



Committee of the Whole Minutes

November 25, 2024, 7:00 p.m.
Council Chambers
Whitby Town Hall

Present: Mayor Roy (Virtual Attendance, Left at 7:55 p.m.)
Councillor Bozinovski
Councillor Cardwell
Councillor Leahy
Councillor Lee
Councillor Lundquist
Councillor Mulcahy
Councillor Shahid
Councillor Yamada

Also Present: M. Gaskell, Chief Administrative Officer
M. Hickey, Fire Chief
S. Klein, Deputy Chief Administrative Officer
J. Long, Head of Organizational Effectiveness
J. Romano, Commissioner of Community Services
F. Santaguida, Commissioner of Legal and Enforcement
Services/Town Solicitor
R. Saunders, Commissioner of Planning and Development
F. Wong, Commissioner of Financial Services/Treasurer
M. Dodge, Executive Advisor to the Mayor
C. Harris, Town Clerk
K. Narraway, Sr. Manager of Legislative Services/Deputy Clerk
L. MacDougall, Council and Committee Coordinator (Recording Secretary)

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1. Call To Order: The Mayor
 2. Call of the Roll: The Clerk
 3. Declarations of Conflict of Interest

Mayor Roy declared conflicts of interest regarding Item 6.2.1, Delegation by Russell Leffler, Resident and regarding Item 6.5.3 regarding the January 4, 2024 Correspondence from Aird & Berlis LLP, noting the legal action of slander and libel filed against her and the Town by Councillor Leahy. Mayor Roy did not take part in the discussion or voting on these items and left the meeting during the discussion of Item 6.5.3.

4. Consent Agenda
5. Planning and Development

Councillor Mulcahy assumed the Chair.

5.1 Presentations

There were no presentations.

5.2 Delegations

5.2.1 William Feaver, Owner, 7595 Duffs Road (Virtual Attendance)

Re: PDP 51-24, Planning and Development (Planning Services)
Department Report
Zoning By-law Amendment Application, William Feaver, 7595 Duffs Road, File Number: DEV-22-24 (Z-10-24)

Refer to Item 5.4.1, PDP 51-24

William Feaver, Owner, 7595 Duffs Road was in attendance, however he did not provide a delegation due to Item 5.4.1, Report PDP 51-24, being approved during the consent agenda portion of the meeting.

5.2.2 Joanna Fast, representing 1628755 Ontario Ltd. and George Lysyk (In-Person Attendance)

Re: PDP 52-24, Planning and Development (Planning Services)
Department Report
Draft Plan of Subdivision and Zoning By-law Amendment Applications, 1628755 Ontario Limited, 320 & 360 Columbus Road West, File Numbers: DEV-24-22 (SW-2022-05 and Z-16-22)

Refer to Item 5.4.2, PDP 52-24

Joanna Fast, representing 1628755 Ontario Ltd. and George Lysyk, were in attendance, however they did not provide a delegation due to Item 5.4.2, Report PDP 52-24, being approved during the consent agenda portion of the meeting.

5.2.3 Scott Waterhouse representing Menkes Champlain Inc. (In-Person Attendance)

Re: PDP 53-24, Planning and Development (Planning Services)
Department Report
Official Plan Amendment and Zoning By-law Amendment
Applications, Menkes Champlain Inc., Unaddressed Parcel North
Side of Stellar Drive, East of Thicksen Road South, File Numbers:
DEV-18-24 (OPA-2024-W/07, Z-07-24)

Refer to Item 5.4.3, PDP 53-24

Scott Waterhouse, representing Menkes Champlain Inc., was in attendance, however he did not provide a delegation due to Item 5.4.3, Report PDP 53-24, being approved during the consent agenda portion of the meeting.

5.2.4 Christian Jattan representing CODR Holdings Limited (In-Person Attendance)

Re: PDP 54-24, Planning and Development (Planning Services)
Department Report
Draft Plan of Subdivision and Zoning By-law Amendment
Applications, CODR Holdings Limited, Unaddressed Property on
Coronation Road, File Number: DEV-20-24 (SW-2024-02, Z-09-24)

Refer to Item 5.4.4, PDP 54-24

Christian Jattan, representing CODR Holdings Limited, was in attendance, however he did not provide a delegation due to Item 5.4.4, Report PDP 54-24, being approved during the consent agenda portion of the meeting.

