



Minutes

City Council – Special Meeting

The Corporation of the City of Brampton

Tuesday, February 8, 2022

Members Present: Mayor Patrick Brown
Regional Councillor R. Santos
Regional Councillor P. Vicente
City Councillor D. Whillans
Regional Councillor M. Palleschi
City Councillor J. Bowman
Regional Councillor M. Medeiros
City Councillor C. Williams
Regional Councillor P. Fortini
City Councillor H. Singh
Regional Councillor G. Dhillon

Members Absent: Nil

Staff Present: D. Barrick, Chief Administrative Officer
M. Kallideen, Commissioner, Legislative Services
M. Nader, Commissioner, Community Services
J. Schmidt-Shoukri, Commissioner, Public Works and Engineering
C. Ogbarmey-Tetteh, Acting Commissioner, Corporate Support Services
B. Boyes, Fire Chief, Fire and Emergency Services
A. Milojevic, General Manager, Transit
S. Akhtar, City Solicitor
P. Fay, City Clerk
C. Gravlev, Deputy City Clerk
T. Brenton, Legislative Coordinator

The meeting was called to order at 5:01 p.m. and recessed at 8:12 p.m. Council reconvened at 8:45 p.m. and recessed again at 8:50 p.m. Council moved into Closed Session at 9:05 p.m. and recessed at 10:21 p.m. Council resumed its Closed Session at 10:33 p.m. and recessed at 10:51 p.m. Council reconvened in Open Session at 11:04 p.m. and adjourned at 11:07 p.m.

1. Call to Order

As this meeting of Brampton City Council was conducted with electronic participation by Members of Council, the meeting started with the City Clerk calling the roll for attendance at the meeting, as follows.

Members present during roll call: Regional Councillor Santos, Regional Councillor Vicente, City Councillor Whillans, Regional Councillor Palleschi, City Councillor Bowman, Regional Councillor Medeiros, City Councillor Williams, Regional Councillor Fortini, City Councillor Singh, Regional Councillor Dhillon, and Mayor Brown

Members absent during roll call: nil

2. Approval of Agenda

Mayor Brown outlined the purpose of this special meeting, which was called by a petition of a majority of the Members of Council for the following special purposes:

- Discussion regarding Rules of Procedure for the conduct of meetings
- Motion to request disclosure of closed meeting minutes and the recording of the Council meeting held on Wednesday, January 26, 2022, to all Members of Council for purposes of seeking legal advice related to the meeting
- Motion to request an investigation by the Ombudsman into the closed session of Council held on Wednesday, January 26, 2022
- Closed session business in accordance with Open Session meeting exception under Section 239 (2) (b) and (d) of the Municipal Act, 2001:

Personal matters about an identifiable individual, including municipal or local board employees; and labour relations or employee negotiations

Mayor Brown noted that under Council's meeting rules, no other business can be considered at this special meeting.

Regional Councillor Palleschi proposed that the order of business be varied to deal with Item 4.3 as the first item of business.

Council discussion took place on varying the order of business, and a vote was requested for this purpose, and considered as follows.

C019-2022

Moved by Regional Councillor Palleschi

Seconded by Regional Councillor Dhillon

That the agenda for the Special Council Meeting of February 8, 2022 be amended to vary the order to deal with Item 4.3 as the first item of business.

A recorded vote was requested and the motion lost as follows.

Yea (5): Mayor Patrick Brown, Regional Councillor Santos, Regional Councillor Vicente, Regional Councillor Palleschi, and City Councillor Singh

Nay (6): City Councillor Whillans, City Councillor Bowman, Regional Councillor Medeiros, City Councillor Williams, Regional Councillor Fortini, and Regional Councillor Dhillon

Lost (5 to 6)

The following motion was considered.

C020-2022

Moved by Regional Councillor Palleschi

Seconded by Regional Councillor Dhillon

That the agenda for the Special Council Meeting of February 8, 2022 be approved as published and circulated.

Carried

3. Declarations of Interest under the Municipal Conflict of Interest Act

Nil

4. Business Matters

4.1 Discussion regarding Rules of Procedure for the conduct of meetings

Mayor Brown introduced this item and invited Regional Councillor Medeiros to speak.

