
TO: GENERAL COMMITTEE

SUBJECT: NAMING RIGHTS FOR THEATRE


WARD: ALL

PREPARED BY AND KEY CONTACT: R.Q. WILLIAMS, DIRECTOR OF CULTURE

SUBMITTED BY: R.Q. WILLIAMS, DIRECTOR OF CULTURE

GENERAL MANAGER APPROVAL: Z. LIFSHIZ, EXECUTIVE DIRECTOR, INVEST BARRIE

CHIEF ADMINISTRATIVE OFFICER APPROVAL: C. LADD, CHIEF ADMINISTRATIVE OFFICER



RECOMMENDED MOTION

1. That the Mayor and City Clerk be authorized to execute an agreement in accordance with the following terms and conditions:
 - a) The Mady Development Corporation is given a window of four months terminating on September 30, 2015, to contribute a minimum of \$200,000 to eliminate the arrears on their naming rights agreement with the City of Barrie for the Mady Centre for the Performing Arts and to commit to another payment of \$100,000 by December 31, 2015.
 - b) In the event that the Mady Development Corporation is unable to pay \$200,000 to the City of Barrie by September 30, 2015, the Naming Rights agreement between the City of Barrie and Mady Development Corporation, regarding the Mady Centre for the Performing Arts, is amended to allow the Mady Development Corporation's naming rights to persist for another two years only and be terminated on December 31, 2017.
 - c) In the event that the Mady Development Corporation is unable to pay \$200,000 to the City of Barrie by September 30, 2015, the Mady Development Corporation is to be relieved of their commitment to make the remaining payments previously agreed to and included in Schedule A of the Mady Sponsorship Agreement, signed on June 24, 2011 and authorized by Council in Motion 11-A-235.
2. That after the two year period which ends on December 31, 2017, the naming rights related to the theatre asset will be available to a proponent selected by a Council approved naming rights committee constituted for that purpose.
3. That any Naming Rights arrangement for City assets include a requirement that the donor demonstrate, not only the willingness but the ability to honour the commitment for the full term of the agreement.

PURPOSE & BACKGROUND

Report Overview

4. The purpose of this staff report is to establish a clear path forward for the positioning and Naming Rights/Sponsorship objectives of the theatre at 1 Dunlop Street West, currently known as the Mady Centre for the Performing Arts.
5. In fulfilling this objective this report will:
 - i. Report on the Naming Rights and sponsorship agreements for the theatre located at 1 Dunlop Street West.
 - ii. Obtain Council's guidance and authorization to act in the best interest of the corporation of the City of Barrie in matters pertaining to the naming rights and sponsorship of the City of Barrie asset currently known as the Mady Centre for the Performing Arts.
6. On March 29, 2010, Barrie City Council adopted motion 10-G-117 as follows:

That the design and construction of the Downtown Community Theatre Project illustrated in Appendix A be approved at a total cost not to exceed \$5,418,000 comprised of:

 - a) \$2,268,000 from the City of Barrie;
 - b) Up to \$2,500,000 in federal funding; and
 - c) *Not less than \$650,000 from the capital fundraising initiatives.*
8. That naming rights for the facility be pursued in addition to the identified capital fundraising amount to further reduce the capital cost of the facility at a value of not less than \$650,000. (DOC003-10) (file R05-D0W)
7. On June 13, 2011, Barrie City Council approved motion 11-A-235 regarding the Downtown Theatre Project, specifying that:
 - i) The General Manager of Infrastructure Development and Culture be authorized to enter into an agreement for the naming of the Downtown Community Theatre an amount not less than \$500,000; and
 - ii) That the General Manager, Infrastructure Development and Culture be given delegated authority to name the new theatre.
8. On December 12, 2011, City Council adopted motion 11-G-364 regarding Naming Rights of the Downtown Theatre at 1 Dunlop Street West, Capital Campaign for the Mady Centre for the Performing Arts, as follows:

"That the General Manager of Infrastructure and Development and Culture be authorized to enter into agreements for the naming rights of parts of the Mady Centre for the Performing Arts. (DOC005-11) (File: R05-DOW)
9. Staff executed procurement of the services of fundraising professionals under 15.1 e of the procurement bylaw (extraordinary circumstances), to work with the Downtown Theatre Fundraising Committee.
10. In successfully meeting the established fundraising goals for the Mady Centre for the Performing Arts twelve private sector businesses and fourteen individuals contributed to the achievement of

the fundraising goal. A list of donors and their financial commitments appears in Appendix A of this report.

