General Issues Committee
MINUTES
9:30 a.m.
Thursday, June 23, 2011
Council Chambers
Hamilton City Hall
71 Main Street West

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

Absent with Regrets: Councillor R. Powers – City Business

Also Present: C. Murray, City Manager
R. Rossini, General Manager, Finance and Corporate Services
T. McCabe, General Manager, Planning & Economic Development
N. Everson, Director, Economic Development & Real Estate
M. Zegarac, Director, Financial Planning and Policy
T. Sergi, Senior Director, Growth Management
D. Fisher, Senior Solicitor
G. Scandlan Watson & Associates
R. Doumani, Aird & Berlis (Outside Legal Counsel)
C. Biggs, Co-ordinator, Committee Services/Council/Budgets
C. Newman, Legislative Assistant

THE FOLLOWING ITEMS WERE REPORTED TO CITY COUNCIL FOR INFORMATION:

(a) CHANGES TO THE AGENDA (Item 1)

The Clerk advised of the following changes:

ADDED DELEGATION REQUESTS

(a) Steve Spicer, Development Manager, Multi-Area Developments Inc., respecting Special Area Charges (Added as Item 4.3)
(b) Karl Gonnsen, to provide an update with respect to meetings with staff to discuss his clients’ concerns (Added as Item 4.4)

(c) Joe Minor, on behalf of the Hamilton Halton Home Owners’ Association (HHHOA) respecting 2011 Development Charges By-law (Added as Item 4.5)

WRITTEN SUBMISSION

(d) Written submission from Jack Restivo, Yachetti, Lanza & Restivo, respecting delegation by Fred Losani and Losani Homes, Jack Restivo and Chris Barnett (Added as Item 7.1.1) (Cross Reference Delegation Request Item 4.2)

(e) Correspondence from Karl Gonnsen with submissions made on behalf of Waterdown Bay and Ancaster Meadows (Added as Item 7.1.2) (Cross Reference Added Delegation Request 4.4)

(f) Correspondence from Adi Irani respecting Losani Homes presentation for Binbrook Special Area Charges, Hamilton 2011 Development Charge By-law (Added as Item 7.1.3) (Cross Reference Delegation 4.1)

(Pearson/Whitehead)
That the agenda be approved, as amended. CARRIED

(b) DECLARATIONS OF INTEREST (Item 2)

None

(c) APPROVAL OF PREVIOUS MINUTES (Item 3)

(Partridge/Whitehead)
That the June 9, 2011 Minutes of the General Issues Committee, be approved as presented. CARRIED

(d) DELEGATION REQUESTS

(Collins/Whitehead)
That the following delegation requests be approved to address the Committee at today’s meeting:

(i) Adi Irani, on behalf of the Hamilton Halton Home Builders’ Association (Item 4.1)
(ii) Fred Losani Losani Homes; Jack Restivo, Yachetti, Lanza & Restivo; and Chris Barnett, Davis LLP (Item 4.2)

(iii) Steve Spicer, Development Manager, Multi-Area Developments Inc., respecting Special Area Charges (Added as Item 4.3)

(iv) Karl Gonnsen, to provide an update with respect to meetings with staff to discuss his clients’ concerns (Added as Item 4.4)

(v) Joe Minor, on behalf of the Hamilton Halton Home Owners’ Association (HHHOA) respecting 2011 Development Charges By-law (Added as Item 4.5)  

CARRIED

(Whitehead/Collins)

That the rules of order be suspended to allow the above-listed delegations to address the Committee at today’s meeting.  

CARRIED

(e) DELEGATIONS

(i) Adi Irani, on behalf of the Hamilton Halton Home Builders’ Association (Item 4.1)

Adi Irani appeared before the Committee on behalf of the Hamilton Halton Home Builders’ Association. His comments included, but were not limited to, the following:

- Attended public meeting on June 9 and indicated at that time that there is an immense amount of information; ran out of time and requested an additional two weeks to clarify issues and meet with staff
- Hand out distributed has questions asked of City staff
- Met with City staff and received some answers to questions; expressed frustration with respect to timing of receipt of report; did not have a chance to review the implications of its contents to prepare for today’s presentation; whether agree or disagree, the problem in the process; timeline was particularly tight
- Sure that there are mistakes in the information that may or may not have big impacts; not in a position to be able to support the by-law
- Requested that Committee direct staff to include major stakeholders i.e., Home Builders, to have collaborative discussion process and to have consultation that is meaningful

(Pearson/Collins)

That the presentation and written submission from Adi Irani on behalf of the Hamilton Halton Home Builders Association, be received.  

CARRIED

Following the presentation, staff suggested that the Committee could consider the recommendations contained in Report FCS11053(a) at the special General Issues Committee scheduled on Monday, June 27, 2011.
Staff outlined the timeline/process and indicated that it is a very long process; some of the issues addressed in the report are from the 2009 Development Charges; important to put the process into context i.e., very complex and complicated.

