



**CITY OF HAMILTON**

**CORPORATE SERVICES DEPARTMENT**  
**Treasury Services (Financial Services)**

<b>TO:</b> Mayor and Members General Issues Committee	<b>WARD(S) AFFECTED:</b> CITY WIDE
<b>COMMITTEE DATE:</b> April 18, 2012	
<b>SUBJECT/REPORT NO:</b> Hamilton Firefighters Drum Corps Loan (FCS12033) (City Wide)	
<b>SUBMITTED BY:</b> Antonio D. Tollis Treasurer Corporate Services Department	<b>PREPARED BY:</b> Rick Male 905 -546-2424 ext. 4157
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That in accordance with the provisions of the lease, the City exercise its right to terminate the lease with the Hamilton Firefighters Drum Corps Inc. (HFFDC) and acquire the title and possession of the Practice Facility Building;
- (b) That City owned land, municipally known as 175 Dartnall Road, be declared surplus to the requirements of the City of Hamilton in accordance with the "Procedural By-law for the Sale of Land", being By-law No. 04-299;
- (c) That the building and equipment, located at 175 Dartnall Road, be sold to The International Association of Firefighters, Local 288, for the sum of \$285,000;
- (d) That a loan in the amount of \$250,000 to be repaid over 25 years at an interest rate of 3.1% in accordance with the City's External Loan Guidelines for the first ten (10) year term be approved for The International Association of Firefighters, Local 288;
- (e) That Real Estate staff of the Planning and Economic Development Department and the City Treasurer be authorized and directed to enter into a long term lease

of the land at a nominal sum of \$1 per year with an Option to Purchase with The International Association of Firefighters, Local 288, in accordance with the terms and conditions attached in Appendix 'A' of report FCS12033;

- (f) That the Mayor and City Clerk be authorized and directed to execute all necessary documents in a form satisfactory to the City Solicitor;
- (g) That the proceeds of the sale be used to pay the outstanding amounts owed by the HFFDC to the City.

### **EXECUTIVE SUMMARY**

At the April 26, 2006, meeting of City Council, Council approved item 6.3 - Corporate Administration Committee, Report 06-006, April 19, 2006. The following recommendations were contained within that report:

“7. Hamilton Firefighters Drum Corps Loan (FCS06034) (City Wide) (Item 8.3)

- (a) That the request by the Hamilton Firefighters Drum Corps (HFFDC) to forgive their \$202,463 debt to the City of Hamilton be denied;
- (b) That staff be directed to work with the HFFDC to develop, within 3 months, an approach to pay back the outstanding debt, and bring a report back to the Committee.”

Numerous meetings have taken place with the HFFDC, Hamilton Firefighters Union Local 288, the Ward 6 Councillor, the General Manager, Finance and Corporate Services and staff to see if arrangements could be made to address the outstanding loan and tax arrears.

The HFFDC have not made a loan payment since 2006 and the total amount owed to the City will have increased to \$283,000 at April 30, 2012. The \$80,000 plus increase since 2006 is the balance of the unpaid loan and unpaid property taxes for 2008 through 2012. The last payment received by the City from HFFDC was in March 2008 for \$6,199. Under the terms of the loan agreement, the HFFDC are in default and the City's remedy under that agreement would be to sell the property to recover the amounts owed to the City. The building is located at 175 Dartnall Road.

The International Association of Firefighters Local 288 have made an offer to the City, (refer to Appendix 'A' of report FCS12033) to purchase the HFFDC building and equipment for \$285,000 and to lease the land from the City for \$1.00 per year with an option to purchase the land. The purchase offer includes provisions that will guarantee the HFFDC the right to continue to use the facilities to store their equipment and to

conduct practices. The HFFDC is in favour of the offer made by Local 288. If Local 288's offer is accepted by the City, Local 288 intend to continue to operate the facilities as banquet/meeting facilities with any profits generated being used to support charities supported by Local 288.

Local 288 is offering the City \$285,000 for the building including a cash payment of \$35,000 and the City providing financing for the balance of \$250,000. The financing rate would be 3.1% which represents the City's cost of borrowing, plus 0.25% in accordance with the City's External Loan Guidelines, the \$250,000 would be amortized over 25 years with a fixed rate of 3.1% for an initial 10 year term. The agreement would also include a long term lease of the land for \$1.00 per year with an option for Local 288 to purchase the land at the 2011 appraised value of \$275,000. Staff undertook an internal appraisal to estimate the market value of the property in December 2009. The estimated market value of the land and building was \$825,000. This estimate was updated in November 2011 and was adjusted to \$725,000. The 2009 estimate was based on an operating business use and the 2011 is more conservative and was based on the business being dormant and the building vacant. The appraised value of the land included in this estimate is \$275,000. The property is currently assessed at \$1,165,000.