11. At this time all sponsors with the exception of the naming rights sponsor Mady Development Corporation have met their commitments or re-negotiated their payment schedules.

Mady Development Corporation

12. The Mady group of companies have been in business for more than 37 years and has offices in Toronto, Windsor and Dallas, Texas. The company has broad construction management capabilities and a portfolio of finished projects in a few sectors including commercial and residential.
13. Projects range from land development to design, completion of master-planned communities, shopping centres, condominium developments, multifamily communities commercial development, condominiums and single-family home developments.
14. In 2010 the Mady Collier Centre Ltd. began its interests in Barrie with the purchase of land for a development on the north east corner of Collier Street and Mulcaster Street. The Barrie Downtown Theatre Fundraising Committee assisted by the hired professionals, successfully secured a sponsorship agreement with the MDC for the Naming Rights to the new theatre facility located at 1 Dunlop Street West.
15. The agreement between MDC and The City of Barrie/The Downtown Theatre Campaign stated that MDC will support the Theatre with a gift of \$500,000. In acknowledgement of the gift the City will name the theatre the "Mady Centre for the Performing Arts". MDC was to complete the Schedule A gift payment schedule and warranted that it had the financial capacity to do so. The agreement and schedule of payments are attached as Appendix B to this report.
16. The City agreed to grant the naming rights to the MDC for a period of twenty-two years. MDC acknowledged in the agreement, the right of the City to withdraw naming rights for non-payment or moral turpitude.
17. The first payment of \$50,000, scheduled to be made December 31, 2011 was paid on January 3, 2012. The second payment of \$150,000 due on December 31, 2012 was paid on March 18, 2013. In the third quarter of 2013 MDC, responding to a request from City staff, MDC contributed in-kind professional services and labour valued at approximately \$40,000 to complete the Kitchenette and the Bar in the lower area of the theatre. The Bar has been signed the Mady Coulson Bar in acknowledgement of this contribution.
18. The MDC missed its payment of \$100,000, scheduled for December 31, 2013. Given the company's engagement with the facility, their willingness to assist with the building completion and the pattern of the earlier payments, staff allowed some flexibility in MDC's payment of the outstanding balance.
19. In 2014 staff contacted the MDC suggesting a renegotiation of the Schedule A, Gift Payment Schedule. During the ensuing negotiations with the Corporation's representative, it was evident that the MDC was experiencing greater financial difficulties than was previously understood. The company's situation deteriorated when it was unable to refinance two of its Barrie projects.
20. The MDC also missed its \$100,000 payment scheduled for December 31, 2014. The final payment of \$100,000 is due to be paid on December 31, 2015.
21. City of Barrie staff have met with the MDC and discussed the financial difficulty faced by the corporation at this time and its impact on the company's ability to meet its commitment under the naming rights agreement for the theatre. The company's inability to continue with the financial commitment even if it were restructured to allow for some flexibility in terms was evident.

ANALYSIS

22. At this time we are three and a half years into the naming rights agreement with MDC. \$200,000 of the promised \$500,000 has been collected and the company expended resources valued at approximately \$40,000 to complete the Bar and kitchenette in the Mady Centre.
23. Clause 2.5 of the Agreements on page two of the Barrie Downtown Theatre Naming Rights Agreement dated June 24, 2011 and signed by the City of Barrie and the MDC articulates the following right: MDC acknowledges the right of the City to withdraw naming rights for non-payment of the Gift as outlined in Schedule A (see Appendix B) in the amounts and dates committed thereto.
24. It is clear that the City of Barrie is in a strong legal position to withdraw the Naming Rights presently held by the MDC; however it is also true that the City's brand within the corporate community is at stake as well. A successful resolution would put the City of Barrie and its residents in a good position to gain support for its asset while exhibiting its care and concern for the health and well-being of our corporate citizens.
25. The MDC through its owner Mr. Charles Mady has communicated to staff that they continue to work to resolve the company's difficulties and maintain a strong interest in continuing the naming rights agreement with the City of Barrie.
26. The City/MDC naming rights agreement for the theatre was valued at \$500,000 for 22 years or \$22,727 per year. At this rate MDC has paid for 8.8 years of naming rights for the theatre. If this formula were applied the MDC would be given naming rights for an additional five years. A term that would expire some time in 2019.
27. It is important however, to recognize the opportunity cost that would be incurred if the right was left with MDC for another five years. At this time several parties have verbally expressed interest indicating the potential for a new naming rights sponsor. In addition there is no way of measuring with certainty, the ability of the facility to attract sponsors five years from today when it may be felt that the Mady name is too entrenched to make it as valuable a proposition as it would be today.
28. In addition to several verbal expressions of interest in naming rights opportunities for the facility, staff has also received documented interest from a Barrie company, Advance Tech Financial Inc. A letter expressing Advance's interests is attached to this report as Appendix C. In the letter dated April 9, 2015 and addressed to the Department of Culture, Advance Tech proposed to re-name and re-brand the theatre in a way that would highlight its location. The group proposed that the theatre be re-named the Five Points Theatre and that the company would like to investigate opportunities for programming at the theatre.
29. Advance Tech later gave verbal indication of their willingness to support the re-naming of the theatre with a "significant" sponsorship.

