



Committee of the Whole Minutes

March 4, 2024, 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
B. Harasym, Associate Solicitor
S. Meredith, Sr. Manager, Recreation
M. Hickey, Fire Chief
S. Klein, Director of Strategic Initiatives
F. Santaguida, Commissioner of Legal and Enforcement Services/Town Solicitor
R. Saunders, Commissioner of Planning and Development
F. Wong, Commissioner of Financial Services/Treasurer
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

Councillor Mulcahy declared a conflict of interest regarding Item 6.4.8, CLK 03-24, noting that she was the owner of a local newspaper. Councillor Mulcahy did not take part in the discussion or voting regarding this Item.

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 George Lysyk, Resident (In-Person Attendance)

Re: PDE 01-24, Planning and Development (Engineering Services)
Department Report
Infill Development By-law

Refer to Item 5.4.1, PDE 01-24

George Lysyk, Resident, was not in attendance when called upon to provide a delegation.

5.2.2 Steve Edwards and Mark McConville representing Frontdoor Developments (Palmerston) Inc. (In-Person Attendance)

Re: PDP 11-24, Planning and Development (Planning Services)
Department Report
Official Plan Amendment, Draft Plan of Subdivision and Zoning By-law Amendment Applications, Frontdoor Developments (Palmerston) Inc., 400 Palmerston Avenue, File Number: DEV-25-23 (OPA-2023-W/03, SW-2023-03 and Z-09-23)

Refer to Item 5.4.2, PDP 11-24

Steve Edwards and Mark McConville, representing Frontdoor Developments (Palmerston) Inc., appeared before the Committee and provided a PowerPoint presentation which included a detailed overview of the revisions made to the original proposed Draft Plan of Subdivision to conform to the Town's Official Plan regarding Mature Neighbourhoods. Mr. Edwards advised that they were in support of the Staff recommendation, noting that agencies had no objections subject to the conditions of approval. He advised that

they were available to answer questions.

A detailed question and answer period ensued between Members of Committee, Mr. Edwards, and Mr. McConville regarding:

- whether the existing chain link fences would be retained, and the communication plan with the existing residents should their fences be damaged during construction;
- whether any privacy fencing would be installed during construction;
- the timeline for the commencement of construction and completion of the project;
- the maximum height of rooflines for the proposed 2 to 2.5 storey dwellings, whether the 2.5 storey dwellings would be higher than the existing 2 storey homes, and whether the 2 to 2.5 storey dwellings would be compatible with the existing homes;
- whether the existing sugar maple trees on the west side of the subject land would be on the new homeowners' properties, and whether trees damaged during construction would be replaced;
- confirmation that there was only one access/exit to the proposed development;
- whether there would be less impact on traffic due to the reduction in density in the revised proposal;
- the concerns raised about the capacity and impact on the existing water and sanitary sewer infrastructure and electrical service;
- the collection of water on the site and concerns about drainage and flooding; and,
- how concerns about parking would be addressed.

5.2.3 Greg Rea, Resident (In-Person Attendance)

Re: PDP 11-24, Planning and Development (Planning Services)

Department Report

Official Plan Amendment, Draft Plan of Subdivision and Zoning By-

law Amendment Applications, Frontdoor Developments (Palmerston) Inc., 400 Palmerston Avenue, File Number: DEV-25-23 (OPA-2023-W/03, SW-2023-03 and Z-09-23)

Refer to Item 5.4.2, PDP 11-24

Greg Rea, Resident, appeared before the Committee and raised concerns about the height and density of the proposed development and the impact it would have on the character of the neighbourhood, the value of existing properties, the existing parking and traffic concerns in the area, and the construction dust, debris, and potential environmental hazards. He inquired about how the potential damage and removal of trees would be addressed, Council's authority to address the community's concerns about the application, and the fee, process, and timeline to appeal Council's decision to the Ontario Land Tribunal (OLT).

A question and answer period ensued between Members of Committee and Mr. Rea regarding:

- clarification on the replacement of trees, whether the delegate was aware of an inventory of the trees, and who was responsible to maintain the inventory;
- whether sufficient notice was provided in order to register to speak at the meeting;
- details about further revisions to the proposal that would satisfy the delegate; and,
- whether the delegate would prefer that Council deny the application and risk being unsuccessful at the OLT.

Recommendation:

Moved by Councillor Leahy

That the rules of procedure be suspended to allow delegations from members of the public, in attendance at the meeting, pertaining to Item 5.4.2, PDP 11-24, Official Plan Amendment, Draft Plan of Subdivision and Zoning By-law Amendment Applications, Frontdoor Developments (Palmerston) Inc., 400 Palmerston Avenue.

Carried on a Two-Thirds Vote

5.2.4 Michael Twitchin, Resident (In-Person Attendance)

Re: PDP 11-24, Planning and Development (Planning Services)
Department Report
Official Plan Amendment, Draft Plan of Subdivision and Zoning By-law Amendment Applications, Frontdoor Developments
(Palmerston) Inc., 400 Palmerston Avenue, File Number: DEV-25-23 (OPA-2023-W/03, SW-2023-03 and Z-09-23)

Refer to Item 5.4.2, PDP 11-24

Michael Twitchin, Resident, appeared before the Committee and raised concerns regarding the height and density of the proposed development, the residential unit types, dust control, and by-law enforcement, the lack of parking, and access to the park during construction. He expressed concerns about the health and safety of the existing residents due to diesel fumes from construction equipment and the use of propane tanks to aid in drying the masonry. Mr. Twitchin requested clarification on gross density versus net density, and inquired about whether the applications were in keeping with the Town's Official Plan and policies for managing residential infill and intensification in mature neighbourhoods.

