



Hamilton

INFORMATION REPORT

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| TO: Mayor and Members General Issues Committee | WARD(S) AFFECTED: CITY WIDE |
| COMMITTEE DATE: January 17, 2014 | |
| SUBJECT/REPORT NO: Relocation of Provincial Offences Administration (POA) Courtrooms and Offices (PED13204b) (PW13079b) (LS13035b) (FCS13090b) (City Wide) | |
| SUBMITTED BY: Joe-Anne Priel Acting General Manager Planning and Economic Development Department | PREPARED BY: Neil Everson (905) 546-2424, Ext. 2359 |
| SIGNATURE: | |

Council Direction:

Pursuant to the GIC meeting of November 20, 2013 and the request from Council for additional information and analysis by City staff, the following report contains the response to the queries raised by Councillors regarding the preferred option of the relocation of POA courtrooms and offices to 50 Main Street East.

Information:

POA CHRONOLOGY:

February 7, 2000 – POA responsibilities transferred to Regional Municipality of Hamilton-Wentworth from Ministry of Attorney General.

August 13, 2012 – lease renewal discussions initiated between City and Ontario Realty Corporation (ORC) as represented by the Minister of Infrastructure. City Real Estate staff were informed by ORC would not renew the lease after its expiration on August 21, 2017.

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December 5, 2012 (GIC) – motion approved for staff to initiate declaring 50 Main Street East as surplus property. Approved by Council on December 12, 2012.

December 10, 2012 (AF&A) – (approved at City Council December 12, 2012) City staff directed to investigate the feasibility of part-time, temporary locations for the Provincial Offences Administration Court House.

February 2013 - Public Works Facilities Division retains consulting firm MHPM Project Managers Inc. (MHPM) from roster to conduct a detailed sensitivity analysis for both a short term and long term accommodation options.

November 20, 2013 – City staff bring Provincial Offences Administration (POA) Courtrooms and Offices Report (PED13204) (PW13079) (LS13035) (FCS13090) and a Revisions to Relocation of Provincial Administration (POA) Courtrooms and Offices Report (PED13204a) (PW13079a) (LS13035a) (FCS13090a) to General Issues Committee (GIC). Request for additional information from Council and direction to report back to GIC on January 15, 2014.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial:

| Table 1.5.1 - Summary of Option Evaluation (POA Perspective) | | | |
|--|--|----------------------------|--|
| | Option 1 - 50 Main St E Capital Funding | Option 2 - New Building | Option 3 - Design- Build/Lease-Back |
| Total Project Capital Cost/lease payment | \$32.38 M | \$39.2 M | \$5.8 M |
| Gross Floor Area | 112,000 | 49,200 | 49,200 |
| Project Capital Cost/sq.ft. | \$242 | \$798 | \$118 |
| HCE Contribution | (\$4.9 M) | N/A | N/A |
| Proceeds from sale of Main Street E | \$0 | (\$5.6 M) | (\$5.6 M) |
| Net Present Value of Lease Savings (other) | (\$7.0 M) | \$0 | \$0 |
| Net Present Project Costs | \$20.48 M | \$33.6 M | \$47.6 M |
| Earliest Available | Mar-16 | Sep-16 | Sep-16 |

Staff proposes that the City debt finance the net cost of Option 1 in the amount of \$27.48 M (Total Project Capital Cost less HCE Contribution). This would produce annual debt charge of approximately \$2.7 M for 15 years (5% debenture rate). Current City debt issuance practise for projects of this dollar amount is that the debt would not be issued until the project is 90% complete. The \$2.7 M annual debt charge would be funded in the following manner:

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- (i) \$1.7M be funded from additional net Provincial Offences Administration (POA) revenues and lease cost savings/new lease revenues (net of operating costs).
- (ii) \$1 M be funded from the Capital Levy.

Regarding the \$1.7 M required annually to fund the debt charges with no levy impact, staff formulated a conservative forecast for the additional annual POA revenues generated by increased courtrooms and new lease revenues (or lease cost savings from other City departments moving to 50 Main East from current privately owned buildings) from the approximately 50,000 square feet at 50 Main East not required by POA. The additional 1.5 courtrooms (phase 1, 2.5 courtrooms plus 1.5 courtrooms in phase 2 = 4 courtrooms) would generate on a net basis approximately \$1.425 M in additional POA revenue. The net additional revenue is calculated from gross additional revenues of \$2.25 M less approximately \$0.8 M for salaries and overhead. In addition, lease savings and/or lease revenues from the approximately 50,000 square feet of space at 50 Main East not required by POA can potentially generate an additional \$500,000 in revenue and/or lease cost savings.

SUMMARY OF ADDITIONAL REVENUES AND SAVINGS:

The forecast of additional annual revenues (POA and lease revenues and/or savings) total approximately \$1.925 M. Staff propose to budget \$1.7 M to limit the levy impact of this project to \$1 M per annum for 15 years.

Any additional revenues in excess of the \$1.7 M forecast would remain in the POA's operating budget and increase their positive levy impact which is budgeted at \$4.4 M for 2013.

