CITY OF HAMILTON

PUBLIC WORKS DEPARTMENT
Operations and Waste Management Division

and

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Economic Development Division

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<th>TO: Mayor and Members General Issues Committee</th>
<th>WARD(S) AFFECTED: WARD 5</th>
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<td>COMMITTEE DATE: August 13, 2012</td>
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<td>SUBJECT/REPORT NO: Lease Renewal Agreement, Lessee - Carmen’s Inc., 180 Van Wagner’s Beach Road, Hamilton, Lessor - City of Hamilton (PW12056 / PED12145) (Ward 5)</td>
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<td>SUBMITTED BY: Gerry Davis General Manager Public Works Tim McCabe General Manager Planning and Economic Development Department</td>
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<td>PREPARED BY: Ed DeVries (905) 546-2424, Ext. 4819 John Hamilton (905) 546-2424, Ext. 7045</td>
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<td>SIGNATURE:</td>
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RECOMMENDATIONS:

(a) That a Lease Renewal Agreement with Carmen’s Inc. be approved subject to the following terms and conditions:

(i) **Term**: Five (5) years that commenced January 1, 2011 and terminates on December 31, 2015;

(ii) **Property**: Second Floor, 180 Van Wagner’s Beach Road, Hamilton, (Lakeland Centre), as shown on Appendix “A” attached to Report

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
PW12056 / PED12145; known as Carmen’s, comprising a net rentable area of approximately 2,600 square feet used as a banquet hall;

(iii) **Rental Amount:** From the date of commencement, being January 1, 2011, the Lessee shall pay a net rent as follows:

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<tr>
<th>Year</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1</td>
<td>$35,000 + HST</td>
</tr>
<tr>
<td>2</td>
<td>$40,000 + HST</td>
</tr>
<tr>
<td>3</td>
<td>$50,000 + HST</td>
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<tr>
<td>4</td>
<td>$52,500 + HST</td>
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<tr>
<td>5</td>
<td>$55,000 + HST</td>
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Rental revenue will be credited to the Confederation Park budget administered by Hamilton Region Conservation Authority;

(iv) **Increased Utility Rent:** The lessee agrees to pay a percentage equal to 2.5% of all gross sales, calculated each year based upon audited financial statements, but paid monthly, to pay for the cost of utilities;

(v) **Parking:** Lease provides for a surface parking lot on the south-east side of the Lakeland Centre comprising about 60 spaces with approximately 200 additional spaces nearby;

(vi) **Operating Costs:** The tenant is responsible for all interior maintenance costs, janitorial, property taxes and insurance;

(b) That the Mayor, General Manager of Finance and Corporate Services, and City Clerk be authorized and directed to execute the Lease in a form satisfactory to the City Solicitor.

**EXECUTIVE SUMMARY:**

This Report seeks Council’s direction to ratify a Lease Agreement executed by Carmen’s Inc. and Hamilton Region Conservation Authority (HRCA) in late 2010.

In 2010, the HRCA issued a Request for Proposal (RFP) seeking potential tenants for the Second Floor space now occupied by Carmen’s Inc. at the Lakeland Centre. Carmen’s Inc., a well known and successful banquet host, was the only viable tenant that expressed interest in leasing the space.

Since 2011, HRCA and Carmen’s have operated under the assumption that the lease was in place. Ratifying the Lease Agreement at this time is somewhat of a housekeeping matter.
Alternatives for Consideration – See Page 4

FINANCIAL / STAFFING / LEGAL IMPLICATIONS:

Financial: Lease revenue is credited to the Confederation Park budget administered by HRCA on behalf of the City under a management agreement.

Staffing: There are no staffing implications associated with the recommendations of this Report.

Legal: Legal Services Division will be involved in the development of the Lease Agreement through to its completion.

HISTORICAL BACKGROUND:

The Lakeland Centre is a modern two-storey building erected within Confederation Park in 2004. The building is on the east side of Van Wagner’s Beach Road, near a community pool, and overlooks Lake Ontario. HRCA has offices on the ground floor along with the Lakeland Bistro which occupies a small take-out restaurant. Carmen’s occupies the entire second floor.

Carmen’s has been in occupancy at the Lakeland Centre since January 1, 2011, and has made whatever repairs or alterations it deemed necessary to retrofit the second floor space for its use as a banquet hall. The space is accessible from a stairway or by elevator and this banquet facility operates year round.

Although the lease was unsigned by the City in late 2010, HRCA and Carmen’s have operated under the assumption that the lease has been in place since 2011. Lease terms were developed by HRCA and the City had not objected to the terms and conditions. Approval of the Lease Agreement at this time concludes an outstanding housekeeping matter.

As noted, the space was offered to the public in 2010 through an RFP and the negotiated rent was deemed to be at market levels. Rent will escalate annually and the lease provides for one, five-year renewal option, at a rent to be negotiated upon renewal.

POLICY IMPLICATIONS:

The recommendation is consistent with the City’s Real Estate Portfolio Management Strategy Plan as approved by City Council on November 24, 2004, and Procedural By-Law No. 04-299. On June 29, 2005, City Council approved the Delegation of Authority to staff for the acquisition, disposition or lease of properties as follows:
General Manager or designate not exceeding $150,000; and,
City Manager or designate not exceeding $250,000.

Although the amount of the annual lease payments are below the foregoing limits, Council approval is required for leases having a term of more than five (5) years, as mandated by Council. The long term commitment to the tenant in the Lease Agreement is ten years, with the five-year renewal option included.

**RELEVANT CONSULTATION:**

- Confederation Park Master Plan Committee Management
- City Manager’s Office, Legal Services Division
- Public Works, Landscape, Architectural Services Section
- Hamilton Region Conservation Authority

**ANALYSIS / RATIONALE FOR RECOMMENDATION:**

Carmen’s has been a long time success story for the City and it was the only viable tenant that responded to an RFP issued by the HRCA in 2010. Carmen’s Inc. has proven itself as a responsible tenant. HRCA and Carmen’s negotiated the lease and have operated as if the Lease Agreement was legally effective since 2011.

With the lease recommendation being adopted, the City will have secured a reliable net revenue stream that will average $49,375 per year from 2012 until 2015. Plans are under consideration to explore attracting other similar entertainment uses in areas located to the west to make the lakefront more of a recreation and entertainment destination.

**ALTERNATIVES FOR CONSIDERATION:**

The City could decide not to ratify the Lease Agreement, negating the tenancy with proper notice, however, Legal Services has advised that the City is basically committed to honouring the existing unsigned agreement as it has operated as if signed for over 19 months.

Carmen’s Inc. was the only commercial enterprise that expressed interest in the RFP in 2010 and which makes use of the facilities and location. Terminating this tenancy would remove a reliable source of revenue and create a vacancy that may be difficult to fill.
CORPORATE STRATEGIC PLAN:


Skilled, Innovative & Respectful Organization

- An effective work environment that enables effective communication, respectful culture, well-being and safety.

Financial Sustainability

- Revenue is committed until at least 2015 from a reliable tenant.

Intergovernmental Relationships

- Expands the working relationship between the HRCA and City.

Growing Our Economy

- Tenant has made renovations to property and improvements to grow business.

Healthy Community

- Carmen’s long term extension will strengthen the commercial market and provide a service that highlights the benefits of the lakeside location.

Environmental Stewardship

- Revenue earned will flow towards HRCA’s budget to manage Confederation Park.

APPENDICES / SCHEDULES:

Appendix “A” to Report PW12056 / PED12145 - Location Map

JH/sd