

CITY COUNCIL MEETING NO. 14-2006

The Regular Meeting of City Council was held on Tuesday, May 30, 2006 at 6:00 pm in the Council Chamber, City Hall. His Worship Mayor Harvey Rosen presided.

(Council Chambers)

ROLL CALL

Present: Mayor Rosen, Councillor Beavis, Councillor Downes, Councillor Foster, Councillor Garrison, Deputy Mayor George, Councillor George, Councillor Meers, Councillor Pater, Councillor Patterson, Councillor Smith, Councillor Stoparczyk, Councillor Sutherland (13)

(Council Chambers)

Administrative Staff Present:

Mr. G. Laubenstein, Chief Administrative Officer
Ms. C. Beach, Commissioner of Growth and Sustainability
Mr. G. Coons, Executive Assistant, Mayor's Office
Mrs. C. Downs, City Clerk
Mr. M. Fluhrer, Director, Culture and Recreation
Mr. D. Gedge, Director, Large Venue Entertainment Centre Project
Ms. S. Hickey, Acting Commissioner of Finance and Corporate Performance
Mr. P. Huigenbos, Manager, Partnerships and Initiatives, Growth and Sustainability
Mr. B. Judge, Communications Officer, Growth and Sustainability
Mr. S. Kanellos, Director, Growth and Initiatives
Mr. J. Keech, President & CEO, Utilities Kingston
Mr. D. Leger, Commissioner of Corporate Services
Mr. H. Linscott, Director, Legal Services
Mr. P. MacLatchy, Director, Strategy, Sustainability and Communications
Mr. A. McLeod, Senior Legal Counsel, Legal Services
Mr. D. Mignault, Research and Grants Coordinator, Growth and Sustainability
Mr. M. Morris, Director, Transportation
Ms. T. Newton, Executive Assistant, Community Development Services
Mr. S. Peters, Project Coordinator, Public Works and Emergency Services
Mr. M. Segsworth, Commissioner of Public Works and Emergency Services
Ms. N. Sullivan, Deputy City Clerk
Mr. L. Thurston, Commissioner of Community Development Services
Mr. G. Wallace, Director, Planning and Development

DISCLOSURE OF PECUNIARY INTEREST

Moved by Councillor Foster
Seconded by Councillor Sutherland

THAT Council consent to the addition of the addeds No. 14-2006 for Tuesday, May 30, 2006.

CARRIED
(A 2/3rds Vote of Council Was Received)

THE COMMITTEE OF THE WHOLE

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(A) Moved by Councillor Patterson
Seconded by Councillor Stoparczyk

THAT Council resolve itself into the Committee of the Whole to consider Report No 73 of the Chief Administrative Officer (Recommend).

CARRIED

(B) Moved by Councillor Sutherland
Seconded by Deputy Mayor George

THAT Council rise from the Committee of the Whole and the Chair report.

CARRIED

REPORTS

Report No. 73 of the Chief Administrative Officer (Recommend)

Council consented to the addition of the Downtown Kingston BIA Special Charge Levy Payment, an amendment to Schedule to By-Law No. 2006-137 and to the addition of Clauses 3 and 4.

Moved by Councillor Foster
Seconded by Councillor Smith

THAT Report No. 73 of the Chief Administrative Officer (Recommend) be received and adopted, clause by clause.

Report No. 73

To the Mayor and Members of Council:
The Chief Administrative Officer reports and recommends as follows:

1. **DBIA Levy to Contribute a Minimum of \$3,000,000 in Funding to the City in Support of the LVEC**

THAT Council approve By-Law no. 2006-137, "A By-Law To Levy A Special Charge Of \$3,000,000.00 Upon Rateable Property In The Downtown Kingston Business Improvement Area On Account Of The Cost Of The Kingston Sports And Entertainment Centre", as attached pursuant to section 208(2)(a) of the *Municipal Act, 2001* which provides for the creation of a special levy upon rateable property in the improvement area that is in a prescribed business property class to annually raise the amount required to meet the commitment the Board of the DBIA made pursuant to a Memorandum of Understanding with the City, dated April 7, 2006, to contributing a minimum of three million dollars (\$3,000,000.00) in funding to the City in support of the LVEC, including all interest payable by the municipality on money borrowed by it for this purpose;

- and further -

THAT the by-law be given three readings.

(File No. CSU-R05-001-2006)

(The Report of the Commissioner of Finance and Corporate Performance (06-135) was attached as Schedule Pages 1-5).

(See By-Law No. (1), 2006-137)

CARRIED
(Councillor Garrison OPPOSED)

REPORTS

Report No. 73 of the Chief Administrative Officer (Recommend)

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2. **Kingston Accommodation Partners Inc. Agreement to Fund \$3,000,000 of Large Venue Entertainment Centre Capital Costs**

THAT Council approve Kingston Accommodation Partners Inc.'s offer to provide funding in an amount sufficient to repay \$3,000,000 of the capital costs of the construction of the LVEC, together with interest, over a 40 year period and that the Mayor and Clerk be authorized to sign an agreement with Kingston Accommodation Partners Inc. in the form attached as Exhibit "B" wherein Kingston Accommodation Partners Inc. commits to provide that funding to the City.

