



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning & Policy Division

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	June 18, 2014
SUBJECT/REPORT NO:	Theatre Aquarius One-Time Funding Request (FCS14043) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Brian McMullen 905-546-2424 ext 4549
SUBMITTED BY:	Mike Zegarac General Manager Finance & Corporate Services
SIGNATURE:	

RECOMMENDATION

- (a) That the City of Hamilton provide an interest free loan to Theatre Aquarius Inc. in an amount not to exceed \$71,000 to be repaid in full within five (5) years from the date of the loan advance;
- (b) That the loan to Theatre Aquarius be repaid with annual payments of \$14,200 on the anniversary dates of the loan advance;
- (c) That a Long Term Receivable account be established to record the Loan Receivable to Theatre Aquarius on the City's books;
- (d) That the City Solicitor and the General Manager, Finance and Corporate Services be authorized to draft the loan agreement with Theatre Aquarius for execution by the Mayor and City Clerk.

EXECUTIVE SUMMARY

Theatre Aquarius is an established arts partner in the City of Hamilton. The City recognizes the efforts of successful arts programs and organizations through supporting grants. The unexpected cancellation of Opera Hamilton events has had a substantial impact on the financial resources of Theatre Aquarius as three of Opera Hamilton's productions for the 2013/2014 theatre season were performed or were to be performed at Theatre Aquarius. The City is not obliged to pay debts associated with Opera Hamilton to Theatre Aquarius.

City Council at its meeting of April 9, 2014 approved Appendix "C" to Information Item B (e) of General Issues Committee Report 14-002 which read:

- (e) Correspondence from Theatre Aquarius respecting Opera Hamilton

That the correspondence from Theatre Aquarius regarding Opera Hamilton (attached hereto as Appendix "C") be forwarded to staff for consideration, and that staff report back to the General Issues Committee with a recommendation and response.

Correspondence from Theatre Aquarius dated February 25, 2014 indicated that the financial impact of the loss of the productions for Opera Hamilton is \$101,657 as a result of Opera Hamilton ceasing operations.

On January 8, 2014, Opera Hamilton issued a news release that it had ceased operations due to insufficient financial resources. Theatre Aquarius is affected by this announcement due to the business relationship with Opera Hamilton. Since 2011 three of Opera Hamilton's productions have been performed at Theatre Aquarius annually. Opera Hamilton's previous financial difficulties lead to Opera Hamilton and Theatre Aquarius asking the City to pay the City Council approved Opera Hamilton's grant funding directly to Theatre Aquarius for Opera Hamilton's performance related expenses, which arrangement was accommodated in 2013 by the payment of Opera Hamilton's 2013 grant of \$126,928 to Theatre Aquarius.

City staff have reviewed costs incurred by Theatre Aquarius related to Opera Hamilton's Productions from October 2013, January 2014 and April 2014 and have amended the original request to \$71,000. Theatre Aquarius was not able to mitigate all of the costs for the productions in January 2014 and April 2014. The late notice of the cancellation from Opera Hamilton did not provide Theatre Aquarius with sufficient time to schedule another production in January 2014. Contractual obligations with IATSE (International Alliance of Theatrical Stage Employees) and other staff required that Theatre Aquarius make advance arrangements on behalf of Opera Hamilton resulting in the Theatre's obligation that payments be made for the productions planned in January and April 2014.

City staff are recommending that the City provide an interest-free loan to Theatre Aquarius in an amount not to exceed \$71,000 to be repaid within five (5) years of the date of the loan advance with annual payments of \$14,200. A loan repayable over five (5) years allows Theatre Aquarius some time to recover from the costs associated with the loss of Opera Hamilton's productions through longer term revenue generation and cost savings initiatives.

Alternatives for Consideration – See Page 5.

FINANCIAL – STAFFING – LEGAL IMPLICATIONS (for recommendation(s) only)

Financial: The City will forgo interest of approximately \$3,000 over the term of 5 years of the interest free loan. The loan will be set up on the City's books as a Long Term Receivable; therefore a funding source for the loan is not required to be identified.

Staffing: Not applicable.

Legal: Legal Services will be required to draft a Loan Agreement between the City of Hamilton and Theatre Aquarius Inc. for execution by the Mayor and City Clerk.

HISTORICAL BACKGROUND (Chronology of events)

On January 8, 2014, Opera Hamilton issued a news release that it had ceased operations due to insufficient financial resources.

On April 9, 2014, the City's General Issues Committee received correspondence from Theatre Aquarius dated February 25, 2014 that indicated that the financial impact of the loss of the productions for Opera Hamilton is \$101,657 as a result of Opera Hamilton ceasing operations. Committee requested that the correspondence be forwarded to staff for consideration, and that staff report back to the General Issues Committee with a recommendation and response.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The City's External Loan Guidelines outlined in Reports FCS06087 and FCS06087a are affected if City Council approves the recommendation. Providing a loan to Theatre Aquarius for a projected operating deficit does not meet the criteria of these external loan guidelines.

RELEVANT CONSULTATION

City Manager's Office, Legal Services Division.