The remaining amount of the \$2.7 M debt charge to be funded is \$1M. This would be funded from the Capital Levy. The Capital Levy impact of \$1 M annually for 15-years translates to a Property Tax Impact of 0.14% or \$4 on the average home assessed at \$266,200.

One of the concerns of Council regarding funding \$17 million of the capital costs from additional POA revenues (and lease costs savings) is the risk associated with the realization of increased revenues. Currently, City POA is having to delay adjudications and the wait times for trials are increasing significantly to the point where revenue opportunities may be unrealized. In addition, the frequency, dollar amounts and complexity of laid charges are increasing. All of these factors are creating the need for more courtrooms.

Staff's best estimate is that an additional 1.5 courtrooms (potentially 2.5 more) will generate on a net annual basis approximately \$1.425 M in additional POA revenue. The net additional revenue is calculated from gross additional revenues of \$2.25 M less approximately \$0.8 M for salaries and overhead.

Table 2

POA Revenues (Gross)

| | | |
|-------|----|-----------|
| 2005 | \$ | 5,532,823 |
| 2006 | \$ | 5,760,917 |
| 2007 | \$ | 5,050,345 |
| 2008 | \$ | 6,277,821 |
| 2009 | \$ | 6,345,178 |
| 2010 | \$ | 6,595,298 |
| 2011 | \$ | 6,705,412 |
| 2012 | \$ | 7,648,869 |
| 2013* | \$ | 7,800,000 |

Table 2 illustrates that gross POA revenues have been increasing as a result of increased fine amounts and charges filed. This revenue is generated in the current 2.5 courtrooms and further growth in volume of charges is limited by current capacity.

Table 3 shows the net positive impact of POA revenues on the City's operating budget for the 2005-2013 time period.

Table 3

| POA Revenues (net) | Budgeted | Actual |
|---------------------------|-----------------|---------------|
| 2007 | \$ 2,634,370 | \$ 2,173,257 |
| 2008 | \$ 2,437,719 | \$ 3,102,392 |
| 2009 | \$ 2,461,843 | \$ 3,155,016 |
| 2010 | \$ 2,729,902 | \$ 3,354,934 |
| 2011 | \$ 3,568,850 | \$ 3,467,948 |
| 2012 | \$ 3,857,040 | \$ 4,375,509 |
| 2013* | \$ 4,400,000 | \$ 4,400,000 |

* = projected

POA REVENUES GENERATED AND ANCILLARY REVENUES:

One of the concerns of Council regarding funding \$17 million of the capital costs from additional POA revenues (and lease costs savings) is the risk associated with the realization of increased revenues. Currently the City POA has needed to delay adjudications and the wait times for trials are increasing significantly to the point where revenue opportunities may be unrealized. In addition, the frequency, dollar amounts and

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complexity of laid charges are increasing. All of these factors are creating the need for more courtrooms.

Staff's best estimate is that an additional 1.5 courtrooms (potentially 2.5 more) will generate on a net annual basis approximately \$1.425 M in additional POA revenue. The net additional revenue is calculated from gross additional revenues of \$2.25 M less approximately \$0.8 M for salaries and overhead.

The forecast of additional annual revenues (POA and lease revenues and/or savings) total approximately \$1.925 M. Staff propose to budget \$1.7 M to limit the levy impact of this project to \$1 M per annum for 15 years.

Any additional revenues in excess of the \$1.7 M forecast would remain in the POA's operating budget and increase their positive levy impact which is budgeted at \$4.4 M for 2013.

| Year | POA Offenses Gross Revenues | Traffic Division (RLC) | Municipal Licencing & By- Law Enforcement |
|--------------|--|-----------------------------------|--|
| 2005 | \$5,532,823 | \$456,516 | \$130,899 |
| 2006 | \$5,760,917 | \$603,658 | \$88,997 |
| 2007 | \$5,050,345 | \$855,615 | \$91,592 |
| 2008 | \$6,277,821 | \$573,033 | \$71,550 |
| 2009 | \$6,345,178 | \$956,432 | \$95,428 |
| 2010 | \$6,595,298 | \$2,351,000 | \$217,020 |
| 2011 | \$6,705,412 | \$2,111,593 | \$184,552 |
| 2012 | \$7,648,869 | \$2,860,022 | \$166,914 |
| 2013* | \$7,800,000 | \$3,282,556 | \$199,332 |

****projected revenues for 2013***

IMPACT ON THE LEVY OF POA COURTHOUSE PROJECT:

The remaining amount of the \$2.7 M debt charge to be funded is \$1M. This would be funded from the Capital Levy. The Capital Levy impact of \$1 M annually for 15-years

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translates to a Property Tax Impact of 0.14% or \$4 on the average home assessed at \$266,200.

POTENTIAL FOR “CITY HALL” CONSTRUCTION MODEL:

There are many ways to successfully manage a construction contract and to control costs, from a stipulated price model to construction management. In recent years a ‘pain/gain share’ model was adopted during the renovation of Hamilton City Hall which allowed the project team to jointly look at the potential cost of the project and ways to innovate and bring the cost down.