(File No. CSU-R05-001-2006)

(The Report of the Commissioner of Growth and Sustainability (06-153) was attached as Schedule Pages 6-17).

CARRIED

(Councillors Garrison OPPOSED)

3. **License Agreement with Kingston Frontenacs**

THAT staff be directed to undertake all required steps to enter into, and that the Mayor and Clerk be authorized to execute, the proposed License Agreement with the Kingston Frontenac Hockey Ltd., subject to the satisfaction of the City Solicitor.

(File No. CSU-R05-001-2006)

(Note: The Report of the Commissioner of Growth and Sustainability (06-154) was distributed separately from the agenda.)

CARRIED

(Councillors Garrison and Downes OPPOSED)

(See Motions to Amend Which Were LOST)

Moved by Councillor Meers

Seconded by Councillor Garrison

THAT Section 10 (d) of the Agreement between the Corporation of the City of Kingston and the Kingston Frontenac Hockey Ltd. be amended to include the wording "with the understanding that the Frontenacs show flexibility to large venue events" after the words "practices or games" in the first sentence, so that it now reads:

During the period from August 15 to May 15 of each year, the City will endeavour not to schedule any events during Frontenac practices or games with the understanding that the Frontenacs show flexibility to large venue events. The City acknowledges that Frontenacs games have scheduling priority over other events.

LOST (3:10)

(See Recorded Vote)

A Recorded Vote was requested by Councillor Meers

YEAS: Councillor Garrison, Councillor George, Councillor Meers (3)

NAYS: Mayor Rosen, Councillor Beavis, Councillor Downes, Councillor Foster, Deputy Mayor George, Councillor Pater, Councillor Patterson, Councillor Smith, Councillor Stoparczyk, Councillor Sutherland (10)

REPORTS

Report No. 73 of the Chief Administrative Officer (Recommend)

Moved by Councillor Garrison

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Seconded by Councillor Meers

THAT Section 10 (d) of the Agreement between the Corporation of the City of Kingston and the Kingston Frontenac Hockey Ltd. be amended to delete the words "practices or" prior to the word "games" so that it now reads:

During the period from August 15 to May 15 of each year, the City will endeavour not to schedule any events during Frontenac games. The City acknowledges that Frontenacs games have scheduling priority over other events.

LOST

4. **Large Venue Entertainment Centre: Evaluation of Design-Build Proposals**

THAT staff be authorized to proceed with the design, construction and components related to the operation of the Kingston Regional Sports and Entertainment Centre; and

THAT staff be authorized to engage through a letter of intent the services of Ellis Don Design-Build Inc. for the purposes of finalizing a scope for the design of the facility for an amount not to exceed the amount of \$30,065,000 with the additional LEED® Silver component for the building not to exceed \$1,200,000; and

THAT staff be directed to negotiate and enter into a contract with Ellis Don Design-Build Inc. for the design and construction of the facility and the Mayor and Clerk be authorized to execute all related contracts, amendments and agreements to the satisfaction of the City Solicitor related to phases of the design and construction of the Kingston Regional Sports and Entertainment Centre; and

THAT based on the ongoing positive economic impacts for the region for the Kingston Regional Sports and Entertainment Centre, that the City continue to request from the provincial and federal governments additional funding which would enable the facility to exceed community expectations for a premiere, fully accessible, environmental design and premiere sports and entertainment facility; and

REPORTS

Report No. 73 of the Chief Administrative Officer (Recommend)

THAT Council approve a total project budget in the amount of \$41.77M, which includes the LEED® component of \$1.2M with financing as follows:

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Financing Alternative	PAYG (2005 – 2008) \$M	Debt \$M	Total \$M
Cash Flows from LVEC operations		21.32	21.32
Downtown Kingston		3.00	3.00
Private Donations	2.00		2.00
Development Charges	3.00		3.00
Parking Incremental Revenues		2.00	2.00
Federal and Provincial Govt. Grants		4.00	4.00
KAP Contribution		3.00	3.00
Municipal Capital Reserve Fund (MCRF)	3.30		3.30
Subtotal	8.30	33.32	41.62
Working Fund Reserve (WFR)	0.15	--	0.15
Total Financing	8.45	33.32	41.77

CARRIED AS AMENDED (8:5)
(See Recorded Vote No. 1)
(See Motion to Amend Which Was CARRIED)

-and further –

THAT Council reconsider and approve that the \$504,100 of site-related costs related to the Anglin Bay location be funded from the Working Fund Reserve as these are costs unrelated to the project on the North Block that cannot be capitalized and debentured.

(File No. CSU-R05-001-2006)

(Note: The Report of the Commissioner of Growth and Sustainability (06-147) was distributed separately from the agenda.)

