



VISION - We will be a democratically elected, vibrant, safe and clean city focused on economic growth and livability.

MISSION - To provide positive experiences for everyone through the delivery of quality initiatives and services.

**CORPORATION OF HAMILTON**  
**STAFF, LEGISLATIVE, GOVERNANCE COMMITTEE**  
**PUBLIC SESSION**

Tuesday, October 18, 2022, 10:00 am  
Mayor's Parlour, City Hall, Hamilton

Present:	Councillor Lawrence Scott, JP, Chairman Rt. Wor. Charles R. Gosling, JP Councillor Nicholas Swan Councillor RoseAnn Edwards
Apologies:	Councillor Henry Ming Councillor George Scott, JP
Staff:	CEO/City Secretary - Dwayne A. Caines, JP Director of HR/Learning and Development – Lindell Foster
Apologies:	CFO/Acting City Secretary – Tanya Iris COO/City Engineer - Patrick Cooper

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**1. Confirmation of Notice**

The CEO/City Secretary confirmed that the appropriate notices of the meeting were duly given according to the Meeting Guide.

**2. Role of the Chairman**

Councillor Lawrence Scott confirmed his role as the Chairman.

**3. Open Meeting**

The meeting was called to order at 10.02 am.

**4. Apologies**

The CEO/City Secretary confirmed that apologies had been received from Councillor H. Ming, the CFO/Acting City Secretary Tanya Iris and the COO/City Engineer Patrick Cooper.

**5. Public Participation/Presentation**

There was no public participation/presentation.

6. **Correspondence**

There was no correspondence.

7. **Minutes of the Previous Staff, Legislative & Governance Meeting dated 19 July 2022 (Public Session)**

**Proposed:** Councillor R. Edwards

**Seconded:** Mayor Charles Gosling

The Minutes were accepted as read.

8. **Matters Arising from the Previous Staff, Legislative & Governance Meeting dated 19 July 2022 (Public Session)**

8.1 **Anti-Bribery and Corruption Act (ABC) Policy**

**Write a letter to the Permanent Secretary outlining the previous contacts with the Government and AG's Chambers, as it related to the Anti-Bribery and Corruption Act (ABC) Policy and the absence of guidance in the Act regarding the removal of elected officials for bribery and corruption. Suggest that the Municipalities Act be amended to incorporate such guidance in alignment with that of the Government.** The CEO/City Secretary said that the letter had been sent and he awaited a response. Action item completed.

**ACTION:**

Await a response from the Permanent Secretary following his recent letter outlining the previous contacts with the Government and AG's Chambers, as it related to the Anti-Bribery and Corruption Act (ABC) Policy and the absence of guidance in the Act regarding the removal of elected officials for bribery and corruption. Suggest that the Municipalities Act be amended to incorporate such guidance in alignment with that of the Government. **(CEO/City Secretary)**

8.2 **Protocols for Meeting**

**Draft guidelines as it relates to Members requesting to zoom into scheduled Board and Committee Meetings, listing legitimate reasons for doing so and taking into consideration technical malfunctions, quorums and voting rights, for discussion at the next meeting.** The Mayor referred to legislation where attendance at scheduled in person meetings would be required in order for Members to comment, vote, or for quorum. Action item completed.

**Discuss guidelines with the Recording Secretary relating to protocols for Committee Members joining scheduled in-person meetings via zoom and whether they should be counted for quorum and voting.** Action item completed.

The CEO/City Secretary said that a Temporary Electronic Meeting Policy had been written at the commencement of the lockdown when meetings could only be held via zoom. This was to facilitate remote attendance by Council Members, the Executive and staff, at scheduled Board and Committee meetings. The Policy gives guidelines on the conduct of remote attendees. He said that he had added Paragraph 7 to the Policy which gave

guidance for those attendees who could not attend formal constituted meetings in person, however, they may join the meeting via zoom. Paragraph 7 outlines the requirements that they join via zoom as an observer only, they would not be included for quorum or voting. It would be at the Chairman's discretion whether they would be permitted to speak on a matter. They would give 24 hours notice to the Recording Secretary if they wish to join the meeting via zoom, for a zoom meeting invitation to be sent.

The Mayor noted that the Municipalities Act does allow for changes in the requirements for how meetings were held.

