



General Issues Committee

REPORT 12-011

9:30 a.m.

Friday, April 27, 2012

Council Chambers

Hamilton City Hall

71 Main Street West

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

Also Present: C. Murray, City Manager
R. Rossini, General Manager, Finance and Corporate
Services
G. Davis, General Manager, Public Works
T. McCabe, General Manager, Planning and Economic
Development
N. Everson, Director, Economic Development and Real
Estate
R. Sabo, Acting City Solicitor
C. Biggs, Legislative Co-ordinator

THE GENERAL ISSUES COMMITTEE PRESENTS REPORT 12-011 AND RESPECTFULLY RECOMMENDS:

- 1. Independent External Audit Review of HECFI Operations – Phase II (RFP)
(CM11013(c))**
 - (a) That the City Manager, together with KPMG, be authorized and directed to enter into negotiations with Global Spectrum/Live Nation, SMG/Forum Equity, AEG/Katz Group, Carmen's and Sonic Unyon, and negotiate and finalize one or more proposed Memorandum(s) of Understanding subject to further approval of the City, with one or more of the aforementioned groups that permits hybrid options and that achieves the objectives of Council with respect to the operations of the HECFI Facilities;

- (b) That the proposed Memorandum(s) of Understanding achieved in Recommendation (a) above, together with the details of the HECFI Business Plan as presented to their Board, be presented to the General Issues Committee for their consideration to provide staff with directions or recommend Council approval necessary for entering into the preferred Memorandum(s) of Understanding and providing for an operation agreement(s) between the City and the preferred group(s);
- (c) That KPMG LLP be retained to facilitate the negotiations with the proponents outlined in Recommendation a) of Report CM11013c based on the fee schedule contained in their Terms of Reference (attached hereto as Appendix "A"), and funded through the HECFI Reserves;
- (d) That members of the General Issues Committee be directed to abstain from discussing the Request for Proposal process with any of the existing proponents.
- (e) That staff continue to provide updates with respect to costs incurred with the RFP process.

FOR THE INFORMATION OF COUNCIL:

(a) CHANGES TO THE AGENDA (Item 1)

On a motion, the agenda was approved, as presented.

(b) DECLARATIONS OF INTEREST (Item 2)

None

(c) PRESENTATION

(i) Independent External Audit Review of HECFI Operations – Phase II (RFP) (CM11013(c))

Tony Tollis introduced the KPMG team, including John Rockx, Bruce Peever, Vince Raso and Lyle Hall, HLT Advisory Inc.

Mr. Tollis indicated that the KPMG presentation will outline the recommendations of the consultants and the steps to move forward.

The Committee was also advised that HECFI has a new Business Plan which was presented to their Board in February. HECFI's Business Plan will also be presented to the Committee.

Mr. Tollis advised that there will be three options for the Committee's consideration i.e., contract management option; revised HECFI Business plan; status quo. This does not preclude the Committee from providing further direction to pursue other viable options.

John Rockx of KPMG provided a power point presentation to the Committee, outlining the history, reviewing the six proponents received and the conclusions with respect to the process. The intention is to narrow down the field to a number of parties that Committee and Council will ultimately approve, and decisions as to which parties will be approached to develop the Memorandum of Understanding as outlined in the recommendations.

Mr. Rockx recognized the attendance of representatives from the various proponents, including Global Spectrum, SMG/Forum Equity, Sonic Unyon and Carmen's Group.

Councillor Clark expressed his concern that the report does not include a weighting matrix. Staff responded that some proponents were reluctant to deal with City staff directly because of confidentiality issues or because the City is subject to Freedom of Information, and in some cases, people were not coming forward; therefore, KPMG was hired by the City to do the analysis and RFP that is more to the private sector approach to attract the caliber of interest desired. KPMG was responsible to carry out whatever due diligence was necessary for them to make their recommendation to the City. In terms of how and their matrix, the City was not involved. John Rockx indicated that the weighting matrix included approximately 30 factors. At the request of the Committee, staff indicated that a copy of the weighting matrix will be distributed to them.

Councillor Clark asked about successor rights with respect to the privatization/transfer of businesses from one business to another. Lora Fontana responded that under the Ontario Labour Relations Act, the Collective Agreement in place at the time of the transfer must be honoured by the new owner/operator/employer until the expiration of the agreement, unless negotiated otherwise between the parties.

On a motion, the presentation from John Rockx, Associate Partner, KPMG, respecting the Independent External Review of HECFI Operations – Phase II (Request for Proposals), was received.

On a motion, Item 3.1 respecting Independent External Audit Review of HECFI Operations – Phase II (RFP) was put on the floor.

On a motion, sub-sections (a) and (b) of Report CM11013(c) respecting Independent External Audit Review of HECFI Operations – Phase II (RFP), were deleted in their entirety and replaced with the following in lieu thereof:

- (a) That the City Manager, together with KPMG, be authorized and directed to enter into negotiations with Global Spectrum/Live Nation, SMG/Forum Equity, AEG/Katz Group, Carmen's and Sonic Unyon, and negotiate and finalize one or more proposed Memorandum(s) of Understanding subject to further approval of the City, with one or more of the aforementioned groups that permits hybrid options and that achieves the objectives of Council with respect to the operations of the HECFI Facilities;
- (b) That the proposed Memorandum(s) of Understanding achieved in Recommendation (a) above, together with the details of the HECFI Business Plan as presented to their Board, be presented to the General Issues Committee for their consideration to provide staff with directions or recommend Council approval necessary for entering into the preferred Memorandum(s) of Understanding and providing for an operation agreement(s) between the City and the preferred group(s).

The Amendment **CARRIED**.

On a motion, the following was added as sub-section (d):

- (d) That members of the General Issues Committee be directed to abstain from discussing the Request for Proposal process with any of the existing proponents.

The Amendment **CARRIED**.

On a motion, the following was added as sub-section (e):

- (e) That staff continue to provide updates with respect to costs incurred with the RFP process.

The Amendment **CARRIED** and the Main Motion, as further amended, **CARRIED**.

There being no further business, the Committee adjourned at 2:33 p.m.

Respectfully submitted

Councillor C. Collins
Deputy Mayor

Carolyn Biggs
Legislative Co-ordinator
April 25, 2012