5.2.5 Michelle Kaufman, Resident (In-Person Attendance)

Re: PDP 11-24, Planning and Development (Planning Services)
Department Report
Official Plan Amendment, Draft Plan of Subdivision and Zoning By-law Amendment Applications, Frontdoor Developments
(Palmerston) Inc., 400 Palmerston Avenue, File Number: DEV-25-23 (OPA-2023-W/03, SW-2023-03 and Z-09-23)

Refer to Item 5.4.2, PDP 11-24

Michelle Kaufman, Resident, appeared before the Committee and raised concerns about the building heights, the lack of sunlight, the lack of privacy, and the distance between the rear yards of the proposed housing and the existing homes on Sugar Maple Crescent. Ms. Kaufman raised further concerns about parking, the increase in traffic and impact on the intersection located at White Ash Drive and Palmerston Avenue. She expressed concerns about the preservation of the existing mature trees and preventative measures to ensure the trees would not be removed from private property. Ms. Kaufman noted the impact of the closure of the

school formerly located on the subject land and inquired where children from the existing housing and proposed development would attend school.

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

- clarification about the concerns raised about schools in the area and, the various schools where the delegate's children have attended; and,
- confirmation that there was currently only a one-way stop at the intersection of White Ash Drive and Palmerston Avenue.

5.2.6 Gord Burrows, Resident (In-Person Attendance)

Re: PDP 11-24, Planning and Development (Planning Services)
Department Report
Official Plan Amendment, Draft Plan of Subdivision and Zoning By-law Amendment Applications, Frontdoor Developments
(Palmerston) Inc., 400 Palmerston Avenue, File Number: DEV-25-23 (OPA-2023-W/03, SW-2023-03 and Z-09-23)

Refer to Item 5.4.2, PDP 11-24

Gord Burrows, Resident, appeared before the Committee and expressed concerns about providing waste, recycling collection, road maintenance including snow plowing and street cleaning services due to on-street parking, and the potential loss of Palmerston Park for future development. Mr. Burrows raised concerns about the creation of noise, dust, and debris during construction.

5.2.7 Keith Stevenson, Resident (In-Person Attendance)

Re: PDP 11-24, Planning and Development (Planning Services)
Department Report
Official Plan Amendment, Draft Plan of Subdivision and Zoning By-law Amendment Applications, Frontdoor Developments
(Palmerston) Inc., 400 Palmerston Avenue, File Number: DEV-25-23 (OPA-2023-W/03, SW-2023-03 and Z-09-23)

Refer to Item 5.4.2, PDP 11-24

Keith Stevenson, Resident, appeared before the Committee and inquired about the rationale for the Town choosing not to purchase

the subject property. He raised concerns about the height of the proposed 2.5 storey homes, the existing issues with on-street parking in the area, the increase in traffic and lack of traffic calming measures in the area of White Ash Drive and Sugar Maple Crescent and the safety of school children.

A question and answer period ensued between Members of Committee and Mr. Stevenson regarding:

- whether there was a decrease in traffic following the re-opening of the Cochrane Street bridge;
- whether the delegate was aware of the pending traffic calming policy for the Town;
- when the delegate became aware of the proposed 2.5 storey homes versus the 2 storey homes;
- confirmation that the delegate would like traffic calming measures including 3-way stop signs installed in the area of White Ash Drive and Sugar Maple Crescent, and White Ash Drive and Palmerston Street; and,
- whether the “please slow down” signs that were installed on Sugar Maple Crescent were effective.

5.2.8 John Berry, Resident (In-Person Attendance)

Re: PDP 11-24, Planning and Development (Planning Services)
Department Report

Official Plan Amendment, Draft Plan of Subdivision and Zoning By-law Amendment Applications, Frontdoor Developments
(Palmerston) Inc., 400 Palmerston Avenue, File Number: DEV-25-23 (OPA-2023-W/03, SW-2023-03 and Z-09-23)

Refer to Item 5.4.2, PDP 11-24

John Berry, Resident, appeared before the Committee and raised concerns about the height and density of the proposed development and the impact it would have on existing traffic and parking in the area, the existing water drainage issues, the lack of sunlight and amount of shade in his rear yard, and the erosion of the sanctity of the neighbourhood. He inquired about the rationale for the increase in height of the proposed housing from 2 to 2.5

storeys noting that Council had the authority to address concerns related to height and density.

A brief question and answer period ensued between Members of Committee and Mr. Berry regarding whether the delegate supported Council denying the application and the risk that it may result in even higher density in the area.

It was the consensus of the Committee to hear Item 5.4.2, PDP 11-12, at this time.

