



SPECIAL CITY COUNCIL MINUTES 20-028

2:14 p.m.
December 18, 2020
Council Chamber
Hamilton City Hall
71 Main Street West

Present: Mayor F. Eisenberger
Councillors M. Wilson, J. Farr, N. Nann, C. Collins, T. Jackson, E. Pauls, J.P. Danko, B. Clark (Deputy Mayor), M. Pearson, B. Johnson, L. Ferguson, A. VanderBeek and J. Partridge.

Absent: Councillors S. Merulla and T. Whitehead – Personal

Mayor Eisenberger called the Special meeting of City Council to order and recognized that Council is meeting on the traditional territories of the Erie, Neutral, HuronWendat, Haudenosaunee and Mississaugas. This land is covered by the Dish with One Spoon Wampum Belt Covenant, which was an agreement between the Haudenosaunee and Anishinaabek to share and care for the resources around the Great Lakes. It was further acknowledged that this land is covered by the Between the Lakes Purchase, 1792, between the Crown and the Mississaugas of the Credit First Nation. The City of Hamilton is home to many Indigenous people from across Turtle Island (North America) and it was recognized that we must do more to learn about the rich history of this land so that we can better understand our roles as residents, neighbours, partners and caretakers.

APPROVAL OF THE AGENDA

The Clerk advised of the following changes to the agenda:

4. NOTICES OF MOTION

4.1 Various Requests from Hamilton Utilities Corporation and Hamilton Enterprises Holding Corporation (FCS20092/LS20030) (City Wide)

(Clark/Pearson)

That the agenda for the December 18, 2020 meeting of Council be approved, as amended.

Result: Motion CARRIED by a vote of 14 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson

YES - Ward 2 Councillor Jason Farr
YES - Ward 3 Councillor Nrinder Nann
NOT PRESENT - Ward 4 Councillor Sam Merulla
YES - Ward 5 Councillor Chad Collins
YES – Ward 6 Councillor Tom Jackson
YES - Ward 7 Councillor Esther Pauls
YES - Ward 8 Councillor John-Paul Danko
YES - Mayor Fred Eisenberger
YES - Ward 15 Councillor Judi Partridge
NOT PRESENT - Ward 14 Councillor Terry Whitehead
YES - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Deputy Mayor - Ward 9 Councillor Brad Clark

DECLARATIONS OF INTEREST

Councillor Pauls declared an interest to the Hamilton Police Service's portion of the Tax Capital Budget contained within Item 3.1, as her son works for the Hamilton Police Service.

Councillor Collins provided a transparency disclosure to the Hamilton Police Service's portion of the Tax Capital Budget contained within Item 3.1, as his sister works for the Hamilton Police Service.

MOTIONS

3.1 2021 Tax Supported Capital Budget (FCS20101) (City Wide)

(Clark/Partridge)

- (a) That the 2021 Tax Supported Capital Levy in the amount of \$127,365,000 be approved, inclusive of:
 - (i) a net levy increase of \$1,654,000 (0.18%) in 2021 for associated debt financing for the Investing in Canada Infrastructure Program – Public Transit Stream that was previously approved; and,
 - (ii) a net levy increase of \$2,000,000 (0.22%) in 2021 to fund an increase in the recovery of exemptions of tax services provided through the City's Development Charge exemption programs;
- (b) That an additional \$5,100,000, which is required to maintain the same infrastructure investment to address state-of-good repair requirements be approved, as follows:
 - (i) Transportation Infrastructure for Council Priority Minor Rehabilitation Projects equally distributed to all Wards - \$3,000,000 to be funded from the Federal Gas Tax Reserve (#112213);

