

City of Barrie

REPORT OF THE FINANCE AND CORPORATE SERVICES COMMITTEE

**For consideration by the General Committee
of the City of Barrie on May 16, 2011.**

The Finance and Corporate Services Committee met at 7:05 p.m. on May 5, 2011 in the Council Chamber.

PRESENT: Councillor M. Prowse, Chair
Councillor B. Ainsworth
Councillor J. Brassard

ABSENT: Councillor A. Nuttall.

STAFF: City Clerk, D. McAlpine
Courtroom Support Clerk, H. Cornelisse (left the meeting at 9:00 p.m.)
Director of Finance, D. McKinnon (joined the meeting at 7:31 p.m.)
Deputy City Treasurer, C. Millar (joined the meeting at 7:31 p.m.)
General Manager of Community Operations, J. Sales (joined the meeting at 7:31 p.m.)
General Manager of Corporate Services, E. Archer (joined the meeting at 7:31 p.m.)
General Manager of Infrastructure, Development and Culture, R. Forward (joined the meeting at 7:31 p.m.)
Manager of Purchasing, D. Allan (joined the meeting at 7:31 p.m.)
Municipal Law Enforcement Officer I, J. Shaw (joined the meeting at 7:31 p.m. and left the meeting at 9:00 p.m.)
Municipal Law Enforcement Officer I, B. Keene (joined the meeting at 7:31 p.m. and left the meeting at 9:00 p.m.)
Municipal Law Enforcement Supervisor, T. Banting (joined the meeting at 7:31 p.m. and left the meeting at 9:00 p.m.)
Municipal Prosecutor, C. Bennett (joined the meeting at 7:31 p.m. and left the meeting at 9:00 p.m.)
Supervisor Vital Statistics and Corporate Print and Mail Services, N. Brancaccio.

ALSO PRESENT: H. Ahmed
B. Booth.

The Finance and Corporate Services Committee met at 7:05 p.m. to review the hearing process and procedures. The Committee recessed at 7:20 p.m.

The Finance and Corporate Services Committee met at 7:31 p.m. for the purpose of conducting a hearing pursuant to City of Barrie By-law 2006-265 (Transportation Related Businesses) as follows:

SECTION "A"

Councillor M. Prowse advised the public that the purpose of the meeting was to conduct an appeal hearing pursuant to City of Barrie By-law 2006-265 (Transportation Related Businesses) filed by Bryan Booth (Tow Truck Driver). Councillor Prowse confirmed with the Supervisor Vital Statistics and Corporate Mail and Print Services that notification was conducted in accordance with By-law 2006-265 for the hearing.

11-FCS-004 APPEAL HEARING - BY-LAW 2006-265 TRANSPORTATION RELATED BUSINESSES – MR. B. BOOTH

Mr. C. Bennett identified himself to the Chair and explained he was acting on behalf of the Issuer of Licences for the City of Barrie.

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11-FCS-004 Continued ...

Mr. H. Ahmed identified himself to the Chair and explained he was representing Mr. B. Booth.

Mr. B. Keene, Municipal Law Enforcement Officer I as sworn in by H. Cornelisse, Courtroom Support Clerk. Mr. Bennett presented evidence and examined Mr. B. Keene as a witness.

Mr. H. Ahmed cross-examined Mr. B. Keene with respect to the evidence that had been provided.

Ms. T. Banting, Municipal Law Enforcement Supervisor and Issuer of Licences was sworn in by H. Cornelisse, Courtroom Support Clerk. Mr. Bennett presented evidence and examined Ms. T. Banting as a witness.

Mr. Ahmed cross-examined Ms. Banting with respect to the evidence that had been provided.

Mr. B. Booth was sworn in by H. Cornelisse, Courtroom Support Clerk.

Mr. Ahmed presented evidence and examined Mr. B. Booth as a witness.

Mr. Bennett cross-examined Mr. B. Booth with respect to the evidence that had been provided.

Members of the Committee requested clarification of the evidence provided on behalf of both the Issue of Licences and the Applicant.

Mr. Bennett provided closing statements on behalf of the Issuer of Licences.

Mr. Ahmed and Mr. Booth provided closing statements.

The Corporate Services Committee reports that upon adoption of the required procedural motion it met In-Camera at 8:23 p.m. in the Georgian Room to discuss a personal information matter – appeal hearing of Mr. B. Booth. The Director of Finance, Deputy City Treasurer, General Manager of Community Operations, General Manager of Corporate Services, General Manager of Infrastructure, Development and Culture, Manager of Purchasing, Courtroom Support Clerk, Manager of Purchasing Municipal Law Enforcement Officer, Municipal Law Enforcement Officer II, Municipal Law Enforcement Supervisor, Municipal Prosecutor and the Supervisor of Vital Statistics and Corporate Mail and Print Services and members of the press and public were not present for this portion of the meeting.

