



SPECIAL GENERAL ISSUES COMMITTEE LIGHT RAIL TRANSIT (LRT) MINUTES 17-026

9:30 a.m.

December 18, 2017

Hamilton Convention Centre, Albion Rooms (A&B)

Present: Mayor F. Eisenberger, Deputy Mayor R. Pasuta (Chair)
Councillors T. Whitehead; C. Collins; B. Johnson; J. Farr; M. Green; S. Merulla, T. Jackson, D. Skelly, D. Conley, M. Pearson, J. Partridge, A. Johnson, L. Ferguson.

**Absent with
Regrets:** Councillor A. VanderBeek - Personal

THE FOLLOWING ITEMS WERE REFERRED TO COUNCIL FOR CONSIDERATION:

1. Labour Relations Analysis of Light Rail Transit Procurement Models (HUR17024(a)) (City Wide) (Item 12.1)

(Pearson/A. Johnson)

That Report HUR17024(a), respecting Labour Relations Analysis of Light Rail Transit Procurement Models, be received and remain confidential, as it contains information related to labour relations and employee negotiations.

CARRIED

2. Light Rail Transit Sub-Committee Report 17-002, September 12, 2017 (Item 8.1)

(Farr/A. Johnson)

(a) Indigenous Art at Hamilton LRT Stops (Added Item 10.1)

WHEREAS, the City of Hamilton and the Province of Ontario recognize the Truth and Reconciliation Commission and the Charter of Rights and Freedoms; and,

WHEREAS, the City of Hamilton believes it is important to acknowledge and honour Indigenous cultures and contributions in Hamilton and, more broadly, Canada,

THEREFORE BE IT RESOLVED:

- (i) That staff be directed to communicate with Metrolinx, the broader Province, and the federal government on the idea of, and the need

for, the inclusion and display of Indigenous art at the Hamilton LRT stops;

- (ii) That the communication include the following:
 - (a) Communication with Hamilton's Aboriginal Advisory Committee for its feedback;
 - (b) Consultation with, and involvement of, Indigenous community members as part of the process;
 - (c) Communication with the Ministry of Indigenous Relations and Reconciliation and Northern Affairs Canada on the possibility of borrowing Indigenous art for display at LRT stops from provincial and/or federal collections;
 - (d) Communication with the federal and provincial governments on the possibility of funding for the commissioning of new Indigenous art for display at LRT stops;
 - (e) Consideration of how Indigenous artefacts might be displayed at LRT stops, in addition to and/or in lieu of new art;
 - (f) Consideration of the costs, policy considerations and cultural protocols involved with such display;
 - (g) ***The map of Indian Trails at the time when the Head of the Lake was visited by early French traders and missionaries*** and,
- (iii) That staff report to the General Issues Committee in December of 2017 regarding the steps taken, and with any information or feedback resulting from the relevant communications, regarding how Indigenous art might be best included at the LRT stops; and,
- (iv) That nothing in this motion be interpreted as to exclude non-Indigenous art at LRT stops.

(b) Review of Citizens' Jury Report on Transit (PED17154) (City Wide) (Item 5.1)

That Report PED17154, respecting a Review of Citizens' Jury Report on Transit, and attached hereto as Appendix A, be received.

Main motion as *amended* CARRIED

FOR INFORMATION:

(a) CHANGES TO THE AGENDA (Item 1)

The Committee Clerk advised of the following changes to the agenda:

1. CHANGE TO THE ORDER OF ITEMS

A request to have the Committee go into Closed Session to consider Item 12.1 – Confidential Report: Labour Relations Analysis of Light Rail Transit Procurement Models (HUR17024(a)), following the consideration of the Delegation Requests, in order to explain the Labour Relations implications associated with the two procurement models that are contemplated in the letter from Metrolinx, as it has been an area of discussion that has come up at previous Council meetings when Council has debated the LRT.

2. DELEGATION REQUESTS - WITHDRAWN

4.4 Keanin Loomis, President, Hamilton Chamber of Commerce

4.5 Karl Andrus, #yesLRT

4.10 Blake McCall, Bus Operator

3. DELEGATION REQUESTS – ADDED

4.16 Gaspare Bonomo, and later withdrawn

4. NOTICES OF MOTION - ADDED

10.1 Good Jobs and Community Benefits Respecting the Operations and Maintenance of Hamilton LRT

(Eisenberger/B. Johnson)

That the agenda for the December 18, 2017 Special General Issues Committee Light Rail Transit (LRT) meeting be approved, as amended.