- (ii) That \$560,000 in WIP funding be transferred from Active Transportation Connections to Council Priority Minor Rehabilitation Projects allocated equally to each ward; and,
 - (iii) Facilities Management - \$1,500,000, to be funded from the 2020 Unallocated 2020 Capital Levy Reserve (#108020);
- (c) That the 2021 Tax Supported Capital Budget and Financing Plan in the amount of \$474,333,000, attached hereto as Appendix “A”, be approved with the following funding sources:
 - (i) \$153,899,000 from government grants and subsidies;
 - (ii) \$25,000 from other external sources;
 - (iii) \$78,287,000 from Development Charges Reserves;
 - (iv) \$46,323,000 from Reserves;
 - (v) \$22,908,000 from Work-in-Progress and other internal transfers;
 - (vi) \$86,657,000 from the 2021 Tax Supported Capital Levy;
 - (vii) \$5,300,000 from Hamilton Utilities Corporation (HUC) / Alectra Dividends;
 - (viii) \$4,000,000 from Hamilton Future Fund Reserve (112246);
 - (ix) \$39,543,000 from Federal Gas Tax Reserve (112213);
 - (x) \$1,100,000 from COVID-19 Emergency Reserve (110053);
 - (xi) \$2,090,000 from Roads, Bridges and Traffic Capital Reserve (108041);
 - (xii) \$5,125,000 from the Unallocated Capital Levy Reserve (108020); and,
 - (xiii) \$29,076,000 from Tax Supported Debenture Financing;
- (d) That the General Manager of Finance and Corporate Services be authorized to transfer \$5,125,000 to the Unallocated Capital Levy Reserve (108020) from the forecasted 2020 Capital Financing Surplus for the purposes of funding the 2021 Capital Financing Plan;
- (e) That the Tax Supported Discretionary Net Capital Funding Forecast 2022–2030, attached hereto as Appendix “B”, which assumes the following, be approved, in principle, and re-visited by Council each budget year:
 - (i) a net levy increase of \$4,500,000 (0.5%) in each year from 2022 to 2030;

- (ii) an additional net levy increase of \$374,000 (0.04%) in 2022, \$626,000 (0.07%) in 2023, \$1,773,000 (0.19%) in 2024, \$54,000 (0.01%) in 2025, \$20,000 (0.01%) in 2026, \$59,000 (0.01%) in 2027, \$87,000 (0.01%) in 2029 and \$3,072,000 (0.66%) in 2030 to fund the debt charges associated with the West Harbour Development;
- (f) That the operating budget and full-time equivalent (FTE) impacts of the 2021 Tax Supported Capital Budget, estimated at \$865,500 and 4 FTEs for 2021 and \$5,640,400 and 74.9 FTEs for future years, included in Appendix “C” attached hereto, be incorporated into future Tax Supported Operating Budgets subject to Council approval;
- (g) That the General Manager, Finance and Corporate Services, be authorized to negotiate the terms and placement of a debenture issue(s), and / or private placement debenture issue(s), in either a public or private market and / or bank loan agreement and debenture issue(s) and / or variable interest rate bank loan agreement and debenture issue(s), in an amount not to exceed \$86,025,000 Canadian currency, attached hereto in Appendix “A”, which includes \$29,076,000 in Tax Supported municipal debt and \$56,475,000 in Development Charges Tax Supported municipal debt;
- (h) That the General Manager, Finance and Corporate Services, be authorized to engage the services of all required professionals to secure the terms and issuance of the debenture issue(s) described in subsection (g) including, but not limited to, external legal counsel, fiscal agents and Infrastructure Ontario’s Loan Program;
- (i) That the General Manager, Finance and Corporate Services, Mayor and City Clerk are each authorized and directed to enter into and / or execute, on behalf of the City of Hamilton, all agreements and necessary ancillary documents requiring their respective signatures, to secure the terms and issuance of the debenture issue(s) described in subsections (g) and h), in a form satisfactory to the City Solicitor;
- (j) That the Mayor and City Clerk are authorized and directed to enter into and / or execute, on behalf of the City of Hamilton, all agreements and necessary ancillary documents not requiring any specific signing authority, to secure the terms and issuance of the debenture issue(s) described in subsections (g) and (h), in a form satisfactory to the City Solicitor and with content acceptable to the General Manager, Finance and Corporate Services; and,
- (k) That all necessary By-Law(s) be passed to authorize the debenture issue(s) negotiated placed and secured in accordance with subsections (g) and (h).