Staff recommend that Council authorize and direct Real Estate staff and the City Treasurer to enter into a long term lease with Local 288 for \$1.00 per year together with an option to purchase the land at the appraised value of \$275,000 with Local 288. Local 288 will be responsible for maintenance of the building and grounds as well as property taxes.

***Alternatives for Consideration – See Page 7 & 8.***

<b>FINANCIAL / STAFFING / LEGAL IMPLICATIONS</b> (for Recommendation(s) only)
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**Financial:**

The HFFDC entered into a \$300,000 loan agreement with the City in October 1994. This agreement was subsequently amended in 1995, 1997 and 2002. The loan was to be fully paid in July 2009; however, there have been defaults on loan payments and taxes due and the amount outstanding is now \$274,045. In 2006, the Drum Corps asked the City to write-off the \$202,463 outstanding receivable at that time, as well as, the balance of the loan payable. City Council denied that request and asked staff to work with the HFFDC with an objective to develop a long range plan that would address the financial issues the Drum Corps was facing.

Meetings took place with Local 288, the HFFDC, the Ward 6 Councillor and the General Manager, Finance and Corporate Services. No immediate resolution was found and, since that time, meetings have continued with staff in an effort to find a resolution.

As a result of the meetings, Local 288 have made an offer to the City to purchase the Drum Corps banquet facilities situated on City owned land at 175 Dartnall Road. Staff have reviewed the proposal from Local 288 and the latest financial statements of the HFFDC. The statements clearly show that HFFDC do not have the financial capacity to pay off the outstanding debt to the City. The Drum Corps attributes their financial situation to the constant and significant decline in parade fees received over the years, as well as, the loss of bingo revenues.

The unsolicited proposal from Local 288 to purchase the Drum Corps banquet facilities and lease the land is attached as Appendix 'A' to report FCS12033. In their proposal, Local 288 have indicated they will need to invest significant funds to upgrade the kitchen equipment and will need to install a fire exit on the second floor to allow that area to be used as a separate meeting/banquet room. Local 288 have indicated that the cost of the upgrades has impacted the purchase offer they have submitted.

Should Local 288 be successful in acquiring the facilities, they have indicated they will continue to operate the premises as meeting/banquet facilities and will provide equipment storage and practice facilities to the Drum Corps free of charge. Any profits made for the meeting/banquet facilities will be used to support charitable causes supported by Local 288. The HFFDC are supportive of a sale to Local 288.

**Staffing:**

None.

**Legal:**

Should Council approve the sale, Legal would be requested to draft the necessary agreement(s).

<b>HISTORICAL BACKGROUND</b> (Chronology of events)
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The original lease and loan agreement was signed on October 27, 1994. The lease covered the rental of City owned land at 175 Dartnall Road for a rate of \$1.00 per year. The term of the 25 year lease runs from November 1, 1994, to October 31, 2019. The agreement states that the tenant will pay all realty taxes applicable to the property.

This document also provided for a \$300,000 interest-free loan to assist HFFDC to finance the construction of their practice facility. The loan was to be paid, in full, by

**SUBJECT: Hamilton Firefighters Drum Corps Loan (FCS12033) (City Wide)**  
**- Page 5 of 8**

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January 2003. Arrears would be charged at a 6% annual interest rate. If, for any reason, the lease was terminated, the loan would be repayable immediately.

Due to cash flow difficulties, HFFDC previously requested and received three amendments to the contract:

- In June 1995 the loan was increased to \$400,000 thus extending the repayment schedule to December 2005.
- In February 1997 it was agreed to reduce the quarterly loan payments from \$10,700 to \$8,000, defer two outstanding payments to the end of the loan, and extend the maturity date three years to October 2008.
- In March 2002 it was agreed to defer three loan payments to the end of the loan thus adding nine months to the life of the loan. This deferment was to provide them with enough capital funding to pave the parking lot thereby making the facility more rentable. The loan was to be paid off in July 2009.