CARRIED

(b) DECLARATIONS OF INTEREST (Item 2)

There were no declarations of interest.

(c) DELEGATION REQUESTS (Item 4)

(Partridge/Pearson)

That the following delegation requests with respect to the Operating and Maintenance of the Hamilton Light Rail Transit (LRT) System (Item 8.2), be approved for today's meeting:

- (i) Carol Lazich (Item 4.1)
- (ii) Sarah Warry Poljanski (Item 4.2)
- (iii) Craig Burley (Item 4.3)
- (iv) Alex Bishop, Synapse Consulting (Item 4.6)
- (v) Arthur Gallant (Item 4.7)
- (vi) Chukky Ibe, President, McMaster Student Union (Item 4.8)
- (vii) Eric Tuck, President, ATU Local 107 (Item 4.9)
- (viii) Anthony Marco, Hamilton and District Labour Council (Item 4.11)
- (ix) Milena Balta (Item 4.12)
- (x) Mark Rejhon and Alain H. Bureau, Hamilton LRT Advocacy (Item 4.13)
- (xi) Lachlan Holmes (Item 4.14)
- (xii) Ryan McGreal, Hamilton Light Rail (Item 4.15)

CARRIED

(d) PRIVATE & CONFIDENTIAL (Item 12)

(Eisenberger/B. Johnson)

That Committee move into Closed Session respecting Item 12.1 Pursuant to Section 8.1, Sub-section (d) of the City's Procedural By-law 14-300, and Section 239(2), Sub-section (d) of the *Ontario Municipal Act*, 2001, as amended, as the subject matter pertains to labour relations or employee negotiations.

CARRIED

(i) Labour Relations Analysis of Light Rail Transit Procurement Models (HUR17024(a)) (City Wide) (Item 12.1)

For disposition of this matter, please refer to Item 1.

(e) DELEGATIONS (Item 6)

(Conley/Pearson)

That the delegations listed below respecting Item 8.2, Operation and Maintenance of the Hamilton Light Rail Transit (LRT) System (PED17185 / HUR17024), be received.

- (i) Carol Lazich (The handout provided is available on the City's website at www.hamilton.ca or through the Office of the City Clerk)
- (ii) Sarah Warry Poljanski
- (iii) Arthur Gallant (The handout provided is available on the City's website at www.hamilton.ca or through the Office of the City Clerk)
- (iv) Eric Tuck, President, ATU Local 107 (The handout provided is available on the City's website at www.hamilton.ca or through the Office of the City Clerk)
- (v) Anthony Marco, Hamilton and District Labour Council
- (vi) Milena Balta
- (vii) Mark Rejhon and Alain H. Bureau, Hamilton LRT Advocacy
- (viii) Lachlan Holmes

CARRIED

For disposition of this matter, please refer to Item (f)(ii).

(f) DISCUSSION ITEMS (Item 8)

(i) Light Rail Transit Sub-Committee Report 17-002, September 12, 2017 (Item 8.1)

(a) Indigenous Art at Hamilton LRT Stops (Added Item 10.1)

(A. Johnson/Collins)

That the motion respecting Indigenous Art at Hamilton LRT Stops, be amended to add sub-section (i)(g), as follows:

(g) *the map of Indian Trails at the time when the Head of the Lake was visited by early French traders and missionaries,* and

CARRIED

For disposition of this matter, please refer to Item 2(a).

(ii) **Operation and Maintenance of the Hamilton Light Rail Transit (LRT) System (PED17185 / HUR17024) (City Wide) (Item 8.2)**

(a) **(Eisenberger/Farr)**

That Report PED17185/HUR17024, respecting the Operation and Maintenance of the Hamilton Light Rail Transit (LRT) System, be received.

CARRIED

(b) **(A. Johnson/Eisenberger)**

WHEREAS, our Light Rail Transit drivers ought to be unionized;

WHEREAS, Council has an obligation to be fiscally responsible, and

WHEREAS, Council has an obligation to build good transit,

THEREFORE BE IT RESOLVED:

- (a) That Council respond to the letter from Metrolinx regarding Light Rail Transit operations with a letter endorsing the original, integrated design-build-finance-operate-maintain model as Hamilton's preferred model for Light Rail Transit delivery; and
- (b) That Council officially request that Metrolinx co-operate in the unionization of the Light Rail Transit drivers.