5.2.9 Adam Layton representing Icon Taunton Limited (Virtual Attendance)

Re: PDP 12-24, Planning and Development (Planning Services) Department Report
Draft Plan of Subdivision and Zoning By-law Amendment Applications, Icon Taunton Limited, 945 Taunton Road East, File Numbers: DEV-28-23 (SW-2023-04, Z-10-23)

Refer to Item 5.4.3, PDP 12-24

Adam Layton, representing Icon Taunton Limited, appeared before the Committee and stated that he had read and was in support of the Staff recommendation, and that he was available to answer questions.

A question and answer period ensued between Members of Committee and Mr. Layton regarding:

- how concerns raised in the correspondence from the Durham Region Cycling Coalition regarding the lack of cycling infrastructure, conflicts between driveways and cyclists on adjacent roads, and the safety of cyclists during construction would be addressed; and,
- details about stormwater management for the proposed development and whether there would be any rear yard catch basins for water drainage.

It was the consensus of the Committee to hear Item 5.4.3, PDP 12-24, at this time.

5.3 Correspondence

There was no correspondence.

5.4 Staff Reports

5.4.1 PDE 01-24, Planning and Development (Engineering Services) Department Report

Re: Infill Development By-law

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

- the rationale for not addressing concerns about construction in an approved infill development through the proposed by-law;
- confirmation that a stormwater management plan must be submitted as part of the application process;
- how water drainage from new infill development in older areas where swales no longer exist would be addressed;
- details about the various plans and permits that would be required for infill development that were not previously required; and,
- whether there would be a fee and monetary securities for all elements of the approved design of the infill development.

Recommendation:

Moved by Councillor Lundquist

1. That an Infill Development By-law in accordance with the recommendations contained in Report PDE 01-24, be brought forward for Council's approval;
2. That the Director of Engineering Services be directed to finalize and implement the Guidelines to Infill Developments and Grading, Servicing and Drainage Permit in accordance with the recommendations contained in Report PDE 01-24 and in the proposed Infill Development By-law;
3. That the Director of Engineering Services be provided with the delegated authority to amend the Guidelines to Infill Developments and Grading, Servicing and Drainage Permit from time to time;

4. That Council approve the proposed Infill Development Fees and Securities as outlined in Report PDE 01-24; and,
5. That the Fees and Charges By-law # 7220-17, as amended, be further amended to include the proposed Infill Development By-law Fees and Securities, as outlined in Report PDE 01-24.

Carried

5.4.2 PDP 11-24, Planning and Development (Planning Services)
Department Report

Re: Official Plan Amendment, Draft Plan of Subdivision and Zoning By-law Amendment Applications, Frontdoor Developments (Palmerston) Inc., 400 Palmerston Avenue, File Number: DEV-25-23 (OPA-2023-W/03, SW-2023-03 and Z-09-23)

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

- details about the proposed development, as presented at this meeting, and adhering to the requirements for development in mature neighbourhoods;
- an explanation/visual about constructing a .5 storey within the roofline of a building and whether the windows could be removed from the .5 storey of the 2.5 storey dwellings to address the concerns about the lack of privacy;
- the difference in height between the 2.5 storey dwellings with the .5 storey built within the roofline and the 2 storey dwellings and whether the difference in height would result in an increase in density;
- restricting the option for the 2.5 storey dwellings abutting the existing residents to 2 storeys and referring the report back to Staff to address a restriction on the height;
- whether the restriction to 2 storeys would be defensible at the OLT should there be an appeal;
- clarification on the process and timeline for a decision by Council on an accepted and complete zoning by-law

amendment application before application fees must be refunded to the applicant;

- whether Palmerston Park would be available for use during the installation of the storm sewer infrastructure;
- whether the proposed parking meets Town parking standards, how traffic and parking concerns would be addressed, and whether White Ash Drive and Palmerston Avenue were identified for traffic calming measures;
- whether on-street parking on Palmerston Avenue would impact access for fire and emergency vehicles;
- the process and timeline for implementing a three-way stop at White Ash Drive and Palmerston Avenue;
- the volume of complaints in 2024 regarding on-street parking in the Palmerston Avenue, White Ash Drive, and Sugar Maple Crescent area, and the timeline for the Staff report on traffic calming measures throughout the Town;
- whether by-law enforcement for parking infractions would be on a complaint basis;
- elaboration on the criteria a construction management plan would include and whether residents should contact Town Staff regarding construction concerns;
- whether the Town has ever converted parkland for private development;
- the opportunity for Council to review land declared as surplus by school boards through a report as opposed to an informational memorandum;
- confirmation that existing chain link fences would be retained and that privacy fences were not a requirement;
- confirmation that the Town does not have any control over the location and size or capacity of schools;
- whether Staff have considered installing signage with details about the construction site, the hours of operation, and contact information; and,

- ensuring mature trees on private property would be preserved, whether the existing mature trees were inventoried by the Town and who was responsible for replacing damaged or removed trees; and,
- whether there was a penalty for residents who remove trees on their property, and the timeline for a tree protection by-law to be presented to Council.

