Present: Mayor R. Wade


Absent: A. Bain – personal reasons

DECLARATIONS OF INTEREST

Mayor R. Wade requested declarations of interest by members of Council of which there were none.

MOTIONS

Commerce Place, 1 King Street West, Hamilton, City Loading Dock Lease, Truck Tunnel Easement and Highway Encroachments

(Dilanni/Kelly)

In connection with the sale of Commerce Place's easterly office tower at 1 King St. W. Hamilton, it is recommended:

(a) that the City, as MacNab St. landowner, agree that the proposed owner of 1 King St. W. namely, SREIT (Commerce Place) Ltd., (“SREIT”) may join in the existing City Lease of the below grade loading area and in the existing City easement for the MacNab Street Truck Tunnel, for vehicular access to the said office tower, subject to the terms and conditions of the existing agreements and of this resolution; (Lease dated September 13, 1989 & registered as #10897; Easement dated February 13, 1991 & registered as # 090265.); and,
that the assignment by The Dominion Realty Company Limited ("Dominion") of its interest in the said loading bay Lease and in the MacNab Street Truck Tunnel Easement to the proposed owner of 1 King St. W., namely to SREIT, be approved, and that the City join in such assignment to provide its consent, in a form satisfactory to Corporate Counsel; and,

(c) That the City agree, regarding the CIBC tower's below grade encroachments into King St. W. and James St. S. and the two existing Encroachment Agreements entered into with the City, that these Agreements be amended to substitute SREIT in place of Dominion as the proposed owner of the adjacent office tower at the Southwest corner of James Street S. and King St. W.;

(d) that the City enter into a non-disturbance agreement known as the Multi-Party Agreement with SREIT, Dominion, and CIBC Mortgages Inc., to provide that: the City shall notify them in the event of default in the lease, easement, or encroachment agreements; the City shall permit such parties to cure a default; and, the City shall not alter the terms thereof, except after notice to them; such Multi-Party Agreement not to provide any rights beyond the lease and easement term which expire in 2069; such non-disturbance agreement to be in a form satisfactory to Corporate Counsel;

(e) That the City issue an Estoppel Certificate to SREIT and to CIBC Mortgages Inc. (its proposed mortgagee) regarding the Loading Bay Lease, the MacNab Street Truck Tunnel Easement and the said two highway encroachment agreements, to confirm they are in good standing, (subject to any matters listed therein, to be completed or fulfilled by SREIT,) such Certificate to be prepared in a form satisfactory to Corporate Counsel;

(f) That the foregoing approvals be subject to the following:

(i) Agreement(s) are entered into by SREIT with the City, to assume, as outlined above, the MacNab Street tunnel Easement, the loading bay Lease; the James St. S. and the King St. W. highway Encroachment Agreements;

(ii) the Multi Party Agreement, as outlined above, is entered into by SREIT with the City and the other parties;

(iii) satisfactory evidence of corporate authority of the parties to enter into the foregoing documents with the City, and solicitors’ opinions and such third party consents as the Corporate Counsel may advise;

(iv) on the closing of the Dominion land sale to SREIT, the SREIT shall pay the costs of external legal counsel retained to advise the City on these approvals.

(g) That the Mayor and City Clerk be authorized to execute the foregoing and related documents to implement the above, in a form satisfactory to Corporate Counsel.

CARRIED.
(DiIanni/D’Amico)
That **Bill No. 083** be passed, that the corporate seal be affixed thereto and the by-laws be signed by the Mayor and the City Clerk, and numbered as 01-083:

083  A By-law to Confirm the Proceedings of City Council at its meeting held on May 9, 2001. **CARRIED.**

On motion (Powers/Mitchell) Council adjourned at 6:05 p.m.  **CARRIED.**

________________________________________
Mayor

________________________________________
City Clerk