The above Motion was **DEFEATED** on the following Standing Recorded Vote:

Yeas:	F. Eisenberger, A. Johnson, B. Johnson, L. Ferguson, R. Pasuta, J. Partridge
Total:	6
Nays:	J. Farr, M. Green, S. Merulla, C. Collins, T. Jackson, D. Skelly, T. Whitehea, D. Conley, M. Pearson
Total:	9
Absent:	VanderBeek
Total:	1

(iii) **Good Jobs and Community Benefits Respecting Operations and Maintenance of Hamilton LRT (Item 10.1)**

(Green/Merulla)

WHEREAS, at the Special General Issues Committee Light Rail Transit LRT Report 17-016, dated August 9, 2017, the following motion was passed which was subsequently ratified by Hamilton City Council as follows:

“That staff be directed to advise Metrolinx that the forthcoming operating and maintenance agreement between the City of Hamilton and Metrolinx for Light Rail Transit should include the Hamilton Street Railway as the party responsible to operate and maintain the new Light Rail Transit line, and any other future transit expansion, in the city of Hamilton.”

WHEREAS, both the government of the province of Ontario and Metrolinx raised official concerns with the above motion, which in turn led to Hamilton Council directing staff on December 1, 2017, to advise on the potential responsibilities, risks and obligations of a DBFM versus a DBFOM model;

WHEREAS, Staff Report Operation and Maintenance of the Hamilton Light Rail Transit (LRT) System (PED17185/HUR17024) (City Wide) submitted December 1, 2017 by LRT Project Coordination Planning and Economic Development Department Mr. Paul Johnson recommending that the key risks and responsibilities associated with a DBFM model are below.

“On March 28, 2017, staff prepared an information report on the Light Rail Transit (LRT) Procurement Model (PED17030), which sets out some of the key differences between DBFOM and DBFM delivery models. Key differences between the delivery models were summarized in a table appended to that report, and is re-attached hereto with updates to reflect further labour relations analysis, as Appendix “B” to Report PED17185/HUR17024.”

WHEREAS, Council is required to indicate a preference between the DBFM and DBFOM process by January 24, 2018;

WHEREAS, Council has further been advised by way of Metrolinx’s procurement policy that HSR is prohibited from bidding for the maintenance work on the new LRT expansion under current provincial regulations;

WHEREAS, ATU 107 have been and remain an integral contributor to the growth and prosperity of our city of Hamilton by providing safe, affordable and efficient Public Transit for almost 120 years and have maintained stable labour relations in the community;

WHEREAS, the City and ATU Local 107 had previously collectively bargained and ratified language in their collective agreement extending Local 107’s bargaining rights in the event that, transit in Hamilton was extended or otherwise expanded by the City of Hamilton;

WHEREAS, the agreement specifically referred to a Letter of Understanding between the parties described as Re: Alternative Services Delivery New Services (Appendix A to the Notice of Motion);

WHEREAS, the City further recognizes and acknowledges its existing and subsequent collective bargaining agreements and commitments with the ATU and its Local 107 including, but not limited to the Letter of Understanding referenced above;

WHEREAS, the City has a recognized obligation under such collective agreement for recognition of this obligation for operations and maintenance of the new LRT line as proposed by Metrolinx without any further delay to the RFP process.

WHEREAS, the following motion was introduced at the Light Rail Transit Sub-Committee January 30, 2017 Report 17-001 at General Issues Committee – February 15, 2017: That staff be directed to report back to the LRT Sub-Committee on a framework for a Community Benefits Agreement focussing on, but not limited to: affordable housing, employment, local procurement and environmental improvement

THEREFORE BE IT RESOLVED:

- (a) That the City of Hamilton ensure in its contract with Metrolinx and/or ProjectCo:
 - (i) That ProjectCo shall be required to contractually recognize that they assume operations as a successor employer pursuant to the Labour Relations Act and therefore enter into a legally enforceable written voluntary recognition agreement with Amalgamated Transit Union, Local 107 for bargaining rights for all ProjectCo LRT employees below the rank of Supervisor employed in the operations and maintenance of Hamilton's LRT.
 - (ii) That the Fair Wage Schedule be amended to include the Total Hourly Compensation for all positions set out in Schedule "A" of the collective agreement between the City and Amalgamated Transit Union, Local 107. Totally Hourly Compensation to be determined pursuant to the formula set out in Section 3 of the Fair Wage Policy.
 - (iii) That ProjectCo agree to abide by the amended Fair Wage Policy and the amended Fair Wage Schedule.
 - (iv) That ProjectCo agree to provide LRT employees all benefits at or above those set out in the collective agreement between the City and Amalgamated Transit Union, Local 107.

- (v) That, pursuant to section 6 of the OMERS Act, ProjectCo enter into an agreement with the City to provide municipal transit services and that ProjectCo seek status as an OMERS Associated Employer, and that ProjectCo LRT employees be enrolled in OMERS. In the event that ProjectCo is denied status as an Associated Employer, that ProjectCo provide to its employee's pension rights equivalent to OMERS membership.
- (b) That Metrolinx confirm that within the Request For Procurement process, that up to 2 representatives from the Hamilton Community Benefits Network be present for the Community Benefits presentations by the qualified bidders for information and to provide community feedback.

(Eisenberger/B. Johnson)

That Committee move into Closed Session respecting Item 8.2 Pursuant to Section 8.1, Sub-section (d) and (f) of the City's Procedural By-law 14-300, and Section 239(2), Sub-section (d) and (f) of the *Ontario Municipal Act*, 2001, as amended, as the subject matter pertains to labour relations or employee negotiations and, the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

The Motion was **DEFEATED** on the following Standing Recorded Vote:

Yeas:	F. Eisenberger, A. Johnson, T. Whitehead, M. Pearson, B. Johnson, J. Partridge
Total:	6
Nays:	J. Farr, M. Green, S. Merulla, C. Collins, T. Jackson, D. Skelly, D. Conley
Total:	7
Absent:	L. Ferguson, A. VanderBeek
Total:	1

(Eisenberger/Green)

That the motion respecting Good Jobs and Community Benefits Respecting Operations and Maintenance of Hamilton LRT be **amended** by adding the following new subsection and re-lettering the balance accordingly:

- (a) ***That the City of Hamilton affirm that Metrolinx continue with the DBFOM procurement process;***

CARRIED

The Main Motion as ***amended*** reads as follows:

THEREFORE BE IT RESOLVED:

- (a) ***That the City of Hamilton affirm that Metrolinx continue with the DBFOM procurement process;***
- (b) That the City of Hamilton ensure in its contract with Metrolinx and/or ProjectCo:
 - (i) That ProjectCo shall be required to contractually recognize that they assume operations as a successor employer pursuant to the Labour Relations Act and therefore enter into a legally enforceable written voluntary recognition agreement with Amalgamated Transit Union, Local 107 for bargaining rights for all ProjectCo LRT employees below the rank of Supervisor employed in the operations and maintenance of Hamilton's LRT.
 - (ii) That the Fair Wage Schedule be amended to include the Total Hourly Compensation for all positions set out in Schedule "A" of the collective agreement between the City and Amalgamated Transit Union, Local 107. Totally Hourly Compensation to be determined pursuant to the formula set out in Section 3 of the Fair Wage Policy.
 - (iii) That ProjectCo agree to abide by the amended Fair Wage Policy and the amended Fair Wage Schedule.
 - (iv) That ProjectCo agree to provide LRT employees all benefits at or above those set out in the collective agreement between the City and Amalgamated Transit Union, Local 107.
 - (v) That, pursuant to section 6 of the OMERS Act, ProjectCo enter into an agreement with the City to provide municipal transit services and that ProjectCo seek status as an OMERS Associated Employer, and that ProjectCo LRT employees be enrolled in OMERS. In the event that ProjectCo is denied status as an Associated Employer, that ProjectCo provide to its employee's pension rights equivalent to OMERS membership.

- (c) That Metrolinx confirm that within the Request For Procurement process, that up to 2 representatives from the Hamilton Community Benefits Network be present for the Community Benefits presentations by the qualified bidders for information and to provide community feedback.

