Present: Mayor R. Bratina


Absent with Regrets: Councillors R. Powers, B. Clark – City Business

APPROVAL OF THE AGENDA

The Clerk advised of the following changes to the agenda:

1. ADDED PRIVATE AND CONFIDENTIAL REPORT

   3.1 Property Acquisition and Disposition (PED11192) (City Wide)

(Pearson/Ferguson)
That the Agenda for the City Council meeting being held on October 19, 2011, be approved, as amended. CARRIED

DECLARATIONS OF INTEREST

None
3.1 Property Acquisition and Disposition (PED11192) (City Wide)

(Jackson/Whitehead)
That Council move into Closed Session at 11:40 a.m. to discuss a matter respecting Report PED11192, Property Acquisition and Disposition, pursuant to Section 8.1(c) of the Procedural By-law and Section 239(2)(c) of the Municipal Act as the subject matter pertains to a proposed or pending acquisition or disposition of land by the municipality for industrial and infrastructure purposes.

CARRIED

Committee reconvened in Open Session at 1:14 p.m. and delivered the following recommendations:

(Duvall/Partridge)

a) That the Options to Purchase, Assignment of the Options, Disposition, Financial Details, and the Memorandum of Understanding, as outlined in Appendix “E” and Appendix “F” to Report PED11192, remain confidential until final disposition by Council and completion of the transaction, and that the balance of Report PED11192 remain confidential and not be released as a public document.

b) That the Growth Management Division of the Planning and Economic Development Department be authorized and directed to commence construction of the Storm Water Management Pond at an estimated cost of $3 million to be funded from the appropriate Development Charge Revenues and the Provincial Subsidy approved for the North Glanbrook Industrial Park Capital Program. Said works will be completed with and/or coordinated with the site servicing undertaken for the subject property.

c) That AECOM be retained to carry out design, preparation and other necessary approvals required to facilitate the development of the aforementioned Storm Water Management pond. That the cost of these works be charged to Acct # 5160507001 - North Glanbrook Industrial Business Park Servicing.

d) That the current Dillon Consultant assignment be expanded to include the detailed design for the balance of Twenty Road from future Dartnall Road to Glover Road, Glover Road from Twenty Road to north of the urban boundary and functional design for Dartnall Road south of Twenty Road to approximately 400m south. That the cost of these works be charged to Acct # 5160507001 - North Glanbrook Industrial Business Park Servicing.

e) That the associated infrastructure works related to this development be pre-approved from the 2012 City of Hamilton Capital Budget process.
f) That the City of Hamilton approve a ten (10) year deferral agreement, in a form acceptable to the General Manager of Finance and Corporate Services, for the applicable Development Charges related to the development lands identified in Appendix “A” to Report PED11192.

g) That the Mayor and City Clerk be authorized and directed to execute the Options to Purchase, subject to the terms and conditions approved and in a form satisfactory to the City Solicitor or his designate.

The Motion CARRIED on the following Standing Recorded Vote:

Total: 13

Nays: B. Johnson
Total: 1

Absent: B. Clark, R. Powers
Total: 2

Financial information disclosed as of March 12, 2012. See Appendix “E” and “F” attached hereto.

BY-LAWS

(Partridge/Pasuta)
That Bill No. 011-260 attached hereto, be passed, that the Corporate seal be affixed thereto, and that the By-law be signed by the Mayor and the City Clerk and read as follows:

<table>
<thead>
<tr>
<th>By-law No.</th>
<th>Bill No.</th>
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<td>11-260</td>
<td>260</td>
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To Confirm the Proceedings of City Council

CARRIED

(Merulla/Duvall)
There being no further business, the City Council meeting adjourned at 1:20 p.m.