5.2.5 John Cockburn, Resident (Virtual Attendance)

Re: PDP 55-24, Planning and Development (Planning Services)
Department Report
Town Initiated Official Plan Amendment and Zoning By-law
Amendments - Changes to Accessory Apartment (Additional

Dwelling Unit) Policies and Regulations, File Numbers: OPA-2024-W/01, Z-02-24

Refer to Item 5.4.5, PDP 55-24

John Cockburn, Resident, stated that he was speaking on behalf of himself and the owners of the property located at 375 Myrtle Road East. He advised that he was unable to apply for additional dwelling units (ADUs) or an addition to the existing dwelling located at 375 Myrtle Road East due to the current zoning on the property. Mr. Cockburn requested that the proposed amendments to the Official Plan and Zoning By-law be approved so he could apply for an additional residential dwelling unit and/or an addition to the existing dwelling.

5.3 Correspondence

There was no correspondence.

5.4 Staff Reports

5.4.1 PDP 51-24, Planning and Development (Planning Services)
Department Report

Re: Zoning By-law Amendment Application, William Feaver, 7595 Duffs Road, File Number: DEV-22-24 (Z-10-24)

Recommendation:

Moved by Councillor Mulcahy

1. That Council approve an amendment to Zoning By-law # 1784 (File Number: Z-10-24) as outlined in Planning Report PDP 51-24; and,
2. That a by-law to amend Zoning By-law # 1784 be brought forward for consideration by Council.

Carried

5.4.2 PDP 52-24, Planning and Development (Planning Services)
Department Report

Re: Draft Plan of Subdivision and Zoning By-law Amendment Applications, 1628755 Ontario Limited, 320 & 360 Columbus Road West, File Numbers: DEV-24-22 (SW-2022-05 and Z-16-22)

Recommendation:

Moved by Councillor Mulcahy

1. That Council approve the Draft Plan of Subdivision (File Number: SW-2022-05), subject to the comments included in Report PDP 52-24 and the Conditions of Draft Plan Approval included in Attachment #9;
2. That Staff be authorized to prepare a Subdivision Agreement;
3. That Council approve the amendment to Zoning By-law #1784 (File Number: Z-16-22), and that a Zoning By-law Amendment be brought forward for consideration by Council;
4. That John G. Williams Limited Architect be appointed as the Control Architect for the Draft Plan of Subdivision; and,
5. That the Clerk forward a Notice to those parties and agencies who requested to be notified of Council's decision, including the Region of Durham's Commissioner of Planning and Economic Development.

Carried

5.4.3 PDP 53-24, Planning and Development (Planning Services)
Department Report

Re: Official Plan Amendment and Zoning By-law Amendment Applications, Menkes Champlain Inc., Unaddressed Parcel North Side of Stellar Drive, East of Thickson Road South, File Numbers: DEV-18-24 (OPA-2024-W/07, Z-07-24)

Recommendation:

Moved by Councillor Mulcahy

1. That Council approve Amendment Number 141 to the Whitby Official Plan (File Number: OPA-2024-W/07), as shown on Attachment #8, and that a By-law to adopt Official Plan Amendment Number 141 be brought forward for consideration by Council;

2. That the Clerk forward a copy of Planning Report PDP 53-24, two (2) copies of the adopted Amendment, and a copy of the by-law to adopt Amendment Number 141 to the Whitby Official Plan, to the Region of Durham's Commissioner of Planning and Economic Development;
3. That the Clerk forward a Notice to those parties and agencies who requested to be notified of Council's decision, including the Region of Durham's Commissioner of Planning and Economic Development; and,
4. That Council approve an amendment to Zoning By-law # 1784, (File Number: Z-07-24), as outlined in Report PDP 53-24.