Main Motion as Amended CARRIED

(h) NOTICES OF MOTION (Item 10)

(i) Good Jobs and Community Benefits Respecting Operations and Maintenance of Hamilton LRT (Added Item 10.1)

Councillor Green introduced a Notice of Motion respecting the Good Jobs and Community Benefits Respecting Operations and Maintenance of Hamilton LRT.

(Green/Conley)

That the Rules of Order be waived to allow for the introduction of a Motion respecting Good Jobs and Community Benefits Respecting Operations and Maintenance of Hamilton LRT.

CARRIED

For disposition of this matter, please refer to Item (f)(iii).

(ii) Hamilton Transit *Passenger Bill of Rights* for HSR and LRT (Added Item 10.2)

Councillor Green introduced the following Notice of Motion respecting the Hamilton Transit *Passenger Bill of Rights* for HSR and LRT:

WHEREAS, the residents of Hamilton, through elected city councillors and the mayor, should have direct oversight over any transit projects within in their jurisdiction, including the Hamilton LRT.

THEREFORE BE IT RESOLVED:

- (a) That Metrolinx build a mechanism into the contract with ProjectCo to allow Hamilton City Council, through Metrolinx, to initiate sanctions against ProjectCo, up to and including, termination of the Operating Agreement for LRT; and
- (b) That the residents and transit users of the city of Hamilton are entitled to expect the following articles of their transit system, whether it be public or private, municipal or provincial including but not limited to Hamilton Street Railway and Hamilton Light Rail Transit operations (currently known as ProjectCo):

PASSENGER BILL OF RIGHTS

(1) Safety and Accountability, Public Oversight

- (a) ProjectCo must comply with any and all public audit requests at expense of each contractor.
- (b) ProjectCo submit unredacted any and all audits performed related to efficiency, labor, performance, and safety to [relevant agency, executive, and council offices] within 30 days of any audit's completion.
- (c) ProjectCo must commit to the highest level of maintenance and safety standards as defined by federal, provincial, and municipal regulations. In addition, each contractor must submit a summary report to Metrolinx, City Council and the Minister of Transportation of all infractions related to noncompliance with any relevant federal, provincial, or municipal regulatory statute.
- (d) If the designated bidder is headquartered outside of the Province of Ontario, said contract cost shall be increased by the amount of income tax revenue, if any, which will be lost to the province.

(2) Reliability and Predictability, Service

- (a) ProjectCo must demonstrate and adhere to providing high-quality transit service at levels that reflect and meet demand.
- (b) ProjectCo must commit to provide reliable transit service and submit quarterly reports on on-time performance and hours of missed service to Metrolinx, City Council and the Minister of Transportation.
- (c) ProjectCo must commit to working with the City of Hamilton and Hamilton Street Railway to optimize service integration.
- (d) To prepare for any event that the Hamilton LRT will experience service interruptions, delays, or stoppages, ProjectCo and HSR must have an established arrangement for HSR to provide bus service at ProjectCo's expense.

(3) Affordability, Fares

- (a) Each private contractor must provide any and all operating and capital budget drafts and revisions for public review to Metrolinx, City Council and the Minister of Transportation.
- (b) The total contract cost, inclusive of all cost considerations outlined in this act, will be at least fifteen percent less than the estimated current year cost of the service provided by the public sector, or that could be were public sector partners afforded equal opportunity and resources.
- (c) Hamilton LRT fares must be equal to current and future HSR fares, and ProjectCo must honour all HSR transfers and Presto discounts.

(4) Equity and Accessibility

- (a) ProjectCo must honour all federal, provincial, and municipal transit discounts and special fares for persons with disabilities, senior citizens, low-income riders, children, and students. This must include all current and future rate-reductions provided by HSR.
- (b) Hamilton LRT may not adopt a fare-by-distance model that would disproportionately affect riders from neighbourhoods with equity-seeking groups, who have been pushed out of the inner core due to gentrification and rising housing costs in Ontario.

(h) ADJOURNMENT (Item 13)

(Ferguson/Jackson)

That, there being no further business, the Special General Issues Committee – Light Rail Transit (LRT) be adjourned at 5:06 p.m.

CARRIED

Respectfully submitted,

R. Pasuta, Deputy Mayor
Chair, General Issues Committee

Janet Pilon
Deputy Clerk
Office of the City Clerk