CARRIED

Respectfully submitted,

Mayor B. Bratina

R. Caterini
Clerk
October 19, 2011
RECOMMENDATIONS

a) That the Option to Purchase and Authority to Enter executed by Joben Resource Inc. (MacNally) on September 30, 2011, and scheduled to close on or before January 25, 2012 legally described as Part 1 on Plan 62R-11103, save and except Parts 4 and 5 on Plan 62R-18129, as shown on Appendix “B” attached to Report PED11192 be approved and completed and, to further authorize and direct the City Solicitor to assign the Option to Purchase with Joben Resources Inc. to Maple Leafs Food Ltd on closing;

b) That the Economic Development Division of the Planning and Economic Development Department be authorized and directed to acquire a 5.5 acre parcel from Demik Brothers (Hamilton) Limited for the construction of a Storm Water Management Pond to be used for municipal purposes, described as Part 3 on Plan RC-G-737(S2), subject to a 12.1 metre wide easement as shown on Appendix “C” attached to Report PED11192 at a purchase price of $1,100,000.00 plus disbursements be funded from Acct # 5160507001 - North Glanbrook Industrial Business Park Servicing;

c) That the Option to Purchase and Authority to Enter executed by Demik Brothers (Hamilton) Limited executed on September 23, 2011, subject to satisfactory environmental review and final site specific zoning amendment approval, scheduled to close on or before January 25, 2012, legally described as Part of Lot 15, Concession 2 of the former geographic Township of Glanford, now in the City of Hamilton, comprising and area of 9.95 acres, described as Part 2 on Plan RC-G-737(S3) as shown on Appendix “D” to Report No. PED11192, be approved and completed, at a purchase price of One Million, Eight Hundred and Eighty-One Thousand Dollars ($1,881,000), to be funded from Acct # 5160507001 - North Glanbrook Industrial Business Park Servicing and, City staff be further directed to exchange this parcel for a similar or larger size parcel owned by Maple Leaf Foods that is located at the southwest corner of Glover Road and Twenty Road in the Red Hill Business Park;

d) That the lands outlined in Recommendation C above be declared surplus to the requirements of the City of Hamilton, in accordance with Procedural By-law for the Sale of Land, being By-law 04-299.

e) That the Memorandum of Understanding between the City of Hamilton and Maple Leaf Foods Inc as outlined in Appendix “E” attached hereto Report PED11192 be approved to contents and, executed by the Mayor and City Clerk.
October 17, 2011

BY E-MAIL

Maple Leaf Foods Inc.
30 St. Clair Avenue West
Toronto, Ontario  M4V 3A2

Attention: Douglas Dodds, Chief Strategy Officer

Dear Sir:

Re: Memorandum of Understanding – Maple Leaf Foods Inc. Plant in Hamilton, Ontario

This letter is a Memorandum of Understanding ("Memorandum") with respect to the purchase of various properties in the Hamilton region by Maple Leaf Foods Inc. ("MLF") for a future MLF processing plant. This Memorandum will outline the key terms and conditions that the City of Hamilton (the "City") and MLF will agree to with respect to these transactions as well as set out the processes and procedures that the City and MLF will undertake with respect to these transactions, as outlined below:

1. The City has received Options to Purchase certain lands with: (i) Joben Resources Inc. ("Joben"), a copy of which is attached hereto as Schedule "A" (the "Joben Option"); and (ii) Demik Brothers (Hamilton) Limited ("Demik"), a copy of which is attached hereto as Schedule "B" (the "Demik Option", and together with the Joben Option, the "Options").

2. The Options require authorization and approval from City Council. City Council is scheduled to meet in a special in camera session on October 19, 2011 at 11:30 a.m. to discuss the authorization of the Options and the assignment of the Joben Option to MLF and the swap of the MLF2 Lands for the CITY1 Lands (each as defined below). If City Council approves the transactions, a certified copy of the Council authorization will be provided to the City's Legal Services department, who will immediately prepare and deliver to Joben and Demik acceptances of the Options as well as the required deposit of $800,000.00 under the Joben option.

3. Prior to the October 19, 2011 in-camera Hamilton City Council meeting, MLF will be required to provide a certified cheque in the amount of $800,000.00 to the City, to be applied by the City to the deposit for the Joben Option for and on behalf of MLF pursuant to an escrow agreement.
4. The City will accept, subject to Council approval, the Joben Option on or about October 19, 2011 and agrees that it shall assign the Joben Option to MLF immediately after its acceptance of the Joben Option.

