



City of Hamilton
HAMILTON LICENSING TRIBUNAL
AGENDA

Established under the Municipal Act, 2001 and the Business Licensing By-law No. 07-170

Meeting #: 22-002
Date: June 24, 2022
Time: 1:30 p.m.
Location: Room 264, 2nd Floor, City Hall (in-person)
71 Main Street West

Loren Kolar, Committee Secretary (905) 546-2424 ext. 2604

1. **CEREMONIAL ACTIVITIES**
2. **APPROVAL OF AGENDA**
(Added Items, if applicable, will be noted with *)
3. **CONFLICTS OF INTEREST**
4. **APPROVAL OF MINUTES OF PREVIOUS MEETING**
 - 4.1. February 11, 2022
5. **HEARINGS**
6. **OTHER BUSINESS**
 - 6.1. Consideration of Council's Recommendation for the City's Tribunals to Consider Adjusting their Meeting Format from May 25, 2022 (LS22027) (City Wide)
7. **ADJOURNMENT**



CITY OF HAMILTON MINUTES

22-001

HAMILTON LICENSING TRIBUNAL

Friday, February 11, 2022

10:00 a.m.

**Council Chambers, Stoney Creek Municipal Centre
777 Hamilton Regional Rd 8,
Stoney Creek**

Present: Councillor B. Clark (Chair)
Councillors N. Nann, R. Powers and B. Johnson

**Absent with
Regrets:** Councillor T. Whitehead – Personal

The meeting was called to order.

FOR INFORMATION:

(a) CHANGES TO THE AGENDA (Item 2)

The Secretary advised the Tribunal that there were no changes to the agenda:

(Johnson/Powers)

That the agenda for the February 11, 2022 meeting of the Hamilton Licensing Tribunal be approved, as amended.

CARRIED

(b) DECLARATIONS OF INTEREST (Item 3)

There were none declared.

(c) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 4)

(i) December 3, 2021 (Item 3.1)

(Johnson/Clark)

That the Minutes of the December 3, 2021 meeting of the Hamilton Licensing Tribunal, be approved, as presented.

CARRIED

(d) HEARINGS (Item 5)

- (i) REQUEST FOR SHOW CAUSE HEARING (dated December 1, 2021)
to: Titan Recycling Inc., City of Hamilton Establishment Licence -
Salvage Yard (1V) File No.20-298038 (Item 5.1)**

(Nann/Johnson)

That as of February 11, 2022, Titan be issued a six-month conditional Salvage Yard Licence, with the condition being that:

- (a) Titan Recycling Inc. forthwith commence the necessary proceedings to obtain a Declaration from the Court of Competent Jurisdiction that its operations at 140 Freelton Road, Dundas are legal non-conforming given the historic use of the property, and to diligently continue that process until a final judicial determination is made; and
- (b) That the condition be removed if the Court grants the confirmation of legal non-conforming status, or in the event the judicial determination of the Court concludes that the operations are not legal non-conforming that the licence expire.

CARRIED

(e) ADJOURNMENT (Item 6)

(Nann/Johnson)


That the meeting of the Hamilton Licensing Tribunal be adjourned at 10:19 a.m.

CARRIED

Loren Kolar
Secretary
Hamilton Licensing Tribunal
City Clerk's Office



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Services and Taxation Division
and
Legal Services and Risk Management Division

TO:	Chair and Tribunal Members Hamilton Licensing Tribunal
COMMITTEE DATE:	June 24, 2022
SUBJECT/REPORT NO:	Consideration of Council's Recommendation for the City's Tribunals to Consider Adjusting their Meeting Format from May 25, 2022 (LS22027) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Stephen Chisholm (905) 546-2424 Ext. 3663
SUBMITTED BY:	Ron Sabo, City Solicitor Legal Services and Risk Management Division Corporate Services Department
SIGNATURE:	

COUNCIL DIRECTION

At the May 25th, 2022 meeting of City Council, a motion was approved requesting City Tribunals consider “continuing to provide live streaming of public meetings and to continue to permit electronic participation, in addition to in-person participation, for all the parties, members of the public and the members of the tribunal...” The full text of the resolution is attached hereto as Appendix “A” for your information. The purpose of this Information Report is to bring the Council Resolution to the Tribunal’s attention for consideration and, if necessary, direction to staff.

INFORMATION

Licensing Tribunal hearings have not previously been livestreamed via the City’s website or on another platform such as YouTube. The Tribunal’s own Policy Respecting the Recording and Broadcasting of Hearings (attached as Appendix “B”) does not permit the recording or broadcasting of a hearing unless permission to do so is specifically sought and then only if the Members are satisfied that the broadcasting will not impede, disrupt or delay the hearing or prejudice the parties.

