



## Committee of the Whole Minutes

January 13, 2025, 7:00 p.m.  
Council Chambers  
Whitby Town Hall

Present: Mayor Roy  
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

There were no declarations of conflict of interest.

4. Consent Agenda
5. Planning and Development

**Councillor Lee assumed the Chair.**

5.1 Presentations

There were no presentations.

5.2 Delegations

5.2.1 Lauren Capilongo representing MOBCO Developments Inc. (Virtual Attendance)

PDP 01-25, Planning and Development (Planning Services)  
Department Report

Re: Town-Initiated Official Plan Review – Final Recommended  
Official Plan Amendment 138: Whitby GO Protected Major Transit  
Area, File Number: OPA-2024-W/04

**Refer to Item 5.4.1, PDP 01-25**

Lauren Capilongo, representing MOBCO Developments Inc., stated that she previously submitted correspondence to the Town in which she provided comments on the proposed amendment to the Whitby Official Plan. Ms. Capilongo requested that Report PDP 01-25 be deferred to the Council meeting on February 3, 2025 to permit time to engage with Town Staff to address her comments on the proposed transition and height. She advised that the lands subject to her request encompass seven properties located at the southwest corner of Victoria Street and Brock Street South. Ms. Capilongo stated that the proposed designation for one of the four properties located at the corner of Victoria Street running southerly along Brock Street was designated as high density residential mixed use and would permit a building height from 12 to 36 storeys. She further stated that the remaining three properties were proposed to be designated as main street mixed use and would continue to allow building heights of 3 to 6 storeys. She requested that the main street mixed use designation be increased from 3 to 6 storeys to 10 to 12 storeys to address built form and transition from the adjacent high rise mixed use designation to the north that permits a building height of up to 36 storeys. She stated the

proposed policy framework applies a transition policy to the subject land without understanding the resulting interface between the two designations and how future development could transition from 36 storeys at the corner and gradually decrease to 6 storeys south toward Watson Street.

A question and answer period between Members of Committee and Ms. Capilongo regarding:

- whether the request to defer the report was previously discussed with Staff and whether Staff were amenable to the deferral
- whether the delegate had something new to present that had not already been presented to Staff; and,
- clarification about the modifications that the delegate would prefer.

5.2.2 Shilpi Saraf-Uiterlinden and Mike Pettigrew representing 693316 Ontario Limited (Virtual Attendance)

Re: PDP 03-25, Planning and Development (Planning Services) Department Report

Official Plan Amendment and Zoning By-law Amendment

Applications, 605 Winchester Road West, 693316 Ontario Limited, File Number: DEV-19-21 (OPA-2021-W/06, Z-12-21)

**Refer to Item 5.4.3, PDP 03-25**

Shilpi Saraf-Uiterlinden and Mike Pettigrew, representing 693316 Ontario Limited, stated that the applications to amend the Zoning By-law and Whitby Official Plan were to seek approval to permit a golf course expansion to function continuously with the approved Devil's Den Golf Course on the abutting lands to the west. Ms. Saraf-Uiterlinden stated that they had read and were in support of the Staff recommendation, and that they were available to answer questions.

A brief question and answer period ensued between Members of Committee, Ms. Saraf-Uiterlinden and Mr. Pettigrew regarding:

- the total number of holes that would be on the golf course; and,

- the timeline for the opening of the golf course.

### 5.3 Correspondence

There was no correspondence.

### 5.4 Staff Reports

#### 5.4.1 PDP 01-25, Planning and Development (Planning Services) Department Report

Re: Town-Initiated Official Plan Review – Final Recommended Official Plan Amendment 138: Whitby GO Protected Major Transit Area, File Number: OPA-2024-W/04

**See also Memorandum from E. Belsey, Senior Manager, Policy and Heritage Planning dated January 13, 2025 regarding Amendment to Attachment #4 of PDP 01-25, Town-Initiated Official Plan Review – Final Recommended Official Plan Amendment 138: Whitby GO Protected Major Transit Area**

A question and answer period ensued between Members of Committee, Paul Lowes, Partner, SGL Planning and Design, and Staff regarding:

- the request on behalf of MOBCO Developments Inc. to increase the height threshold on a portion of their lands from 3 to 6 storeys to 10 to 12 storeys and whether the community was aware of the request;
- whether approval of the request on behalf of MOBCO Developments Inc. for an increase in building height would result in higher transitions in and around the area and whether it would have an impact on the entire mixed use designation area within the PMTSA;
- confirmation that applications for amendments to the Whitby Official Plan could be submitted in the future;
- whether the proposed official plan amendment was in conformity with the changes in legislation and policies made by the Provincial Government and Region of Durham;
- whether community feedback was considered and how concerns were reflected within the proposed official plan amendment;

- concerns about the development in the area around the wetlands and floodplains;
- the maximum building height for medium density;
- confirmation that the Envision Durham areas outside the PMTSA such as the business park land and major open spaces would be addressed through a separate amendment to the Whitby Official Plan;
- confirmation that the increase in building heights in the PMTSA ensures the protection/retention of the existing low density and residential stock within the PMTSA;
- confirmation that there were no minimum parking requirements within the PMTSA and that minimum parking requirements could be established in developments outside of the PMTSA;
- including a requirement for commercial development in high density designation areas to provide employment opportunities;
- whether a 36-storey building at Victoria Street and Brock Street would have been approved prior to the implementation of the PMTSA and confirmation that the decision making process on such an application would consider the impact on existing infrastructure capacity;
- alleviating the impact on walkability and reductions in parking in the PMTSA to ensure that streets and neighbouring parking lots were under the Town's control; and,
- confirmation that the Provincial Government could make the Town conform to provincial policies and Envision Durham should an amendment to the Whitby Official Plan that was not in conformity with these policies be approved.

Recommendation:

Moved by Mayor Roy

1. That Council adopt Amendment 138 to the Whitby Official Plan, regarding the Whitby GO Protected Major Transit Station Area, as outlined in this Report, PDP 01-25;
2. That the Clerk forward the necessary documentation for Official Plan Amendment 138 to the Ministry of Municipal Affairs and Housing as the approval authority in accordance with Section 26 of the Planning Act; and,
3. That the Clerk send a Notice of Council's adoption of Amendment 138 to those persons and agencies who have requested further notification regarding the Whitby GO Protected Major Transit Area as part of the Town-Initiated Official Plan Review.

**Carried**

5.4.2 PDP 02-25, Planning and Development (Planning Services)  
Department Report

Re: Town-Initiated Official Plan Review – Final Recommended  
Official Plan Amendment 139: Strategic Growth Areas, Nodes and  
Corridors, File Number: OPA-2024-W/05

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

- clarification on the changes made by the proposed amendment to the Whitby Official Plan; and,
- whether the Town has the ability to control parking and whether there was a reduction in the minimum parking requirements.

Recommendation:

Moved by Councillor Leahy

1. That Council adopt Amendment 139 to the Whitby Official Plan, regarding Strategic Growth Areas, Nodes and Corridors as outlined in this Report, PDP 02-25;
2. That the Clerk forward the necessary documentation for Official Plan Amendment 139 to the Ministry of Municipal

Affairs and Housing as the approval authority in accordance with Section 26 of the Planning Act; and,

3. That the Clerk send a Notice of Council's adoption of Amendment 139 to those persons and agencies who have requested further notification regarding Strategic Growth Areas, Nodes and Corridors, as part of the Town-Initiated Official Plan Review.

### **Carried**

#### 5.4.3 PDP 03-25, Planning and Development (Planning Services) Department Report

Re: Official Plan Amendment and Zoning By-law Amendment Applications, 605 Winchester Road West, 693316 Ontario Limited, File Number: DEV-19-21 (OPA-2021-W/06, Z-12-21)

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

- clarification about the location of the 7-hole expansion to the approved Devil's Den Golf Course;
- the timeline for the completion and opening of the golf course; and,
- the possibility of the land being zoned residential in the future and confirmation that the land designation as Protected Countryside under the Greenbelt Plan would not permit a residential designation.

