

Special Council Minutes  
September 14, 2020 - 6:00 PM  
Council Chambers/Virtual Meeting  
Whitby Town Hall

**Present:** Mayor Mitchell  
Councillor Drumm  
Councillor Leahy  
Councillor Lee (participating electronically)  
Councillor Mulcahy (participating electronically)  
Councillor Newman  
Councillor Roy  
Councillor Shahid  
Councillor Yamada

**Also Present:** M. Gaskell, Chief Administrative Officer  
S. Beale, Commissioner of Public Works  
W. Mar, Commissioner of Legal and Enforcement Services/Town Solicitor  
J. Romano, Commissioner of Community Services  
R. Saunders, Commissioner of Planning and Development  
D. Speed, Fire Chief  
S. Klein, Director of Strategic Initiatives  
A. McCullough, Director of Finance/Deputy Treasurer  
H. Ellis, Executive Advisor to the Mayor (participating electronically)  
C. Harris, Director of Legislative Services/Town Clerk  
K. Narraway, Manager of Legislative Services/Deputy Clerk (Recording Secretary)

**Regrets:** None noted

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1. Declarations of Pecuniary Interest

- 1.1 Mayor Mitchell declared a pecuniary interest under the Municipal Conflict of Interest Act regarding Item 2.3, Joint Office of the Chief Administrative Officer and Planning and Development Department Report, CAO 20-20, Hospital Precinct Land, as the lands under discussion in relation to these matters abut or sit upon a portion of 5455 Ashburn Road, a property that is owned by Mayor Mitchell and his family. Mayor Mitchell did not take part in the discussion and voting on this matter.

2. Items for Consideration

- 2.1** Office of the Town Clerk Report, CLK 08-20  
Re: Amendment to Procedure By-law # 7462-18 - Electronic Participation in Meetings and Repeal of Whitby Hydro Energy Corporation Shareholder Meeting Procedures

**Resolution # 168-20**

Moved By Councillor Roy  
Seconded By Councillor Leahy

1. That Council amend Procedure By-law # 7462-18 to indicate that Members of Council can participate in both open and closed meetings electronically and be counted for the purpose of quorum during an emergency or a pandemic where physical distancing is required; and
2. That Council amend Procedure By-law # 7462-18 to repeal Attachment #2, Whitby Hydro Energy Corporation – Shareholder Meeting Procedures as this section is no longer applicable.

**Carried**

It was the consensus of Council to move to Item 3.1 at this time.

- 2.2** Corporate Services Department Report, CS 42-20  
Re: Issuance of Long Term Debt with The Region of Durham

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

- the interest rate secured by the Town through the debenture with The Region of Durham;
- the Region's strong credit rating allowing municipalities to secure a preferred borrowing rate;
- the amount of debentures forecast for the 2021 budget year versus the 2020 budget year; and,
- if the debenture payments include interest only or if they include principal and interest.

**Resolution # 169-20**

Moved By Councillor Newman  
Seconded By Councillor Yamada

1. That Council approve the issuance of up to \$14,250,000 of long term debt over a 20 year term through The Regional Municipality of Durham for the projects outlined in this report;
2. That Council approve a budgetary increase for the Operation Centre Expansion in the amount of \$531,408 resulting in a total approved budget amount of \$7,095,000 for this project; and
3. That Council confirm the previously approved budget amounts of \$1,762,186 for the 400 Centre Street Interior Conversion, \$5,500,000 for the Land Acquisition – Future Fire Hall, Training Complex and Public Works Satellite Facility and \$540,000 for the Port Whitby Marina Pier #4.

**Carried**

It was the consensus of Council to move to Items 3.2 to 3.5 at this time.

**2.3** Joint Office of the Chief Administrative Officer and Planning and Development Department Report, CAO 20-20  
Re: Hospital Precinct Land

Having previously declared a conflict of interest, Mayor Mitchell left the meeting and did not take part in the discussion or voting on this matter. Deputy Mayor Yamada assumed the Chair for this portion of the meeting.

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

- pausing moving forward on entering into an agreement or request for lands with the Brooklin Landowners Group pending further review;
- the importance of protecting and preserving property in the area for a viable bid for a hospital;
- clarification that Council is making a request of the Brooklin Landowners Group, as opposed to entering into a real estate agreement;
- the need for Council to receive legal guidance about the acquisition of land and to be transparent in consideration that a Member of Council has a noted conflict;
- how the property would be managed if the hospital bid is unsuccessful in terms of zoning the lands;
- the merits of only having one landowner for Lakeridge Health to negotiate with to acquire the lands needed for a hospital;
- a successful hospital bid requiring the municipality either to purchase adequate land or request that adequate land for a hospital site be made available from land owners;