## **9. Status Updates**

### **9.1 Current Litigation/Legislation (CEO/City Secretary)**

### **9.2 Wayleave Agreements (CEO/City Secretary and COO/City Engineer)**

#### **9.2.1 BELCo Renegotiated**

The current Wayleave would be renegotiated to reach an amicable agreement between BELCo and COH, whereby both could take ownership. There would be ratification by the Board to allow phased under-grounding of cables throughout the City, without time limit and a legal document signed by both parties in agreement.

Update: 20 October 2020 - Pricing agreement awaited.

Last update: April 2021 - Recommendation received from Hilco Global on How to Price a Wayleave. An amount would be calculated.

#### **9.2.2 BTC/Digicel - Initiated: Pre-13 April 2018**

Update: 17 April 2018

Update: 17 February 2020 - Draft Wayleave received from MDM.

Update: 20 October 2020 - Pricing agreement awaited.

Last update: April 2021 - Recommendation received from Hilco Global on How to Price a Wayleave. An amount would be calculated.

#### **9.2.3 One Communications - Initiated: Pre-18 April 2018**

Update: 18 April 2018

Update: 17 February 2020 - Draft Wayleave received from MDM.

Update: 20 October 2020 - Pricing agreement awaited.

Last update: April 2021 - Recommendation received from Hilco Global on How to Price a Wayleave. An amount would be calculated.

**9.2.4 Bermuda Water Works - Initiated: Pre-13 April 2018**

Update: 18 April 2018

Update: 17 February 2020 - Draft Wayleave received from MDM.

Update: 20 October 2020 - Pricing agreement awaited.

Last update: April 2021 - Recommendation received from Hilco Global on How to Price a Wayleave. An amount would be calculated.

**9.3 Waste and Litter Control Act (CEO/City Secretary and COO/City Engineer) - Initiated: 8 August 2018**

Update: 26 October 2018

Update: 20 October 2020 - Awaiting Regulations specific to COH.

Update: 15 June 2021 - Following the distribution of wheelie bins throughout the City over the last three (3) years and the COH continue to hold a supply, now a public notice for the mandatory use of wheelie bins would be issued.

Update: 20 July 2021 - PS had been informed of the matter and he had submitted a draft paper to Cabinet in support.

Update: 22 March 2022 - Meeting held with PS and a further document submitted.

Last update: 17 May 2022 - AG's Chamber had been provided with an historical background since 2016 to assist with the drafting of the Regulation.

**9.4 Parking Legislation (COO/City Engineer) - Initiated: 2013**

Update: 3 November 2015 - Request from COH to validate the 2013 Ordinance.

Update: 22 February 2022 - PS had returned the Ordinance to COH for amendment.

Last update: 22 March 2022 - Final amended Ordinance to PS for validation.

**9.5 Anti-Bribery and Corruption Act (ABC) Policy (Controller) - Initiated: 9 July 2019**

Update: 17 February 2020. Request to Attorney General.

Update: 27 May 2020. The Minister had approved the Resolution. AG's response was awaited.

Last update: 8 December 2021. Request to Attorney General and response to consult the Ministerial Code of Conduct 2018, The Good Governance Act 2012 and the Bribery Act 2016, as it related to the Government's position on the Anti-Bribery and Corruption Act (ABC) Policy and the COH's application of same.

## **9.6 Land Swap Procedures (CEO/City Secretary and COO/City Engineer)**

### **9.6.1 Butterfield & Vallis - Initiated: June 2017**

Update: 14 May 2019 - PS Azhar checking.

Update: June 2019 - Passed Cabinet. Awaiting Legislature. PS Rochester checking.

Update: 18 August 2020 - PS Rochester - Cabinet papers have been edited to reflect new Minister. Awaiting Minister's approval before going to Cabinet, then to Legislature.

Update: 25 August 2020 - PS Rochester confirmed that the Land Exchange agreement had been passed by the Legislature.

Update: 20 October 2020 - One (1) of two (2) Trusts to be readjusted by Government.

Update: 4 June 2021 - Before the House of Assembly. A decision was awaited.

Update: 20 July 2021 - Approved by the Senate and awaiting Governor's Ascent.

Update: 16 November 2021 - To lawyers for conveyancing.

Update: 22 March 2022 - Conveyancing ongoing.

Last Update: 18 October 2022 - BV request for a parking change was under discussion.

### **9.6.2 SPA Canal Road - Initiated: 21 March 2018**

Update: 23 January 2019 - To be tabled in the House in the next Legislative session.

Update: 18 August 2020 - PS Rochester - Cabinet papers have been edited to reflect new Minister. Await Minister's approval before going to Cabinet, then to Legislature.