Councillor Medeiros referenced an opinion letter that he received from Cunningham Swan Lawyers, which his office forwarded by e-mail to Members of Council and staff. Councillor Medeiros indicated that he sought this opinion due to ongoing confusion in terms of rules of procedure and interpretation of the rules.

Council consideration included:

- questions about and responses from Councillor Medeiros regarding the opinion letter
- concerns that rules of procedure are not being accurately interpreted or applied, particularly relating to requirements for two-thirds majority votes, reopening decisions, Points of Order, and dealing with matters in Closed Session
- importance of Members of Council conducting meetings in accordance with the Procedure By-law
- questions and comments relating to individual Members seeking legal advice/opinions
- suggestion that a workshop on the Procedure By-law be provided for Members of Council

During Council's consideration of this matter, a Point of Order was raised by City Councillor Singh.

In response to a request for a ruling on the Point of Order, Mayor Brown concluded that it was not a legitimate Point of Order in accordance with the Procedure By-law.

In response to questions from Council, staff provided information on the following:

- role of the City Clerk to provide advice on meeting procedures in accordance with the Procedure By-law, the Municipal Act and other legislation/policies
- role of the meeting Chair as it relates to making procedural decisions, and confirmation that the City Clerk does not have the mandate or statutory authority to override a decision by the meeting Chair
- provisions of the Procedure By-law as they relate to Points of Order, challenges of a decision by the Chair, staff attendance in Closed Sessions, two-thirds majority votes, reopening and reconsideration of previous decisions

- process for amendments to the Procedure By-law
- impact on privileged information as a result of the opinion letter being shared in a public forum, and confirmation that the opinion letter obtained by Councillor Medeiros does not constitute legal advice for the City and is not binding on the City
- information in the Council Handbook about the process for individual Members of Council obtaining legal advice and the procedure for obtaining legal advice on behalf of the City of Brampton

Council discussion took place with respect to potential amendments to the Procedure By-law and timelines for consideration of such amendments.

The following motion, moved by Regional Councillor Medeiros and subsequently seconded by City Councillor Williams, was introduced:

That a review be undertaken of the Procedure By-law, and a Notice of Motion be listed for consideration at a Special Meeting of Council, to be convened on February 22, 2022, following the provision of public notice on the matter, such motion to include the following proposed changes:

That the Procedure By-law be amended to remove requirement:

- 1) For a two-thirds threshold vote on any matters within the Procedure By-law; and
- 2) For a Member to have been required to have voted on the prevailing side of a resolution, in order to move a reconsideration motion with respect to such resolution.

A motion, moved by Regional Councillor Palleschi, was introduced to refer the motion to the Procedure By-law (PBL) Review Sub-committee. As the motion was procedural in nature, a seconder was not required.

Council discussion took place on the referral motion, during which time staff responded to questions regarding the current review of the Procedure By-law and provided advice as it relates to ad-hoc changes to the By-law.

C021-2022

Moved by Regional Councillor Palleschi

That the following motion be referred to the Procedure By-law Review Committee:

*Moved by Councillor Medeiros
Seconded by Councillor Williams*

That a review be undertaken of the Procedure By-law, and a Notice of Motion be listed for consideration at a Special Meeting of Council, to be convened on February 22, 2022, following the provision of public notice on the matter, such motion to include the following proposed changes:

That the Procedure By-law be amended to remove requirement:

1) For a two-thirds threshold vote on any matters within the Procedure By-law; and

2) For a Member to have been required to have voted on the prevailing side of a resolution, in order to move a reconsideration motion with respect to such resolution.

A recorded vote was taken on the referral motion, with the results as follows.

Yea (5): Mayor Patrick Brown, Regional Councillor Santos, Regional Councillor Vicente, Regional Councillor Palleschi, and City Councillor Singh

Nay (6): City Councillor Whillans, City Councillor Bowman, Regional Councillor Medeiros, City Councillor Williams, Regional Councillor Fortini, and Regional Councillor Dhillon

Lost (5 to 6)

The main motion was considered as follows.