Licensing Tribunal hearings are quasi-judicial proceedings. Similar to proceedings in the Superior Court of Justice, proceedings are open to the public to attend in person;

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

however, Courts in Canada have generally not adopted a practice of making real-time live video feeds of proceedings available. Matters before the Licensing Tribunal tend to be fact-specific to the individuals involved and can require the disclosure of personal or confidential information. There are also circumstances where evidence is called respecting ongoing criminal investigations or charges. Additionally, there has historically been a concern about the “chilling effect” that the broadcasting (or recording) of proceedings might have on potential litigants and their willingness to bring matters forward. All of these are issues that the Tribunal might wish to consider as it deliberates Council’s request.

From a functional and technological perspective, the livestreaming of hearings is possible so long as hearings are conducted in Council Chambers or one of the other rooms at City Hall equipped with the appropriate equipment. Livestreaming would likely not be possible were hearings required to shift to other locations, as was the case during the COVID-19 pandemic.

Note that we are distinguishing “livestreaming” or “broadcasting” in this context from virtual or on-line participation in a meeting. Livestreaming involves the provision of access to a closed video feed of the proceeding (ie. the viewer is not actively participating), which is different from a virtual meeting via WebEx or Zoom and different again from conducting a hearing electronically. The Tribunal’s by-laws do not currently permit electronic hearings and significant changes to the by-law would be required to facilitate that process.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” – Resolution of Council dated May 25, 2022

Appendix “B” – Policy Respecting the Recording and Broadcasting of Hearings

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

6.4 Council's Request for the City's Tribunals to Consider Adjusting their Meeting Format

(Nann/Johnson)

WHEREAS, the Council for the City of Hamilton has delegated their authority to Tribunals to make decisions on their behalf;

WHEREAS, the City's Tribunals fall under the *Statutory Powers Procedures Act* and under Section 5.2(1) permits electronic participation for Hearings; and

WHEREAS, the Term Priorities for Council includes Trust and Confidence in Government with a goal to "Provide the public with greater access to City government information and opportunities to become more engaged in decision making processes that impact their community".

THEREFORE, BE IT RESOLVED:

- (a) That Council requests that the City's Tribunals consider continuing to provide live streaming of public meetings and to continue to permit electronic participation, in addition to in-person participation, for all the parties, members of the public and the members of the tribunal participating in the Tribunal;
- (b) That a copy of this resolution be forwarded to each of the City's Tribunals; and
- (c) That staff be authorized and directed to provide any required staffing support and technology to support electronic participation at Tribunal meetings, to be funded from the Development Fee Stabilization Reserve for 2022 and referred to the 2023 budget process for future years.

Result: Motion CARRIED by a vote of 12 to 0, as follows:

YES - Deputy Mayor - Ward 1 Councillor Maureen Wilson
 NOT PRESENT - Ward 2 Councillor Jason Farr
 YES - Ward 3 Councillor Nrinder Nann
 YES - Ward 4 Councillor Sam Merulla
 YES - Ward 5 Councillor Russ Powers
 YES - Ward 6 Councillor Tom Jackson
 NOT PRESENT - Ward 7 Councillor Esther Pauls
 YES - Ward 8 Councillor John-Paul Danko
 NOT PRESENT - Mayor Fred Eisenberger
 YES - Ward 15 Councillor Judi Partridge

YES - Ward 14 Councillor Terry Whitehead
YES - Ward 13 Councillor Arlene VanderBeek
NOT PRESENT - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Ward 9 Councillor Brad Clark

6.6 Budget Increase for the Housing for Hamilton Community Improvement Plan (CIP) for the Roxborough Mixed Income/Tenure Demonstration Project

(Merulla/Jackson)

WHEREAS, in 2019 the City of Hamilton approved the Housing for Hamilton Community Improvement Plan (CIP) for the Roxborough Mixed Income/Tenure Demonstration Project;

WHEREAS, the intent of the CIP is to establish an innovative demonstration project for a joint public-private housing redevelopment which will deliver a mix of market and below market homeownership and rental housing options through the redevelopment of approximately 12.5 acres of land within the McQueston neighbourhood in East Hamilton;

WHEREAS, the City's financial contribution under the CIP is primarily in the form of waivers of Development Charges and Parkland Dedication Fees;

WHEREAS, the Roxborough Demonstration Project was envisioned to deliver approximately 650-750 mixed income and mixed tenure residential units including 103 family-oriented Rent-Geared-to-Income and affordable rental units to be owned and operated by City Housing Hamilton, over 200 multi-residential rental units with capped rents, approximately 200 - 250 below market homeownership townhouse units; and approximately 100 -150 maisonettes and condominium units geared towards seniors and smaller households;

