



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Environmental Services Division

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| TO: | Chair and Members Public Works Committee |
| COMMITTEE DATE: | December 2, 2019 |
| SUBJECT/REPORT NO: | Friends of the Aviary Business Case Review and Extension of Agreement (PW17080(a)) (City Wide) (Outstanding Business List Item) |
| WARD(S) AFFECTED: | City Wide |
| PREPARED BY: | Sam Scarlett (905) 546-2424, Ext. 3919 |
| SUBMITTED BY: | Craig Murdoch, B.Sc. Director, Environmental Services Division Public Works Department |
| SIGNATURE: | |

RECOMMENDATION

- (a) That \$25,000 be approved for immediate Ontario Building Code compliance and safety related repairs to the Aviary at 85 Oak Knoll Drive, Churchill Park to be funded from the Unallocated Capital Reserve (#108020);
- (b) That an increase to the Horticulture Section's base operating budget Dept ID #446036 by \$30,000 for the ongoing operating expenses relating to the care and maintenance of the Aviary and birds be approved and referred to the 2020 operating budget process for consideration;
- (c) That staff be authorized and directed to negotiate and enter into a lease agreement with the Royal Botanical Gardens for the continued use of the 85 Oak Knoll Drive building as an Aviary on such terms and conditions deemed appropriate by the General Manager, Planning and Economic Development Department, in consultation with the General Manager, Public Works Department, and in a form satisfactory to the City Solicitor;
- (d) That the General Manager, Planning and Economic Development Department or designate, acting on behalf of the City of Hamilton as Lessee, be authorized and directed to provide any consents, approvals and notices related to the lease

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OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

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agreement to be entered into with the Royal Botanical Gardens for the use of the 85 Oak Knoll Drive building;

- (e) That the City Solicitor be authorized and directed to complete the transaction related to the lease agreement to be entered into with the Royal Botanical Gardens for the use of the 85 Oak Knoll Drive building, including paying any necessary expenses, amending agreements and/or waiving terms and conditions, on such terms as the City Solicitor considers reasonable;
- (f) That the Mayor and City Clerk be authorized and directed to execute any required agreement(s) and ancillary documents, respecting the lease agreement with the Royal Botanical Gardens for the use of the 85 Oak Knoll Drive building, in a form satisfactory to the City Solicitor; and,
- (g) That the Outstanding Business List item, Friends of the Aviary Business Case Review and Extension of Agreement, be identified as completed and removed from the list.

EXECUTIVE SUMMARY

On February 13, 2019, Council approved Item 8.3 of Public Works Committee Report 19-002 that directed:

- (a) That staff be directed to meet with the Friends of the Aviary and the Royal Botanical Gardens (RBG) and formally outline options to review and establish sustainability;
- (b) That staff report back to the Public Works Committee on the feasibility of the Friends of the Aviary's proposal as well as the benefits to the City of Hamilton of being in the Aviary business; and,
- (c) That the agreement with the Friends of the Aviary be extended on a month to month basis until staff report back to the Public Works Committee with their findings.

Two meetings were held with representatives of the Royal Botanical Gardens (RBG), where staff were informed that the RBG is currently completing a strategic plan to be completed in the Spring 2020. The current Aviary will not be part of RBG's future at Churchill Park and is not part of RBG's current strategic planning process. It was agreed that the current use may remain on an interim basis, pending RBG's requirements. A revised lease will have to be entered into by the City of Hamilton (City) as the current agreement has expired and the RBG has requested that a new agreement be negotiated. Given the interim nature of its tenure, staff are limiting

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required modifications of the Aviary building to Ontario Building Code Compliance and health and safety related issues only, as per Recommendation (a) of Report PW17080(a), which will allow the Aviary to continue to operate in the short term.

In August 2019, staff met with the Friends of the Aviary (FOA) representatives to review their Business Case to determine the feasibility of their operations and proposal. The FOA wish to enter into a new agreement with the City and implement an estimated \$1,471,500 in improvements to the current Aviary structure at 85 Oak Knoll Drive at the City's cost.

A review of the building at 85 Oak Knoll Drive was completed through the Public Works Department's Energy, Fleet & Facilities Management Division (Facilities) in July 2019, which identified work required to have the building meet Ontario Building Code and safety related repairs. This has been estimated at \$25,000.

The annual Horticulture budget for the Aviary is \$21,000 and the last 4-year average for the care and maintenance of the birds and building has been \$46,000. Therefore, the 2020 Horticulture operating budget Dept ID #446036 needs to be increased by \$30,000 for the ongoing operating expenses relating to the care and maintenance of the Aviary and birds.

Alternatives for Consideration – See Page 8

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: \$25,000 is required for immediate Ontario Building Code compliance and safety related repairs to the Aviary at 85 Oak Knoll Drive and to be funded through the Unallocated Capital Reserve (#108020).

The annual Horticulture operating budget Dept ID #446036 is currently \$21,000, however the average annual expenses for veterinary services, bird food, facility operations, and operating supplies is \$46,000. With the aging of the facility and increasing veterinary care, it is recommended that the annual budget be increased by \$30,000.