Recommendation:

Moved by Councillor Lundquist

1. That Council approve the Draft Plan of Subdivision (File No. SW-2023-03), subject to the comments included in Planning Report PDP 11-24 and the conditions of draft plan approval included in Attachment #12;
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 the amendment to Zoning By-law #2585, (File No. Z-09-23), as outlined in Planning Report No. PDP 11-24; and,
5. That a by-law to amend Zoning By-law #2585 be brought forward for consideration by Council at such time as the subdivision receives Draft Approval.

Note: the disposition of this matter, Item 5.4.2, PDP 11-24, was determined through the referral motion below.

Recommendation:

Moved by Mayor Roy

That consideration of Report PDP 11-24 be referred to the March 18, 2024 Regular Council meeting to incorporate a restriction of limiting the homes on the west side of "Street A" to a maximum of 2 storeys in height.

Carried

Recommendation:

Moved by Councillor Shahid

That the Committee take a brief recess.

Carried

The committee recessed at 9:30 p.m. and reconvened at 9:38 p.m.

It was the consensus of the Committee to hear Item 5.2.4, Delegation by Adam Layton representing Icon Taunton Limited, at this time.

5.4.3 PDP 12-24, Planning and Development (Planning Services)
Department Report

Re: Draft Plan of Subdivision and Zoning By-law Amendment Applications, Icon Taunton Limited, 945 Taunton Road East, File Numbers: DEV-28-23 (SW-2023-04, Z-10-23)

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

- how the Region of Durham's restriction of a shared access with a right-in/right-out on Taunton Road would impact the neighbouring property located at 915 Taunton Road East;
- whether access to 915 Taunton Road East would be a condition of approval for the proposed development at 945 Taunton Road East; and,
- how water generated on the proposed development site would be addressed.

Recommendation:

Moved by Councillor Bozinovski

1. That Council approve the Draft Plan of Subdivision (File No. SW-2023-04), subject to the comments included in Planning Report PDP 12-24 and the conditions of draft plan approval included in Attachment #11;

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 the amendment to Zoning By-law #1784, (File No. Z-10-23), as outlined in Planning Report No. PDP 12-24; and,
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 Site Plan Approval is issued by the Commissioner of Planning and Development.

Carried

5.5 New and Unfinished Business - Planning and Development

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

5.5.1 Three Way Stop at White Ash Drive and Palmerston Avenue

Recommendation:

Moved by Councillor Leahy

That Staff be directed to include consideration of a three way stop at White Ash Drive and Palmerston Avenue as part of a report on new stop controls by Q2 2024.

Carried

6. General Government

Councillor Lundquist assumed the Chair.

It was the consensus of the Committee to hear Item 6.2.2, Delegation by Bob Willard, Whitby Sustainability Advisory Committee, at this time.

6.1 Presentations

6.1.1 Andre Gratton, Manager, Enforcement Services and Francesco Santaguida, Commissioner, Legal and Enforcement Services (In-Person Attendance)

Re: LS 04-24, Legal and Enforcement Services Department Report

Implementation of Administrative Penalty System for parking infractions in Whitby & School Zone Parking Enforcement Update

Refer to Item 6.4.1, LS 04-24

Andre Gratton, Manager, Enforcement Services and Brent Harasym, Associate Solicitor, provided a PowerPoint presentation regarding the implementation of the Administrative Penalty System. Highlights of the presentation included:

- background information about the Administrative Penalty System (APS);
- the various benefits of moving to an APS;
- detailed information about the new APS model including issuing parking infraction notices, parking infraction dispute resolution, and the parking fine structure;
- how the change will affect residents; and,
- the proposed and continued next steps for the APS implementation.

It was the consensus of the Committee to hear Item 6.4.1, LS 04-24, at this time.

6.2 Delegations

6.2.1 Gabriella Kalapos representing Clean Air Partnership (Virtual Attendance)

Re: Memorandum from H. Ellis, Council and Committee Coordinator, dated February 2, 2024 re: Whitby Sustainability Advisory Committee Request that Council Support the Ontario Energy Board's Decision to end the Gas Pipeline Subsidy

Refer to Item 6.3.1, Memorandum from H. Ellis, Council and Committee Coordinator, dated February 2, 2024 re: Whitby Sustainability Advisory Committee Request that Council

Support the Ontario Energy Board's Decision to end the Gas Pipeline Subsidy

Gabriella Kalapos representing Clean Air Partnership, provided a PowerPoint presentation about the request for Council to support the Ontario Energy Board's decision to end the Gas Pipeline Subsidy. Highlights of the presentation included:

- the expectation of people to pay for electricity infrastructure which was included in developer's costs and in turn included on property purchasers' bills;
- residents using fossil fuels for heating without considering other options because developers do not have to pay for fossil fuel infrastructure;
- levelling the playing field between electricity and fossil fuel so that both have equal opportunity in terms of identifying how they can meet energy needs;
- considering lower carbon methods/equipment to meet energy needs;
- the availability of cost effective options to meet energy needs such as electric heat pumps;
- the subsidy amount of \$250M per year that Enbridge customers pay; and,
- requesting that Council support the OEB's decision.

A brief question and answer period ensued between Members of Committee regarding the next steps should the OEB's decision be reversed by the Provincial Government.

