invested in a much needed "boutique hotel".

The EPG updated report in 2008 reflected positively on this addition of a boutique hotel at TSL and deemed it a "*significant change*" and estimated an additional 2,000 visitors annually due to the hotel.

My question is "why is the developer not obligated to build the hotel?" In the January 2010 amended MDC terms of agreement, paragraph 12 says "*nothing obligates the developer to build the hotel*".

Although there is a lot of support and discussion about the Hotel and Restaurant, the developer is not legally bound by the agreements in place to build these.

Dissolution

Citizens Brockville's biggest concern with regard to the entire MDC project is the allocation of funds should the MDC be sold.

At the August 23rd MDC/ TSL presentation numerous speakers told us not to be concerned because even if the MDC failed we still held a huge asset. This is false!

I heard three figures given out:

Mr. Fuller mentioned \$2 million, Gino Giannandrea, the Chairman of the MDC Steering Committee, said \$15 million and Councilor Journal, \$9 million as the value of the MDC to the city and that, if things did not work the city would have this asset to sell. And to this day during this election, we still hear candidates repeating this information which we see as misleading to the public.

According to Section (K) of the Terms of Agreement The best that the City could ever recoup, is \$670, 000 within the first 10 years, if sold after 10 years, proceeds to the City would be NIL.

The agreement states "*The balance of the proceeds, would be paid to the "Not for Profit" (NFP) to be employed in the furtherance of the NFP's objectives or to be distributed by the NFP to charities as directed by the Board of the NFP*".

The NFP mentioned would be a committee made up of 12 directors, 4 from city, 4 from the developer and the remaining 4 appointed by the first 8 directors.

So this committee of 12 directors would control the allocation of funds from the sale of the MDC AND they must be given to a charity, NOT returned to the taxpayers of Brockville!

Conclusion

In conclusion, we think December 31, 2010 will be a pivotal day in the history and future of Brockville.

If the terms of a concurrent build by December 31 are not carried out and the developer comes to the city for a change or extension of the agreement, it is our hope that the Council of the day and the City will take this opportunity to negotiate clearer and fairer agreements.

As a path forward, Citizens's Brockville would suggest to Council:

1. Get an independent legal and financial review of the agreement between the city and the Fuller group. And a legal opinion on our ability to re-negotiate the agreements.
2. All agreements should be in compliance with the Build Canada Fund
3. The City appoint a '*committee of council*' to oversee any further agreements that are yet to be negotiated, i.e. parking operating agreement, agreement with Bytown Brigantine, and the Build Canada Fund agreement. We recommend that the city take advantage of the many knowledgeable and dedicated individuals and groups interested in this project. The water governance committee, DBIA, the Chamber of Commerce and Citizens Brockville alone have vast amount of untapped knowledge.
4. The MDC steering committee needs a stronger voice that is **accountable** to the ratepayers of Brockville. We recommend at least 3 members of city council sit on this committee.

Thank you for your time. I feel we have a great opportunity to positively impact our community.

Presented By:
Peter Culp
Director, Citizens Brockville

Attachments:

- Excerpts from "*Public Private Partnership Agreement*" Oct 2007
- "*Parking, Commentary & Questions*" report produced by Citizens Brockville
- Excerpt from Ontario Municipal Act regarding "cash in lieu" of parking
- Excerpt from last known parking study produced by Genivar, commissioned by City of Brockville.
- "*Tax Rate Impact Analysis*" produced by Citizens Brockville sent to City Sept 29th, 2010.