Staffing: Not applicable.

Legal: Not applicable.

HISTORICAL BACKGROUND

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The City currently owns, and through an agreement with the FOA, oversees the care of 41 birds at an Aviary located at 85 Oak Knoll Drive in Churchill Park. The space used is a repurposed house owned by the RBG and leased to the City for one dollar per year.

The Aviary was moved to the converted house as a temporary location, when its first temporary location, an unused Fire Hall, was sold in 1996. Prior to being located in the Fire Hall, the Aviary had operated out of Dundurn Castle. In 1992, the City entered an agreement with the FOA volunteer group to establish that the FOA would be responsible for the care of the birds, with the City providing the funding for food, veterinary services, and building/ground maintenance. In 1995, when Dundurn Castle was being extensively renovated, the Aviary was moved.

The Aviary has operated as a closed Aviary for several years, meaning no new birds are accepted and no birds are bred as part of the volunteer program. The number of birds cared for has declined in recent years, from 65 birds in 2010 to the current number of 41, mainly due to old age.

In February 2019, the FOA presented to Council an update on relocation efforts, as required in Report PW17080, as well as a financial analysis and business case with their recommendations for the Aviary at 85 Oak Knoll Drive as detailed in Appendix “A” attached to Report PW17080(a). This FOA business case detailed their current barriers to success, and identified the following recommendations and plans:

- Increased fundraising goals to meet the needs of the Hamilton Aviary
- Admissions and membership fees to be collected from visitors
- Building a gift shop to provide additional income
- Creating a space where private parties and events can be held
- Education and public programming to promote the Aviary
- Corporate Sponsorships as a proposed income
- Funding grants to aid in financing
- Training and re-homing birds

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The City of Hamilton Procurement Policy By-Law, Policy #9 – Consulting and Professional Services will be followed.

RELEVANT CONSULTATION

The following staff were consulted:

- Public Work’s Department, Energy, Fleet & Facilities Management Division;

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- Corporate Services Department, Legal and Risk Management Division Legal Services Section
- Corporate Services Department, Financial Planning, Administration & Policy Division, Finance & Administration Section;
- Planning and Economic Development Department, Tourism and Culture Division; and
- Planning and Economic Development Department, Economic Development Division, Real Estate Section
- V2PM Inc. Facility Risk Advisors

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

As per Council direction, each task was actioned with the following results:

- (a) That staff be directed to meet with the Friends of the Aviary and the Royal Botanical Gardens (RBG) and formally outline options to review and establish sustainability:

City staff met with members of the FOA and the RBG to discuss options and to review and establish sustainability. The FOA's proposal put forward at the February 4, 2019 Public Works Committee outlines their proposed course of action and barriers to success which have been considered in establishing Aviary sustainability.

During meetings with representatives of the-RBG, it was stated that an Aviary would not be part of the RBG's future and has not been identified in their ongoing strategic planning exercise which is estimated to be completed in Spring 2020. At the present time, the RBG has not decided what future use 85 Oak Knoll Drive will have but it was clear that the RBG has no intention of building a new facility at 85 Oak Knoll Drive for use as an Aviary nor do they wish to enter into a long-term arrangement with the City to continue with an Aviary at the site. The RBG committed to an interim lease agreement with the City for the continued tenure of the current facility.

- (b) That staff report back to the Public Works Committee on the feasibility of the Friends of the Aviary's proposal as well as the benefits to the City of Hamilton of being in the Aviary business.

City staff completed a thorough review of the FOA's proposal to establish feasibility and sustainability by engaging the Public Works Department's Energy, Fleet & Facilities Management Division, Corporate Services Department's Finance & Administration Section and Planning and Economic Development's Tourism and Culture Division. Additionally, a third-party assessment was completed by V2PM Inc.-Facility Risk Advisors, to identify the needs and costs associated with meeting the FOA proposal for capital upgrades to the facility. To accomplish this, a condition assessment and

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comprehensive review of the Aviary was required to determine short, medium and long-term sustainability. The condition assessment identified Ontario Building code items that need to be addressed which include but are not limited to; heat/smoke detectors, ensuring emergency exits are unobstructed, engage mould/asbestos/lead abatement vendor, fire rated building material installation, and electrical compliance.

Facilities' review determined costs for life cycle replacement/updating to meet the recommendations of the consultant report to bring the building up to code and an adequate level of life cycle replacement as well as medium/long term habitation by birds. The cost for this work is estimated to be \$602,500 and would require the birds to be relocated for approximately 12 months while the work is being completed. These items include but are not limited to; Ontario Building Code compliance items such as fire rated doors, hard landscaping including repairing asphalt, AODA compliance, fencing, painting, refinishing exterior walls, replacing windows and doors, replacing/refinishing floors, ceilings, and walls, as well as work to plumbing, HVAC, and fire safety systems.

