

Report CCR-PCD-20-16

To: Chair McQueen and Members of the Planning and Community Development Committee
From: Sharon Vokes
Meeting Date: August 11, 2016
Subject: **Construction of an Orange Lodge at Grey Roots**
Status: Recommendation adopted by Committee as presented per Resolution PCD97-16; Endorsed by County Council September 6, 2016 per Resolution CC111-16;

Recommendation(s)

WHEREAS in 2010 Grey County Council approved the construction of an Orange Hall at Grey Roots provided it would be at no cost to Grey County;

AND WHEREAS the community now has the resources needed to construct the Orange Lodge;

BE IT RESOLVED THAT Report CCR-PCD-20-16 be received;

AND THAT the Warden and Clerk enter into an agreement with the Sarawak Loyal Orange Lodge #1302 to construct an Orange Lodge at Grey Roots.

Background

In 2008 Grey County was approached by a group interested in constructing an Orange Lodge (Hall) at Grey Roots in the Moreston Heritage Village. Initially, County Council turned down the request. After further discussion with the community, the following resolution was approved by Council on July 6, 2010:

“WHEREAS Grey Roots has been approached by a community group, Mr. Dave Dailey and Mr. Raymond Bumstead, representing the Loyal Orange Lodge who are interested in constructing an Orange Lodge at Grey Roots;

AND WHEREAS this potential building acquisition has been evaluated and met the criteria within Policy GR-01-09 for the Heritage Committee to consider the potential

acquisition of an Orange Lodge;

NOW THEREFORE BE IT RESOLVED THAT it is hereby recommended that the offer to have an Orange Lodge constructed at Grey Roots in Moreston Heritage Village at the cost of the donors be accepted;

AND THAT a meeting be held with the donors to seek enhancement of the building at their cost to make it more valuable to Grey Roots in terms of usability. (ie finishing, heat, hydro, plumbing).”

Further to that approval Council passed another resolution at the July 3, 2012 session of Council as follows:

“WHEREAS the recommendation to build an Orange Lodge in Moreston Village was approved by County Council July 6, 2010;

AND WHEREAS feedback has been received from outside agencies on the construction of an Orange Lodge indicating that all aspects of the history of the Lodge need to be included in the interpretation of the Lodge;

NOW THEREFORE BE IT RESOLVED THAT Councillors Fitzgerald and Greenfield, and staff meet with members of the Sarawak Loyal Orange Lodge to review a balanced approach to the interpretation of the Orange Lodge to be constructed at Moreston Village;

AND THAT once all details of the agreement have been worked out, the final agreement between the County of Grey and the Sarawak Loyal Orange Lodge be brought back for final approval.”

Since Council’s approval of these two resolutions, the community has been actively raising funds and seeking in-kind sponsorship to fully construct a Hall at Grey Roots at no cost to the County. Over the years, meetings have been held with representatives of the Sarawak Loyal Orange Lodge No. 1302 (Lodge) to approve architectural drawings and negotiate the inclusion of heat and hydro into the building. The building will be heated with a gas fired hot water tank with radiant heating. No plumbing will be included which would not have been unusual in a Lodge in the 1920’s which is the period of time that the Lodge will be interpreted. This also makes sense from Grey Roots’ perspective as its capacity for more buildings with septic systems is limited and there are other buildings anticipated in the future where plumbing will be required.

Staff have been working with members of the Lodge to finalize an agreement that considers matters such as construction, financial obligations, ownership of the building and how the Hall will be interpreted. It is critical that interpretation of the Lodge be balanced in its approach.

For example, while not taking a formal position on the Lodge, members of the Owen Sound Ministerial Association have advised that care needs to be taken with such a project. That group recognizes the importance of the Lodge in Grey County's history as well as the Province in general. In saying that, it was cautioned that for the project to be accepted in the broader community that the story told of the Lodge would need to be balanced.

Community Readiness

The most recent estimate of the cost of the Lodge is \$225,200 and the group has approximately \$197,000 held in trust by The Grand Lodge of Ontario West for the Lodge. The Lodge has also advised that it has raised approximately \$100,000 that is held locally in a bank. Some of these funds have been spent on such things as architectural drawings, windows and wainscoting. Staff understands that local contractors and businesses have agreed to donations in-kind.