WHEREAS, the 103 unit City Housing Hamilton building is nearly complete and the first 126 below market home ownership townhouse units are under construction;

WHEREAS, the Roxborough Development Group has now secured Preliminary Approval with CMHC for participation in the Rental Construction Financing Initiative (RCFI) program designed to facilitate the construction of new rental housing that is attainable and affordable, which would allow the Roxborough Demonstration Project to construct 352 affordable rental units, far surpassing the minimum 200 rental units required by the City's CIP;

WHEREAS, the affordability benchmark for the rental units would exceed the affordability threshold established by the City's CIP, such that rents for new tenancies would be capped at not more than 90% of existing market rents for comparable product (10% below market, at minimum) and rents on 20% of the units (70 suites) must be set at rents not to exceed 30% of Household income for the Hamilton CMA;

Licensing Tribunal of the City of Hamilton

Policy respecting the Recording and Broadcasting of Hearings

Guiding Principles:

The purpose of the Policy, made under the authority of the *Statutory Powers Procedure Act*, is to govern the recording/broadcasting of proceedings of the Hamilton Licensing Tribunal (the "Tribunal").

The Tribunal must balance public access to its proceedings with the fair administration of justice. Accordingly, requests to record/broadcast proceedings are balanced with:

- ensuring proceedings are accessible to the public,
- ensuring proceedings take place without impediment;
- ensuring witnesses at proceedings do not feel constrained; and,
- ensuring the rights of parties at a proceeding to a fair hearing are not compromised.

Each hearing must be fair, with the rights of the parties protected. As such, subject to section 2 of this Policy, prior permission from the Tribunal is required for recording/broadcasting on a hearing-by-hearing basis.

Definitions:

In this Policy:

"broadcasting", in all its forms, means the live or recorded transmission, by electronic means, of a photograph, motion picture, video recording or other recording capable of producing an aural or visual representation of a hearing; and,

"recording", in all its forms, means taking, by electronic means, a photograph, motion picture, video recording or other recording capable of producing an aural or visual representation of a hearing.

Recording/Broadcasting Hearings:

1. A hearing before the Tribunal may not be recorded/broadcast unless prior permission has been given by the Tribunal.

A statement will be read at the start of the meeting by the Tribunal indicating that this is the case.

2. Despite section 1:
 - (a) Prior permission is not required to transmit live alphanumeric communications about a hearing to a publicly accessible medium (e.g. Twitter or a live blog) or to make an aural recording as notes for the purposes of reporting on a hearing. The Tribunal may act to limit these activities, in accordance with this Policy modified as necessary, if concerns under sections 3 or 4 arise during a hearing.

- (b) Permission will not be given to record/broadcast hearings or portions of hearings that are closed in accordance with the *Statutory Powers Procedure Act* when members of the public and the media cannot attend.
 - (c) Parties may arrange, at their own expense, for the attendance of a qualified verbatim reporter for the purpose of recording all testimony and submissions during a hearing and preparing a transcript. Permission is not required for this, but the Committee should be informed in advance of the hearing so that the meeting room can be set up to accommodate the verbatim reporter.
3. A request to record/broadcast a Tribunal hearing may be made to the Tribunal. The Tribunal may permit the request if the members are satisfied that:
- (a) access to a hearing by the members of the Tribunal, the other participants in the hearing as well as the members of the public and the media attending will not be impeded;
 - (b) the hearing will not be disrupted or delayed;
 - (c) no prejudice to any party in the hearing will result;
 - (d) no participants, including the parties, will be negatively impacted (for example, an individual participating as a witness may be reluctant to testify or testify fully); and
 - (e) the privacy interests of participants will be protected.
4. In determining whether to permit a request made under section 3, the Chair of the Tribunal will ask the parties and any witnesses about any concerns they may have. In addition, the Tribunal may hear submissions from any other interested person.
5. The Tribunal may permit a request made under section 3 subject to any conditions necessary to ensure the concerns raised under sections 3 and 4 are addressed. This may include limiting permission to only a part or parts of a hearing.
6. The Tribunal may, at any time during a hearing, withdraw or limit their permission to record/broadcast under section 5, if the concerns raised under sections 3 or 4 are no longer addressed.
7. A recording/broadcast of a hearing permitted under section 2(a) or section 5 may be used only for the dissemination of news and information in a manner that is consistent with the Canadian Association of Broadcaster's Code of Ethics.