Carried

5.4.4 PDP 54-24, Planning and Development (Planning Services)
Department Report

Re: Draft Plan of Subdivision and Zoning By-law Amendment Applications, CODR Holdings Limited, Unaddressed Property on Coronation Road, File Numbers: DEV-20-24 (SW-2024-02, Z-09-24)

Recommendation:

Moved by Councillor Mulcahy

1. That Council approve a Draft Plan of Subdivision (File Number: SW-2024-02), subject to the comments included in Report PDP 54-24 and the Conditions of Draft Plan Approval included in Attachment #9;
2. That Staff be authorized to prepare a Subdivision Agreement;
3. That the Clerk forward a Notice to those parties and agencies who requested to be notified of Council's decision, including the Region of Durham's Commissioner of Planning and Economic Development;
4. That Council approve an amendment to Zoning By-law 1784 (File Number: Z-09-24), as outlined in Report PDP 54-24;

5. That a by-law to amend Zoning By-law 1784 be brought forward for consideration by Council at such time as the subdivision receives Draft Approval; and,
6. That John G. Williams Limited Architect be appointed as the Control Architect for the Draft Plan of Subdivision.

Carried

5.4.5 PDP 55-24, Planning and Development (Planning Services)
Department Report

Re: Town Initiated Official Plan Amendment and Zoning By-law Amendments - Changes to Accessory Apartment (Additional Dwelling Unit) Policies and Regulations, File Numbers: OPA-2024-W/01, Z-02-24

A question and answer period ensued between Members of Committee and Staff regarding:

- whether three additional ADUs permitted on a property was the direction given by the province;
- the size and conditions that would apply to permit one ADU located on a property without municipal services, and whether there were any restrictions on using basements to construct ADUs;
- whether an ADU floor area beyond 75 square metres would require an application to the Committee of Adjustment;
- confirmation that neighbours would not have any input on an ADU that met the performance standards in the Zoning By-law;
- the requirements for parking spaces, and for access to an ADU located in the rear yard of the property;
- the anticipated number of additional ADUs annually and whether the number of applications for ADUs would continue to increase;
- the number of ADUs permitted at ground related dwellings;
- whether home-based businesses would be permitted within ADUs; and,

- how rowhouses would be able to accommodate ADUs.

Recommendation:

Moved by Councillor Leahy

1. That Council approve Amendment 143 to the Whitby Official Plan to permit up to 3 additional residential dwelling units on ground related residential properties in accordance with Attachment #1 to Report PDP 55-24, and that a by-law to adopt Amendment 143 be brought forward for Council's consideration;
2. That the Clerk forward a copy of Report PDP 55-24, two (2) copies of the adopted Amendment, and a copy of the By-law to Adopt Amendment 143 to the Whitby Official Plan, to the Region of Durham's Commissioner of Planning and Economic Development;
3. That Zoning By-law Amendments to implement legislative directives of Bill 108 and Bill 23, as well as Council Resolution # 222-23 with respect to the Federal Housing Accelerator Fund (HAF) to permit up to 3 additional dwelling units on parcels of land occupied by ground related dwelling units as shown on Attachments 2, 3, and 4 to Report PDP 55-24 be brought forward for consideration by Council; and,
4. That the Clerk forward a Notice of Council's decision to those parties and agencies, including the Region of Durham's Commissioner of Planning, that requested to be notified of Council's decision.

Carried

5.5 New and Unfinished Business - Planning and Development

There was no new and unfinished business.

6. General Government

Councillor Lundquist assumed the Chair.

6.1 Presentations

There were no presentations.

6.2 Delegations

6.2.1 Russell Leffler, Resident (In-Person Attendance)

Re: January 4, 2024 Correspondence from Aird & Berlis LLP

Refer to Item 6.5.3, January 4, 2024 Correspondence from Aird & Berlis LLP

Having previously declared a conflict of interest, Mayor Roy did not take part in the discussion or voting regarding this Item.

Russell Leffler, Resident, appeared before the Committee and raised concerns about recent allegations involving some Members of Council. Mr. Leffler stated that residents deserve clarity and assurance that decisions were made ethically and in the best interest of the community. He noted that transparency and accountability were the foundation of governance and any action or inaction that destroys public trust must be addressed. Mr. Leffler stated that transparency ensures decisions made by Council were accessible to the public, that it fosters trust, reduces misinformation, and encourages active community engagement. He stated that it was Council's responsibility to uphold the values of fairness and accountability, noting that each Member of Council regardless of their role or perspective deserve equal respect and consideration. He encouraged Members of Council to work together to ensure that their leadership reflects those values, does not limit residents in voicing their opinion, and doesn't invoke concerns regarding the use of Strong Mayor powers.