- details about the agreement for the acquisition of the property, how it would be structured internally within the Brooklin Landowners Group, and how Fieldgate Homes would be compensated;
- the cumulative financial impact to taxpayers to develop a hospital in Whitby;
- if there has been dialogue between the Hospital Task Force and the Brooklin Landowners Group;
- that the lands currently held by Fieldgate Homes are insufficient for a hospital and therefore additional lands are required;
- that the Province has not historically viewed matters affected by contentious local politics favourably;
- the option to expropriate lands rather than making a request of the Brooklin Landowners Group;
- the need for Council to work together to support the hospital bid and how the Hospital Task Force has been given direction to make recommendations to Council on how best to advance the hospital bid;
- deferring consideration of the matter in order to allow Members of Council to receive advice from external legal counsel regarding their questions and concerns;
- clarification about the parties that make up the Brooklin Landowners Group, including but not limited to Fieldgate Homes, Sorbara Group, Vogue Development Group, Mattamy Homes, and Brookvalley Developments as the principal land owners.
- if the Hospital Task Force has sought legal advice about the request of the Brooklin Landowners Group;
- the purpose of deferring consideration of the matter and what additional information would be provided to Council to assist in consideration of the matter;
- timing considerations of the hospital bid and the timing to receive legal advice;
- clarification that legal advice from external counsel will have been provided to Council in advance of Items 1 and 3 being considered by Council should those Items be deferred; and
- that should Council direct that legal counsel be retained, that advice would be provided regarding the ramifications of the Town going ahead with the request to the Brooklin Landowners Group and what the Brooklin Landowners Group may ask for in return.

Moved By Councillor Leahy  
Seconded By Councillor Newman

1. That Whitby Council requests that the Brooklin Landowners Group acquire and make available to the Town for the purposes of a submission to Lakeridge Health a quantity of land adjacent to the health precinct, located southwest of the intersection of Baldwin Street and Highway 407. This land must be sufficient to meet the needs of Lakeridge Health for the purposes of constructing and operating a hospital on this site;
2. That staff be directed to retain outside legal counsel to represent the Town in facilitating any necessary negotiations or land transactions related to the potential hospital site; and,
3. That this recommendation be shared with the CEO of Lakeridge Health, MPP Coe, the Provincial Minister of Health and the Provincial Minister of Finance.

**The disposition of Item 2 above was carried later in the meeting, and Items 1 and 3 were tabled. [see following motions]**

Moved By Councillor Newman  
Seconded By Councillor Leahy

That the main motion be divided to consider Items 1 and 3 as a separate motion from Item 2.

**Carried**

Moved By Councillor Newman  
Seconded By Councillor Leahy

That consideration of Items 1 and 3 in Report CAO 20-20 be deferred to a Special Council meeting to be held on Monday, October 5, 2020, prior to which advice from outside legal counsel regarding the matter will have been provided.

**Motion lost on a recorded vote as follows:**

	For	Against	Abstained
Councillor Drumm		x	
Councillor Leahy		x	
Councillor Lee	x		
Councillor Mulcahy	x		
Councillor Newman	x		
Councillor Roy		x	
Councillor Shahid	x		

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Councillor Yamada		x	
	4	4	0

Moved By Councillor Leahy  
Seconded By Councillor Newman

2. That staff be directed to retain outside legal counsel to represent the Town in facilitating any necessary negotiations or land transactions related to the potential hospital site.

**Carried later in the meeting [see following motion]**

Moved By Councillor Mulcahy  
Seconded By Councillor Roy

That Item 2 of the main motion be amended to add the words "and advise" after the word "represent and to add "and Council" after the word "Town".

**Carried**

**Resolution # 170-20**

Moved By Councillor Leahy  
Seconded By Councillor Newman

Item 2, as amended, was then carried as follows:

2. That staff be directed to retain outside legal counsel to represent and advise the Town and Council in facilitating any necessary negotiations or land transactions related to the potential hospital site.

**Carried unanimously on a recorded vote as follows:**

	For	Against	Abstained
Councillor Drumm	x		
Councillor Leahy	x		
Councillor Lee	x		
Councillor Mulcahy	x		
Councillor Newman	x		
Councillor Roy	x		
Councillor Shahid	x		

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Councillor Yamada	x		
	8	0	0

**Resolution # 171-20**

Moved By Councillor Mulcahy

Seconded By Councillor Newman

That Items 1 and 3 in Report CAO 20-20 be tabled.