ENVIRONMENTAL MATTERS

30. There are no environmental matters related to the recommendation.

ALTERNATIVES

31. The following alternatives are available for consideration by General Committee:

Alternative #1

General Committee could allow the MDC to maintain the Naming Rights for the theatre for another 5 years.

This alternative is not recommended as it includes an element of unreasonable risk. We cannot be sure that after five more years with the

Mady name, the facility will still be as attractive to sponsors as it is today.

Alternative #2

General Committee could withdraw the Mady sponsorship effective immediately, take the name off the facility and assign a naming rights committee to engage corporations

Although this alternative is legally available, it may result in the City being perceived as harsh in its actions given the \$200,000 already paid by the MDC. Perception of the City of Barrie as reasonable and fair to corporations is important in successfully engaging the corporate community for other opportunities in the future. This is important in light of our current evolution of a comprehensive Sponsorship Program.

Alternative #3

General Committee could alter the proposed recommendation by changing the period of time that the MDC will maintain the naming rights for the facility.

This alternative is not recommended because in making their recommendation of two years staff has taken into consideration the length of time that it would take to put another naming rights agreement in place and the period required for changing all of the media, marketing and communication materials associated with the current naming rights sponsor.

FINANCIAL

32. In total, as of May 15, 2015, \$642,700 was collected under the Theatre's Fundraising Program and \$698,300 still remains to be collected. It is expected that with the exception of MDC, 100% of the funds committed by individuals and businesses will be collected by the year 2022.

LINKAGE TO 2014-2018 STRATEGIC PLAN

33. The recommendations included in this Staff Report support the following goals identified in the 2014-2018 Strategic Plan:
- Vibrant Business Environment
 - Inclusive Community
34. Theatre sponsorship including naming rights is an important way for the business community to invest in a vibrant downtown. The theatre has become a meeting place and an icon of community and inclusivity.

Attachments: Appendix A - Mady Fundraising Campaign Commitment
Appendix B - Naming Rights Agreement
Appendix C - Letter of Interest

APPENDIX "A"

Mady Fundraising Campaign Commitments

<u>Sponsor Name</u>	<u>Amount</u>	<u>Term</u>
The Peacock Group	\$10,000	One Time
Wendy Miller & Jim Dault	\$10,000	One Time
Hannah Development	\$100,000	5 Years
Mady Development Corp	\$500,000	5 Years
TD Bank	\$50,000	One Time
Property Program Dev (BIA)	\$100,000	5 Years
Thomas Bryson	\$1,000	One Time
Joanne McPhail, Barriston Law	\$1,000	5 Years
Bernie Keating, Ares Law	\$5,000	5 Years
Eric Taves	\$3,000	3 Years
Rotary – Kempenfelt	\$20,000	5 Years
Klaus Jacoby	\$3,000	3 Years
Cravings Corp	\$100,000	5 Years
Heather Gleben	\$1,000	One Time
Carroll Heyd Chown	\$500	One Time
Dino Melchior	\$25,000	5 Years
Arkady Spivak	\$5,000	5 Years
Joe Anderson & Wesley Yargus	\$10,000	One Time
Glenn Coulson	\$10,000	10 Years
Kempenfelt Community Players	\$1,000	One Time
Park Place	\$250,000	10 Years
John Delves	\$500	One Time
Lett Architects	\$5,000	One Time
HGR Graham Partners	\$5,000	One Time
Rotary – Huronia	\$40,000	5 years
Anna Small-Adams	\$45,000	10 Years
Rotary – Barrie	\$40,000	5 Years
Total	\$1,341,000	

BARRIE DOWNTOWN THEATRE NAMING RIGHTS AGREEMENT

THIS AGREEMENT dated as of June 24th, 2011.

