



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, February 22, 2022, 10:00 am
Online Remote

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

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 10.00 am.

4. Apologies

The CEO/City Secretary confirmed that apologies had been received from Councillor R. Edwards and the CFO/Acting City Secretary Tanya Iris.

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 18 January 2022 (Public Session)**

Proposed: Councillor N. Swan

Seconded: Mayor, Charles Gosling

The Minutes were accepted as read.

8. **Matters Arising from the Previous Staff, Legislative & Governance Meeting dated 18 January 2022 (Public Session)**

8.1 **Parking Legislation**

Await a response to the CEO/City Secretary's letter sent to the Permanent Secretary, for the validation of the Parking Legislation 2013 Ordinance which had been outstanding since November 2015. The CEO/City Secretary said that the PS had responded that the Ordinance would require amendment before presenting to him again for validation. Action item completed.

ACTION:

The Staff, Legislative & Governance Committee would review and amend the Parking Legislation 2013 Ordinance, in accordance with the PS's instructions. The final document would then be presented to the PS for validation. **(CEO/City Secretary)**

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

Discuss the response from the Attorney General's Chambers to the Controller's enquiry dated 8 December 2021, which had been 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. The Controller gave an overview of the communications with the Attorney General's Chambers, Solicitor General and Crown Counsel, as it relates to legislation governing the COH Council Members. Action item completed.

The Controller said that, in accordance with Bermuda's Bribery Act 2016, any crime of bribery and corruption would result in an internal investigation leading to Court proceedings. This would apply to any person, regardless of their position, including Government officials and COH staff. The consequences would be an unlimited fine and imprisonment.

The Mayor noted that, following investigation of the various legislations, it had not been found what were the punishments of crimes carried out by elected officials which did not lead to imprisonment. The Controller said that COH elected officials would be subject to the Bribery Act 2016, which had been modelled on the UK's Act. The COH's Anti-Bribery and Corruption Act (ABC) Policy addressed consequences, such as removal from office of the offending COH elected official. The Mayor said that this action was not legislated.

The Mayor noted that the Municipalities Act described disqualification criteria for removal as being bankruptcy, imprisonment, mental disorder and crimes of election, however, bribery and corruption was not.

The Mayor suggested that the Controller inquiry of the AG's Chambers whether the Municipality had the power to remove elected officials from public office under the Bribery Act 2016 and the response would be in writing. The Controller said that she had made the inquiry, however, the AG's Chambers had been reluctant to provide guidance in writing, due to the ongoing Constitutional case against the Government.

The Mayor said that the power to remove officials, elected by the people for three (3) year terms, for bribery and corruption, must be legislated. The COH would not currently have the power to remove officials for bribery and corruption. This potential shortcoming would be brought to the attention of the AG's Chambers.

The Mayor noted that Section 11 - Punishment for Corrupt Practices, in the Municipalities Act, had been repealed in 2010.

ACTION:

Write an email to the Attorney General's Chambers to inquiry what legislated power the COH would have in order to remove elected officials for bribery and corruption.
(Councillor L. Scott)

9. Status Updates

9.1 Current Litigation/Legislation (CEO/City Secretary)

No update.

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.

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

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

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

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

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. *See Item 8.2 above.*

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.

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

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

Doctors' Parking Policy, as amended.

Employee Housing Rental Policy, as amended.

Employee Long Service Awards Policy.

Fire Emergency Procedure Policy.

11. 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 Fireworks Policy

Formatted.

RECOMMENDATION:

That the Board approve the Fireworks Policy.

Proposed: Mayor, Charles Gosling

Seconded: Councillor L. Scott

Motion Passed

11.1.2 Flag Protocol Policy

Formatted.

The COO/City Engineer said that the Flag Protocol Policy would be amended to remove all reference to yard arm and realign table notes.

RECOMMENDATION:

That the Board approve the Flag Protocol Policy, as amended.

Proposed: Mayor, Charles Gosling

Seconded: Councillor L. Scott

Motion Passed

11.1.3 Hamilton Dinghy Dock Barr's Bay Park Policy

Formatted and amended to match policy on website.

RECOMMENDATION:

That the Board approve the Dinghy Dock Barr's Bay Park Policy.

Proposed: Mayor, Charles Gosling

Seconded: Councillor L. Scott

Motion Passed

11.1.4 Hamilton Wharf Pleasure Boat Policy

Formatted, not on website.

RECOMMENDATION:

That the Board approve the Hamilton Wharf Pleasure Boat Policy.

Proposed: Mayor, Charles Gosling

Seconded: Councillor L. Scott

Motion Passed

11.1.5 Media Relations Policy

Formatted; replace Director of Communications with Public Relations Manager.

RECOMMENDATION:

That the Board approve the Media Relations Policy.

Proposed: Mayor, Charles Gosling

Seconded: Councillor L. Scott

Motion Passed

11.2 Municipal Council Meeting Guide (Updated March 2022)

Rebranded and formatted.

RECOMMENDATION:

That the Board approve the Municipal Council Meeting Guide (Updated March 2022).

Proposed: Mayor, Charles Gosling

Seconded: Councillor L. Scott

Motion Passed

12. Any Other Business

There was no other business.

13. Motion to Move to Restricted Session

Proposed: Mayor, Charles Gosling

Seconded: Councillor L. Scott