



SPECIAL CITY COUNCIL MINUTES 19-001

2:25 p.m.

Monday, January 14, 2019

Council Chamber

Hamilton City Hall

71 Main Street West

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

Mayor Eisenberger called the meeting to order and recognized that Council is meeting on the traditional territories of the Mississauga and Haudenosaunee nations, and within the lands protected by the “Dish with One Spoon” Wampum Agreement.

APPROVAL OF THE AGENDA

The Clerk advised of the following changes to the agenda:

3.1 Correspondence respecting Dispensaries for Recreational Cannabis Retail Sale:

(c) Dave Jackson

Recommendation: Be received and referred to the consideration of Item 5.1.

3.2 Correspondence from Deputy Chief Dan Kinsella to Chief Eric Girt, Hamilton Police Service, respecting Illegal Dispensary Enforcement / Estimated Costs of Illegal Dispensaries.

Recommendation: Be received and referred to the consideration of Item 5.1.

(Pearson/VanderBeek)

That the agenda for the January 14, 2019 meeting of Council be approved, as amended.

Result: Motion CARRIED by a vote of 16 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson

YES - Ward 2 Councillor Jason Farr

YES - Ward 3 Councillor Nrinder Nann
YES - 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
YES - 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 - Ward 9 Councillor Brad Clark

DECLARATIONS OF INTEREST

There were no declarations of interest.

COMMUNICATIONS

(Merulla/Collins)

That Council Communications 3.1 (a) to (c) and 3.2 be received and the recommendations be approved, as follows:

- 3.1 Correspondence respecting Dispensaries for Recreational Cannabis Retail Sale in the City of Hamilton:
- (a) Barry Spinner
 - (b) Alex Johnstone, Chair, Hamilton-Wentworth District School Board
 - (c) Dave Jackson

Recommendation: Be received and referred to the consideration of Item 5.1.

- 3.2 Correspondence from Deputy Chief Dan Kinsella to Chief Eric Girt, Hamilton Police Service, respecting Illegal Dispensary Enforcement / Estimated Costs of Illegal Dispensaries.

Recommendation: Be received and referred to the consideration of Item 5.1.

CARRIED

REPORTS

4.1 Update: Cannabis Provincial Legislation (PED18249(a)) (City Wide)**(Whitehead/Nann)**

That Report PED18249(a), respecting an Update: Cannabis Provincial Legislation, be received.

CARRIED

MOTIONS

5.1 Dispensaries for Recreational Cannabis Retail Sale**(Merulla/Jackson)**

WHEREAS, the Province of Ontario has, through their constitutional authority under the federation of Canada, pursued the legalization of recreational cannabis use in Ontario;

WHEREAS, the social costs have been established by the City of Hamilton and Hamilton Police Services;

WHEREAS, the legalization of cannabis in Ontario will increase revenue significantly to the Province of Ontario;

WHEREAS, nearly half of the City of Hamilton's operating budget is dedicated to provincially mandated programs, with little or no authority from Council; and,

WHEREAS, a lack of sustainable revenue-sharing from the Province of Ontario related to the retail sale of cannabis to municipalities will amplify the regressive downloading crisis in Hamilton;

THEREFORE, BE IT RESOLVED:

- (a) That cannabis retail stores not be permitted to operate in the City of Hamilton, in accordance with the *Cannabis Licence Act, 2018*, until a sustainable revenue-sharing formula is established between the Province of Ontario and the City of Hamilton;
- (b) That the City Manager be directed to provide written notice, prior to January 22, 2019, to the Registrar no later than three business days after the resolution is passed and, not later than January 22, 2019, to advise that the City of Hamilton will not permit cannabis retail stores in Hamilton;
- (c) That the estimated first phase of funding, in the amount of \$574,493, to be funded from the Ontario Cannabis Legalization Implementation Fund for costs that directly relate to the legalization of recreational cannabis, be allocated as outlined in Appendix "A";

- (d) That Council reaffirm its request to the Hamilton Police Services Board that Hamilton Police Service continue to aggressively close down all illegal cannabis dispensaries located within the city of Hamilton; and,
- (e) That the Mayor write to the Premier of Ontario, appropriate Ministers, and the Association of Municipalities of Ontario to communicate that it is the City's position that the Province's approach to the regulation of private cannabis retail stores in Ontario must ensure that municipalities have the ability to regulate the following in a manner that is appropriate to the municipality:
 - (i) separation distances from sensitive uses such as parks, schools, day care and health care facilities;
 - (ii) over-concentration of dispensaries in one area of the city;
 - (iii) the total number of dispensaries city-wide and within particular areas of the city;
 - (iv) general issues of urban design such as location of entrances and transparency of facades;
 - (v) advertising and signage;
 - (vi) hours of operation;
 - (vii) property standards compliance; and,
 - (viii) the ability to restrict or prohibit operations that routinely violate municipal standards such as noise, nuisance or property standards.