Recommendation:

Moved by Councillor Leahy

1. That Council approve Official Plan Amendment Number 142 to the Whitby Official Plan (File Number: OPA-2021-W/06), as shown on Attachment #5, and that a By-law to adopt Official Plan Amendment Number 142 be brought forward for consideration by Council; and,
2. That Council approve an amendment to Zoning By-law No. 1784 (Z-12-21), as outlined in Report PDP 03-25.

## **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

There were no delegations.

#### 6.3 Correspondence

There was no correspondence.

#### 6.4 Staff Reports

There were no staff reports.

#### 6.5 New and Unfinished Business

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

##### 6.5.1 Terminate Contract with Local Authority Services to Save Taxpayers Money

Councillor Leahy introduced a motion regarding terminating the contract with Local Authority Services (LAS).

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

- whether there was a cost to the municipality related to the closed meeting investigation service provided by the Provincial Ombudsman;
- a preliminary comparison of the pros and cons of using the service by the Ombudsman versus LAS including;
  - the rationale for the Town entering into a contract with LAS in 2008;



- the efficiency and timeliness of investigations by the Ombudsman and the importance of timeliness in situations such as an accusation about an illegal meeting;
  - whether Council would want a provincial appointee making decisions about accountability; and,
  - the reliance on using Aird & Berlis through LAS to obtain advice which was helpful when the individual providing the advice was the same individual that would be investigating should there be a complaint;
- whether the contract with LAS was for a fixed term and the cost implications to terminate the contract;
  - whether terminating the contract with LAS would prevent the Town from using Aird & Berlis for other Town business;
  - the length of time LAS has provided the service to the Town, and the number of closed meeting investigations during that time;
  - referring the motion to Staff and incorporating it into the upcoming report regarding the overall accountability and transparency framework;
  - analyzing the benefits received versus the cost for using LAS; and,
  - providing a financial comparison between LAS and the Ombudsman, and the pros and cons of using the Ombudsman versus LAS.

Recommendation:

Moved by Councillor Leahy

Whereas on January 1, 2008, subsection 239.1 of the Municipal Act came into effect which permits any person to request an investigation be undertaken to determine whether a municipality or local board (excluding a police service board or library board), or a committee of either, has complied with the closed meeting rules contained within the Municipal Act; and,

Whereas the Whitby Town council appointed Local Authority Services (LAS) through By-law # 6040-08 as Whitby's Closed Meeting Investigator; and,

Whereas current agreements with LAS include a renewal section that stated that the agreement would automatically renew from year to year unless, and until, terminated by either party upon 90 days prior written notice; and,

Whereas LAS outsources the closed meeting investigator service to Aird and Berlis LLP; and,

Whereas Aird and Berlis would appoint one of five "Review Officers" and the fee ranges from \$495 to \$875 per hour in 2024; and,

Whereas hourly fees are expected to continue to increase each year, and,

Whereas according to the Ontario Ombudsman 2022-2023 Annual Report, the Ombudsman is the closed-meeting investigator for approximately 266 Municipalities; and,

Whereas the Ombudsman reviewed 79 meetings of 47 different municipalities and local boards and issued 17 reports and 22 letters on their findings. All of these reports and letters can be found on the Ombudsman website and in a searchable online database; and,

Whereas the Ontario Ombudsman has the expertise and experience to handle any closed meeting investigation requests, will provide consistency in decisions with other Ontario Municipalities, and will be the single source for complaints against the municipality; and,

Whereas there is no fee to the municipality to use the services of the Ontario Ombudsman.

Therefore be it resolved:

That the Town of Whitby give a minimum of 90 days written notice to terminate the agreement with LAS and further save the taxpayers of the Town of Whitby when the Ontario Ombudsman is appointed.

**Note:** The disposition of the matter, Item 6.5.1, was determined through the referral motion below:

Moved by Councillor Shahid

That consideration of the motion regarding terminating the contract with LAS be referred to Staff to report to Council by the end of Q2 2025 regarding the Town's current accountability and transparency framework and the pros and cons, financial or otherwise of retaining the existing LAS contract or utilizing the Ombudsman for closed meeting investigations.

**Carried**

7. Adjournment

Recommendation:

Moved by Mayor Roy

That the meeting adjourn.

**Carried**

The meeting adjourned at 8:57 p.m.