General Manager and Comptroller of Theatre Aquarius Inc.

ANALYSIS AND RATIONALE FOR RECOMMENDATION (Include Performance Measurement/Benchmarking Data if applicable)

Theatre Aquarius Inc. was affected by Opera Hamilton's decision to cease operations effective January 8, 2014. City council has approved annual grants for Theatre Aquarius of \$73,534 from 2009 to 2014 and between \$82,550 and \$82,773 from 2005 to 2008. The budget for the year ending on June 30, 2015 for Theatre Aquarius includes operational expenses of \$3,636,000 and revenues (including the City grant) of \$3,667,825.

The most recent audited financial statements for Theatre Aquarius as at June 30, 2013 report excess revenue over expenses of \$11,929 (2012: \$8,594) which suggests that management has been effective but needs to continually monitor and respond to financial issues to ensure their financial viability.

In 2013, Opera Hamilton at the request of Theatre Aquarius had asked the City to pay its approved City grant monies directly to Theatre Aquarius to ensure its arrangements for Theatre access and services. The City accommodated this request from Opera Hamilton and Theatre Aquarius.

For the fiscal year ending of June 30, 2014, Theatre Aquarius is projecting costs of \$71,000 related to Opera Hamilton's Productions from October 2013, January 2014 and April 2014. Theatre Aquarius has not been able to mitigate all of the costs for the productions in January 2014 and April 2014. The timing of the cancellation of Opera Hamilton's productions, effective on January 8, 2014, did not provide Theatre Aquarius with sufficient time to schedule another production in January 2014. Contractual obligations with IATSE (International Alliance of Theatrical Stage Employees) and other staff required that payments be made by Theatre Aquarius for the productions planned in January and April 2014.

The last available audited financial statements for Theatre Aquarius and Opera Hamilton are attached to Report FCS14043. Audited financial statements for the year ended and as at June 30, 2013 for Theatre Aquarius are attached as Appendix "A" to Report FCS14043. Audited financial statements for the year ended and as at June 30, 2013 for Opera Hamilton are attached as Appendix "B" to Report FCS14043.

The City's External Loan Guidelines of Reports FCS06087 and FCS06087a provide eligibility criteria for loans to external agencies. Table 1 illustrates that Theatre Aquarius does not meet the criteria of Part 4 of the Guideline, primarily due to the loan being for a projected operating deficit and not related to capital expenditures. Report FCS14043 is recommending an interest-free loan to Theatre Aquarius for an amount not to exceed the amended request of \$71,000 to be repaid within a term of five (5) years at \$14,200 annually. An interest free-loan for a term of five (5) years allows Theatre Aquarius some time to recover from the costs associated with the loss of Opera Hamilton's productions through longer term revenue generation and cost savings initiatives. This loan is an alternative to funding the amended one-time request.

TABLE 1: Loan Eligibility Criteria from Report FCS06078a

Eligibility Criteria as per Appendix "A" to FCS06078a Part 4	Is Condition Met?
a) Applicant is incorporated as a Not-For-Profit Organization	Yes
b) Applicant's Board of Directors will assume responsibility for administration of the funding	Yes
c) Applicant's loan request will fund one-time capital expenditure	No
d) Applicant's capital expenditure provides benefits within City boundaries	No
e) Applicant is in good financial standing with the City	Yes
f) Applicant provides equal access to programs	Yes
g) Applicant demonstrates clear boundaries between religious activities and project being funded	Yes
Eligibility Criteria as per Appendix "A" to FCS06078a Part 8	Is Condition Met?
Loan is provided for upgrades or enhancements to City owned facilities or properties	N/A

ALTERNATIVES FOR CONSIDERATION

(Include Financial, Staffing, Legal and Policy Implications and Pros and Cons for each alternative)

The City has some alternatives to consider regarding the one-time funding request from Theatre Aquarius for costs associated with Opera Hamilton productions at Theatre Aquarius. The City is not obliged to pay debts associated with Opera Hamilton to Theatre Aquarius.

One alternative is to provide funding for an amount ranging from the amended one-time funding request of \$71,000 to the initial one-time funding request of \$101,657. The City's 2014 operating budget includes sufficient funds in the boards and agencies program to cover the amended one-time funding request from Theatre Aquarius.

Another alternative is to decline the request which would negatively affect the financial position of Theatre Aquarius in 2014 as their operating results had been linked to the services provided for the Opera Hamilton productions. Future grant funding requests from Theatre Aquarius will likely consider this financial position affected by Opera Hamilton cancellations as it will have a lasting impact on its operations.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

- 1.3 Promote economic opportunities with a focus on Hamilton's downtown core, all downtown areas and waterfronts.
- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

Strategic Priority #2

Valued & Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

Strategic Objective

- 2.1 Implement processes to improve services, leverage technology and validate cost effectiveness and efficiencies across the Corporation.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report FCS14043 Audited Financial Statements for the year ended and as at June 30, 2013 for Theatre Aquarius Inc.

Appendix "B" to Report FCS14043 Audited Financial Statements for the year ended and as at June 30, 2013 for Opera Hamilton.