Update: 25 August - PS Rochester confirmed that the Land Exchange Agreement had been passed by the Legislature.

Update: 20 October 2020 - Conveyancing documents for Dianthus Trust were being drafted by lawyers.

Update: 4 June 2021 - Before the House of Assembly. A decision was awaited.

Update: 20 July 2021 - Approved by the Senate and awaiting Governor's Ascent.

Last Update: 16 November 2021 - To lawyers for conveyancing.

## **9.7 Arnold Discount Warehouse - Sale of Land - Initiated: 19 May 2020**

Update: 19 May 2020 - Mr. Frank Arnold had instructed his lawyers to proceed with the purchase of the land.

Update: 16 June 2020 - The exchange of the Sale and Purchase Agreements was underway.

Update: 20 October 2020 - The Sale and Purchase Agreements have been signed. Will go to the PS and Minister for approval by the Legislature.

Update: April 2021 - The Sale and Purchase Agreements had been sent to the PS and Minister for forwarding to the Legislature.

Update: 4 June 2021 - Before the House of Assembly. A decision was awaited.

Update: 20 July 2021 - Approved by the Senate and awaiting Governor's Ascent.

Last Update: 16 November 2021 - To lawyers for conveyancing.

## **10. Resolutions Approved by the Minister**

That the Board approve the Data Retention Policy, as amended.

## **11. Recommendations for Review**

There were no Recommendations for review.

### **11.1 Policies**

COH Policies have been reviewed and will be presented for approval with the new branding and formatting. Any other changes to the policies will be described.

#### **11.1.1 Data Protection Policy**

Not approved by the Minister from the 25 July Special Board Meeting. Amendments required.

The Director of HR/Learning and Development outlined the changes required by the Permanent Secretary. With the Committees agreement, the amended Data Protection Policy would require pre-approval by the PS.

#### **RECOMMENDATION:**

That the Board approve the Data Protection Policy, as amended.

#### **Tabled**

#### **ACTION:**

Make amendments to the Data Protection Policy and obtain pre-approval from the Permanent Secretary before presentation for approval at the next Staff, Legislative & Governance Committee Meeting to be held on 15 November 2022.  
**(Director of HR/Learning and Development)**

## **12. Any Other Business**

### **12.1 Resolution of Affirmation for Council and Executive Members**

Forwarded from the Board Meeting held on 7 September 2022 for discussion, as it relates to whether there should be a Resolution to affirm members of the Council and Executive in the event that a proceeding would be brought against them whilst executing COH matters with integrity.

The Mayor explained that the COH's insurance company would not cover for liability, any Councillor, Executive or staff member, who were not named as Plaintiffs in a case. As such, the individuals would be responsible to pay their own legal costs. Alternatively the COH, at its discretion, could resolve to pay those legal costs on behalf of an un-named Plaintiff who had executed COH matters with integrity, even historically. Discussion ensued.

The Chairman recommended that legal advice be sought where the individuals described could be covered for liability by COH insurance.

#### **ACTION:**

Write to the lawyers to request legal advice as it relates to the payment of legal costs on behalf of a Councillor, Executive or staff member, as an un-named Plaintiff who had executed COH matters with integrity, even historically, for which there was currently no COH insurance cover. **(CEO/City Secretary)**

### **12.2 Board and Committee Meetings - Livestreaming via Social Media**

The Chairman raised the matter of livestreaming the Public Sessions of the Board and Committee meetings on social media, in particular FaceBook. The CEO/City Secretary said that the work of the COH should be accessible to all and a framework should be considered. The CEO/City Secretary said that the COH would change with the times to become more transparent in the way it would do business. The COH had fully aligned with the Personal Information Protection Act (PIPA). Meeting attendees should aspire to become more circumspect in the way they commented during meetings.

The Mayor said that he would encourage transparency, however, he cautioned that the COH could be held liable for right and wrong information shared during the meetings. Also, there was potential for individuals to face legal repercussions as a result of ad hoc comments. He said that the Municipal Meeting Guidelines would be followed more stringently, which allowed members to speak to any motion once. He said that open dialogue between the Council and Executive was more important. He noted that the Public Sessions were open to the public to attend and there had been very few occasions over the 13 years that he had been Mayor, that they had done so. The Agendas and Minutes of meetings were published on the COH website. The public could make presentations and question decisions.

## **13. Motion to Move to Restricted Session**

**Proposed:** Councillor N. Swan

**Seconded:** Councillor R. Edwards