



**General Issues Committee
MINUTES (BUDGET)
9:30 a.m.
Thursday, February 3, 2012
Council Chambers
Hamilton City Hall
71 Main Street West**

Present: Deputy Mayor T. Whitehead (Chair)
Mayor B. Bratina
Councillors B. Clark, C. Collins, S. Duvall, J. Farr,
L. Ferguson, B. McHattie, S. Merulla, B. Morelli, T. Jackson,
B. Johnson, J. Partridge, R. Pasuta, M. Pearson, R. Powers,

Also Present: C. Murray, City Manager
R. Rossini, General Manager, Finance and Corporate
Services
G. Davis, General Manager, Public Works
M. Hazell, A/General Manager, Planning & Economic
Development
J. A. Priel, General Manager, Community Services
P. Barkwell, City Solicitor
R. Caterini, City Clerk
C. Biggs, Co-ordinator, Committee Services/Council/Budgets

1. CHANGES TO THE AGENDA

The Clerk advised of the following changes:

ADDED PRIVATE & CONFIDENTIAL

The following items were referred from the February 1, 2012 General Issues Committee meeting:

- (i) City of Hamilton ats Bre-Ex Limited (LS10005(a)) (City Wide)
- (ii) Recent Communications from the Office of the Ombudsman

(Pearson/Partridge)

That the agenda be approved, as amended.

CARRIED

2. DECLARATIONS OF INTEREST

None.

3. APPROVAL OF MINUTES OF PREVIOUS MEETING

None

(Partridge/Clark)

That the Private and Confidential items noted in the Changes to the Agenda be considered by the Committee prior to continuation of the budget presentations.

CARRIED

Based on advice provided by Mr. Barkwell relative to the Committee's requirement to move into closed session to discuss the two issues, specifically City of Hamilton ats Bre-Ex Limited, and Recent Communications from the Office of the Ombudsman, the Committee agreed to discuss the Ombudsman's issue in open session, and will move into closed session to discuss the City of Hamilton ats Bre-Ex Limited.

(i) Draft Report from the Office of the Ombudsman

Peter Barkwell provided a power point presentation with respect to the Ombudsman's draft report and spoke to the following:

- Ombudsman's Undertaking (terms)
- Two issues
- Ombudsman's position on records
- Ombudsman's Report entitled, "Pirating our Property"
- Options on the Issue of Records Retention
- Confront the Ombudsman's position
- Sidestep the Ombudsman's position
- "Work around" the Ombudsman's position
- Recommendation on the issue of retention
- Review of Draft Report
- Summary of Recommendation

A copy of the power point presentation was distributed to the Committee. The presentation has been retained for the public record and can be viewed on the City of Hamilton website.

Draft Report from the Office of the Ombudsman

(Jackson/Powers)

- (a) That to comply with the Ombudsman's process which requires that his draft report be kept confidential, the City Solicitor be directed to write to the Office of the Ombudsman and request a letter from them which states that:
- (i) In the opinion of the Ombudsman's Office the draft report being issued to the City pursuant to Section 18(3) of the Ombudsman Act qualifies pursuant to Section 239 of the Municipal Act to be discussed by Council in closed session for the purposes of reviewing the report and formulating a response to the report to be communicated to the Ombudsman by the City Solicitor as contemplated by Section 18(3) of the Ombudsman Act; and
 - (ii) Sets out the appropriate subject matter and Subsection of Section 239 under which the draft report qualifies to be the subject of a closed meeting; and
 - (iii) Is appropriate for inclusion upon the public agenda at the meeting at which Council will go into closed session to discuss the Ombudsman's draft report.
- (b) That a sub-committee be established, on behalf of City Council, composed of Councillors L. Ferguson, R. Pasuta, T. Whitehead and J. Farr, who are the subject of the complaint, to review the draft report prepared by the Office of the Ombudsman, together with the City Solicitor, and provide their comments back to the Ombudsman;
- (c) That upon request, copies of the draft report be returned to the Office of the Ombudsman.

CARRIED

8. PRIVATE & CONFIDENTIAL

Mr. Barkwell reiterated that the Bre-Ex report deals with on-going litigation and should be dealt with in camera.

(Jackson/Morelli)

That the Committee move into closed session at 9:55 a.m. pursuant to sub-sections (b), (e) and (f) of the City's Procedural By-law and Sections 239(2)(b), (e) and (f) of the Municipal Act as the subject matters pertain to:

- (b) personal matters about an identifiable individual, including City employees;
- (e) litigation or potential litigation, including matters before administrative tribunals, affecting the City;

- (f) the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose

respecting City of Hamilton ats Bre-Ex Limited (LS10005(a))

The Motion to move In Camera **CARRIED** on the following vote:

Yeas: Bratina, Whitehead, McHattie, Farr, Morelli, Merulla, Collins,
Jackson Partridge, Pasuta, Powers, Ferguson, Johnson, Pearson

Total Yeas: 14

Nays: Clark, Duvall

Total Nays: 2

Absent: 0

On a motion, the Committee reconvened in Open Session at 11:30 a.m.