EXCERPTED FROM PUBLIC PRIVATE PARTNERSHIP AGREEMENT BETWEEN
CITY OF BROCKVILLE & TSL - OCT 2007

- (j) In the event the NFP fails or refuses to give notice as aforesaid within 90 days following receipt of the Sales Notices or in the event the NFP gives written notice to the City that it will not request the transfer of title to the Maritime Discovery Centre, the City shall be at liberty to sell the Maritime Discovery Centre, or such portion thereof as it may determine; provided however that the sale of the Maritime Discovery Centre to a third party shall be subject to a right of first refusal in favour of the Developer. Accordingly if the City receives a *bona fide* written offer (the "Third Party Offer") from any party dealing at arm's length with the City to purchase the Maritime Discovery Centre or such portion thereof as is offered for sale, which is acceptable to the City, the City shall give written notice of such offer along with a copy of the third party offer to the Developer (the "Third Party Notice"). The Developer shall have a period of thirty (30) days following receipt of the Third Party Notice to deliver written notice to the City (the "Acceptance Notice") of its agreement to purchase the Maritime Discovery Centre on the same terms and conditions set out in the Third Party Offer in which event the transfer of the Maritime Discovery Centre to the Developer or its assignee shall be completed on the 60th day next following delivery of the Acceptance Notice by the Developer. In the event the Developer fails or refuses to deliver the Acceptance Notice, the City shall be at liberty to sell the Maritime Discovery Centre to the third party pursuant to the terms of the Third Party Offer; provided that should the terms of the Third Party Offer be amended or the sale to the third party pursuant to the Third Party Offer not proceed, the City shall be required to deliver a fresh Third Party Notice to the Developer in respect to the amended offer to purchaser or further offers received from any bona fide third party purchaser.

- *
(k) Upon completion of the sale by the City of the Maritime Discovery Centre to the Developer or a third party, the net proceeds of sale (net of sales commission and legal fees and disbursements associated with said sale) to a maximum of \$840,000.00 will be distributed equally between the City and Bytown Brigantine Inc. with the excess to be distributed as follows, namely: (i) the City shall be entitled to retain an amount equal to the cash payments disbursed by the City pursuant to subparagraph 7(h) hereof on account of carrying costs associated with the ownership of the Maritime Discovery Centre to a maximum of \$250,000.00 and (ii) the balance paid to the NFP to be employed in the furtherance of the NFP's objectives or to be distributed by the NFP to charities as directed by the Board of the NFP.

TOTAL
\$ 670,000

- (o) In the event of a sale by the NFP of the Maritime Discovery Centre on or before the 10th anniversary of the date of transfer of title thereto to the NFP, the net proceeds of sale (net of sales commission and legal fees and disbursements associated with said sale) to a maximum of \$840,000.00 will be distributed equally between the City and Bytown Brigantine Inc with the balance, if any being utilized in the furtherance of NFP's objectives or in the event the NFP resolves to dissolve its charter, to be distributed to charities as may be directed by its Board. For greater certainty, should the sale of the Maritime Discovery Centre by the NFP occur at any time following the 10th anniversary of the date of transfer of title thereto to the NFP, no proceeds of sale shall be payable to Bytown Brigantine and the City as aforesaid.

PARKING**Commentary & Questions**

We have reviewed Sustainability Report 3.0 and find the entire parking issue, under the sub-heading "New Parking" on Page 18, perplexing and not very transparent. There is a sizable use of tax dollars involved here and this subject deserves more clarity.

- At the TSL/City presentation on August 23/10, the Steering Committee Chairman talked about *"sorely needed downtown parking"*, and that *"Study after study has proven this."* What Studies was he referring to? He appears to be mistaken, because the last parking (and only recent) City commissioned study Citizens Brockville is aware of, was conducted in July 2008 by Genivar. The conclusion was quite clear when it reported: *"sufficient residual parking exists within the CBD (both on-street and off-street)."* The CBD (Central Business District) encompasses both the downtown and waterfront areas.
- At the 2006 OMB hearing it was stated, under oath, that all parking would be on site – this included the MDC, the restaurant and the retail/commercial space. We realize that the MDC is now much larger, but after reviewing the attendance predictions in EPG 1 & 2, the increase is minimal which, by association, means that the increased need for parking is also minimal. It appears that any increase in parking requirements may actually be caused by other changes to the project, announced subsequent to the OMB hearing, i.e. the hotel.

Simplified: we believe it's the inclusion of the hotel, in the development, that needs those 55 parking spaces not the "Central Business District". If TSL has a parking shortage now that the 55 spaces are sold to the City, where will TSL/Hotel/restaurant patrons park?
Answer: in the City owned spaces. Is this a wise purchase? Does it even make sense?

Perhaps TSL can keep it's \$310,000 and the City can put it's \$1.07M and the MDC's \$820,000 portion elsewhere?

- Now that TSL is selling 55 parking spaces within its development to the City, it has a shortage of parking and has agreed to pay the City \$310,000, as 'cash in lieu of parking' while at the same time taking credit for this as TSL contribution.

'Cash in lieu of parking' (CIL) - according to the "Ontario Planning Act" Section 40, CIL is to be paid to the City, specifically to be credited to a special reserve account (parking reserve fund). These funds are to be used for the same purpose the fund was set up for - parking. The City is doing so by purchasing 100 parking spaces.