The group is to be commended for its dedication to this project. Staff is of the view that the group has the ability to complete the construction of the Hall at no cost to the County. The agreement has been designed to protect the County's position that the full cost is the responsibility of the Lodge.

Some key points to the agreement are:

1. The agreement will be with the Sarawak Loyal Orange Lodge #1302;
2. Total cost of the construction is the responsibility of the Lodge;
3. The Lodge is retaining Fisher Peak Contracting, c/o Tim Sobie as contract administrator who be the constructor of the project fulfilling all legislative requirements of a construction project;
4. Ownership of the Hall will transfer to the County when the occupancy permit is received;
5. The County will interpret the Hall using the principle of balanced historical interpretation;
6. The Lodge may hold up to six meetings between May and October each year in the Hall;
7. The Hall will be named Orange Lodge #67 which has historical significance as the first Orange Hall in Grey County and was located in Owen Sound;
8. The County may enter into agreements with other persons or groups to use the Hall.

9. The Lodge has requested that indemnification not be included in the agreement.

Financial/Staffing/Legal/Information Technology Considerations

The Lodge is to be commended on the work it has done to date and its dedication to the project. From the information available, it is believed the project can be completed with the funds the Lodge has available.

The community wants to have control of the agreement locally and the agreement will be signed by the executive of the Sarawak Loyal Orange Lodge rather than the Grand Lodge of Ontario West. The significance is that the Grand Lodge of Ontario West is incorporated where the Sarawak Loyal Orange Lodge is not. This is viewed as a minimal risk given the community support that has been developed to date.

From a risk management perspective it is unusual for the County to enter into an agreement that does not have indemnification clauses. The indemnification section of an agreement is meant to protect the County against claims and matters that might arise as the building is constructed, including matters related to the Construction Liens Act. Including indemnification is a standard practice for agreements. This section has been removed from the agreement at the request of the Lodge.

This is balanced by the fact that the agreement does require that the contractor has adequate insurance including cross liability for the County and is required to meet current WSIB and Health and Safety legislation. The agreement also ensures that all the necessary permits will be obtained and that the contractor is the constructor of the project with the legislated responsibilities that entails. While it is unlikely the elimination of indemnification will be an issue, the Committee needs to be aware of the potential risk.

The agreement itself has been drafted using plain language where possible and has been reviewed by the County's solicitor.

There are no Information Technology considerations related to this report.

There will be some staffing costs related to coordination of the site and these will be managed within the existing budget.

Link to Strategic Goals/Priorities

The Hall project supports Goal 3.3 of championing arts, culture and heritage initiatives. It also supports Goal 5 of listening and working together.

Attachments

Orange Lodge Agreement

Respectfully submitted by,

Sharon Vokes

Clerk/Director of Council Services

THIS AGREEMENT made this _____ day of _____, 20____, in duplicate between:

The County of Grey

(referred to in this Agreement as “the County”),

-And-

Sarawak Loyal Orange Lodge #1302

(referred to in this Agreement as the “Lodge”);

Given that the Lodge has offered to construct an Orange Lodge Hall in the Grey Roots Museum and Archives Heritage Village at its cost;

And given Grey County Council approved resolution PCD101-10 at the July 6, 2010 Grey Council meeting to have an Orange Lodge Hall constructed at Grey Roots in Moreston Heritage Village at the cost of the donors;

And given that it is necessary for the County to ensure the safety and security of the building site and the public who will be visiting Grey Roots Museum and Archives;

The County and the Lodge agree as follows:

1.0 Definitions

1.1 In this Agreement:

- a) “Agreement” means this agreement and Orange Lodge Hall Project Scope Schedule A and Hall Usage Schedule B.
- b) “Contract Administrator” means the third party hired by the Lodge to perform the work required to complete the Hall Project.
- c) “Hall” means the Orange Lodge Hall structure in Moreston Heritage Village at Grey Roots Museum & Archives.
- d) “Hall Project” means the work to be completed under Schedule “A”.

- e) "Schedule A" means the Orange Lodge Hall Project Scope document, complete with timelines, specifications, drawings and description to complete the Hall Project.
- f) "Schedule B" means the Hall Usage document.

2.0 Term

- 2.1 This Agreement is effective as of the date all parties have signed the agreement and will end when both parties have signed off on completion (the "Term"). The Lodge will provide the County with a certificate of completion signed by the supervising architect within ten days of substantial completion.
- 2.2 Schedule B will survive the term of this agreement.