6.3 Correspondence

There was no correspondence.

6.4 Staff Reports

6.4.1 CMS 14-24, Community Services Department Report

Re: Implementation Plan for Provision of Waste Collection Services to Private Road Developments by 2026

A question and answer period ensued between Members of Committee and Staff regarding:

- confirmation that the implementation of municipal waste collection for private townhouses would be in mid-2026;
- whether Staff had communicated with the interested parties and condominium corporations regarding this report; and,
- the percentage increase on the property tax base for the 2026 budget to provide this service.

Recommendation:

Moved by Councillor Leahy

1. That Report CMS 14-24 be received for information; and,
2. That Council approve the implementation plan for providing municipal waste collection services at private townhomes and multi-residential locations as outlined in Staff Report CMS 14-24.

Carried

6.4.2 FS 44-24, Financial Services Department Report

Re: Commercial and Industrial Development Charges Calculation Protocol

A question and answer period ensued between Members of Committee and Staff regarding:

- the development charges rate per square metre for commercial, industrial, and institutional development and whether the Town may be overcharging for industrial space in comparison to neighbouring municipalities;
- confirmation that the key factor for the development charge rate for industrial development was cost recovery; and,
- the impact of Bill 23 on development charges.

Recommendation:

Moved by Councillor Leahy

That Council approve the use of the proposed protocol for determining applicable commercial and industrial Town of Whitby development charges, as required.

Carried

6.5 New and Unfinished Business - General Government

There was no discussion regarding the new and unfinished business list.

6.5.1 Request the Redistribution of the Provincial Land Transfer Tax and GST to Municipalities for Sustainable Infrastructure Funding

Councillor Yamada introduced a motion requesting the Provincial and Federal levels of government consider the redistribution of a portion of the Provincial Land Transfer Tax and GST to Municipalities for sustainable infrastructure funding.

Recommendation:

Moved by Councillor Yamada

Whereas municipalities face growing infrastructure needs, including roads, bridges, public transit, water systems, and other critical services, which are essential to community well-being and economic development; and,

Whereas the current sources of municipal revenue, including property taxes and user fees, are insufficient to meet these increasing demands for infrastructure investment; and,

Whereas the Province of Ontario currently collects the Land Transfer Tax (LTT) on property transactions in municipalities across the province, generating significant revenue that is not directly shared with municipalities; and,

Whereas the Federal Government collects the Goods and Services Tax (GST) on property transactions, a portion of which could be directed to municipalities to address local infrastructure needs; and,

Whereas redistributing a portion of the LTT and GST to municipalities would provide a predictable and sustainable source of funding for local infrastructure projects without creating a new tax burden on residents or homebuyers; and,

Whereas a redistribution of a portion of the existing LTT and GST would allow municipalities to better plan and invest in long-term infrastructure initiatives, supporting local economic growth and improving the quality of life for residents.

Now therefore, be it resolved:

1. That the Council of the Town of Whitby formally requests the Provincial Government to consider redistributing a portion of the Land Transfer Tax collected on property transactions to municipalities; and,
2. That the Council of the Town of Whitby calls on the Federal Government to allocate a percentage of the Goods and Services Tax collected on property sales to municipalities; and,
3. That this redistribution of the Land Transfer Tax and Goods and Services Tax should be structured to provide predictable and sustainable funding to municipalities, allowing for better long-term planning and investment in infrastructure projects that benefit local communities, thus ensuring that local governments receive a fair share of the revenue to address critical infrastructure needs; and,
4. That copies of this resolution be forwarded to Prime Minister Justin Trudeau, Premier Doug Ford, the Ontario Minister of Finance, the Minister of Municipal Affairs and Housing, Durham Region MPs and Durham Region MPPs; and,
5. That copies of this resolution be forwarded to the local municipalities in Durham Region, the Region of Durham, the Federation of Canadian Municipalities (FCM), and the Association of Municipalities of Ontario (AMO) for their endorsement and advocacy.