We believe the \$310,000 received from TSL, should be classed as part of the City contribution.

FYI – TSL presentation, on August 23rd, Simon Fuller explained TSL's 'cash-in-lieu of parkland' payment to the City, it is *"not a gift but a requirement"* and that he did not count this as a TSL contribution. Why is the 'cash in lieu of parking' being treated as a contribution?

- The City has committed \$1,070,000 to purchase 100 parking spaces, however, their location is not specified.

Sustainability Report 3.0 fails to clearly explain the source of contributions to parking. It does not reflect who owns what and at what cost or where? The following excerpt, from the Report, includes an amount, in Line 26, which is actually derived from more than one source, according to information provided by the Executive Director:

New Public Parking

Line #26	MDC purchase of 55 parking spots in TSL	\$1,345
Line #27	City purchase of new public parking lot	\$500
Line #28	Cost to develop City 45 space parking lot	\$355
Total		\$2,200

- Where exactly is the City's purchase of 100 spaces for \$1.07M in this breakdown ?
- If the City owns the new parking lot for \$500K, do they also own all 55 spaces in line #26 and the 45 spaces in line #28 for the stated total of 100 parking spaces ?
- Line #26 -Who is actually buying the 55 spaces within TSL: MDC or the City ?

As explained to us, by Bob Burchett, (MDC E.D.) the breakdown of the flow of money goes like this:

City	\$500
City	\$355
City	\$215
City for 100 spaces (55+45)	\$1,070
TSL Cash-In-Lieu of Parking paid to the City	\$310
(Total City contribution)	\$1,380
From MDC Budget	\$820
	\$2,200

Thus it appears that the City's contribution for parking is in fact \$1,380,000 and that the MDC is contributing \$820,000 out of it's own budget. What the MDC owns and what the City owns is not defined.

Paragraph 15, in the 12 January, 2010, Amended Terms of Agreement, regarding the City's purchase of 100 parking spaces, included the statement: *"It is estimated that these parking spaces will have a value of \$2,200,000"*. This was reiterated at the TSL presentation on August 23rd. That leads the reader to believe that for \$1.07M the City is getting a value of \$2.2M. This now appears to be incorrect because the Sustainability Report 3.0 indicates that this value also includes further contributions of \$310,000 from the City's Parking Reserve Fund and \$820,000 from the MDC Budget.

- Exactly how much will TSL be paid for the 55 parking spaces sold to the City, spaces that it's own patrons can freely use? Answer: \$1,345,000 (\$24,454 per space); TSL receives \$1.345,000, pays \$310,000 for a net of \$1,035,000, has full use of the 'public' parking and gets credit for the \$310,000 as TSL contribution ?

- If the City owns the 55 parking spaces within the TSL structure who will be responsible for any maintenance and improvements in both the short and long term ? Will it be the City or the MDC ?
- Much has been made of the tax revenue that will (ultimately) be generated by the TSL development. Is part of this revenue foregone, or reduced, now that the City will own these parking spaces?
- We understand that the Parking Operating Agreement, between the MDC/City and TSL, is yet to be determined. Who will be negotiating this agreement on behalf of the taxpayer? Will it be brought to the new Council in the near future?
- Considering all parking revenues estimated at \$129,000 from the City's \$1,380,000 parking contribution go to the MDC operations (less \$50,000 to TSL for maintenance), and the fact parking was not needed in downtown Brockville before this project, Citizens Brockville believes the City should be including this \$1,380,000 for parking to the \$1,500,000 City MDC contribution, increasing the City's contribution to at least \$2,880,000.
- CB asks why the City is buying the 55 spaces from TSL in the first place. Would it not be more prudent for TSL to keep its needed parking spaces for its own restaurant, hotel and commercial units, leaving the City and MDC to put their \$1.07M & \$820,000 to the offsite parking ? This would better define ownership issues.

Excerpt Ontario Planning Act

Agreement exempting owner from requirement to provide parking

40. (1) Where an owner or occupant of a building is required under a by-law of a local municipality to provide and maintain parking facilities on land that is not part of a highway, the council of the municipality and such owner or occupant may enter into an agreement exempting the owner or occupant, to the extent specified in the agreement, from the requirement of providing or maintaining the parking facilities. R.S.O. 1990, c. P.13, s. 40 (1).