At Council’s request, Sub-Sections (b) (i) and (ii) were voted on separately as follows:

Result: Motion on Sub-Sections (b) (i) and (ii), CARRIED by a vote of 12 to 2, as follows:

NO - Ward 1 Councillor Maureen Wilson
YES - Ward 2 Councillor Jason Farr
YES - Ward 3 Councillor Nrinder Nann
NOT PRESENT - Ward 4 Councillor Sam Merulla
YES - Ward 5 Councillor Chad Collins
YES – Ward 6 Councillor Tom Jackson
YES - Ward 7 Councillor Esther Pauls
NO - Ward 8 Councillor John-Paul Danko
YES - Mayor Fred Eisenberger
YES - Ward 15 Councillor Judi Partridge
NOT PRESENT - Ward 14 Councillor Terry Whitehead
YES - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Deputy Mayor - Ward 9 Councillor Brad Clark

Councillors Pauls and Collins noted their conflicts to the Hamilton Police Service's portion of the Tax Capital Budget contained within Item 3. 1 when voting on this matter.

Result: Motion on the balance of Item 3.1, CARRIED by a vote of 14 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - Ward 2 Councillor Jason Farr
YES - Ward 3 Councillor Nrinder Nann
NOT PRESENT - Ward 4 Councillor Sam Merulla
YES - Ward 5 Councillor Chad Collins
YES – Ward 6 Councillor Tom Jackson
YES - Ward 7 Councillor Esther Pauls
YES - Ward 8 Councillor John-Paul Danko
YES - Mayor Fred Eisenberger
YES - Ward 15 Councillor Judi Partridge
NOT PRESENT - Ward 14 Councillor Terry Whitehead
YES - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Deputy Mayor - Ward 9 Councillor Brad Clark

Councillors Pauls and Collins noted their conflicts to the Hamilton Police Service's portion of the Tax Capital Budget contained within Item 3.1 when voting on this matter.

3.2 Various Requests from Hamilton Utilities Corporation and Hamilton Enterprises Holding Corporation (FCS20092/LS20030) (City Wide)

(Clark/Jackson)

- (a) Conditional upon HEHCo substantiating the value of the four promissory notes to the satisfaction of the General Manager, Finance and Corporate Services,

that Council approve the following steps to complete the restructuring of Hamilton Utilities Corporation (HUC) commenced in 2017, namely:

- (i) conversion of the four promissory notes totalling approximately \$40 Million, payable to HUC for assets sold by HUC to HEHCo subsidiaries, into equity requiring transfers through the City's bank account(s) with no material impact to the City;
 - (ii) discharge of the existing Personal Property Security Act security registration(s) over the District Cooling System assets separately granted by HCE and HUC to the City and the filing of new Personal Property Security Act security registration(s) over the District Cooling System assets granted by HIPCO-CUP to the City;
 - (iii) restructuring the flow of loan repayments related to the sale of the District Cooling System assets to align with the restructuring of the City's energy subsidiaries by entering into a Debt and Security Realignment Agreement between the City, HUC, HCE, HIPCO-CUP and HIPCo; and
 - (iv) assignment of the various site licences in relation to the District Cooling System assets from HCE to HIPCO-CUP;
- (b) That Council approve the temporary contravention of the debt/equity ratio required by the HEHCo Unanimous Shareholders' Declaration with respect to HIPCO Portlands Projects Corporation's proposed \$3 Million financing from Concentra Bank; and
- (c) That the General Manager, Finance and Corporate Services, or their designate, be authorized and directed to execute on behalf of the City all documentation and agreements necessary to give effect to Recommendations (a), (b) and (c), all in a form acceptable to the City Solicitor, including but not limited to: (i) Restructuring Notes Acceptance Agreement; (ii) HEHCo Share Subscription Agreement; (iii) Receipt for HEHCo Share Certificate; (iv) Notes Payment Demand; (v) Receipt for Notes Payment(s); (vi) Guarantee Agreement (City and HIPCO-CUP); (vii) General Security Agreement (City and HIPCO-CUP); (viii) Termination Agreement re: existing HCE – City Guarantee Agreement; (ix) Termination of Personal Property Security Act security registration(s) over the District Cooling System assets separately granted by HUC and HCE; and (x) various ancillary agreements including Novation Agreements.