NOTE: The recommendations with respect to the Draft Report from the Office of the Ombudsman and City of Hamilton ats Bre-Ex Limited will be forwarded to the February 8, 2012 meeting of Council for consideration.

(ii) City of Hamilton ats Bre-Ex Limited (LS10005(a)) (City Wide)

(Powers/Pearson)

- (a) That the City Solicitor be directed to agree to set the Pre-Judgment interest in Ontario Superior Court File No. 47804 (Bre-Ex Limited v City of Hamilton) at \$210,000;
- (b) That the City Solicitor be directed to preserve the City's right in Ontario Superior Court File No. 47804 (Bre-Ex Limited v City of Hamilton) by filing an Appeal within the time frame permitted by the Rules of Civil Procedure;
- (c) That the City Solicitor report back as soon as possible with a full legal opinion regarding the prospects for success on an Appeal;
- (d) That Report LS10005(a) remain confidential.

(Pearson/Ferguson)

That sub-section (d) be amended to read as follows:

- (d) That the contents of Report LS10005(a) remain confidential, except for Appendix "C" attached to Report LS10005(a), and attached hereto as Appendix "A", which is a public document. **Amendment CARRIED**
Motion as amended CARRIED

4. STAFF PRESENTATIONS

4.2 Public Works

Operations & Waste Management (OWM)

- **Bryan Shynal, Operations**
- **Craig Murdoch, Environmental Services**

Presented 2011 accomplishments in Administration and Roads, Winter Control Program (Infrastructure service area, key activities, service levels), Winter Control Program approved service levels (2001), cycling infrastructure winter maintenance pilot, winter roads budget, operating budget history improvement initiatives

- Craig Murdoch, Environmental Services

Presented 2011 accomplishments, recycling program revenues, 2011 accomplishments in forestry/horticulture, parks/cemeteries

Staff was requested to provided the following information:

- Number of private vs public cemeteries
- 5year historical account (global percentage) of the waste budget

(Merulla/Collins)

That the Committee recess and reconvene at 1:00 p.m.

CARRIED

Transportation, Energy & Facilities

- **John Mater, Senior Director**
Presented information with respect to overview (organizational chart), 2012 key drivers, gross-net levy change and 2012 key deliverables.
- **Geoff Lupton, Director (Office of Energy Initiatives, Corporate Facilities, Central Fleet and Traffic Operations)**

Mr. Lupton's presentation provided information on:

- 2011 Accomplishments and Service Profile for Energy, Central Fleet, Corporate Facilities and Traffic Operations
- 2011 Energy Initiatives Update – 2012 Corporate cost drivers; Commodities – Fuel, Electricity, Natural Gas; water and waste-water record breaking energy incentive cheque; electricity and natural gas rates; cash back; energy conservation; key performance indicators; energy program investment (2006-2011).

- **Don Hull, Transit**

Mr. Hull's presentation provided information on:

- 2011 Accomplishments and Service Profile for Transit
- 2011 Transit budget net levy change
- 2012 Transit budget mitigation strategy
- Historical diesel vs natural gas pricing
- Transit historical fare increase
- Transit fare comparison 2011
- Transit benchmarking (2010)

Discussion/Additional Information requested:

- Look at standards adopted by other municipalities for the purchase of new vehicles
- All-day counts on Waterdown route; Mr. Hull indicated that staff will visit all stops on the Waterdown route to ensure proper visibility
- Fact sheet in terms of Toronto's transit performance
- Management to staff ratio in Transit

(Johnson/Collins)

That the presentation with respect to the 2012 Public Works Department Budget be received. **CARRIED**

The Program Enhancements contained within the Public Works presentation will be discussed during the budget deliberations.

Presentation of the Corporate Services budget will be rescheduled to a future meeting.

5. MOTIONS

None

6. NOTICES OF MOTION

None

7. GENERAL INFORMATION/OTHER BUSINESS
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None

9. ADJOURNMENT

(Partridge/Pearson)

That the Committee recess at 2:58 p.m.

CARRIED

Respectfully submitted

Councillor T. Whitehead
Deputy Mayor

Carolyn Biggs, Co-ordinator
Committee Services/Council/Budgets
February 2, 2012