C022-2022

Moved by Regional Councillor Medeiros

Seconded by City Councillor Williams

That a review be undertaken of the Procedure By-law, and a Notice of Motion be listed for consideration at a Special Meeting of Council, to be convened on February 22, 2022, following the provision of public notice on the matter, such motion to include the following proposed changes:

That the Procedure By-law be amended to remove requirement:

1) For a two-thirds threshold vote on any matters within the Procedure By-law; and

2) For a Member to have been required to have voted on the prevailing side of a resolution, in order to move a reconsideration motion with respect to such resolution.

A recorded vote was requested, and the motion carried as follows.

Yea (6): City Councillor Whillans, City Councillor Bowman, Regional Councillor Medeiros, City Councillor Williams, Regional Councillor Fortini, and Regional Councillor Dhillon

Nay (5): Mayor Patrick Brown, Regional Councillor Santos, Regional Councillor Vicente, Regional Councillor Palleschi, and City Councillor Singh

Carried (6 to 5)

- 4.2 Motion to request disclosure of closed meeting minutes and the recording of the Council meeting held on Wednesday, January 26, 2022, to all Members of Council for purposes of seeking legal advice related to the meeting

The following motion, moved by Regional Councillor Medeiros and seconded by Regional Councillor Dhillon, was introduced:

That the video of the full Open Session of the meeting held on January 26, 2022 be provided to all Members of Council (via Brampton.ca); and

That the audio recording of the Closed Session of the meeting held on January 26, 2022 be provided to each Member of Council.

Councillor Medeiros outlined the purpose of the motion.

Staff outlined concerns about distribution of the Closed Session audio recording for the purpose of Members seeking legal advice, given that such disclosure could result in potential confidentiality issues and waiving of privilege.

Staff also provided details on the protocol for Members to access Closed Session audio recordings, which provides that Members make arrangements to attend the City Clerk's Office for this purpose. Staff also confirmed that the video recording from the Open Session portion of the January 26, 2022 Council meeting is available on the City's website.

Council consideration included:

- indication from specific Members that they do not want a copy of the Closed Session audio recording
- concerns about the varying the process for release of the audio recordings of Closed Sessions
- concerns about releasing the recording for the entire Closed Session, rather than just a part thereof

- clarification from Councillor Medeiros that the intent of his motion is for the release of audio from the entire Closed Session portion of the meeting so that Members could seek legal advice if they so choose, given concerns by some Members that quorum was not being present when the Confirming By-law was passed and the meeting was not properly adjourned

Peter Fay, City Clerk, outlined his position about quorum at the meeting when the Confirming By-law was passed, and responded to questions from Council in this regard. He also noted that because quorum was not present to adjourn the meeting, this did not negate decisions made up to that point.

Following Council discussion and in response to comments, concerns and suggested amendments from Members and staff, the motion was amended to read as follows:

That the video of the full Open Session of the meeting held on January 26, 2022 be provided to all Members of Council (via Brampton.ca); and

That the City Solicitor be requested to report to the February 16, 2022 Committee of Council meeting on the appropriateness to disclose a closed session audio record, as proposed below;

That the audio recording of the Closed Session of the meeting held on January 26, 2022 be provided to those Members of Council who request it and that the City Clerk be directed to keep a confidential list thereof.

That the audio recording be provided to those Members who request it, via USB stick or by way of an appointment to listen to the content at the Office of the Clerk and,

That the City Solicitor be requested to report to the February 16, 2022 Committee of Council on the scope of a potential external opinion with regard to the legal considerations with respect to conduct of the meeting (quorum, confirming by-law, proper adjournment).

During Council's consideration of this matter, a procedural motion to Call the Question was introduced by City Councillor Whillans.

The Mayor noted there were not other speakers, therefore, the motion could be put to a vote.

C023-2022

Moved by Regional Councillor Medeiros

Seconded by Regional Councillor Dhillon

That the video of the full Open Session of the meeting held on January 26, 2022 be provided to all Members of Council (via Brampton.ca);

That the City Solicitor be requested to report to the February 16, 2022 Committee of Council meeting on the appropriateness to disclose a closed session audio record, as proposed below;

That the audio recording of the Closed Session of the meeting held on January 26, 2022 be provided to those Members of Council who request it, and that the City Clerk be directed to keep a confidential list thereof;

That the audio recording be provided to those Members who request it, via USB stick or by way of an appointment to listen to the content at the Office of the Clerk; and

That the City Solicitor be requested to report to the February 16, 2022 Committee of Council on the scope of a potential external opinion with regard to the legal considerations with respect to conduct of the meeting (quorum, confirming by-law, proper adjournment).