3.0 Ownership

- 3.1 Upon delivery of the certificate of substantial completion, ownership of the Hall will be the absolute property of the County.

4.0 Responsibilities of the Lodge

- 4.1 Construction of the Hall Project will not begin until the Lodge has provided the County with, and the County has approved, proof in writing of the Lodge's ability to pay for the cost of the Hall Project.
- 4.2 Construction of the Hall Project will not begin until the Lodge has provided the County with specifications of the build, construction drawings and a project timeline schedule which will be provided to the County in writing and approved by the County in writing
- 4.3 The Lodge will pay for the entire cost of the Hall Project. All work required for the Hall Project (including excavation, grading and drainage) will be completed at the expense of the Lodge as per the construction drawings.
- 4.4 The Lodge will retain Fisher Peak Contracting c/o Tim Sobie as Contract Administrator, to complete the duties and services in Schedule A: Orange Lodge Hall project Scope and he shall provide Contract Administration during the build of the Hall Project.
- 4.5 The Lodge agrees that when the Agreement has been executed the Contract Administrator will report to the County.
- 4.6 The Lodge will obtain and pay for all necessary municipal, provincial and federal approvals, authorizations and permits.

4.7 The Lodge will pay the Contract Administrator in full and maintain the holdbacks required by the Ontario Construction Lien Act.

4.8

4.9 The Lodge will discharge at its own expense any lien filed in respect to work carried out. The Lodge will pay any legal costs or other costs, fees or disbursements incurred by the County in connection with such lien.

4.10 The Lodge will donate theme-appropriate artefacts to furnish the Hall.

5.0 Responsibilities of the County

5.1 The County will provide reasonable consent if it is required by any permit granting authority.

5.2 The County will put up signs about the Hall Project and related closures as necessary,

5.3 The County will provide an on-site project manager who will act as the liaison with the Contract Administrator for necessary decisions relating to, but not limited to, appropriate building materials and interior design elements.

6.0 Termination

6.1 The County may terminate this Agreement and require that the construction of the Hall Project to cease if there is a material breach by the Lodge that is not rectified within ten (10) days after having received written notice of the breach by the County.

7.0 Notice

7.1 Either party may terminate the Agreement by giving the other party thirty (30) calendar days' written notice, giving reasons acceptable to the other. A period of less than thirty (30) calendar days to terminate the contract may be negotiable if mutually agreeable among the parties involved in the Agreement.

For the County:

County Clerk

County of Grey Administration Building

595 9th Ave E

Owen Sound, ON N4K 3E3

Fax Number: 519-376-8998

Email: countyclerk@grey.ca

For the Lodge:

8.0 Force Majeure

- 8.1 Neither the County nor the Lodge will be held responsible for any damage or delays as a result of war, invasions, insurrection, demonstrations, or as a result of decisions by civilian or military authorities, fire, flood, human health emergency, strikes and generally as a result of any event that is beyond the reasonable control of the County or the Lodge.
- 8.2 The County and the Lodge agree that in the event of a disaster or Force Majeure, they will both co-operate and the Lodge will make all reasonable efforts to complete the Hall Project as soon as practical.

9.0 Governing Law

- 9.1 This Agreement will be governed by and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada. The parties submit to the exclusive jurisdiction of the courts of Ontario with respect to any matter arising under or related to this Agreement.

10.0 Severability

- 10.1 Each of the provisions contained in this Agreement is distinct and severable. A declaration of invalidity or unenforceability of any clause will not affect the validity or enforceability of the other clauses in this Agreement.

11.0 Entire Agreement

- 11.1 This Agreement and its attached schedules is the entire agreement between the parties with respect to the Hall Project and replaces all prior written or verbal agreements, understandings, negotiations and/or discussions.

12.0 Amendment of Agreement

- 12.1 This Agreement can only be changed by a written document signed by both parties.

13.0 Successors and Assigns

13.1 This Agreement benefits and binds the parties and their respective successors and permitted assigns.

13.2 Neither party may assign all or any part of this Agreement without the written approval of the other party..

14.0 Adherence to Laws

14.1 The Lodge agrees to follow all applicable federal and provincial laws and municipal by-laws in carrying out the terms of this Agreement.