HFFDC submitted a letter in December 2005 requesting that the amount owing to the City of Hamilton be written-off; and subsequently, in April 2006, Council denied that request and directed staff to meet with the HFFDC to try to identify a resolution to their financial problems. Receivables stopped assessing interest at that time.

The Real Estate Management Portfolio Strategy Plan, as approved by City Council on November 24, 2004, and the "Procedural By-law for the Sale of Land", By-law 04-299, property must be leased or disposed of at or above fair market value, "even when the other party to the transaction is another level of government, public sector agency, or non-profit organization providing services to City residents", however; subject to Council approval, Council can approve the leasing or sale of property for other than market value if Council deems it to be in the public interest.

**ANALYSIS/RATIONALE:**

In addition to the annual payment for principal and interest (\$43,000) on the loan, the HFFDC were required to pay the annual property taxes (\$16,799 in 2011). As at December 31, 2011, the HFFDC owes the City \$274,000 in principal, interest and back taxes. The first instalments of 2012 property taxes totalling \$8,000 have been billed and are due. The last payment received from the HFFDC was for \$6,199 in March 2008.

The HFFDC are currently in default of their Lease Agreement with the City of Hamilton. Under the agreement the City is entitled to terminate the lease and acquire the title and possession of the Practice Facility Building without compensation for same to the HFFDC.

**POLICY IMPLICATIONS**

City of Hamilton Procedural By-Law for the Sale of Land, By-law 04-299, City Council must declare surplus any lands to be disposed of by the City.

The Real Estate Management Portfolio Strategy Plan as approved by City Council on November 24, 2004, and the "Procedural By-law for the Sale of Land", By-law 04-299 dictate that property must be leased or disposed of at or above fair market value, "even when the other party to the transaction is another level of government, public sector agency, or non-profit organization providing services to City residents", however; subject to Council approval, property may be leased or sold for other than market value if Council deems it to be in the public interest.

The City's Real Estate section undertook an internal appraisal to estimate the market value of the property in December 2009 and further updated in November 2011. The estimated market value of the land and building was estimated at \$725,000. Of this amount, the appraised value of the City land exclusive of improvements was \$275,000.

**RELEVANT CONSULTATION**

HFFDC  
Ward 6 Councillor  
Local 288  
City Manager – Legal Services  
Planning and Economic Development - Real Estate  
Community Services – Culture and Recreation  
Public Works - Facilities

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

(include Performance Measurement/Benchmarking Data, if applicable)

The HFFDC do not have the financial resources to pay the outstanding amounts owed to the City.

**ALTERNATIVES FOR CONSIDERATION**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

There are three options the City can consider as follows:

**1. Accept the \$285,000 offer from Local 288 as presented**

There are sufficient funds to pay off the \$283,000 debt owed to the City. The City's interest in the land will be protected through a long term lease and option to purchase. The Firefighters Drum and Bugle Corps will have a place to store their equipment and for practicing for as long as they exist. The HFFDC are supportive of this option as it meets their future needs for storage and practice at no cost to them.

**2. Exercise default remedies under the lease agreement and advertise for sale to the highest bidder**

This would involve the City taking possession of the facilities and advertising the land and building for sale to the highest bidder. The property has been appraised at \$725,000. The City could apply all proceeds towards the outstanding amount owed and apply the balance of proceeds of \$275,000 to the sale of the land. Proceeds in excess of the taxes owed and the land value could be returned to the Firefighters Drum and Bugle Corps or could be retained and used to acquire or lease facilities for the HFFDC for storage and practice. If the excess proceeds from the sale are returned to the HFFDC, they would be responsible for acquiring and funding storage and practice facilities. If the City retains the excess proceeds they could be used to acquire or lease a facility suitable to the needs of HFFDC. Facilities and Recreation were asked to review their listings of properties to determine if they had a building that would meet the needs of the HFFDC for storage and practicing and unfortunately, a suitable location was not found.

The advantage of this option would be that the City would recover all of the funds owed to it and likely recover most if not all of the value of the land. Any net proceeds over and above these amounts would accrue to the HFFDC.

The main concern or con to this option is that the HFFDC may not be able to find a suitable replacement facility.

**3. Write-off the balance of the outstanding loan and property taxes**

No allowance has been provided for this receivable. A write-off in the amount of \$274,045 would impact the 2012 financial statements.

This option would allow the HFFDC to continue to operate the facility, however; it is likely that future tax write offs would be requested as the facility does not generate enough income to be financially self sustaining.

**CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Not Applicable.

**APPENDICES / SCHEDULES**

Appendix 'A' - The unsolicited proposal from Local 288.



# Hamilton Professional Fire Fighters Association

## Local – 288 International Association of Fire Fighters

President

Henry Watson

Treasurer

Brian Stark



Affiliated with  
The Ontario Professional  
Fire Fighters Association  
Ontario Federation of Labour

Secretary

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March 15, 2012

### Band Hut Overview

To assume control and run the Hamilton Fire Fighters Band Hut is an interesting opportunity for the Members of Local 288, the community as well as present and future members of the Fire Fighter Band.

#### Primary goal

To purchase this facility, in a manner, that would allow the Band to continue to play their music and be a part of the City of Hamilton's musical society.

#### Secondary goal

To develop the Band Hut into a self-sustaining entity,

#### The Vision

That the Band Hut, continue to be the home of the firefighter's band and develop into a facility that becomes an extension of the charitable work done in the community by the Hamilton Professional Firefighters.

A place that could be used by seniors and other community organizations

If the Band Hut's present financial situation can be turned around and this facility begins to generate a profit, *one hundred 100% of those profits would be re-invested into local Hamilton Charities through the Hamilton Fire Fighters Charitable Organization.*

MAKE EVERY WEEK – “FIRE PREVENTION WEEK”



To move in the direction of this Hall being an extension of the Hamilton Firefighters would require that the building to be purchased from the City.

Initially, the Firefighters Association would face some significant challenges in assuming ownership and responsibility of this facility.

There has been a the sharp decline in rentals and revenues over the last three years and the revenues currently being generated are not sufficient to cover all operating expenses

This facility requires capital investments in

- 1) An N.F.P.A. compliant kitchen and alarm system (\$10,000.00 to \$15,000.00).
- 2) Renovations to comply with the Accessibility of Disabled Persons. (\$5000.00 approx.)
- 3) Paving the parking lot: (\$40,000.00)

With our initial budget constraints the Capital cost improvements required would have to be delayed.

Therefore the initial goal would be to cover all expenses in operating the Facility for the first two (2) years at a minimum.

The business of running this facility would be over seen by a Hall Manager/Events Coordinator, who would be employed under the direction of Local 288 and reporting directly to its Executive Committee.

This would not happen immediately due to the cost impact of a full-time salary. This individual would be responsible for, the hall rentals, the signing and perusing of rental agreements as well as the day-to-day business operations of the banquet and community hall. In the interim we would work with Ron Dwyer as the Hall Manager until the revenues were more consistent and stable.

It is critical that we establish this facility with a more aggressive rental plan that would see increased revenues due to the increase in rentals. Rental rates would be on a sliding scale based on the day of the week and time of the year, this would allow for the optimum amount of rental agreements. To establish this facility as a banquet center would present some challenges due to its geographic location, which is in the middle of some of Hamilton's finest facilities namely Carmens to the East and Marquis Gardens to the West.

Due to the smaller size of this facility a different target market must be established. That market would be identified as less expensive, less formal alternative to the higher end catering and banquet facilities in the area. A smaller venue with more affordable pricing; yet offering the same great service, as other facilities would be the preferred customer/client base.

This is an opportunity to advance our charitable work beyond anything that we are currently doing, or could do in the future. We certainly would need the City's help in the early stages of this endeavor.

#### Offer to Purchase

The Fire Fighters Association is prepared to offer to purchase this building from the city for \$285,000.00 with a \$35,000.00 as a down payment.

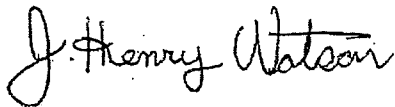
The balance of \$250,000.00 would be financed through the City. The City would provide the financing amortized over 25 years with fixed rate for ten years set at City's 10-year cost of borrowing plus 25 basis points.

The agreement is to include a long-term lease of the land at \$1 per year with an option to purchase the land during the term of agreement for \$275,000.

Should the building and land be sold, the City would receive \$275,000 and any amounts owed by Local 288. Local 288 would receive any remaining monies. Local 288 will be responsible for all property and business taxes.

If approached wisely and with caution in the early stages this facility owned and operated by the Hamilton Professional Fire Fighters would produce a win, win situation for all parties.

Respectfully Submitted



J. Henry Watson  
President, Hamilton Professional Firefighters Association