A recorded vote was requested, and the motion, as amended, carried as follows.

Yea (9): Regional Councillor Santos, Regional Councillor Vicente, City Councillor Whillans, City Councillor Bowman, Regional Councillor Medeiros, City Councillor Williams, Regional Councillor Fortini, City Councillor Singh, and Regional Councillor Dhillon

Nay (2): Mayor Patrick Brown, and Regional Councillor Palleschi

Carried (9 to 2)

4.3 Motion to request an investigation by the Ombudsman into the closed session of Council held on Wednesday, January 26, 2022

The following motion, moved by Regional Councillor Medeiros and seconded by City Councillor Bowman, was introduced:

That the Ombudsman be requested to investigate:

- 1) the completion of the meeting of January 26, 2022 meeting of Council (confirming by-law properly adopted and there was a quorum present); and
- 2) the voting procedures were properly following according to the Procedure By-law in regard to Item 19.10 of the January 26, 2022 meeting of Council .

Councillor Medeiros outlined the purpose of the motion.

The motion was considered as follows.

C024-2022

Moved by Regional Councillor Medeiros

Seconded by City Councillor Bowman

That the Ombudsman be requested to investigate:

- 1) the completion of the meeting of January 26, 2022 meeting of Council (confirming by-law properly adopted and there was a quorum present); and
- 2) the voting procedures were properly following according to the Procedure By-law in regard to Item 19.10 of the January 26, 2022 meeting of Council.

Carried

5. Public Question Period

Members of the public were given the opportunity to submit questions via e-mail to the City Clerk's Office regarding any decisions made at this meeting.

Peter Fay, City Clerk, confirmed that no questions were submitted regarding decisions made at this meeting.

6. Closed Session

The following motion was considered.

C025-2022

Moved by City Councillor Bowman

Seconded by Regional Councillor Vicente

That Council proceed into Closed Session to discuss matters pertaining to the following:

6.1. Open Session meeting exception under Section 239 (2) (b) and (d) of the Municipal Act, 2001:

Personal matters about an identifiable individual, including municipal or local board employees; and labour relations or employee negotiations.

Carried

Note: In Open Session, Peter Fay, City Clerk, reported on the status of matters considered in Closed Session, as follows:

- 6.1 – This item was considered in Closed Session, and information was received.

The following motion, moved by Councillor Vicente, was introduced and considered. As the motion was procedural in nature, a seconder was not required.

C026-2022

Moved by Regional Councillor Vicente

Moved by Councillor Vicente

That the Procedure By-law 160-2004, as amended, be temporarily suspended as it relates to Section 13.3 (No Motion to Reopen Shall be Reconsidered Once Resolved) as it relates to the February 8, 2022 Special Council Meeting.

A recorded vote was requested and the motion lost as follows, as the required two-thirds majority vote was not achieved.

Yea (6): City Councillor Whillans, City Councillor Bowman, Regional Councillor Medeiros, City Councillor Williams, Regional Councillor Fortini, and Regional Councillor Dhillon

Nay (5): Mayor Patrick Brown, Regional Councillor Santos, Regional Councillor Vicente, Regional Councillor Palleschi, and City Councillor Singh

Lost (6 to 5)

7. Confirming By-law

- 7.1 By-law 25A-2022 – To confirm the proceedings of Council at its Special Meeting held on February 8, 2022

The following motion was considered.

C027-2022

Moved by Regional Councillor Vicente

Seconded by Regional Councillor Fortini

That the following by-law before Council at its Special Meeting of February 8, 2022, be given the required number of readings, taken as read, and signed by the Mayor and the City Clerk, and the Corporate Seal affixed thereto:

By-law 25A-2022 – To confirm the proceedings of Council at its Special Meeting held on February 8, 2022

Carried

8. Adjournment

The following motion was considered.

C028-2022

Moved by Regional Councillor Fortini

Seconded by City Councillor Singh

That Council do now adjourn to meet again for a Regular Meeting of Council on Wednesday, February 9, 2022 at 9:30 a.m. or at the call of the Mayor.

Carried

P. Brown, Mayor

P. Fay, City Clerk