6.2.2 Bob Willard, Whitby Sustainability Advisory Committee (In-Person Attendance)

Re: Memorandum from H. Ellis, Council and Committee Coordinator, dated February 2, 2024 re: Whitby Sustainability Advisory Committee Request that Council Support the Ontario Energy Board's Decision to end the Gas Pipeline Subsidy

Refer to Item 6.3.1, Memorandum from H. Ellis, Council and Committee Coordinator, dated February 2, 2024 re: Whitby Sustainability Advisory Committee Request that Council

Support the Ontario Energy Board's Decision to end the Gas Pipeline Subsidy

Bob Willard, Whitby Sustainability Advisory Committee, appeared before the Committee and provided a PowerPoint presentation about the request for Council to support the Ontario Energy Board's (OEB) decision to end the Gas Pipeline Subsidy. Highlights of his presentation included:

- the Ontario Energy Board (OEB) permitting Enbridge to subsidize the cost for new natural gas hookups through existing customers, and the OEB's recent decision to end the subsidy;
- the order by the OEB for Enbridge to remove the cost of new gas connections from its base rate commencing in 2025;
- the notice of appeal by Enbridge in Ontario's Divisional Court, and the possible legislation to reverse the OEB's decision by the Provincial Government; and,
- reasons to support the OEB's decision including but not limited to the increasing cost of energy for customers, the reduction in energy costs to customers with the subsidy removed from their monthly bills, the subsidy encouraging developers to install gas equipment that was more expensive to operate than electric heat pumps, and jeopardizing the Town of Whitby's target of reduction of community-wide greenhouse gas emissions to net-zero by 2045.

A question and answer period ensued between Members of Committee and Mr. Willard regarding:

- confirmation that existing customers should not be paying for hookups for new customers, and that growth should pay for growth;
- whether Enbridge would increase rates to subsidize new gas hookups should the OEB's decision not be reversed; and,
- the cost of a new gas hookup and who would be responsible for that cost without the subsidy.

It was the consensus of Committee to hear Item 6.2.1, Delegation by Gabriella Kalapos representing Clean Air Partnership, at this time.

6.3 Correspondence

6.3.1 Memorandum from H. Ellis, Council and Committee Coordinator, dated February 2, 2024 re: Whitby Sustainability Advisory Committee Request that Council Support the Ontario Energy Board's Decision to end the Gas Pipeline Subsidy

Recommendation:

Moved by Councillor Leahy

Whereas residents are struggling with energy bill increases and need relief; and,

Whereas natural gas is no longer the cheapest way to heat homes because electric heat pumps are now much more efficient, can provide all heating needs even in cold climates, and result in far lower energy bills compared to gas heating; and,

Whereas natural gas is methane gas, which is a fossil fuel that causes approximately one-third of Ontario's GHG emissions, and must be phased out because it is inconsistent with all climate targets, while heat pumps result in the lowest GHG emissions and are consistent with a zero-carbon future; and,

Whereas the Ontario Energy Board (OEB) decided to end a subsidy for methane gas pipelines to be built in new construction developments, effective 2025, finding that this would lower energy bills for existing gas customers and improve affordability for new homebuyers, but this decision is at risk of being overturned by the provincial government; and,

Whereas the OEB decision will help lower energy bills and encourage heating systems that are consistent with climate targets and plans; and,

Whereas the construction of new methane gas pipelines, which have 60-year lifetimes, should not be subsidized because they are inconsistent with the Town's climate targets and will result in higher

carbon emissions, higher energy bills, higher future decarbonization retrofit costs to phase out fossil fuel heating, and a continued financial drain as dollars leave the province to pay for fossil fuels extracted in other jurisdictions.

Now therefore, be it resolved:

1. That the Town of Whitby expresses its support for the decision of the Ontario Energy Board to end the gas pipeline subsidy and ask the Ontario Government to allow the decision to stand; and,
2. That this resolution be circulated to Premier Doug Ford; the Minister of Energy, Todd Smith; the Minister of Finance, Peter Bethlenfalvy; the Minister of Municipal Affairs and Housing, Paul Calandra; the Associate Minister of Housing, Rob Flack; President of AMO, Colin Best, the Region of Durham, and all local Ontario municipalities requesting support of the proposed changes.

Carried

It was the consensus of the committee to hear Item 6.1.1, Presentation by Andre Gratton, Manager, Enforcement Services and Francesco Santaguida, Commissioner, Legal and Enforcement Services, at this time.

- 6.3.2 Correspondence 2024-87 from A. Adams, Regional Clerk, Regional Municipality of Peel, dated February 2, 2024 re Supreme Court of Appeal in Sudbury v. Ontario (Ministry of Labour)

See also Item 6.4.3, LS 05-24

A brief question and answer period ensued between Members of Committee and Staff regarding the steps that Staff were taking to ensure that the Town would not be at risk for liability in the event that a contractor violates the Occupational Health and Safety Act and does not engage in the due diligence required to protect the safety of their workers and the public.

