

Council Chambers
City Hall, Saskatoon, Sask.
Wednesday, December 7, 2005
at 12:00 p.m.

MINUTES OF SPECIAL MEETING OF CITY COUNCIL

PRESENT: His Worship the Mayor, in the Chair;
Councillors Alm, Birkmaier, Dubois, Fortosky, Heidt, Neault,
Paulsen, Penner, and Wyant;
City Manager Richards;
General Manager, Corporate Services Bilanski;
General Manager, Community Services Gauthier;
General Manager, Infrastructure Services Uzelman;
General Manager, Utility Services Totland;
City Solicitor Dust; and
City Clerk Mann

REPORT NO. 19-2005 OF THE EXECUTIVE COMMITTEE

Composition of Committee

His Worship Mayor D. Atchison, Chair
Councillor T. Alm
Councillor D.L. Birkmaier
Councillor B. Dubois
Councillor O. Fortosky
Councillor M. Heidt
Councillor E. Hnatyshyn
Councillor M. Neault
Councillor T. Paulsen
Councillor G. Penner
Councillor G. Wyant

1. Centennial Capital Initiative **(File No. CK. 1860-1)**

RECOMMENDATION: that Western Economic Diversification be advised that the following are City Council's priorities for funding under the Centennial Capital Initiative Program:

- 1) \$7.5M Victoria Bridge
- 2) \$2.5M Persephone Theatre
- 3) \$4.5M Mendel Art Gallery
- 4) \$3.0M River Landing Phase 1 Riverfront

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Your Committee, at a public meeting held on November 21, 2005, resolved that a report be submitted to City Council recommending that a proposal be submitted to Western Economic Diversification with a financial request of \$7.5M for the reconstruction of the Victoria Bridge and \$2.5M for Persephone Theatre.

In the meantime, your Committee became aware that Western Economic Diversification may have some concerns as to whether the Victoria Bridge is an appropriate project for funding under this program. The above recommendation is therefore being put forward in order to indicate Council's priorities for funding.

Councillor Neault excused himself from discussion and voting on the matter due to a conflict of interest and left the Council Chamber.

The City Clerk submitted a copy of a letter from Mr. Joseph Kuchta dated December 5, 2005 regarding the above.

Moved by Councillor Dubois, Seconded by Councillor Birkmaier,

THAT Western Economic Diversification be advised that the following are City Council's priorities for funding under the Centennial Capital Initiative Program:

- 1) \$7.5M Victoria Bridge*
- 2) \$2.5M Persephone Theatre*
- 3) \$4.5M Mendel Art Gallery*
- 4) \$3.0M River Landing Phase 1 Riverfront*

CARRIED.

Councillor Neault re-entered the Council Chamber.

2. Persephone Theatre
(File No. CK. 4130-2)

- RECOMMENDATION:**
- 1) that the attached Memorandum of Sale and Agreement with Persephone Theatre be approved;
 - 2) that His Worship the Mayor and the City Clerk be authorized to execute the Memorandum of Sale and the Agreement;

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- 3) that if Persephone Theatre meets the preconditions of the proposed \$1,000,000.00 grant from the City, the grant be paid as follows:
 - a) 50% on the Closing Date of the Memorandum of Sale; and
 - b) 50% upon completion by Persephone Theatre of the Construction Requirement in the Memorandum of Sale;
- 4) that the Cultural Grant Program Policy be amended in accordance with the proposed changes in the “Policy Implications” section of the attached report of the General Manager, Community Services Department; and
- 5) that the fixed cash grant amount for arts institutions eligible under Category A of the Major Arts Institutions component of the Cultural Grant Program, be set at \$60,000.00/year.

The City is proposing to sell land to Persephone Theatre for the purpose of constructing a new performing arts theatre, pursuant to the various Agreements and requirements set out in this report.

A. Memorandum of Sale

1. Land to be Purchased

The proposed parcel to be sold is at the corner of 2nd Avenue and Saunders Place. Because Persephone Theatre has not completed their final design, the Agreement contemplates minor adjustments to the site before the Closing Date. Persephone Theatre agrees that the final design will have the theatre abutting the south property line to enable future connection to neighbouring buildings.

2. Purchase Price

The purchase price is \$30.00 per square foot. The estimated total is \$888,600.00.

3. Permitted Uses

The permitted uses are set out in the definition of Theatre Facility which reads as follows:

“‘Theatre Facility’ means the live performance theatre consisting of a main stage performance chamber and a flexible second stage complete with all appropriate support facilities necessary to ensure a fully functional and viable Theatre Facility including the operation of a theatre school. The Theatre Facility may also include retail uses as allowed under the City’s DCD1 regulations and office uses limited to offices used by performing arts groups. Provided that the primary use is to be a live performance theatre, the Theatre Facility may from time to time be put to other Cultural & Tourism uses as allowed under the City’s DCD1 regulations, and may be used on an ancillary basis (ie. rentals to third parties) for meeting and convention space.”

4. Conditions Precedent

Before the Closing Date (which is when the Purchase Price is paid and title transfers), the following must occur:

- (a) Persephone Theatre must obtain all statutory approvals;
- (b) Persephone Theatre must obtain the necessary construction financing.

Both of the above must occur by December 31, 2006 or the Agreement is at an end.

5. Construction Requirement

Once the conditions precedent are met and the title transfers, Persephone Theatre has until July 1, 2008 to complete the theatre facility to the “shell” stage (the building superstructure including exterior cladding and roofing).