Carried later in the meeting. (See following motion)

Recommendation:

Moved by Councillor Mulcahy

The main motion be amended by including the following as Item 4 and that the remaining items be renumbered accordingly:

4. That the Province of Ontario consider AMO's advocacy focused on the Housing Affordability Task Force recommendations, advocating for long-term and predictable infrastructure funding, and supporting on-going discussions around the importance of the

development charge regime in funding housing-enabling infrastructure in many communities.

Carried

The main motion, as amended, was then carried as follows:

Recommendation:

Moved by Councillor Yamada

1. That the Council of the Town of Whitby formally requests the Provincial Government to consider redistributing a portion of the Land Transfer Tax collected on property transactions to municipalities; and,
2. That the Council of the Town of Whitby calls on the Federal Government to allocate a percentage of the Goods and Services Tax collected on property sales to municipalities; and,
3. That this redistribution of the Land Transfer Tax and Goods and Services Tax should be structured to provide predictable and sustainable funding to municipalities, allowing for better long-term planning and investment in infrastructure projects that benefit local communities, thus ensuring that local governments receive a fair share of the revenue to address critical infrastructure needs; and,
4. That the Province of Ontario consider AMO's advocacy focused on the Housing Affordability Task Force recommendations, advocating for long-term and predictable infrastructure funding, and supporting on-going discussions around the importance of the development charge regime in funding housing-enabling infrastructure in many communities; and,
5. That copies of this resolution be forwarded to Prime Minister Justin Trudeau, Premier Doug Ford, the Ontario Minister of Finance, the Minister of Municipal Affairs and Housing, Durham Region MPs and Durham Region MPPs; and,
6. That copies of this resolution be forwarded to the local municipalities in Durham Region, the Region of Durham, the Federation of Canadian Municipalities (FCM), and the

Association of Municipalities of Ontario (AMO) for their endorsement and advocacy.

Carried

6.5.2 Reducing or Eliminating Tolls on Highway 407 East

Councillor Lee introduced a motion regarding reducing or eliminating tolls on Highway 407 East.

Recommendation:

Moved by Councillor Lee

Whereas at a media appearance on October 25, 2024 Premier Ford fielded a question regarding the possibility of reducing or eliminating tolls on Highway 407 as an alternative to constructing a tunnel under Highway 401; and,

Whereas in response to the question, Premier Ford indicated that he has requested that the Minister of Transportation review reducing or eliminating tolls on the provincially-owned portion of the highway, being Highway 407 East; and,

Whereas Premier Ford further indicated that the Province would do a feasibility study regarding reducing or eliminating tolls on Highway 407 East and that any toll adjustments could be made quickly; and,

Whereas the Get It Done Act, 2024 prohibits Ontario from introducing tolls on provincial highways; and,

Whereas Highway 407 East is the only tolled provincially owned highway in Ontario, resulting in unfair economic impacts to Durham Region residents and businesses; and,

Whereas the Council of the Town of Whitby has previously advocated for the removal of tolls on Highway 407 East through Resolution # 60-24 adopted at the March 18, 2024 Regular Council Meeting in order to boost economic development, improve travel times, and alleviate traffic impacts in Durham Region.

Now therefore be it resolved:

1. That the Council of the Town of Whitby requests that the Province of Ontario reduce or eliminate tolls on Highway 407 East from Brock Road in Pickering to Highway 35/115; and,
2. That the Mayor be requested on behalf of Council, to author a letter including this motion to the Premier of Ontario, the Minister of Transportation, all Durham Region MPPs, all Durham municipalities, the City of Kawartha Lakes, the Township of Cavan Monaghan, the City of Peterborough, the Ontario Trucking Association, and the Ontario Federation of Agriculture.

Carried

6.5.3 January 4, 2024 Correspondence from Aird & Berlis LLP

Having previously declared a conflict of interest regarding this item, Mayor Roy left the meeting at this point and did not return.

Councillor Leahy introduced a motion regarding the January 4, 2024 Correspondence from Aird & Berlis LLP.

Moved by Councillor Leahy

1. That Council waive privilege to make public the contents of the January 4, 2024 legal opinion from Aird & Berlis LLP regarding the “Authority to Appoint Deputy Mayor”; and,
2. That Council waive privilege in order to provide the general cost incurred to obtain this opinion in order to make it available to the public in a matter satisfactory to the Town Solicitor.