As part of the Courthouse lease-hold upgrades, the Facilities Management & Capital Program Division will explore the best option to meet the needs of the City ensuring best practice cost control measures are applied and that the schedule is adhered to.

TOTAL AREA AND NUMBER OF CITY STAFF AT NEW POA COURTROOM:

| | |
|--|---------|
| Total Square Feet (50 Main St. East) | 112,000 |
| Total Usable Square Feet | 99,225 |
| POA Square Feet Required | 49,200 |
| Legal Services Square Feet Required | 12,417 |
| Risk Management Square Feet Required | 3,100 |
| Other Divisions/Tenants Square Feet Required | 34,508 |

| <u>Based on Potential 4 Courtrooms</u> | <u>Current</u> | <u>2017</u> |
|---|-----------------------|--------------------|
| POA staff complement | 22 | 27 |
| Legal Services staff complement | 52 | 55 |
| Rick Management Staff complement | 9 | 9 |
| Other Divisions/Tenants | TBD | 140 - 150 |
| Total Employees (Estimated) | 83 | 231-241 |

IMPACT ON MUNICIPAL LAW ENFORCEMENT OPERATIONS OF THIS DECISION:

Negligible.

SECURITY ISSUES RELATED TO RETROFIT OF 50 MAIN S. EAST:

Security risk assessment will be completed as part of the design phase of the project.

POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS

The recommendation is in compliance with all existing Corporate and Provincial policies and procedures, The Memorandum of Understanding and the Local Side Agreement (POA transfer documents), and the Province of Ontario Architectural Design for Court Houses.

Real Estate Portfolio Management Strategy Plan:

The Portfolio Management Committee is assigned the strategic responsibility for procuring and managing corporate real estate assets with the view of minimizing real estate costs to the organization, and provide optimal utilization of the corporation's real estate.

A key component of the Committee is to investigate shared development or use of existing corporate facilities as potential for reducing costs or facilitating implementation of program use. The location of the subject site provides a strategic opportunity to support the effectiveness for services shared among both levels of court.

The influx of the \$4.9 M contribution from the District Energy proposal for capital investment/upgrades maximizes the long term value and use of this corporate facility. In addition, the retention of 50 Main Street East supports the need of POA and meets the broader corporate objective at the lowest cost possible.

Option 1: Retrofitting 50 Main Street East

- (b) That staff be directed to proceed with the district energy proposal engineering/design for the Court House, for the replacement of the existing steam boilers and cooling systems with new hot water boiler, new chiller and cooling tower and all related HVAC systems and to review the geothermal supplement option at an estimated cost of \$4.9 M for the aforementioned upgrades.

ALTERNATIVES FOR CONSIDERATION:

Option 2: A new building to house POA Courtrooms and Offices:

Constructing a new building on a vacant site was explored as an option by MHPM but was NOT recommended for the following reasons:

- The Net Present Value of the Project Costs is estimated at \$33.5 M in comparison to Option 1 at \$20.28 M.

RECOMMENDATIONS FROM NOVEMBER 20, 2013 GIC:

Proposed **RECOMMENDATIONS** from the November 4, 2013 GIC report *Revisions to Relocation of Provincial Offences Administration (POA) Courtrooms and Offices (PED13204a) (PW13079a) (LS13035a) (FCS13090a) (City Wide)*

- (a) That McMaster University's Continuing Education Program, presently housed at 50 Main Street East, remain in its current location until January 1, 2015, at which time the City of Hamilton will require vacant possession.
- (b) That Option 1: Renovation of 50 Main Street East, be approved as the new location for the Provincial Offences Administration (POA) courtrooms and offices along with other municipal divisions/departments.
- (c) That the design costs in the amount of \$3 M, as contained in the proposed 2014 Capital Budget are approved, and that staff report back to Council once the total costs have been finalized after the completion of the design work.
- (d) That the General Managers of Public Works Department and Corporate Services Department have delegated authority to execute all related agreements with Hamilton Utilities Corporation (HUC) in relation to the district energy system for the City-owned Court House at 50 Main Street East.
- (e) That the Mayor and Clerk be authorized and directed to execute all necessary documents in a form satisfactory to the City Solicitor.
- (f) That the funding strategy for Option 1 (\$32.38 M) be as follows:
 - (i) \$17.48 M be funded from additional net Provincial Offences Administration (POA) revenues and lease cost savings (\$1.7 M annual financing costs for 15 years).
 - (ii) \$10 M be funded from the Capital Levy (\$1 M annual financing costs for 15 years).
 - (iii) \$4.90 M be funded by Hamilton Community Energy for the installation of District Energy in Option 1:50 Main Street East.
- (g) That 50 Main Street East remain as the permanent location for Ontario Municipal Board (OMB) hearings and, when not in use, that staff be authorized and directed to generate revenue from renting this courtroom.

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- (h) That City staff be authorized and directed to provide termination notices, at appropriate timing, pursuant to terms and conditions of leases affected by this Report, including the Minister of Infrastructure and McMaster University.

- (i) That the item respecting Provincial Offences Administration Court House Long-Term Location Options be removed from the General Issues Committee Outstanding Business List.

NE/dkm