

The Failed Expectations of Good Governance

The Park Theatre Purchase

Remarks By

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To

The Town of Cobourg Council

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Check Against Delivery

Good evening Mayor Brocanier and Members of Council.

Tonight Council will make a final decision on whether to approve \$600,000 in public funding to purchase the Park Theatre.

The issue is without doubt a controversial one.

And I say that because it touches upon far more than the vision and passion shown by an ad hoc group who want to take it off life support and make it Cobourg's Performing Arts Centre.

It brings to the forefront a host of related issues including hometown nostalgia, emotion, process, good governance, transparency, openness, integrity, accountability, public trust, double standards, municipal policy, the use of public funds, exhausting the goodwill of taxpayers, budgeting, business cases, alternative uses, tourism, land value, lack of detail, absence of leadership by example, community interests, arts, culture, heritage, anchoring the east side of downtown, parking, intrusion into private business, unfair competition, the Holdco and Northam Industrial Park Reserve Funds, lack of collaboration, master plans, fear of losing the past, due diligence, public consultation, downtown vitalization, and economic development to name but a few.

When my wife and I decided to move to Cobourg from the countryside in Pontypool six years ago, there were several things that attracted us to the area. High taxes weren't one of them.

Besides our beautiful beach, our heritage harbour and the stunning architecture of Victoria Hall, the Park Theatre caught our attention and interest.

It pulled at our heart strings because it brought us back to those nostalgic memories of attending cinema during our youthful days.

The Park Theatre was built in 1948, a year after I was born and originally housed a 750 seat movie theatre.

Throughout its' life journey, it has had both memorable and sad occasions and has explored a diversity of purpose ranging from a nightclub called the Alcatraz to the Park Playhouse operated by Rocky Varcoe and more recently Artistic Director and Managing Partner Antonio Sarmiento.

The first question is why did it take so long for the Park Theatre offer to purchase to be made public?

When the matter was first discussed in closed session at Committee of the Whole on February 17th, the resolution to go into closed session simply read "Proposal from ACO regarding a Property Acquisition."

At Committee of the Whole on March 9th when the conditions of the purchase were agreed upon and staff were instructed to enter into negotiations, the resolution to go into closed session read "Potential Property Acquisition."

The Ontario Ombudsman's Sunshine Law Handbook says the resolution to go into a closed meeting should provide a general description of the issue to be discussed in a way that

maximizes the information available to the public while not undermining the reason for excluding the public.

In neither case did the resolution maximize the information available to the public.

According to the CAO's report, on April 10th a tentative agreement was reached with representatives of the owners.

So why was this not reported publicly at the Committee of the Whole meeting on April 20th, five days after Council went through a very informative Committee of the Whole education and training session on Bill 8 "The Accountability and Transparency Act" and the Closed Session Meeting requirements under the Municipal Act and the Ontario Ombudsman's Sunshine Law?

And why was it still unknown to the public when the 2015 Budget was debated on April 23rd by the Committee of the Whole and when it received final Council approval on April 27th?

It would appear that keeping the potential acquisition under wraps until Monday, May 11th, well after the 2015 Budget was debated and subsequently approved, not only violated both the spirit and intent of the Ontario Ombudsman's Sunshine Law but it seriously under minded the public trust.

I've heard the argument that any mention of the potential acquisition of the Park Theatre by the Town would have weakened its bargaining power by tipping off the seller in advance, implying he could hold out for the asking price because governments have deep pockets.

Nonsense.

Once the offer was presented, the seller knew it was from the municipality.

This meant he could demand the price he figured he could successfully bargain for knowing the potential buyer was government.

A local realtor has disclosed that prior to the Town's offer, he and a business partner last December had an accepted conditional offer to purchase the Park for under \$376,000.

According to him, on May 11th when he met with the Mayor and CAO in the afternoon prior to the Committee of the Whole meeting that evening, he was told that the Town offered \$500,000 because it was in competition with another buyer.

Not only does it raise the question of why the Town would pay \$125,000 more than a previously accepted conditional offer, more importantly it raises the question of why it would compete with the private sector.