Result: Motion CARRIED by a vote of 14 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - Ward 2 Councillor Jason Farr
YES - Ward 3 Councillor Nrinder Nann
NOT PRESENT - Ward 4 Councillor Sam Merulla
YES - Ward 5 Councillor Chad Collins
YES – Ward 6 Councillor Tom Jackson
YES - Ward 7 Councillor Esther Pauls

YES - Ward 8 Councillor John-Paul Danko
YES - Mayor Fred Eisenberger
YES - Ward 15 Councillor Judi Partridge
NOT PRESENT - Ward 14 Councillor Terry Whitehead
YES - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Deputy Mayor - Ward 9 Councillor Brad Clark

MOTIONS

4.1 Various Requests from Hamilton Utilities Corporation and Hamilton Enterprises Holding Corporation (FCS20092/LS20030) (City Wide)

(Clark/Wilson)

That the Rules of Order be waived to allow for the introduction of a Motion respecting Various Requests from Hamilton Utilities Corporation and Hamilton Enterprises Holding Corporation (FCS20092/LS20030).

Result: Motion CARRIED by a 2/3 vote of 14 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - Ward 2 Councillor Jason Farr
YES - Ward 3 Councillor Nrinder Nann
NOT PRESENT - Ward 4 Councillor Sam Merulla
YES - Ward 5 Councillor Chad Collins
YES – Ward 6 Councillor Tom Jackson
YES - Ward 7 Councillor Esther Pauls
YES - Ward 8 Councillor John-Paul Danko
YES - Mayor Fred Eisenberger
YES - Ward 15 Councillor Judi Partridge
NOT PRESENT - Ward 14 Councillor Terry Whitehead
YES - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Deputy Mayor - Ward 9 Councillor Brad Clark

Refer to Item 3.2 for further disposition of this item.

BY-LAWS

(Clark/Ferguson)

That Bill No. 20-275, be passed and that the Corporate Seal be affixed thereto, and that the By-law, be numbered, be signed by the Deputy Mayor and the City Clerk to read as follows:

20-275 To Confirm the Proceedings of City Council

Result: Motion CARRIED by a vote of 14 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - Ward 2 Councillor Jason Farr
YES - Ward 3 Councillor Nrinder Nann
NOT PRESENT - Ward 4 Councillor Sam Merulla
YES - Ward 5 Councillor Chad Collins
YES – Ward 6 Councillor Tom Jackson
YES - Ward 7 Councillor Esther Pauls
YES - Ward 8 Councillor John-Paul Danko
YES - Mayor Fred Eisenberger
YES - Ward 15 Councillor Judi Partridge
NOT PRESENT - Ward 14 Councillor Terry Whitehead
YES - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Deputy Mayor - Ward 9 Councillor Brad Clark

(Pearson/Ferguson)

That, there being no further business, Special City Council be adjourned at 2:25 p.m.

Result: Motion CARRIED by a vote of 14 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - Ward 2 Councillor Jason Farr
YES - Ward 3 Councillor Nrinder Nann
NOT PRESENT - Ward 4 Councillor Sam Merulla
YES - Ward 5 Councillor Chad Collins
YES – Ward 6 Councillor Tom Jackson
YES - Ward 7 Councillor Esther Pauls
YES - Ward 8 Councillor John-Paul Danko
YES - Mayor Fred Eisenberger
YES - Ward 15 Councillor Judi Partridge
NOT PRESENT - Ward 14 Councillor Terry Whitehead
YES - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Deputy Mayor - Ward 9 Councillor Brad Clark

Respectfully submitted,

Mayor F. Eisenberger

City Clerk