*** Payment of money ***

(2) An agreement entered into under subsection (1) shall provide for the making of one or more payments of money to the municipality as consideration for the granting of the exemption and shall set forth the basis upon which such payment is calculated. R.S.O. 1990, c. P.13, s. 40 (2).

*** Special account ***

(3) All money received by a municipality under an agreement entered into under this section shall be paid into a special account and,

- (a) the money in that account shall be applied for the same purposes as a reserve fund established under the *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be;
- (b) the money in that account may be invested in securities in which the municipality is permitted to invest under the *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be;
- (c) earnings derived from the investment of the money in the special account shall be paid into that account; and
- (d) the auditor of the municipality, in the auditor's annual report, shall report on the activities and position of the account. 2002, c. 17, Sched. B, s. 13 (1); 2006, c. 32, Sched. C, s. 47 (6).

Registration of agreement

(4) An agreement entered into under this section may be registered in the proper land registry office against the land to which it applies and, when so registered, any money payable to the municipality under the agreement that has become due for payment shall have priority lien status as described in section 1 of the *Municipal Act, 2001* or section 3 of the *City of Toronto Act, 2006*, as the case may be. 2002, c. 17, Sched. B, s. 13 (2); 2006, c. 32, Sched. C, s. 47 (7).

Certificate

(5) When all money payable to the municipality under an agreement registered under subsection (4) has been paid, or such agreement has been terminated, the clerk of the municipality shall, at the request of the owner of the land, provide a certificate in a form registrable in the proper land registry office, certifying that the money has been paid or that the agreement has been terminated. R.S.O. 1990, c. P.13, s. 40 (5).

6.4 Parking Considerations

As stated, the provision of adequate parking is an important element in satisfying the people who attend the broad spectrum of activities that occur in this area. When considering changes to existing parking policies, there are a number of the key questions that must be addressed:

1. What are the development goals for the CBD and how does parking support those goals?
2. Should parking be provided for all persons entering the CBD and requiring a parking space?
3. Should new parking lead or follow development? Can parking serve as a catalyst for new development?
4. Will changes to the current parking policies affect the vitality of the CBD?

* Based on the findings of this review, the parking supply in the CBD appears sufficient and the current parking rates/restrictions generally afford an adequate turnover of parking spaces. Nevertheless, ongoing parking facility maintenance needs and potential parking hardware upgrades may necessitate increases to the current on-street and off-street parking rates and CiL. The exact nature/extent of any increase (if required) requires a more detailed examination of the projected capital costs of the required improvements (i.e. maintenance/upgrades) and careful consideration of the key questions listed above. *

7.0 FINDING AND CONCLUSIONS

The following represents a summary of the key findings of this review:

- On-street parking activity in the CBD was found to be most prominent along King Street within the vicinity of City Hall, Market Street West, and Market Street East in both survey days;
- On-street accumulation levels were found to peak at 10:00 to 11:00 am;
- Overall on-street occupancy rates approximately 70% around mid-morning;
- It is estimated that during the survey period, construction vehicles in the City's CBD (e.g. Wedgewood Retirement Centre) used an estimated 25 on-street parking spaces;
- Off-street parking was found to be occupied at approximately 55% of total capacity (considering all available spaces) in the October 2007 survey period and about 65% in the March 2008 survey period;
- The off-street parking lots near the Courthouse and City Hall were found to be near capacity during the morning (i.e. Buell Street, Home Street, and Water Street lots);
- Turnover rates indicated that on average, approximately 1 to 2 motorists would park in each off-street stall while 3 to 4 would park in each on-street stall during the day-time (8-hour period);

Citizens Brockville

205 – 9 Broad St., Brockville, ON K6V 6Z4

29 September 2010

Mr. Bob Casselman, City Manager
Mrs. Donna Cyr, Director of Finance
Corporation City of Brockville

Dear Mr. R. Casselman and Mrs. D. Cyr:

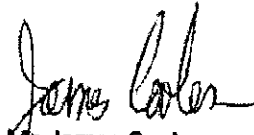
Tax Impact Analysis

For some time now Citizens Brockville has been advocating that the City conduct a due diligence exercise in the form of a tax impact analysis with respect to the Maritime Discovery Centre (MDC).

Citizens Brockville has recently formatted a model, which analyses the impact on taxes, which we now submit for your consideration and response.

Please be advised, we are also notifying the press that we have sent this Tax Impact Analysis to you.

We look forward to discussing this and additional questions with you in the future.