Beyond the costs identified above, a second assessment was undertaken to determine costs associated with the FOA's proposal. The review determined costs for upgrades to the existing facility, as well as additional spaces as outlined in the FOA's proposal. The cost for this work is estimated to be \$1,471,500 (including the \$602,500 for lifecycle work) and would require the birds to be relocated for approximately 24 months while the work is being completed. These items include additional washrooms, additional exits, and construction of a gift shop, education area, party/events area, and training areas. Due to the temporary nature of the City's arrangement with the RBG, staff do not recommend this be completed. Changes of this magnitude, as requested by the FOA, are not feasible within the current footprint of the existing facility nor is it consistent with the medium-long term relationship expected with the RBG.

Facilities' review has determined that if the upgrades noted in the FOA business proposal are not completed, there will still be work required to bring the facility to Ontario Building Code compliance and continue to operate as is. The cost of these required works will be \$25,000.

The Aviary in its present form has a current annual operating cost to the City of \$46,000 for veterinary services, bird food, facility operations, and operating supplies which is applied against an annual Operating budget of \$21,000, resulting in an annual negative variance of \$25,000. The FOA's annual revenue, as noted in their Business Case, has averaged \$8,895 over the last 4 years and is not used to offset the City's costs. The FOA's revenue compared to the City's costs indicates financial unsustainability without annual contributions from the general levy.

If the FOA's requested service and facility upgrades noted above are implemented at a capital cost of \$1,471,500, the approximate annual operating cost to the City is

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estimated to be \$100,000 for veterinary services, bird food, operating supplies, and additional support but does not include the cost of borrowing or servicing debt for the capital work. If the forecast revenue that is outlined in the FOA's proposal is achieved, the Aviary would be close to financially sustainable. The FOA have a projected potential revenue post facility upgrade of \$105,000, and although an increase in revenue would be anticipated after facility upgrades have been completed, staff consider this number to be optimistic and not achievable given previous visitor numbers and potential draw in an area that doesn't generate a lot of foot traffic. This potential revenue forecast from the FOA also includes grants and one-time sponsorships which are not guaranteed as well as the temporary nature of a lease with the RBG.

To determine the benefits to the City of being in the Aviary business, the Planning & Economic Development, Tourism and Culture Division was engaged to provide data on what these benefits would be. It was determined that there is not a significant financial or economic benefit to the City being in the Aviary business. The benefits to the City are limited to social benefits rather than financial. Traditional economic impact models used for events is based on visitor spending and money being brought into the community, not just recirculated within the City.

Examples of these non-financial benefits that the Hamilton Aviary provides the City are:

- Providing public awareness about exotic birds and their importance in ecosystems outside of Canada
- Supporting the City's animal welfare efforts
- Providing family education experiences
- Encouraging responsible exotic pet ownership
- Providing a quality volunteer experience

A municipal scan relating to other Aviaries is not possible because staff were not able to identify municipalities that own and operate programs of this type. Comparable options are privately owned and operated locations such as the Cambridge Butterfly Conservatory or the Niagara Bird Kingdom, which utilize either considerable additional programming and/or proximity to major tourist attractions to generate visitors.

As a result of the above, staff have determined that investing significant capital in an expanded Aviary at 85 Oak Knoll Drive that is self-sustaining is not feasible.

- (c) That the agreement with the FOA be extended on a month to month basis until staff report back to the Public Works Committee with their findings

As directed by Council, the FOA and City continue to operate under the conditions of the agreement that was last in use on a month to month basis. This will continue

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ongoing until medium to long term decisions relating to the accommodations of the birds are made.

The RBG and the City are presently operating on a month to month basis as outlined in the expired lease until such time that a new agreement can be negotiated. The RBG has requested that the terms and conditions of the expired lease agreement be updated. Staff will negotiate an agreement with the RBG for the continued interim use of the property for Aviary purposes at the City's expense.

ALTERNATIVES FOR CONSIDERATION

- (a) The current lease agreement with the RBG be terminated and the 41 birds currently housed at the Aviary, located at 85 Oak Knoll Drive in Churchill Park, be permanently re-homed as detailed in PW17080. The re-homing plan would be in consultation with a Veterinarian specialist and the Animal Control Section, Building & Licensing Division in the Planning and Economic Development Department. This would ensure the birds are homed in humane and ethical living conditions. This will eliminate the need for investing in the existing leased building, aside from Ontario Building Code related items, while the relocation of the birds is completed. Additionally, this alternative would mean savings in operating costs of approximately \$46,000 annually. This would result in terminated agreements with the RBG for the lease of the facility at Churchill Park and the operating agreement with the FOA;
- (b) Invest \$602,500 in the current Aviary, located at 85 Oak Knoll Drive in Churchill Park, to repair building items at end of life and bring the building into an acceptable state for an unknown duration of tenure. This alternative would also mean a continued annual operating impact of approximately \$45,845 to continue the current level of service. Given the RBG's position respecting the long-term use of the facility, staff do not recommend this option.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Built Environment and Infrastructure

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

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Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PW17080(a) - Friends of the Aviary City of Hamilton Business Case