The Committee was advised that the current Development Charges By-law expires on July 5, 2011 and without a new By-law in place, monies cannot be collected.

(ii) Fred Losani, Losani Homes; Jack Restivo, Yachetti, Lanza & Restivo; and Chris Barnett, Davis LLP (Item 4.2)

Messrs. Jack Restivo and Chris Barnett appeared before the Committee. Mr. Restivo expressed regrets on behalf of Mr. Losani as he was not able to attend to present to the Committee.

Mr. Restivo’s comments included, but were not limited to, the following:

- Losani Homes has always asked for a merger of the Special Area Charges in Binbrook with the Development Charges
- All studies have concluded that the SAC in Binbrook has no basis; this is all summarized in succinct detail in Mr. Rossini’s report of 2009 which is included in the written material submitted
- Explains why it should not continue
- Position continues to be the same as in 2009; letter of support is also included in written submission
- Urge to review staff report – nothing has changed; no compelling reason for not merging

Chris Barnett

- Counsel to Losani Homes with respect to the appeals of the 2009 By-laws before the OMB; provided information update with respect to those appeals
- Do not intend to negotiate in public respecting the status of the appeals
- History of the agreement that was arrived at in 2009 has been signed by Mr. Losani
- If the Committee and Council decide to merge SAC, re-consider further notification
- There may be those who disagree with merger; however, what is in material is what is fair and merger of SAC will eliminate inequity
- Has minimal impact on the City charge overall
- Those who disagree can say inequity should be perpetuated
- OMB looks at whether by-law is fair
- If Council decides to merge SAC and it is appealed by someone else, Losani Homes will carry the ball on that cost
• Formal request that the staff recommendations for the by-law be amended so that the SAC for Binbrook is eliminated and treated fairly as rest of the City, and by-law be amended to reflect accordingly

(Collins/Pearson)
That the presentation and written submission from Jack Restivo, Yachetti, Lanza & Restivo; and Chris Barnett, Davis LLP, on behalf of Losani Homes, be received.  
CARRIED

(iii) Steve Spicer, Development Manager, Multi-Area Developments Inc., respecting Special Area Charges (Added as Item 4.3)

Steve Spicer, Development Manager, Multi-Area Developments Inc., appeared before the Committee. His comments included, but were not limited to, the following:

• Recognized attendance of Aldo DeSantis, Principal, and acknowledged correspondence sent by Mr. DeSantis to the City outlining position on special Area Charges, particularly Binbrook SAC
• Nothing mysterious or unfair about Binbrook SAC; matter of local development interests wanting to advance the development of their lands
• Region’s position was that the Binbrook Village development was premature; SAC was added to the DC by-law in order to repay Bay Area for infrastructure they installed; debt was scheduled to be paid out through the SAC over 25 years
• Binbrook builders are doing well; reduced the debt from $8 million to about $1.5 million; at current rate, will be paid out during the term of the proposed by-law
• Developers have continued to buy land knowing that the charge is there
• Policy today would be that the developer would have to front-end the installation of the infrastructure through its own financing and collect back from the City of the DC Reserves when money is available; recovery is only about 80% on average – cost of doing business
• Board of the HHHBA did not endorse the Development Council recommendation to merge the DC

A copy of Mr. Spicer’s comments was provided to the Clerk for the public record.

(Pearson/Whitehead)
That the presentation from Steve Spicer, Managing Director, Multi-Area Developments Inc., be received.  
CARRIED
(iv) Karl Gonnsen, to provide an update with respect to meetings with staff to discuss his clients’ concerns (Added as Item 4.4)

Karl Gonnsen appeared before the Committee. His comments included, but were not limited to, the following:

- Received e-mail wherein only 2 issues remain outstanding with respect to the 2011 DC By-law
- Received staff report this morning; therefore, have not had time to speak with clients to determine whether adjustments are satisfactory
- Believe that 2011 proposed DC By-law and attendant policies appear to have solved some of the 2009 appeals
- Was not a member of the stakeholders committee, nor were his clients; did not become aware of the changes being proposed to open up storm component of the DC By-law until week before the last meeting and by that time, it was too late
- Proposed transition policy which was rejected by staff
- Clients cumulatively represent $140 million of development charges to the City
- Not objecting to paying that, but want to make sure that they are treated fairly; so, transition policy was proposed to try to bring some fairness to the use of the $140 million; do not object to the quantum
- With respect to 2 other issues from the 2009 DC appeal, need to confer with client; pre-hearing set for July 18; would be nice to try to settle between the City and client
- Need time to sit down and negotiate 2 issues from 2009 and 1 apparent remaining issue from 2010-2011
- What City has is good – want to preserve and work together

(Partridge/Pearson)
That the presentation and written submission from Karl Gonnsen, be received. CARRIED

(v) Joe Minor, on behalf of the Hamilton Halton Home Owners’ Association (HHHOA) respecting 2011 Development Charges By-law (Added as Item 4.5)

Joe Minor appeared before the Committee on behalf of the Hamilton Halton Home Owners’ Association. His comments included, but were not limited to, the following:

- Speaking for silent majority, a group of people best described as the Hamilton Ratepayers
- All money that Council chooses to give away is paid for by everyone else in the form of increased rates for taxes, water/sewer rates
• Can understand lobbyists for developers are happy with the DC regime because it favours their interests at the expense of the ratepayers
• Do not bargain away what are the fair rates of development charges
• When Development Charges are reduced, money is taken from the citizens who have less and given to professionals; it is Council’s job to ensure that this does not happen.