Result: Motion DEFEATED by a tied vote of 8 to 8, as follows:

NO - Ward 1 Councillor Maureen Wilson
NO - Ward 2 Councillor Jason Farr
NO - Ward 3 Councillor Nringer Nann
YES - Ward 4 Councillor Sam Merulla
YES - Ward 5 Councillor Chad Collins
YES - Ward 6 Councillor Tom Jackson
NO - Ward 7 Councillor Esther Pauls
YES - Ward 8 Councillor John-Paul Danko
NO - Mayor Fred Eisenberger
YES - Ward 15 Councillor Judi Partridge
NO - Ward 14 Councillor Terry Whitehead
NO - Ward 13 Councillor Arlene VanderBeek
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
NO - Ward 9 Councillor Brad Clark

(Eisenberger/Clark)

WHEREAS, the Province of Ontario is implementing the legalization of recreational cannabis use in Ontario;

WHEREAS, the City will receive a first phase of funding of approximately \$574,000 from the Ontario Cannabis Legalization Implementation Fund for costs that directly relate to the legalization of recreational cannabis;

WHEREAS, the City after opting in and implementation will receive a second phase of funding of approximately \$574,000;

WHEREAS, the City after opting in stands to receive additional funds flowing from Ontario's portion of the federal excise tax on cannabis with a 50/50 provincial-municipal split if Ontario's revenues exceed \$100 million in the first two years; and,

WHEREAS, it is in the public interest that a licensed, regulated cannabis product be available for retail sale in Hamilton for the reasons of safety as well as to provide a legal alternative to illegal sales;

THEREFORE, BE IT RESOLVED:

- (a) That Cannabis Retail Stores be permitted to operate in the City of Hamilton, in accordance with the *Cannabis Licence Act*, 2018;
- (b) That the first phase of funding from the Ontario Cannabis Legalization Implementation Fund be allocated to strengthen By-law enforcement and Public Health;
- (c) That Municipal By-Law Officers and the Hamilton Police Service be requested to jointly and aggressively pursue enforcement activities against operators and landlords where cannabis products are being illegally sold as well as enforcement responses including, but not limited to: continuous inspection of all reported store fronts, notifying property owners, business owners **and the Alcohol and Gaming Commission of Ontario (AGCO)** of any illegal activities, and notifying mortgagees of the use of financed properties for illegal purposes; and,
- (d) That the Mayor correspond with the Premier of Ontario, the Minister of Finance, Minister of Municipal Affairs and Housing, Minister of Health, Minister of Community Safety and Correctional Services and the Attorney General, and the Association of Municipalities of Ontario to communicate that it is the City's position that the Province's approach to the regulation of private cannabis retail stores in Ontario must ensure that municipalities have the ability to regulate the following in a manner that is appropriate to the municipality:
 - (i) separation distances from sensitive uses such as parks, schools, day care and health care facilities;
 - (ii) over-concentration of dispensaries in one area of the city;
 - (iii) the total number of dispensaries city-wide and within particular areas of the city;

- (iv) general issues of urban design such as location of entrances and transparency of facades;
- (v) advertising and signage;
- (vi) hours of operation;
- (vii) property and **odour** standards compliance; and,
- (viii) the ability to restrict or prohibit operations that routinely violate municipal standards such as noise, nuisance or property standards.

Result: Sub-section (a) CARRIED by a vote of 10 to 6, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - Ward 2 Councillor Jason Farr
YES - Ward 3 Councillor Nrinder Nann
NO - Ward 4 Councillor Sam Merulla
NO - Ward 5 Councillor Chad Collins
NO - Ward 6 Councillor Tom Jackson
YES - Ward 7 Councillor Esther Pauls
YES - Ward 8 Councillor John-Paul Danko
YES - Mayor Fred Eisenberger
NO - Ward 15 Councillor Judi Partridge
YES - Ward 14 Councillor Terry Whitehead
YES - Ward 13 Councillor Arlene VanderBeek
NO - Ward 12 Councillor Lloyd Ferguson
NO - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Ward 9 Councillor Brad Clark

Result: Sub-section (b) CARRIED by a vote of 14 to 2, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - Ward 2 Councillor Jason Farr
YES - Ward 3 Councillor Nrinder Nann
NO - 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
YES - Ward 14 Councillor Terry Whitehead
YES - Ward 13 Councillor Arlene VanderBeek
NO - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson
YES - Ward 9 Councillor Brad Clark

Result: Sub-sections (c) and (d) CARRIED by a vote of 16 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - Ward 2 Councillor Jason Farr
YES - Ward 3 Councillor Nrinder Nann
YES - 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
YES - 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 - Ward 9 Councillor Brad Clark

BY-LAWS

(Merulla/Collins)

That Bill No. 19-001 be passed and that the Corporate Seal be affixed thereto, and that the By-law, be numbered, be signed by the Mayor and the City Clerk to read as follows:

By-Law

19-001 To Confirm the Proceedings of City Council

Result: Motion CARRIED by a vote of 16 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - Ward 2 Councillor Jason Farr
YES - Ward 3 Councillor Nrinder Nann
YES - 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
YES - 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 - Ward 9 Councillor Brad Clark

(Wilson/Farr)

That, there being no further business, City Council be adjourned at 5:37 p.m.

CARRIED

Respectfully submitted,

Mayor F. Eisenberger

Janet Pilon
Acting City Clerk