

The following is a copy of **Clause F1, Administrative Report No. 19-2005** which was **DEALT WITH AS STATED** by City Council at its meeting held on **October 17, 2005**:

Section F – CITY MANAGER

F1) Persephone Theatre Property Tax Request (File No. CC. 4130-2)

RECOMMENDATION: that the direction of Council issue with respect to the provision of a tax incentive package for the construction of a new Persephone Theatre on River Landing Phase I.

BACKGROUND

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 \$1M 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.

REPORT

Administration has been meeting with Persephone officials to establish the terms of a lease for the northern portion of Parcel “X” on River Landing Phase I. An Offer to Lease will be forwarded to City Council for approval when complete.

With respect to provision (d) above, Persephone Theatre had initially indicated that they would be willing to pay property taxes at assessed rates. Depending on the final size and quality of construction, the City Assessor has estimated property taxes to be between \$160,000 and \$220,000.

Persephone representatives expressed concern regarding the level of property taxes and its effect on project viability. At the September 26, 2005, meeting of the Executive Committee, Persephone requested that, given their tight operational budget, the City consider setting property taxes at \$120,000 or 5% of gross revenues, whichever is higher (first year gross revenues are projected to be \$2.2M). For example, if annual revenues increase to \$2.7M, the cap would be increased to \$135,000 (i.e., $\$2.7\text{M} \times .05 = \$135,000$). Provided annual revenues continue to increase, the cap could increase until the taxes are at assessed values. Conversely, Persephone proposes that the cap would not drop below \$120,000 at any time.

Persephone further requested a five-year, phased-in abatement (100%, 80%, 60%, 40%, 20%) on those taxes similar to the downtown incentive provided to Cineplex Galaxy.

Tourism related initiatives fall outside City Council policy and are dealt with on a case-by-case basis. Should City Council determine that Persephone Theatre should be granted a property tax exemption, there are a number of issues to consider to establish the most appropriate form and level.

Generally speaking, taxation is based upon the assessed value of property, and is calculated without regard to who owns or occupies the property or the financial capabilities of the owner or occupant. The ability to pay has not been the determinative factor in granting exemptions. Persephone's proposal directly links the tax exemption to its financial performance.

As well, determining the tax exemption as a percentage of annual revenues introduces an element of uncertainty into the tax roll. Revenues will vary from year to year and the tax exemption would, therefore, vary each year. The amount of the annual tax exemption will vary depending upon the financial performance of Persephone, a matter over which the City has no control.

Persephone's proposal would also require some work on the City's part to verify Persephone's revenues on an annual basis. While this work can be done, it will require some effort and resources on the City's part.

While Persephone has suggested that this tax agreement be permanent, Council may not exempt property taxes in perpetuity such as to bind future Councils. *The Cities Act* allows Council to exempt taxes in whole or in part for a period of not more than five years.

As an alternative, Administration would recommend setting the cap, based on gross revenues, every five years upon the renewal of the exemption rather than on an annual basis. This approach would provide stability and certainty for both the City and Persephone during the five-year term and would eliminate the need for financial audits of Persephone's balance sheet except upon renewal of the exemption.

Under this scenario, the property taxes would be set at \$120,000 for the first five years. With the phase-in, property taxes in the first five years of operation would be:

Year 1	\$0
Year 2	\$24,000
Year 3	\$48,000
Year 4	\$72,000
Year 5	\$96,000

If, at the end of each five-year period the Council of the day wishes to enter into another five-year agreement, Administration would determine the annual property tax level following a review of Persephone's audited gross revenue statements. Again, taxes would never be lower than \$120,000.

PUBLIC NOTICE

Public Notice pursuant to Section 3 of Policy No. C01-021, Public Notice Policy, is not required.

IT WAS RESOLVED: 1) that property taxes for the Persephone Theatre be capped at \$120,000 for the first five years, with a five-year phase-in as follows:

*Year 1 \$0
Year 2 \$24,000
Year 3 \$48,000
Year 4 \$72,000
Year 5 \$96,000; and*

2) that at the end of the five-year phase-in, the Administration bring forward a report outlining options for a further five-year property tax cap based on 5% of revenues or \$120,000, whichever is greater.

YEAS: His Worship the Mayor, Councillors Alm, Birkmaier, Dubois, Fortosky, Heidt, Hnatyshyn, Neault, Paulsen, Penner, and Wyant

11

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