Mr. James Coolen
Vice President
Citizens Brockville

CC: Mayor Henderson
Members of Council
Candidates for Election
Chamber of Commerce

E&OE

Attachments:

- Annex A: Summary of Tax Impact Analysis
- Annex B: Cost/Benefit – Tax Rate Impact Analysis
- Annex C: Analysis of Cost Streams vs. Revenue over the Relevant Range
- Annex D: Assumptions Used in the Tax Rate Impact Model

ANNEX A TO TAX IMPACT ANALYSIS LETTER SENT 29 SEPTEMBER 2010

SUMMARY OF TAX IMPACT ANALYSIS

Estimated Municipal Capital Cost	\$4,063,000
Estimated Operating Costs until yr 2017 when revenue stream begins	\$1,071,500
	<hr/>
Total Municipal Tax Payer Cost to 2017	\$5,134,500
	<hr/>
Average Annual tax revenue 2012 to 2027 (The 15 year period until spreading the cost is complete)	\$303,000
	<hr/>
Estimated Tax Increase once in first year if cost spread over 10 years (Assumes \$270,000 =1%)	2.30%
	<hr/>
Equivalent Tax Increase if Cost Levied all at once	19.02 %
	<hr/>
Estimated time required to pay back the Taxpayers Investment	Year 2029
	<hr/>
If only Stage One of the TSL Condominiums were built then the payback year would be...	Year 2041
	<hr/>

**COST/BENEFIT- TAX RATE IMPACT ANALYSIS QUESTIONS
OF THE MDC INVESTMENT OPPORTUNITY**

	<u>COST CONTRIBUTED TO MDC BY CITY</u>	
	<u>AMOUNT</u>	<u>AMOUNT AMORT OVER 10 YEARS</u>
<u>CAPITAL COSTS</u>		
Initial commitment to Capital Cost	\$1,500,000	\$ 150,000
Additional Costs for Parking Per Jan 10/10 agreement	\$1,070,000	\$ 107,000
City Brownfield Contribution	\$253,000	\$ 25,300
Cash In Lieu towards Parking	\$310,000	\$ 31,000
Foregone Revenues from Planning Fees	\$20,000	\$ 2,000
City reconstruction of Broad St. Circular drive	\$350,000	\$ 35,000
Interest on financing \$3250,000 at 3% over 10 years	\$560,000	\$ 56,000
TOTAL CAPITAL COSTS AND EQUIVALENT TAX RATE	\$4,063,000	\$ 406,300
APPROXIMATE EQUIVALENT TAX RATE IMPACT :		
(a) IF Levied once (b) if levied systematically over 10 years	15.05%	1.50%

<u>OPERATING COSTS FROM 2012 UNTIL REVENUE STREAM BEGINS IN 2017</u>			
City Annual contribution	\$150,000	for 5 yrs	\$750,000
City annual in Kind contributions	\$80,000	for 5 yrs	\$400,000
Foregone DBIA parking levy			
	\$4,300	for 5 years	\$21,500
	\$214,300	for 5 yrs	\$1,071,500
TOTAL CAPITAL AND OPERATING COST DURING 1ST 5 YRS			\$5,134,500
APPROXIMATE EQUIVALENT TAX RATE IF LEVIED ONCE IF SPREAD OVER 10 YEARS			19.02%
			2.30%

IF: Over the **PAYBACK OF CAPITAL AND 1ST 5 YEARS OF OPERATING COST**
 AND: If the average annual tax rate from 2012 to 2027 is
 THEN: THE NUMBER OF YEARS TO PAYBACK YEARS FROM 2012 IS **\$303,000**
 UNTIL ABOUT THE YEAR **16.95**
2029

If only Phase 1 was done, the ave tax revenue would be \$182,433 instead of \$303,000
 and the pay back period would rise to the year 2041

OTHER DIRECT BENEFITS

Thereafter a possible \$700,000 in tax revenue minus the \$214,300 = net \$485,700 will benefit taxpayers

OTHER INDIRECT BENEFITS: SEE ECONOMIC ANALYSIS IN EPG REPORT

- (a) Jobs created. Some in the community, some external
- (b) Some increased revenue to Local Businesses
- (c) Increased revenue to external agencies such as tax for Fed & Province