See following motions and Refer to Item 8.1 below

Moved by Councillor Shahid

That Committee move in-camera in accordance with Procedure By-law # 8081-24, Closed Meeting Policy G 040, and the Municipal Act, 2001, Section 239 (2)(f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

Carried

7. Closed Session

This portion of the minutes are closed to the public. [Refer to the Closed Minutes - Town Clerk has control and custody.]

7.1 January 4, 2024 Correspondence from Aird & Berlis LLP

8. Rising and Reporting Out

Motion to Rise

Moved by Councillor Leahy

That the Committee rise from the closed portion of the meeting.

Carried

8.1 Reporting Out

Councillor Lundquist advised that during the closed portion of the meeting Committee received advice that is subject to solicitor-client privilege regarding the request to waive legal privilege regarding the January 4, 2024 legal opinion from Aird & Berlis LLP regarding the “Authority to Appoint Deputy Mayor”.

Discussion ensued between Members of Committee regarding:

- dividing the motion into two recommendations to consider waiving privilege regarding the cost of the opinion and waiving privilege regarding the content of the legal opinion; and,
- amending the motion to include making the contents of the opinion public as it pertains to Councillor Yamada and not any other Member of Council.

Committee identified the need to receive further legal advice regarding Item 6.5.3, and thus moved in-camera for a second time in accordance with the motion below.

Moved by Councillor Shahid

That Committee move in-camera in accordance with Procedure By-law # 8081-24, Closed Meeting Policy G 040, and the Municipal Act, 2001, Section 239 (2)(f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

Carried

This portion of the minutes are closed to the public. [Refer to the Closed Minutes - Town Clerk has control and custody.]

Rising and Reporting Out

Motion to Rise

Moved by Councillor Leahy

That the Committee rise from the closed portion of the meeting.

Carried

Reporting Out

Councillor Lundquist advised that during the closed portion of the meeting Committee received advice that is subject to solicitor-client privilege regarding the request to waive legal privilege regarding the January 4, 2024 legal opinion from Aird & Berlis LLP regarding the “Authority to Appoint Deputy Mayor”.

Discussion between Members of Committee continued regarding:

- the removal of the reference to Councillor Yamada from the proposed motion;
- the sanctity of solicitor-client privilege;
- whether waiving privilege would be of greater importance than the risks associated with waiving privilege;
- the importance of providing transparency to the public by waiving privilege and releasing the legal opinion;
- referring the matter to the Council meeting on December 16, 2024 to provide the opportunity to obtain external legal advice; and,
- confirmation that only Council may waive solicitor-client privilege.

Moved by Councillor Leahy

1. That Council waive privilege to make public the contents of the January 4, 2024 legal opinion from Aird & Berlis LLP regarding the “Authority to Appoint Deputy Mayor”; and,

2. That Council waive privilege in order to provide the general cost incurred to obtain this opinion in order to make it available to the public in a matter satisfactory to the Town Solicitor.

Motion lost later in the meeting (See following motions)

Moved by Councillor Shahid

That the question related to the main motion noted above be called.

Motion Lost

Moved by Councillor Leahy

That the motion to waive privilege regarding the January 4, 2024 Correspondence from Aird & Berlis LLP be referred to the Regular Council meeting on December 16, 2024 to allow time to consult with Aird & Berlis LLP.

Motion Lost

Moved by Councillor Leahy

That the main motion, as amended be divided to consider Items 1 and 2 as separate motions.

Carried

Moved by Councillor Leahy

1. That Council waive privilege to make public the contents of the January 4, 2024 legal opinion from Aird & Berlis LLP regarding the "Authority to Appoint Deputy Mayor".

Motion Lost

A brief discussion ensued between Members of Committee and Staff about providing the general cost of the opinion to the public satisfactory to the Town Solicitor.

Moved by Councillor Leahy

2. That Council waive privilege in order to provide the general cost incurred to obtain this opinion in order to make it available to the public in a manner satisfactory to the Town Solicitor.

Motion Lost

9. Adjournment

Motion to Adjourn

Moved by Councillor Cardwell

That the meeting adjourn.

Carried

The meeting adjourned at 9:19 p.m.