Recommendation:

Moved by Councillor Mulcahy

Whereas in 2015 the City of Greater Sudbury (“Sudbury”) entered into a contract with a contractor to complete a project in its downtown core; and,

Whereas the contract provided that the contractor would be the constructor for the project as that term is defined in the Occupational Health and Safety Act (the “Act”); and,

Whereas an employee of the constructor operating a grader on the project struck and killed a pedestrian; and,

Whereas Sudbury was charged with offences under the Act as the constructor and the employer; and,

Whereas after being acquitted at trial and on appeal, the Ontario Court of Appeal, in a decision issued on April 23, 2021, found Sudbury to be liable for contraventions of the Construction Regulations as an employer as it employed quality control inspectors to monitor the quality of work on the project from time-to-time; and,

Whereas the Supreme Court of Canada, in a decision issued on November 10, 2023, was evenly divided 4-4 on the issue resulting in the dismissal of Sudbury’s appeal; and,

Whereas the consequence of this decision is that municipalities in Ontario, as well as all other owners of property in the province, who wish to undertake construction, are subject to being charged and convicted as an employer for offences in relation to project sites for which they have no control and have, in accordance with the Act, contracted with an entity to assume oversight and authority over the work on such site as the constructor; and,

Whereas the potential of an owner being charged as an employer as that term is defined in the Act in circumstances where it has engaged a constructor disregards and renders meaningless the owner-constructor provisions contained in the Act and presents an unacceptable level of increased risk and confusion for owners and contractors throughout the province; and,

Whereas the Town of Whitby believes that the safety of workers is paramount however the safety of workers on construction projects in Ontario is not increased by placing liability on parties that do not

have control of and are not responsible for the conduct of the work on such sites.

Now therefore be it resolved:

1. That Correspondence 2024-87 from A. Adams, Regional Clerk, Regional Municipality of Peel, dated February 2, 2024 re Supreme Court of Appeal in Sudbury v. Ontario (Ministry of Labour) be endorsed by Council; and,
2. That the Council of The Town of Whitby requests that the province amend the Occupational Health and Safety Act to clarify the definition of “employer” to exclude owners that have contracted with a constructor for a project; and,
3. That this resolution be provided to the Honourable Doug Ford, Premier of Ontario, the Honourable David Piccini, Minister of Labour, Immigration, Training and Skills Development, the Honourable Paul Calandra, Minister of Municipal Affairs and Housing, the Association of Municipalities of Ontario, the Federation of Northern Ontario Municipalities, Mayors and Regional Chairs of Ontario, the Council of Ontario Construction Associations, the Ontario Chamber of Commerce and all Greater Toronto Area municipalities.

Carried

6.4 Staff Reports

6.4.1 LS 04-24, Legal and Enforcement Services Department Report

Re: Implementation of Administrative Penalty System for parking infractions in Whitby & School Zone Parking Enforcement Update

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

- how Members of Council could assist with the implementation of the Administration Penalty System (APS) when receiving complaints about parking infractions to ensure that Council follows a process that aligns with the policy;

- the ability for the Durham District School Board and the Durham Catholic District School Board to assist with providing communication about the APS to residents in school zones;
- whether the proposed traffic by-law would apply to ticketing and towing on public and private property;
- the cost of implementing the APS for parking infractions and the forecasted increase in revenue;
- clarification on the fine structure for parking infractions, how long an offender would remain at Tier 3 of the fine structure, and the amount of the fine at Tier 3;
- the process, location, and cost of hearings before the Screening Officer and Hearings Officer; and,
- providing information to Council about opportunities to increase the timelines for offenders to remain at Tier 3 of the fine structure through a memorandum to Council for the March 18, 2024 Regular Council meeting.

Recommendation:

Moved by Councillor Cardwell

That in accordance with the Town's Procedure By-law, the Committee of the Whole meeting continue to go past 11:00 p.m.

Carried

The question and answer period between Members of Committee and Staff continued regarding:

- whether enforcement of the Traffic By-law and issuance of infraction notices for parking violations would continue on a complaint basis;
- confirmation that the APS for parking infractions would not be used for the purpose of generating revenue and offsetting taxes;
- the timeline between receiving and responding to complaints;

- whether the priority areas for the licence plate recognition technology would be school zones and Downtown Whitby;
- whether the APS could be used for speed cameras in school zones, and whether the fine amounts for parking infractions in school zones were comparable with other municipalities; and,
- how communication to the public about the APS would take place.

Recommendation:

Moved by Mayor Roy

1. That staff be directed to facilitate and implement an Administrative Penalty System (“APS”) for the Town of Whitby for Parking infractions with an implementation date of May 1, 2024.
2. That upon passing of the Administrative Penalty System By-law and new Traffic By-law, that Traffic By-law # 1862-85, as amended, is repealed after the transition period.
3. That the proposed new Administrative Penalty System By-law, be brought forward to the next Council meeting for consideration and adoption, substantially in accordance with Attachment 2 to this Report, and in a form satisfactory to the Commissioner of Legal and Enforcement Services/Town Solicitor.
4. That the proposed new Traffic By-law, be brought forward to the next Council meeting for consideration and adoption, substantially in accordance with Attachment 1 to this Report, and in a form satisfactory to the Commissioners of Legal and Enforcement Services/Town Solicitor and Planning and Development.
5. That Council approve the proposed Prevention of Political Interference Policy and Conflict of Interest Policy, substantially in accordance with Attachments 3 and 4, respectively.
6. That the Commissioner of Legal and Enforcement Services/Town Solicitor be directed to draft and implement a

Standard Operating Procedure for public complaints in relation to the Administrative Penalty System.

