Waterfront Trust Financial and Operational Issues

A presentation by Gary Santucci and Brian Bonham
To the General Issues Committee of the City of Hamilton
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1. Failed Audit - 2007

In 2007, the trust failed an audit by an outside accounting firm who issued an adverse opinion. This was for the fiscal year ending December, 2005.

2. Loss of Charitable Status

The Waterfront Trust lost their charitable status with the Canada Revenue Agency Charities Directorate, (C.R.A.C.D.) because financial statements were not filed on time.

3. Failure to provide requested financial information

A former board member properly requested, (as quoted in the media) required financial statements and has never received them. "I never saw an audited statement."
Waterfront Trust Financial and Operational Issues

4. Failed G.S.T. Audit

A G.S.T. audit was performed by the Canada Revenues Agency which resulted in the Trust owing approximately $500,000.

Waterfront Trust Financial and Operational Issues

5. Continuous Losses

Four (4) years of continuous losses were sustained on most operations:

- 2008 $211,000
- 2009 $364,000
- 2010 $893,000
- 2011 $474,000
Total $1,942,000

Waterfront Trust Financial and Operational Issues

6. Accounting Irregularities

Questionable accounting entries and seemingly incomplete accounting records.

- Canal Washroom budgeted at $90,000 and invoiced to the City of Hamilton for $681,000

Waterfront Trust Financial and Operational Issues

7. Failure to Report

In 2008 the Waterfront Trust filed five (5) years of financial statements many years late, in direct contravention of the Deed of Trust with the City of Hamilton.
8. Failure to Insure

In 2002 an uninsured construction accident resulted in a claim by an injured worker against the Waterfront Trust entailing extensive liability. This claim was recently settled for the Waterfront Trust, inexplicably, by the City of Hamilton.

9. Unanswered Questions

In 2011 a General Issues Committee (G.I.C) received a delegation from the Waterfront Trust. The following resulted:

- Councillor Ferguson rightfully asked of the G.S.T. audit, what had happened and what were the details.
- Councillor Pearson supported his request and asked for the distribution to all of council of the response.

10. Unanswered Question

At this time one question remains answerable only by Councillor Ferguson and other current members of Council.

- Was a response received by Councillor Ferguson to his legitimate request for information on the GST audit of the Waterfront Trust?

11. Charitable Status

Is the Waterfront Trust operating within the parameters of its charitable status?

- Majority of revenue is derived from for-profit, non-charitable enterprise.
- Landlord to commercial tenant(s)
- Potential non-compliance with the C.R.A. Charities Directorate, subject to confirmation
Waterfront Trust Financial and Operational Issues

11. Fiduciary Trust

The City of Hamilton funds, either directly, or indirectly through other controlled entities, the Waterfront Trust.

- Were staff or council aware of these problems?
- Is not the City accountable for cheques payable to the Waterfront Trust observing budgetary process and approval?

Waterfront Trust Financial and Operational Issues

12. Forensic Audit

In summary, the list of concerns in this presentation is by no means exhaustive.

- We urge City Council to proceed conservatively with any planned expansion of the activities of the Waterfront Trust...
- ... and request the City to call for a forensic audit of the finances and operation of the Waterfront Trust.