Just like the Town competing with the private sector for leasing industrial property with its ownership of the Northam Industrial Park, it exposes the hollow and meaningless campaign promises of Job Priority One being attracting new private sector business to Town to fill our vacant buildings.

Not what I consider an attractive or welcoming Economic Development strategy.

It also raises the question of what other deals, if any, were cut as a condition of the offer to purchase.

Did it include forgiveness of unpaid property taxes which the realtor I mentioned speculates may be in the \$100,000 range or was there a quid pro quo where the Town would pay a higher amount than the earlier accepted conditional offer under \$376,000 in exchange for property taxes being brought up to date?

Council's final vote tonight will finally expose whether a double standard exists.

This same realtor asked Council back in January to consider funding a grant that would cover the costs of hydro, gas and property taxes for a 10 month period during which time repairs would be in progress and there would be no incoming revenue from the property.

He was told in response by one Councillor "I look forward hearing more information and seeing a detailed business plan."

On the other hand, the proposal from the ad hoc group has been accepted by Council without there being any business plan and the conditions required by Council are that a business plan must be provided to Council for their approval within six months of the formation of a Park Theatre non-profit Board.

And how about Council's double standard when it expects that staff submit detailed business plans and justification for project expenditures but then dismisses the upfront need for one in this instance.

Certainly not what I call leadership by example.

And what about the double standard when requests for grants were being made during the 2015 Budget deliberations by the Committee of the Whole on April 23rd?

I recall the time spent debating the Cobourg Museum Foundation's request for annual funding of \$13,000 only to have it cut back to \$10,000 and to deny its multi-year funding and that of the Cobourg Legion Pipe and Drums request of \$10,000 annually until such time Council had a policy in place to deal with community grants.

All the while knowing that behind closed doors it had just agreed to a \$600,000 community grant in the absence of both a policy and a business case.

Of course there is also the argument that the \$600,000 grant will not impact Cobourg taxpayers because it does not involve tax dollars.

Rubbish.

The fact that the project cost of \$600,000 is being funded from Holdco Reserves doesn't diminish the importance that these are public funds derived from electric, water and sewer rates.

Again, it would appear that the Town has no policy on how the Reserve is to be used and for what purposes.

The public keeps hearing mention of the Holdco Reserve but nobody seems to know what it is, what's in it and what its purpose is.

The general perception is that it's Council's giant, secret slush fund.

One of the five objectives of the draft Strategic Plan calls for "Supporting the preservation and enhancement of the Town's arts, culture and heritage" but the strategic actions don't identify purchasing the Park Theatre to support the objective.

Rather they call for "Develop a cultural master plan" and "Develop a policy on the Town's financial support for arts, culture and heritage."

So much for Council's credibility and integrity when you choose to ignore the tenets of your own Strategic Plan.

There are of course, other answered questions, such as, will the non-profit Board who will operate the Park be paying any rent to the Town and whether it may be granted further concessions in terms of realty taxes, insurance or water and sewer rates?

And then there is the spurious argument that the Town is taking on no risk with the purchase.

After all, if the non-profit Board can't come up with the necessary funding, the Town can simply turn around and sell the property for the value of the land.

After just shutting out a competing bid, quite frankly what is the future market value?

Given the heritage designation, Zoning By-law, Official Plan, height restrictions and assurances that no way a developer will ever be able to build condos on the site, I question whether the Town would be able to recover more than half of its \$600,000 funding commitment.

Good governance involves among other things, a commitment to openness and comprehensive engagement of the entire community, defining outcomes in terms of sustainable economic and social benefits, strong and accountable financial management of public funds and the following of best practices in transparency.

To sum up, I believe that Council has put the cart before the horse in how it has dealt with this matter and that its actions to date on this file fail the test of proper due diligence and earning the public trust.

If there is a competing bid, let it go forward.

Before considering the matter further, Council should have before it, a clear and comprehensive business case, including a detailed marketing and needs analysis, a finalized Strategic Plan and Master Cultural Plan, a Grants Policy, a policy on the use of Holdco and Northern Industrial Reserves, extensive public consultation regarding a community arts centre and hub, and collaboration with other arts and culture stakeholders within Cobourg and the surrounding area.

The decision taken at Committee of the Whole was far too premature and should be voted down tonight.