7. That the Commissioner of Legal and Enforcement Services/Town Solicitor be delegated the authority to appoint both a Screening Officer and a Hearings Officer for the administration of the APS, and that the Clerk be directed to update the Policy G 020, Delegation of Powers and Duties Policy, accordingly.
8. That staff be directed to transition other applicable municipal by-laws to an Administrative Penalty System.
9. That Item GG-0020 be removed from the New and Unfinished Business List.

Carried

It was the consensus of the Committee to hear Item 6.3.2, Correspondence 2024-87 from A. Adams, Regional Clerk, Regional Municipality of Peel, dated February 2, 2024 re Supreme Court of Appeal in Sudbury v. Ontario (Ministry of Labour), at this time.

6.4.2 LS 02-24, Legal and Enforcement Services Department Report

Re: Conveyance of a Portion of Old Lake Ridge Road from the Regional Municipality of Durham and Boundary Road Agreement between Town of Whitby and Town of Ajax

Recommendation:

Moved by Councillor Lundquist

1. That Part of Lot 1, Concession 1 (Geographic Township of Pickering) and Part of Road Allowance between Township of Whitby and Township of Pickering, designated as Part 4 on Plan 40R-30216, being a portion of PIN 26494-0728 (LT) ("Property #1"), and Part of Lot 1, Concession 1 (Geographic Township of Pickering) and Part of Road Allowance between Township of Whitby and Township of Pickering, designated as Part 3 on Plan 40R-29191, SAVE and EXCEPT Parts 3 and 4 on Plan 40R-30216, being all of PIN 26494-0745 (LT) ("Property #2"), (collectively, the "Properties" or "Old Lake Ridge Road") be acquired from The Regional Municipality of

Durham subject to the conditions set forth in Legal Services Report LS 02-24;

2. That Council direct staff to negotiate and enter into a Boundary Road Agreement with The Corporation of the Town of Ajax to the satisfaction of the Commissioner of Legal Services and Enforcement/Town Solicitor, or designate, to outline the future rights and obligations relating to Old Lake Ridge Road (the “Boundary Road Agreement”);
3. That the requirement to obtain an appraisal and give public notice in accordance with Town of Whitby Policy F-190 regarding the Acquisition, Sale or other Disposition of Land Policy be waived for the acquisition of the Properties;
4. That the Clerk be authorized to bring forward a by-law authorizing the acquisition of the Properties; and,
5. That the Mayor and Clerk be authorized to undertake all necessary actions and execute an Offer to Sell with the Regional Municipality of Durham, a Boundary Road Agreement with The Corporation of the Town of Ajax, and any other documents to give effect thereto.

Carried

6.4.3 LS 05-23, Legal and Enforcement Services Department and Financial Services Department Joint Report

Re: R. v. City of Greater Sudbury – Staff Comments concerning Recent Supreme Court of Canada Decision

Recommendation:

Moved by Councillor Lundquist

That Report LS 05-23 be received for information.

Carried

6.4.4 FS 05-24, Financial Services Department and Legal and Enforcement Services Department Joint Report

Re: Land Exchange between the Town of Whitby and the Canadian Pacific Railway Company for future work to Des Newman Boulevard

Recommendation:

Moved by Councillor Lundquist

1. That Part of the Road Allowance of Coronation Road between Lots 32 and 33, Concession 3, designated as Parts 8, 9 and 10 on Plan 40R-29953 (being a portion of PIN 26548-3682 (LT)) ("Property #1"), and Part of the Road Allowance of Ash Street, East of Brock Street, Plan H50029, designated as Part 1 on Plan 40R-32017 (being a portion of PIN 26532-0111 (LT)) ("Property #2"), (collectively the "Town's Parcels") be declared surplus and conveyed to the Canadian Pacific Railway Company ("CPR"), and that Part of Lot 34, Concession 3, designated as Part 1 on Plan 40R-31999 (being a portion of PIN 26548-0437 (LT)) ("Property #3"), (the "CPR Parcel") be acquired from CPR, subject to the conditions set forth in Financial Services Report 05-24;
2. That the Clerk be authorized to bring forward by-laws authorizing the disposition of the Town's Parcels and the acquisition of the CPR Parcel;
3. That the Clerk be authorized to bring forward a by-law to stop up and close Property #1 and Property #2 as a public highway;
4. That the requirement to obtain an appraisal and give public notice in accordance with Town of Whitby Policy F-190 regarding the Acquisition, Sale or other Disposition of Land Policy be waived for the acquisition and disposition of the lands described herein;
5. That the requirement to provide notice to permanently close a highway in accordance with Town of Whitby Public Notice Policy CA-150 be waived for the lands described herein; and,
6. That Council hereby delegate authority to the Commissioner, Planning and Development and the Commissioner, Financial Services and Treasurer to undertake the necessary actions

and execute a land exchange agreement and all other necessary documents to give effect thereto, with such actions and agreements being in a form satisfactory to the Commissioner, Legal and Enforcement Services/Town Solicitor, or designate.