5. The City will accept the Demik Option, subject to Council approval, on or about October 19, 2011 and it shall retain and not assign the Demik Option to MLF upon its acceptance thereof. The City agrees to complete the purchase of the Demik Lands in accordance with the terms of the Demik Option.

6. The Demik Lands are currently zoned commercial and consideration of a rezoning to add manufacturing as a permitted use will be scheduled to be heard by City Council on or before December 31, 2011.

7. If the rezoning described in paragraph #6 is successful on the portion of the Demik Lands described as MLF2 on Schedule “C” of this Memorandum (the “MLF2 Lands”), a land swap between the City and MLF will occur whereby the City will receive the land described as CITY1 on Schedule “C” of this Memorandum (the “CITY1 Lands”) while MLF will receive the MLF2 Lands. The land swap shall be made on the same terms and conditions contained in the respective Options executed to acquire the respective lands. If the rezoning of the MLF2 Lands is unsuccessful a land swap will not occur between the City and MLF.

8. In consideration of the entering into of this Memorandum and in connection with the closing of the transactions contemplated by the Options, the City covenants to:
   a. grant easements in favour of MLF over, under and through the Demik Lands in the event the land swap is not completed all subject to a servicing strategy plan mutually approved by the City and MLF, each acting reasonably (the “Approved Servicing Strategy Plan”).
   b. create and centralize adequate storm water management facilities on that portion of the Demik Lands which does not include the MLF2 Lands at the City’s sole cost and expense and to be completed prior to 2014, subject to the easements noted in section 8(a);
   c. upgrade Twenty Road East between Dartnall Road and Glover Road to City standards to be completed prior to 2014;
   d. upgrade Glover Road, between Twenty Road East and to approximately the urban boundary, to City standards to be completed prior to 2014;
   e. subject to the Approved Servicing Strategy Plan, to provide sanitary and water trunk extensions in the future Dartnall Road corridor or Twenty Road at the City’s sole cost and expense. These connections will be provided in locations designated by MLF and will be located within the limits of the Right of Way in either the Dartnall Road Extension or Twenty Road and are to be completed prior to 2014;
   f. provide to MLF a ten (10) year deferral of development charges at the rate of $6.65 per square foot of the building(s) constructed by MLF subject to Council approval.
g. if MLF builds its plant to a LEEDs standard, then the City of Hamilton will repay the portion of municipal taxes to MLF in accordance with the City of Hamilton’s LEEDs program;

h. provide public transit services during shift changes to the future facility, such public transit services to be operational on or before 2014;

i. release all studies and technical reports, including but not limited to environmental, soil and traffic reports, relating to the Joben Lands and Demik Lands that are in the possession or control of the City and upon request obtain reliance letters in favour of MLF in respect thereof;

j. that the City will support MLF in its efforts to obtain any necessary certificates or permits from the applicable provincial authorities and that any City owned non-developable natural lands be utilized to assist MLF with any potential mitigation efforts such as habitat compensation for species at risk if warranted; and

k. if the land swap referred to in paragraph #7 does not occur and MLF determines that any part of the Joben Lands are excess for MLF’s requirements MLF may offer same to the City up to December 31, 2014 in which event the City shall purchase such excess lands from MLF at the same price per acre calculated in accordance with the Joben Option.

9. Once the Options have been completed and the transactions have closed MLF shall pay all fees relating to all development approvals and building permits.

We trust this is satisfactory.

Yours truly,

CITY OF HAMILTON

Per ______________________________
Bob Bratina, Mayor

Accepted and agreed to by MAPLE LEAF FOODS INC. this ______ day of October, 2011

MAPLE LEAF FOODS INC.

Per ______________________________
Douglas Dodds, Chief Strategy Officer

Per ______________________________
Rocco Cappuccitti
Senior Vice President, Transactions and Administration and Corporate Secretary