Persephone Theatre, at the time of closing, is required to give the City a transfer back of the property, which can be used by the City if the Construction Requirement is not met. If that occurs, the City keeps the Purchase Price.

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6. Right of First Refusal

Persephone Theatre may not sell the property until the Construction Requirement is met. After that, before selling the property, they must give the City a first opportunity to purchase it.

7. Theatre Facility Foundation

The City's architects have advised that in order to protect the City's opportunity to build underground parking to the west and south of the theatre, Persephone Theatre should incorporate extra foundation and floor structures in their building. The estimated cost of such extras is \$150,000.00. The Agreement gives the City the right to ask Persephone Theatre to do this, provided the City pays for it.

B. Agreement (re Taxes)

The purpose of this Agreement is to document the tax exemption and abatement previously approved by Council.

The Agreement provides:

1. For a full tax exemption of the property during construction.
2. For a five-year tax abatement which:
 - (a) abates all taxes in excess of \$120,000.00/year; and
 - (b) in addition, phases in the \$120,000.00 over a five-year period at the rate of 100% abatement, 80%, 60%, 40% and 20%.
3. In order to qualify for the abatement, Persephone Theatre must be in full compliance with the Memorandum of Sale and must build and operate the Theatre Facility in accordance with the Agreement. If they are not in compliance at any time, the Agreement can be terminated.
4. The Agreement contemplates that at this time, the parties intend to renew the Agreement for a further five years at a new cap of either \$120,000.00 or 5% of Persephone Theatre's gross revenues, whichever is greater. However, the Agreement is clear that this renewal is at the absolute discretion of the Council of the day.

The estimated taxes for the theatre once built are \$160,000.00-\$220,000.00 per year. The value of the five-year agreement at \$160,000.00/year is \$600,000.00. The value of the Agreement at \$220,000.00 per year is \$900,000.00.

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C. Payment Schedule of \$1,000,000.00 Grant

At its meeting of November 29, 2004, City Council provided “conditional approval, in principle, for the Persephone Theatre new building project to be located in the Cultural Block”. At its meeting of September 19, 2005, City Council further approved the granting of the \$1,000,000.00 to Persephone Theatre providing:

- a) Persephone Theatre raises all the capital necessary to build and furnish a live performance theatre at River Landing within a specified time frame;
- b) Persephone Theatre provides the City with a business plan and operating budget that demonstrates self-sufficiency;
- c) Persephone Theatre offers the facility, or portions of the facility, for use by other groups;
- d) Persephone Theatre pays property taxes upon completion of the new theatre; and
- e) Persephone Theatre undertakes to integrate, wherever possible, with the proposed destination complex and programming.

One issue that was not addressed was the timing of the payout of the \$1,000,000.00 grant to Persephone Theatre after conditions a) through e) above have been met. In negotiations with Persephone Theatre officials, it has been determined that 50% of the grant should be provided at the Closing Date and 50% at the completion of the Construction Requirement in the Memorandum of Sale. The rationale for withholding a certain percentage of the grant past the Closing Date is to provide the City with a small source of funds should Persephone Theatre default, and the City is left with an unfinished project.

D. Cultural Grant

Persephone Theatre had raised with the Administration the issue of the amount of the annual grant which they would receive for their new facility under the City’s Cultural Grant Program Policy.

Attached is a report of the General Manager, Community Services Department. The report recommends that a new category (Category A) be created within the Major Arts Institutions component to deal with groups such as Persephone Theatre which have proposed revenues and tax abatement arrangements that are substantially above the average of existing groups.

The new category will result in Persephone Theatre (once the new facility is open and assuming their revenues exceed \$1,750,000.00/year) being eligible for a fixed grant of \$60,000.00/year.

ATTACHMENTS

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1. Memorandum of Sale as between The City of Saskatoon and Persephone Theatre.
2. Agreement as between Persephone Theatre and The City of Saskatoon.
3. Report of the General Manager, Community Services Department dated December 1, 2005.

The City Clerk advised that Mr. David Gerecke, President, Board of Directors, requested permission to address Council on the matter.

Moved by Councillor Birkmaier, Seconded by Councillor Penner,

THAT David Gerecke be heard.

CARRIED.

Mr. David Gerecke, President, Board of Directors of Persephone Theatre, expressed support for the recommendations of the Executive Committee. He expressed appreciation to City Council and the Administration on behalf of everyone involved in Persephone Theatre.

Moved by Councillor Birkmaier, Seconded by Councillor Penner,

- 1) *that the attached Memorandum of Sale and Agreement with Persephone Theatre be approved;*
- 2) *that His Worship the Mayor and the City Clerk be authorized to execute the Memorandum of Sale and the Agreement;*
- 3) *that if Persephone Theatre meets the preconditions of the proposed \$1,000,000.00 grant from the City, the grant be paid as follows:*
 - a) *50% on the Closing Date of the Memorandum of Sale; and*
 - b) *50% upon completion by Persephone Theatre of the Construction Requirement in the Memorandum of Sale;*
- 4) *that the Cultural Grant Program Policy be amended in accordance with the proposed changes in the "Policy Implications" section of the attached report of the General Manager, Community Services Department; and*
- 5) *that the fixed cash grant amount for arts institutions eligible under Category A of the Major Arts Institutions component of the Cultural Grant Program, be set at \$60,000.00/year.*

CARRIED.

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Moved by Councillor Penner,

THAT the meeting stand adjourned.

CARRIED.

The meeting adjourned at 12:15 p.m.

Mayor

City Clerk