Carried

6.4.5 FS 06-24, Financial Services Department Report

Re: 2023 Annual Investment Report

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

- confirmation that the Town's total investment income in 2023 was \$20.7M;
- the amount of investment income that was allocated to Development Charge Reserves and the Operating Budget;
- whether the allocation of interest to Development Charge Reserves could be used to offset changes under Bill 23; and,
- the possibility of offsetting the Elexicon dividend revenue from higher investment revenue and potentially allocating Elexicon dividend revenues to reserves for future projects.

Recommendation:

Moved by Councillor Bozinovski

That in accordance with the Town's Procedure By-law, the Committee of the Whole meeting continue to go past 11:30 p.m.

Carried on a Two-Thirds Vote

Recommendation:

Moved by Councillor Leahy

That Report FS 06-24, the 2023 Annual Investment Report, be received.

Carried

6.4.6 FS 08-24, Financial Services Department Report

Re: Asset Management Policy Update

Recommendation:

Moved by Councillor Lundquist

1. That Report FS 08-24 regarding the Asset Management Policy update be endorsed by Council;
2. That Staff continue to undertake asset management initiatives to remain in compliance with Ontario Regulation 588/17 and the Municipal Funding Agreement for the Transfer of Federal Gas Tax Funds; and,
3. That Staff report back to Council in June 2024 with an update to the Municipal Asset Management Plan.

Carried

6.4.7 CAO 06-24, Office of the Chief Administrative Officer and Financial Services Department Joint Report

Re: Community Development Funds - 2023 Annual Report

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

- the rationale for the amount of net proceeds versus the revenue associated with the 2023 Mayor's Gala and whether there were unexpected additional expenses; and,
- details about what services were included with the facility rental for the 2023 Mayor's Gala.

Recommendation:

Moved by Mayor Roy

1. That Report CAO 06-24 regarding the 2023 Annual Report for the Mayor's Community Development Fund and the Performing Arts Community Development Fund be received for information; and,

2. That Council approve the updated Mayor's Community Development Fund and Performing Arts Community Development Fund Policy as shown in Attachment 4.

Carried

6.4.8 CLK 03-24, Office of the Town Clerk Report

Re: Revised Public Notice Policy

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

A brief question and answer period ensued between Members of Committee and Staff regarding whether there has been a significant impact on the Town's ability to share public notices with the community due to the loss of a community newspaper.

Recommendation:

Moved by Mayor Roy

That Council approve the revised Public Notice Policy appended to Report CLK 03-24 as Attachment 1.

Carried

6.5 New and Unfinished Business - General Government

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

6.5.1 Recognitions at Council

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

- whether there would be any changes to the existing process for recognitions at Regular Council meetings and whether the proposed expanded recognitions would be included within the existing process;
- exploring best practices in other municipalities; and,
- consideration being given to the feedback provided by Members of Council when reviewing/amending the Standard Operating Procedure (SOP).

Recommendation:

Moved by Councillor Cardwell

That the Clerk be directed to amend the current criteria for those eligible to receive the Town's "Outstanding Achievement Award" in the form of a medal and certificate. These accolades will go to Whitby residents who have done outstanding deeds or had incredible triumphs at a National or International level. The presentation from the Mayor and Council will occur within the calendar year in which the achievement took place.

Carried

6.5.2 Removal of Tolls from Highway 407

Councillor Lee introduced a motion regarding the removal of tolls from Highway 407.

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

- clarifying that the motion is seeking the permanent removal of tolls from Highway 407 in Durham Region; and,
- additionally circulating the resolution to the Ontario Trucking Association, the Ontario Federation of Agriculture and local municipalities east of Whitby along the Highway 407 and Highway 35/115 routes.

Recommendation:

Moved by Councillor Lee

Whereas on February 15, 2024 the Province announced it will be introducing new legislation through the Get It Done Act in the Legislature's spring sitting, which if passed will prohibit Ontario from introducing new tolls on provincial highways and potentially require public consultation before considering new tolls; and,

Whereas Highway 407 East from Brock Road (Regional Road 1) in Pickering to Highway 35/115 is provincially owned with tolls set by the province; and,

Whereas if excluded from the proposed ban on tolls, Highway 407 East would become the only tolled provincially owned highway in

Ontario, resulting in unfair economic impacts to Durham Region residents and businesses; and,

Whereas planned Regional construction work to widen Winchester Road (Regional Road 3) from Anderson Street to Baldwin Street (Regional Highway 12) will necessitate reducing Winchester Road to one lane of traffic in one direction over two construction seasons impacting travel times for residents and businesses; and,

Whereas removal of tolls on Highway 407 East work would improve overall travel times and alleviate the traffic impacts on surrounding Regional and local municipal roads during the Winchester Road construction.

Now therefore be it resolved:

1. That the Council of the Town of Whitby request the Province of Ontario to amend the Get It Done Act to include the permanent removal of road tolls on the existing Highway 407 East from Brock Road in Pickering to Highway 35/115; and,
2. That the Clerk be directed to circulate 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

7. Adjournment

Recommendation:

Moved by Councillor Shahid

That the meeting adjourn.

Carried

The meeting adjourned at 12:02 a.m.