**Carried on a recorded vote as follows:**

	For	Against	Abstained
Councillor Drumm		x	
Councillor Leahy		x	
Councillor Lee	x		
Councillor Mulcahy	x		
Councillor Newman	x		
Councillor Roy	x		
Councillor Shahid	x		
Councillor Yamada		x	
	5	3	0

3. By-laws

- 3.1** By-law # 7656-20, being a by-law to Amend Procedure By-law # 7462-18 to permit Members of Council to participate electronically at open and closed meetings to count towards quorum.

Refer to CLK 08-20, Amendment to Procedure By-law # 7462-18 -  
Electronic Participation in Meetings and Repeal of Whitby Hydro Energy  
Corporation Shareholder Meeting Procedures

**Resolution # 172-20**

Moved By Councillor Roy

Seconded By Councillor Shahid

That leave be granted to introduce By-law # 7656-20 and to dispense with the reading of the by-law by the Clerk and that the same be considered read and passed and that the Mayor and the Clerk sign the same and the Seal of the Corporation be thereto affixed.

**Carried**

It was the consensus of Council to move to Item 2.2 at this time.

- 3.2** By-law # 7657-20, being a by-law to authorize The Regional Municipality of Durham to issue debentures in the maximum principal amount of One Million, Seven Hundred and Twenty Thousand Dollars (\$1,720,000.00) financing the interior and exterior renovations of 400 Centre Street South.

Refer to Report CS 42-20, Issuance of Long Term Debt with The Region of Durham.

- 3.3** By-law # 7658-20, being a by-law to authorize The Regional Municipality of Durham to issue debentures in the maximum principal amount of Four Million, Eight Hundred and Ninety-Five Thousand Dollars (\$4,895,000.00) financing the land acquisition for a future fire hall, training complex and Public Works satellite facility on Cochrane Street, North of 407, Part Lot 29, Concession 6, Part 1, 40R-26098.

Refer to Report CS 42-20, Issuance of Long Term Debt with The Region of Durham.

- 3.4** By-law # 7659-20, being a by-law to authorize The Regional Municipality of Durham to issue debentures in the maximum principal amount of Seven Million and Ninety-Five Thousand Dollars (\$7,095,000.00) financing the Operations Centre Expansion, 333 McKinney Drive.

Refer to Report CS 42-20, Issuance of Long Term Debt with The Region of Durham.

- 3.5** By-law # 7660-20, being a by-law to authorize The Regional Municipality of Durham to issue debentures in the maximum principal amount of Five Hundred and Forty Thousand Dollars (\$540,000.00) financing the replacement of Pier #4, Port Whitby Marina, 301 Watson Street.

Refer to Report CS 42-20, Issuance of Long Term Debt with The Region of Durham.

**Resolution # 173-20**

Moved By Councillor Roy



Seconded By Councillor Drumm

That leave be granted to introduce By-laws # 7657-20 to # 7660-20 and to dispense with the reading of the by-laws by the Clerk and that the same be considered read and passed and that the Mayor and the Clerk sign the same and the Seal of the Corporation be thereto affixed.

**Carried**

It was the consensus of Council to move to Item 4.1 at this time.

4. Closed Session

Moved By Councillor Leahy  
Seconded By Councillor Newman

That Council move in-camera in accordance with Procedure By-law # 7462-18, Closed Meeting Policy G 040, and the Municipal Act, 2001, Section 239 (2)(c) a proposed or pending acquisition or disposition of land by the municipality or local board and (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

**Carried**

**4.1** Confidential Legal and Enforcement Services Report, LS 09-20  
Re: Old Fire Hall Sale to Brookfield

This portion of the meeting was closed to the public. [Refer to the In Camera minutes of the meeting – Town Clerk has control and custody.]

5. Rising and Reporting

**5.1** Motion to Rise

Moved By Councillor Leahy  
Seconded by Councillor Newman

That Council rise from the closed portion of the meeting.

**Carried**

**5.2** Reporting Out

Mayor Mitchell advised that during the Closed Session Council discussed a proposed or pending disposition of land by the municipality and received advice that is subject to solicitor-client privilege.

It was the consensus of Council to move to Item 2.3 at this time.

6. Confirmatory By-law

**6.1** Confirmatory By-law

**Resolution # 175-20**

Moved By Councillor Newman  
Seconded By Councillor Drumm

That leave be granted to introduce a by-law and to dispense with the reading of the by-law by the Clerk to confirm the proceedings of the Council of the Town of Whitby at its special meeting held on September 14, 2020 and the same be considered read and passed and that the Mayor and the Clerk sign the same and the Seal of the Corporation be thereto affixed.

**Carried**

7. Adjournment

**7.1** Motion to Adjourn

Moved By Councillor Shahid  
Seconded By Councillor Drumm

That the meeting adjourn.

**Carried**

The meeting adjourned at 7:21 p.m.

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Christopher Harris, Town Clerk

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Don Mitchell, Mayor