TO: Chair and Members
Planning Committee

WARD(S) AFFECTED: WARD 4

COMMITTEE DATE: December 7, 2010

SUBJECT/REPORT NO:
Ottawa Street Farmers’ Market Licence Agreement (PED10243) (Ward 4)

SUBMITTED BY:
Tim McCabe
General Manager
Planning and Economic Development Department

PREPARED BY:
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SIGNATURE:

RECOMMENDATION

(a) That, in accordance with the provisions of the Licence Agreement dated March 6, 2008, between the City of Hamilton and Crown Point Farmer’s Market, of Ottawa Street Association Inc., operating as the Ottawa Street Farmers’ Market, the annual licence payments not be reduced from $17,000 per annum to $10,000 per annum; and,

(b) That the item respecting the “Ottawa Street Farmers’ Market Licence Agreement” be identified as completed and be removed from the Outstanding Business List.

EXECUTIVE SUMMARY

The Economic Development and Planning Committee, on October 5, 2010, directed:

“That the request from the Ottawa Street Farmers’ Market to review their Licence Agreement, dated March 6, 2008, between the City of Hamilton and Crown Point Farmer’s Market, of Ottawa Street Association Inc., operating as the Ottawa Street Farmers’ Market, to reduce the annual licence payment, pursuant to Section 2 of this
agreement, from $17,000 per annum to $10,000 per annum, payable by quarter-annual installments of $2,500 (plus applicable goods and services tax), in advance, on each March 7, June 7, September 7, and December 7 during the term, be referred to staff for a report back to Committee”.

This Report responds to that directive, and recommends no reduction to any fees specified in the executed Licence Agreement.

Alternatives for Consideration – See Page 4

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)**

Financial: N/A

Staffing: N/A

Legal: N/A

**HISTORICAL BACKGROUND (Chronology of events)**

As a result of the re-development of the Centre Mall, the former Centre Mall Farmers’ Market was relocated to two municipal carparks behind the retail stores on the east side of Ottawa Street North, known as 11 and 18 Britannia Avenue. The market relocation required re-zoning the lands (approved by City Council January 30, 2008) and carpark alterations; the cost of which (approximately $10,000) was absorbed in the Hamilton Municipal Parking System’s operating budget. Also, during the Summer of 2010, major repairs to the two carparks used by the Ottawa Street Farmers Market were undertaken including re-paving and repair/replacement of adjacent curbs and sidewalks at a cost of approximately $140,000, funded from the Parking Capital Reserve.

The new Ottawa Street Farmers’ Market began operation in March 2008, following the execution of a Licence Agreement which stipulated, among other things, a yearly licence fee of $17,000 for a term of 5 years for use of the municipal carparks on Fridays and Saturdays from 6:00 a.m. to 6:00 p.m.

At a May 19, 2010 meeting, representatives of the Ottawa Street Farmers’ Market met with staff, Councillor Pasuta and, by teleconference, with Councillor Merulla, and requested relief from the market value cost of the land portion of their licence agreement.

The Economic Development and Planning Committee, on October 6, 2010, directed staff to investigate/report on the Ottawa Street Farmers’ Market request to reduce their annual licence payments from $17,000 to $10,000 per annum.
POLICY IMPLICATIONS

The Hamilton Municipal Parking System is a self-sustaining business unit which receives no levy funding but is financed entirely from parking fees, parking fines and miscellaneous other revenue sources. Annual parking surpluses are returned to the general levy to help off-set tax increases. The user-pay philosophy for any use of municipal carparks needs to be maintained to protect the self-financing mandate.

The Real Estate Management Portfolio Strategy Plan, as approved by City Council on November 24, 2004, established criteria and principles surrounding real property at other than market value. Council’s approved real estate management principles indicate that property must be leased or disposed of at fair market value, “even when the other party to the transaction is another level of government, public sector agency, or a non-profit organization providing services to City residents”.

RELEVANT CONSULTATION

Real Estate was consulted respecting the terms of the Licence Agreement and Finance was consulted respecting the Grant Committee process.

ANALYSIS / RATIONALE FOR RECOMMENDATION

Under the terms of the Licence Agreement dated March 6, 2008, the Ottawa Street Farmers’ Market is required to pay to the City $17,000 annually, $7,000 of which represents the market value cost of the land. The other annual costs are for such items as shared property taxes, snow clearing, hydro usage, etc.

Staff regularly receives requests from businesses, event organizers, BIA’s, charitable organizations, production companies, etc. asking to use municipal carparks for “free” or at reduced rates. Approval of the Ottawa Street Farmers’ Market request to reduce their annual fees would, in staff’s opinion, set a precedent. The Dundas Farmers’ Market, for instance, also has a licence agreement with the City to use a portion of Carpark #7 (Hatt Street) in Dundas on Thursdays from 6:00 a.m. to 8:00 p.m. for a five year period expiring in October 2014 for $1,900 annually, $875 of which represents the market value cost of the land.

The City’s Real Estate Management Portfolio Strategy Plan provides consistent procedures for selling, leasing and acquiring property, and a strategy for planning and managing the portfolio over a long term basis. Revenues from leasing surplus assets can provide a revenue stream to finance the maintenance of existing programs.

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
As the Hamilton Municipal Parking System is a self-sustaining business unit which receives no levy funding, the user-pay philosophy for use of municipal carparks needs to be maintained in order to protect the self-financing mandate.

Although the City supports a number of non-profit, community and volunteer groups with in-kind support through the use of corporate assets at minimal/no cost, this is not considered a Real Estate “best practice” and does not maximize the value of a City asset. Council approved principles allow leasing at other than fair market value subject to a business case analysis which clearly identifies the loss of revenue resulting from such an arrangement being outweighed by the overall Corporate/Community interest.

In consultation with Finance, it has been concluded that the Farmers’ Market would not be eligible for any form of grant through the Grants Committee as grants are only approved for “not for profit” organizations and those organizations that do qualify cannot use funds for parking, rent or off-setting payments. The Hamilton Farmers Market is considered a “for profit” group.

**ALTERNATIVES FOR CONSIDERATION**
*(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)*

Waiving $7,000 of the total $17,000 in annual fees specified in the Licence Agreement with the Ottawa Street Farmers’ Market, would result in a 2010 budget variance and an added 2011 budget pressure of $7,000.

**CORPORATE STRATEGIC PLAN** *(Linkage to Desired End Results)*


**Financial Sustainability:** The Hamilton Municipal Parking System is a self-sustaining business unit which receives no operating or capital budget funding from the levy.

TA/MH/dt