A copy of Mr. Minor’s comments were submitted to the Clerk for the public record.

(Morelli/Jackson)
That the presentation Joe Minor, on behalf of the Hamilton Halton Home Owners’ Association (HHHOA) respecting 2011 Development Charges be received. CARRIED

(h) PRESENTATIONS

(i) 2011 Development Charge Background Study for Water, Waste-water, Storm Water and GO-Transit Services – Watson & Associates (Item 7.1)

Joe Spiler, Manager of Capital Budgets and Development, provided a power point presentation which highlighted responses to Committee directions received from the June 9 meeting and explained revisions to the Development Charge rates and policies as detailed in Report FCS11053(a). The presentation also included the changes in rates and policies based upon the direction to staff for further analysis of project costs and other issues raised by the Committee and the development community.

Mr. Spiler advised that staff is confirming the original recommendations, with the exception of revised mitigating options for Industrial Development Charges.

Councillor Clark stated that for developers to indicate this morning that they have not had an opportunity to review the information being presented today is not entirely accurate as the DC Background Study has been available for their review for quite some time, and the addendum distributed this morning contains the result of numerous meetings with stakeholders, developers and staff.

Councillor Whitehead stated that there is not an area in the report that addresses the economic development perspective, which would be helpful in the decision-making, in terms of whether the recommendations will impede future development.
(Ferguson/Whitehead)
(a) That Report FCS11053 respecting 2011 Development Charge Background Study for Water, Waste-water, Storm Water and GO-Transit Services – Watson & Associates, be deferred and added to the June 27, 2011 General Issues Committee meeting;
(b) That no further delegations be entertained at that time unless new information is to be presented. CARRIED

The Committee requested that the City Manager be in attendance at the June 27 meeting to respond to questions of the Committee and to advise the position of Senior Management Team. Neil Everson was also requested to be in attendance to respond to questions relative to industrial development in the City.

(Pearson/Whitehead)
That the staff presentation with respect to the 2011 City of Hamilton Water, Wastewater, Stormwater and GO-Transit Development Charge By-law and Amendment for Development Charge By-law 09-43, be received. CARRIED

PRIVATE & CONFIDENTIAL

(Morelli/Pearson)
That the Committee move into Closed Session at 12:32 p.m. pursuant to Section 8.1(f) of the City’s Procedural By-law and the Municipal Act and the City’s Procedural By-law as the subject matter pertains to the receiving of legal advice that is subject to solicitor-client privilege, including communications necessary for that purpose, respecting the appeals of the 2009 Development Charge By-law. CARRIED

(Partridge/Pearson)
That the Committee reconvene in Open Session at 1:32 p.m. CARRIED

(ii) Independent External Audit Review of HECFI Operations (CM11013) (City wide) (Item 7.2)

Art Zuidema, Director of Corporate Initiatives, City Manager’s Office, provided preliminary comments with respect to the presentation. Mr. Zuidema introduced the team assembled from KPMG to conduct a review of HECFI’s operations, financially and operationally, and looking forward in terms of operating modules. Mr. Zuidema also indicated that following the public portion of the presentation, the Committee would be required to move into closed session in order for KPMG to provide information with respect to identifiable individuals.
The purpose of the presentation is to educate Committee about HECFI and provide thoughts for a roadmap for future direction.

The presentation included an overview, current situation, mandate and governance issues, operational commentary, financial analysis, other matters, summary of findings, alternative operating options and next steps.

A copy of the presentation was distributed to the Committee and provided to the Clerk for the public record.

(Pearson/Partridge)  
That the presentation by KPMG be received.  

PRIVATE & CONFIDENTIAL

(Ferguson/Clark)  
That the Committee move into Closed Session at 4:14 p.m. pursuant to Section 8.1(b) of the City’s Procedural By-law and the Municipal Act and the City’s Procedural By-law as the subject matter pertains to the personal matters about an identifiable individual, including City employees, with respect to the Independent External Audit Review of HECFI Operations.  

(Bratina/Merulla)  
That the Committee reconvene in Open Session at 5:43 p.m.  

(Bratina/Merulla)  

There being no further business, the Committee adjourned at 5:45 p.m.

Respectfully submitted

Councillor B. Johnson, Deputy Mayor  
General Issues Committee

Carolyn Biggs, Co-ordinator  
Committee Services/Council/Budgets  
June 23, 2011