RISK ANALYSIS

- > Unidentified costs will increase the tax impact
- > All stages OF TSL BUILDINGS need to be built or Average tax revenue will be smaller
- > Any shortfall in fundraising or naming rights may increase impact to taxpayer
- > If TSL Bldgs not concurrently built or built at all then there is no payback for cost of MDC
- > Alternative uses for waterfront land have not been evaluated (Opportunity Cost here?)
- > Alternative sites for MDC have not been evaluated.
- > At the end of the day the value of the MDC Asset may be around \$15,000,000. However if sold, it seems that from the wording of the agreement the proceeds would devolve to the MDC or a Charity of choice with only about \$800,000 returning directly to the taxpayer. Therefore proceeds of a city asset would devolve to some charitable organization
- > Control of the processes, arrangements and practices seems to have devolved from the City to the other partners
- NOTE: > This analysis is presented as questions to the City for their evaluation and response.
- > The attached assumptions are an integral part of this analysis.
- > The figures used by Citizens Brockville are based on our best interpretation of the complicated, convoluted manner in which they are presented in the Capital sheets page 17 and 18 of the Sustainability report 3.0
- > The analysis necessitated some assumptions. Figures are approximate
- EOE (Errors and Omissions Excepted)

Analysis of Cost streams vs Revenue Streams over the Relevant Range

	10 year annualized capital costs	Operating costs until rev begins	PERCENT INCREASE	Revenue Stream	PERCENT DECREASE	DIFFERENCE IN DOLLAR STREAM OVER THE RELEVANT RANGE
2012	\$406,300	\$214,300	2.3%			
2013	\$406,300	\$214,300				
2014	\$406,300	\$214,300				
2015	\$406,300	\$214,300				
2016	\$406,300	\$214,300				
2017	\$406,300	\$214,300				
2018	\$406,300	\$406,300			0.77	
2019	\$406,300	\$406,300		\$210,000		
2020	\$406,300	\$406,300		\$210,000		
2021	\$406,300	\$406,300		\$210,000		
2022				\$210,000		
2024		\$0		\$210,000	1.8	
2025		\$0		\$700,000		
2026		\$0		\$700,000		
2027		\$0		\$700,000		
2028		\$0		\$700,000		
2029		\$0		\$700,000		
			<u>\$4,063,000</u>		<u>\$4,550,000</u>	\$584,500
			<u>\$1,071,500</u>			0.84
						more years or until 2029

PERCENT CHANGE

19.02%

The analysis necessitated some assumptions. Figures are approximate
E& OE. (Errors and Omissions Excepted)

1

ASSUMPTIONS USED IN THE TAX RATE IMPACT MODEL

Payback Method

The payback technique of financial analysis is assumed as a single indicator that measures the costs and benefits of during the period of time it takes the investment opportunity to become fully functional.

Beyond Payback

The years beyond payback is when for an unknown number of future years the investment will provide a net positive return barring any unforeseen impeding factors such as a need to contribute more annual contributions or undertake bail out.

Relevant Range:

The overall relevant range used to compare costs and benefits for enabling calculation of payback is from estimated date of completion to the year when the staged tax revenue becomes constant in perpetuity at estimated \$700,000 year.

Revenue Streams

Years :	2012	2017	2022	2027
• CIP tax revenue forgiven until			X	
• 30 Percent of tax revenue begins		X		
• 100% of tax revenue begins			X	
• Average Revenue is computed by totaling the mix of tax income from 2017 to 2027				

Cost Streams

- All capital costs are assumed amortized over 10 years
- Operating costs are included for 5 years only, until the mixed tax revenue stream begins
- Any foregone revenue is a cost to the taxpayer. If it was not foregone it is assumed that taxes would otherwise have reduced
- Replacement of foregone revenue is an assumption in the model. Replacement is amortized over 10 years the same as any other cost

Inflation

Tax revenue has not been increased by any inflation factor. Inflated tax revenue cannot be used toward making a contribution to the costs being compared. Any inflation in tax revenue is the result of the inflation of other costs within the budget and the increased tax revenue are used to cover them off.

Interest and Carrying Costs

In computing an estimate of carrying costs we have assumed the use of an interest rate of 3% represent a balance between lost interest income of 2.5% and debenture interest cost of 4%.

Interest at 3% over 10 years on \$3,250,000 of capital amortized over 10 years would produce annual amortized payments of \$381,000 per year. The interest included would be \$560,000, or average \$56,000 per year.

Parking

It is assumed that the parking costs identified are a requirement and consequence of the MDC project.