BETWEEN:

**THE CITY OF BARRIE / THE DOWNTOWN
THEATRE CAMPAIGN
("City")**

AND:

**MADY DEVELOPMENT CORPORATION
8791 Woodbine Avenue, Suite 100, Markham, Ontario
("MDC")**

WHEREAS:

- A. Barrie City Council on June 13, 2011 approved Motion 11-A-235 on the Downtown Theatre Project "Theatre" specifying that 1) That the General Manager of Infrastructure, Development and Culture be authorized to enter into an agreement for the naming of the Downtown Community Theatre an amount not less than \$500,000, and; 2) That the General Manager of Infrastructure, Development and Culture be given delegated authority to name the new theatre;
- B. MDC and the City mutually acknowledge the naming rights for the Theatre located at 1 Dunlop Street West enhances recognition of the Theatre, the arts in Barrie, and the Barrie's downtown as a destination;
- C. MDC will support the Theatre with a gift of \$500,000 ("the Gift");
- D. In acknowledgment of the Gift the City will name the Theatre the "Mady Centre for the Performing Arts";
- E. MDC will complete the Schedule A, Gift Payment Schedule, and warrants it has sufficient financial capacity do so;
- F. The City will announce the Gift at a media conference that will include full press releases;
- G. The City will announce and acknowledge the generosity of the Gift by MDC at City Council Meeting, Monday, June 27th, 2011,
- H. The City will name MDC within the Annual Donor Report for the Theatre;
- I. The City will locate signage, in a prominent location easily viewed at street level on the Dunlop Street and Bayfield Street facades;
- J. The City will support the Gift through advertisements in media outlets including Barrie Advance, Barrie Examiner, A TV, Rogers TV, B101, Chay Today, Kool FM, Rock 95,
- K. The City will present a Theatre opening gala and dinner to which MDC will be invited

NOW THEREFORE in consideration of the mutual promises, covenants and agreements contained herein (the receipt and sufficiency of which is mutually acknowledged), the parties hereto agree as follows:

1. Schedules

The following are the Schedules attached to and incorporated in this Agreement by reference and deemed to be a part hereof:

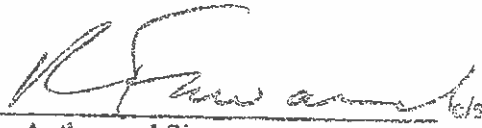
Schedule A – “Gift Payment Schedule”

2. Agreements

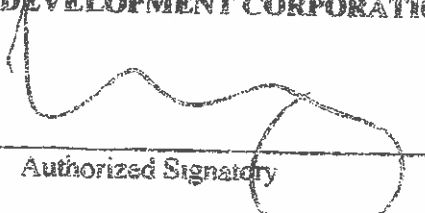
- 2.1. The City agrees to grant the naming rights to the Theatre to MDC.
- 2.2. The term of the naming rights shall persist for a period of twenty-two years forward from the date of this agreement.
- 2.3. The City agrees the name of the Theatre is the “Mady Centre for the Performing Arts”
- 2.4. MDC agrees to complete the payments as outlined in Schedule A.
- 2.5. MDC acknowledges the right of the City to withdraw naming rights for non-payment of the Gift as outlined in Schedule A of this agreement in the amounts and the dates committed thereto.
- 2.6. MDC acknowledges the right of the City to withdraw naming rights to MDC for reasons of moral turpitude.

IN WITNESS WHEREOF this Downtown Theatre Rights Agreement has been executed by the parties hereto as of the date first above written.