CARRIED (8:5)
(See Recorded Vote No. 2)
(See Motion to Reconsider Which Was CARRIED)

Moved by Councillor Sutherland
Seconded by Councillor Stoparczyk

THAT Paragraph 5 of Clause 4 of Report No. 73 be amended to reduce the Cash Flows from LVEC Operations Debt from 24.32 to 21.32 million; reduce the Parking Incremental Revenues debt from 3.00 to 2.00; increasing the Federal and Provincial Govt. Grants by 4.00 million, resulting in a reduction of the debt financing from 40 years to 30 years amortization for debentures.

CARRIED
(Councillor Garrison OPPOSED)

REPORTS

Report No. 73 of the Chief Administrative Officer (Recommend)

Moved by Deputy Mayor George
Seconded by Councillor Sutherland

THAT the non-recoverable costs for the site development of the LVEC on the inner harbour site be funded from the Working Fund Reserve (WFR) in the amount of \$504,100.

CARRIED

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Moved by Deputy Mayor George
Seconded by Councillor Sutherland

THAT Council **reconsider** the following Motion (Clause 2 (b) of Report No. 44 of the Chief Administrative Officer (Recommend)) which was LOST at City Council Meeting No. 8, held on Tuesday, March 21, 2006:

THAT the non-recoverable costs for the site development of the LVEC on the inner harbour site be funded from the Working Fund Reserve (WFR) in the amount of \$504,100.

CARRIED
(A 2/3rds Vote of Council was Received)
(Councillors Garrison and Meers OPPOSED)

(1) A Recorded Vote was requested by Councillor George

YEAS: Mayor Rosen, Councillor Foster, Deputy Mayor George, Councillor Pater, Councillor Patterson, Councillor Smith, Councillor Stoparczyk, Councillor Sutherland (8)

NAYS: Councillor Beavis, Councillor Downes, Councillor Garrison, Councillor George, Councillor Meers (5)

(2) A Recorded Vote was requested by Councillor Garrison

YEAS: Mayor Rosen, Councillor Foster, Deputy Mayor George, Councillor Pater, Councillor Patterson, Councillor Smith, Councillor Stoparczyk, Councillor Sutherland (8)

NAYS: Councillor Beavis, Councillor Downes, Councillor Garrison, Councillor George, Councillor Meers (5)

(C) Moved by Councillor Patterson
Seconded by Councillor Pater

THAT the Report of the Committee of the Whole be received, confirmed and adopted.

CARRIED
(Councillor Garrison OPPOSED)

COMMUNICATIONS

Referred to All Members of Council

- 14-399 From Ms. Wendy Erickson-Gray, expressing her opinion that the new Large Venue Entertainment Centre (LVEC) and multiplex should not proceed at this time.
(File No. CSU-R05-001-2006)
(Digitally distributed to all Members of Council on May 23, 2006)

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14-400 From Mr. Bruce Todd, expressing his concerns about the proposed location for the new Large Venue Entertainment Centre (LVEC).
(File No. CSU-R05-001-2006)
(Digitally distributed to all Members of Council on May 15, 2006)

14-401 From Ms. Barb Caldwell and Mr. Bob Pritchard, expressing their support on moving forward with the new Large Venue Entertainment Centre (LVEC).
(File No. CSU-R05-001-2006)
(Digitally distributed to all Members of Council on May 19, 2006)

BY-LAWS

(A) Moved by Councillor Stoparczyk
Seconded by Councillor Sutherland

THAT By-Laws (1) through (2) be given their first and second reading.

CARRIED

(B) Moved by Councillor Patterson
Seconded by Councillor Pater

THAT Clause 8.9 of By-Law No. 98-1 be suspended for the purpose of giving By-Law (1) three readings.

CARRIED

(C) Moved by Councillor Foster
Seconded by Deputy Mayor George

THAT By-Laws (1) through (4) be given their third reading.

CARRIED

(1) A By-Law To Levy A Special Charge Of \$3,000,000.00 Upon Rateable Property In The Downtown Kingston Business Improvement Area On Account Of The Cost Of The Kingston Sports And Entertainment Centre
THREE READINGS PROPOSED NO. 2006-137
(See Clause (1), Report No. 73)

BY-LAWS

(2) A By-Law To Confirm The Proceedings Of Council At Its Meeting Held On Tuesday, May 30, 2006
THREE READINGS PROPOSED NO. 2006-138
(City Council Meeting No. 14-2006)

(3) A By-Law To Establish The 2006 Tax Ratios.
THIRD READING PROPOSED NO. 2006-111
(See Clause (a), Report No. 62)

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- (4) A By-Law To Establish General Municipal, Fire, Garbage, And Special Tax Rates To Provide For A Final Tax Levy; To Provide For Late Payment Charges To Be Charged On Unpaid Taxes; And To Provide For Payment Of Taxes By Instalment.

THIRD READING

PROPOSED NO. 2006-112

(See Clause (c), Report No. 62)

ADJOURNMENT

Moved by Councillor Stoparczyk

Seconded by Councillor Smith

THAT Council do now adjourn.

CARRIED

Council adjourned at 9:35 pm.

(Signed)

Carolyn Downs
City Clerk

Harvey Rosen
Mayor