15.0 Dispute Resolution

15.1 A dispute between the parties relating to the interpretation or implementation of this Agreement will be addressed through good faith negotiation, with or without the assistance of a mediator. The parties agree that in the event that they are not able to reach a resolution of all the matters in dispute after mediation, then the matters remaining in dispute will be finally determined by arbitration in accordance with the provisions of the *Ontario Arbitrations Act*.

15.2 The location for an arbitration hearing will be within the County of Grey at a location to be determined by the County.

The County and the Lodge, intending to be legally bound, have executed this Agreement on the date first written above.

The Corporation of the County of Grey

Alan Barfoot, Warden

Sharon Vokes, Clerk

Together, we have full authority to sign on behalf of the County

Sarawak Loyal Orange Lodge #1302

Name: David Dailey
Title: Worshipful Master

Name: Jim Abell
Title: Recording Secretary

Together, we have full authority to sign on behalf of the Lodge.

In consideration of the payment of one dollar (\$1.00) by the County to the Contract Administrator and other valuable consideration, the Contractor agrees to Schedule A of this agreement.

Tim Sobie, Owner
On behalf of Fisher Peak Contracting

Orange Lodge Hall Project Scope Schedule A

Scope

Sarawak Loyal Orange Lodge #1302 offered to construct a 1920's style Orange Lodge Hall in the Grey Roots Museum & Archives Heritage Village at their cost and turn over ownership to the County of Grey upon completion.

Contract Administrator Responsibilities:

The Contract Administrator will:

1. Attend the following meetings with the County's Project Manager:
 - A pre-construction meeting to confirm all issues are clarified prior to construction;
 - Weekly (regular workday to be firmed up at the pre-construction meeting) site meetings to review the status of the schedule, updates to schedule, address any changes and review the status of overall contract progress;
 - A final walkthrough of the site to identify any deficiencies and/or repairs is required.

Start Date (Earliest date for Pre-Construction Meeting)	Final Completion Date
September 7, 2016	, 2016

2. Provide a certificate of insurance naming the County as an additional insured for \$5,000,000 inclusive of a cross liability clause.
3. Complete a Notice of Project with the Ministry of Labour for notification purposes.
4. Provide the County with a WSIB certificate and obtain and provide the County with certificates of insurance and WSIB certificates from all sub-contractors on site.
5. Ensure that all drawings and design plans have County approval prior to starting construction.
6. Any change or deviation from the approved plans in Section 4.2 of the Agreement must be approved by the County. County approved change orders are the formal authorization by the County that the changes are to proceed.
7. Ensure all service locates are complete prior to commencement of work.
8. Provide 6'-0" metal construction fence around entire construction area. Fence to be removed once construction is 100% complete. The County will provide some fencing currently available at the Grey Roots site.

9. Obtain building permit, complete all work to Ontario Building Code requirements and provide proof of satisfactory final inspection by Georgian Bluffs' building inspector.
10. Supervise the work of the sub-contractors, volunteers and Lodge members.
11. Complete work per building specifications, architectural, structural and site plan drawings.
12. Obtain County approval for all interior and exterior materials and colours as appropriate to the Moreston Heritage Village.
13. Provide sufficient portable toilets and handwash stations. The main building or any other outbuilding may not be used for any purpose by construction personnel.
14. Ensure completion of all final grading around the Hall after construction is complete.
15. Ensure any excess fill is removed.

16. Ensure all landscaping around affected construction area receives new topsoil and grass seed to blend into existing conditions.
17. Ensure all damaged areas of grass are repaired due to construction with new topsoil and grass seed.
18. Keep Building Site in a clean and orderly condition, following legislated health and safety standards.

Orange Lodge Hall Use Schedule B

1. The County will endeavour to permit the Lodge to hold up to six (6) meetings annually between May and October in the Hall during operational hours and when Moreston Heritage Village is open to the public. Lodge meetings will be booked in advance with County staff. Lodge members will have access to the washroom in the school house during its meetings.
2. The County may authorize use of the Hall for public social functions at the discretion of the County, providing that the general Orange Association heritage aspect of the building is retained and maintained. This provision to apply as long as Moreston Village is intact.
3. As owner of the Hall, the County will assume responsibility for all expenses for the building and area after the final completion of the Hall Project.
4. The County will research and promote the history and significance of the Loyal Orange Lodge in Grey County.
5. The County will interpret the Hall using the principle of balanced historical interpretation.
6. Any proposed changes to this Schedule will be discussed by the County and the Lodge prior to the County passing a by-law to confirm.