**THE CITY OF BARRIE / THE DOWNTOWN
THEATRE CAMPAIGN**

By: 
Authorized Signatory

MADY DEVELOPMENT CORPORATION

By: 
Authorized Signatory c/s

SCHEDULE A

Gift Payment Schedule

The MADY DEVELOPMENT CORPORATION agrees to complete the following payments totaling \$500,000 to the City of Barrie for the naming rights to the Downtown Theatre located at 1 Dunlop Street West, Barrie:

Payment Schedule – 5 years

December 31st, 2011	\$50,000
December 31st, 2012	\$150,000
December 31st, 2013	\$100,000
December 31st, 2014	\$100,000
December 31st, 2015	\$100,000
TOTAL	\$500,000



Advance Tech
CAPITAL • INVESTMENTS • WEALTH

Appendix "C"
DOC001-15
Naming Rights for Theatre

Phone: (416) 763-2816
Fax: (705) 792-1107
advance@rogers.com
www.advancetechfinancial.com

April 9, 2015

City of Barrie
Department of Culture
70 Collier Street,
P.O. Box 400,
Barrie, Ontario
L4M 4T5

Attention: Mr. Rudi Quammie Williams, Director of Culture

Dear Rudi:

It was a pleasure meeting with you to discuss the possibilities of the five points area as it relates to Barrie's arts and culture scene. Our company, Advanced Tech Financial Inc., is working on an exciting project at the five points that will re-shape the five points area well into the future. It is our goal as a company to make the five points area a desirable destination location with upscale restaurants, shops and recreation activities.

Our company will focus its' marketing efforts on the attributes of the five points square within the five points area and we will highlight all of the amazing activities that are associated with this area, to both the local community and the community at large.

At the north-west corner of the five points, we have a proposal into the City to construct a new building that will have a major impact on the five points area. This building will go a long way to rejuvenate the downtown core and will provide new opportunities for restaurants and retail businesses along with many other benefits to the area. There will be approximately 400 new residents moving into the building that will be just across the street from the Centre for Performing Arts.

We should talk further about all of the opportunities for community events, special street parties, music festivals, theater events, special promotions, that could be planned for this area so that five points stands out as one of the most desirable locations in the City.

Head Office:
Advance Tech Financial Inc.
5-190 Minet's Point Road, Suite 315, Barrie, Ontario L4N 8J8

Toronto Office:
Advance Tech Financial Inc.
2 Toronto Street, Suite 316, Toronto, Ontario M5C 2B6



We would therefore like to proceed with the City in three major areas that involve the Centre for Performing Arts at the five points;

1. To re-name and re-brand the facility to add a more appropriate name which would highlight the location of the theater. (i.e. the Five Points Center for the Performing Arts).
2. Our company would like to investigate all of the opportunities associated with utilizing programming at the theater and look at booking the space at regular time intervals throughout the years leading up to our building's inaugural opening and well beyond. We would ask that you provide us with a detailed listing of times that are available so we can immediately start looking at and planning the different options for programming.
3. Our company would like to be able to offer events and programming that integrate into the fabric of the community by inter-twining the activities of the theater with the residents and the existing special events in the area, to create a new and exciting venue that will make the five points area a desirable location with the theater as its centerpiece.

Our marketing efforts for the Performing Arts Center will be sponsored by the vision for the five points community and more specifically our new building. The objective is to attract people from new markets to the area and educate them about the rejuvenation that will be occurring and the new vision for the five points community. The biggest issue for us will be the costs associated with presenting new events. There are many good ideas for utilizing the theatre, but the reason why the dead time exists is probably because people are not prepared to spend the money to sponsor and properly market the events or are not aware that time is available.



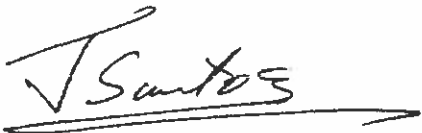
Here is a sampling of some of the ideas that we would consider to attract people to the five points area and into the community that it supports at large.

- Book clubs and readings
- Amateur Acting clubs
- Food preparation or tastings
- Children's theater work shops
- Young children's story telling
- Music events
- Movie events
- Five points talks program
- Political debates
- "How To" seminars
- Real Estate seminars

Our company is excited about being involved with the theater and the five points area as a whole, as it is our opinion that it is the jewel of the City that should be featured as such. The five points intersection has been a famous historical landmark since the 1870's and is the "hub" of our main street and the focal point of the City's downtown. It has the most recognizable name in the entire City, is an iconic location and a natural and wonderful meeting and gathering place to be enjoyed by everyone. It will be our goal to promote the theater, increase the attendance and to add additional programming in the theater as a part of the marketing and advertising budgets for our new building at five points.

Yours truly,
ADVANCE TECH FINANCIAL INC.

Per:



Joseph Santos
President

