



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, January 24, 2023, 10:00 am  
4th Floor, Works Depot

Present: Councillor Lawrence Scott, JP, Chairman  
Rt. Wor. Charles R. Gosling, JP  
Councillor Henry Ming  
Councillor RoseAnn Edwards

Apologies: Councillor Nicholas Swan  
Councillor George Scott, JP

Staff: CEO/City Secretary - Dwayne A. Caines, JP  
CFO/Acting City Secretary – Tanya Iris  
COO/City Engineer - Patrick Cooper  
Director of HR/Learning and Development – Lindell Foster

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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 10.06 am.

#### **4. Apologies**

The CEO/City Secretary confirmed that no apologies had been received.

#### **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 20 December 2022 (Public Session)**

**Proposed:** Mayor, Charles Gosling

**Seconded:** Councillor H. Ming

The Minutes were accepted as read.

**8. Matters Arising from the Previous Staff, Legislative & Governance Meeting dated 20 December 2022 (Public Session)**

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

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)** Action item had not been completed.

**8.2 Resolution of Affirmation for Council and Executive Members**

Request advice from the lawyers in the first instance, as it relates to perpetual succession for un-named corporate Mayors and Councillors, since 1923, in accordance with Legislation, which the insurance company would have taken into account when writing the Insurance Policy. Individual names would not be required for legal costs under the insurance policy. If the perpetual succession was relevant, write to the Insurance Company for confirmation of cover for legal costs. **(CEO/City Secretary)** The CEO/City Secretary said that he had written to the lawyers and awaited a response. Action item had not been completed.

**8.3 Mayor's Box**

**Arrange for the curtain to be rehung in the Lounge area of the Mayor's Box.** The COO/City Engineer said that the matter was on the works list. Action item completed.

**9. Status Updates**

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

**9.1.1 PLV Guarantee**

The Mayor said that there would be a preparatory meeting with the lawyers to discuss the proposal for a possible pre-trial settlement. The Mayor and CEO/City Secretary would attend, as it related to the PLV Guarantee.

**9.1.2 Constitutionality Case**

The Mayor said that the COH appeal had now been received by the Privy Council and a hearing date was expected.

## **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.

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

Last Update: 5 November 2022 - Infrastructure Committee agreed to an arrangement with B&V, for the COH to accept additional covenanted land, with conditions, to be used as a sidewalk only. Should the land ever be used other than as a sidewalk, the land would revert back to B&V. The Covenant would require conveyancing and could be attached to the land swap Deed.

#### **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.

Update: 16 November 2021 - To lawyers for conveyancing.

Last Update: 15 November 2022 - No update, continue to chase.

#### **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**

There were no Resolutions approved by the Minister.

**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 Use of Mayor's Box Policy**

**RECOMMENDATION:**

That the Board approve the Use of the Mayor's Box Policy, as amended.

**Proposed:** Councillor H. Ming

**Seconded:** Councillor R. Edwards

**Unanimous**

**12. Any Other Business**

**12.1 Island Trading**

The COO/City Engineer said that the negotiated License with Island Trading, relating to the use of parking bays within Cavendish car park for unloading containers, had been signed and was with the lawyers for stamping and sealing.

**12.2 Gregory Wainwright**

The CEO/City Secretary said that the funeral of the late Gregory Wainwright would take place on Saturday, 28 January 2023. The COH had supported the family with the arrangements. The time of the funeral would be confirmed.

**12.3 Councillors Communications**

The Mayor noted comments received from the Executive and said that any issues which the Councillors had, should be directed to the CEO/City Secretary. This was a continuing matter which would be addressed in full at the next Board Meeting to be held on 8 February 2023.

**ACTION:**

Forward to the Board Meeting to be held on 8 February 2023, as it related to the policy for Councillors to communicate their suggestions directly to the CEO/City Secretary.  
**(CEO/City Secretary)**

#### **12.4 Definition of Lien**

The Chairman raised the matter of the definition of a Lien relating to debt. He said that a Lien would not give possessory title to land. A Lien would give rights to withhold the land until an outstanding debt had been paid in full. In the case of outstanding rates debts, a search of the COH historical records could be made to find an occasion where a Lien was used and what the outcome had been. This could be presented to lawyers in the matter of the COH's decision to take a Lien on a debtor's property. The Mayor said that legislation had applied a automatic Lien on a property in the case of outstanding rates debts.

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

**Proposed:** Councillor H. Ming

**Seconded:** Councillor R. Edwards