SECTION “B”

11-FCS-005 CONFIDENTIAL PERSONAL INFORMATION MATTER – APPEAL HEARING OF MR. B. BOOTH

That confidential motion 11-FCS-005 contained within the confidential notes of the Finance and Corporate Services Committee dated May 5, 2011 concerning a personal information matter – appeal hearing of Mr. B. Booth, be received.

The Finance and Corporate Services Committee resumed in open session in the Council Chamber at 9:00 p.m.

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SECTION "C"

11-FCS-006 APPEAL HEARING - BY-LAW 2006-265 - TRANSPORTATION RELATED BUSINESSES - B. BOOTH

Councillor M. Prowse, Chair of the Finance and Corporate Services Committee advised that the Committee had made a decision regarding the appeal of Mr. Booth.

The appeal of By-law 2006-265 by Mr. B. Booth was denied in accordance with Appendix "A" to the Finance and Corporate Services Committee Report dated May 5, 2011.

The Committee recessed at 9:01 p.m. and reconvened at 9:07 p.m.

The Finance and Corporate Services Committee met and reports as follows:

SECTION "D"

11-FCS-007 2010 YEAR END FINANCIAL RESULTS

The Committee met and discussed the 2010 Year End Financial Results. Mr. E. Archer noted that Staff Report FIN012-11 had been considered at the General Committee meeting of May 2, 2011 which analyzed the annual year end results and the City of Barrie's non-financial performance. He also noted that the balanced scorecard provides information regarding the details behind the financial statements.

Members of the Committee asked a number of questions regarding the financial results for 2010.

11-FCS-008 UPDATE - PURCHASING ACTIVITY REPORTING AND PROCUREMENT PROCESS

The Committee met and discussed the Purchasing Activity Reporting and Procurement Process for the City of Barrie. D. Allan, Manager of Purchasing and D. McKinnon, Director of Finance indicated that a meeting had taken place with representatives from the Barrie Construction Association to discuss their concerns with the procurement process. D. Allan further commented that positive feedback was received and staff will be investigating various means of engaging the community in the purchasing and procurement process. Members of the Committee asked a number of questions related to the procurement process and policies. Discussions regarding the process on procurement related policies and the feedback from local bidders will continue at the next meeting.

11-FCS-009 REPORT NO. 9 OF THE ACCESSIBILITY ADVISORY COMMITTEE DATED NOVEMBER 25, 2010

Report No. 9 of the Accessibility Advisory Committee dated November 25, 2010 was received. (File: C05)

11-FCS-010 REPORT OF THE ACCESSIBILITY ADVISORY COMMITTEE DATED MARCH 3, 2011

The Accessibility Advisory Committee Report dated March 3, 2011 was received. (File: C05)

11-FCS-011 REPORT OF THE ACCESSIBILITY ADVISORY COMMITTEE DATED MARCH 31, 2011

The Accessibility Advisory Committee Report dated March 31, 2011 was received. (File: C05)

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11-FCS-012 REPORT OF THE INTERNATIONAL RELATIONS COMMITTEE DATED MARCH 3, 2011

The International Relations Committee Report dated March 3, 2011 was received. (File: C05)

11-FCS-013 REPORT OF THE INTERNATIONAL RELATIONS COMMITTEE DATED MARCH 21, 2011

The International Relations Committee Report dated March 21, 2011 was received. (File: C05)

The Finance and Corporate Services Committee met and recommends adoption of the following recommendation(s):

SECTION "E"

11-FCS-014 DISCUSSION OF OTHER INTERNATIONAL RELATIONS OPPORTUNITIES

That any further twinning relationships be held in abeyance pending further deliberations related to resources, and the International Relations Committee's objectives for the 2010-2014 term. (11-IRC-009) (File: C00)

The meeting adjourned at 10:35 p.m.

CHAIRMAN

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APPENDIX "A"

The Corporation of the City of Barrie

Finance and Corporate Services Committee – Business Licensing Appeal Hearing – B. Booth

An appeal hearing was conducted pursuant to City of Barrie By-law 2006-265 (Transportation Industry) on the 5th day of May, 2011 by the Finance and Corporate Services Committee regarding the business licence appeal submitted by Bryan Booth for a business license to conduct business as a tow truck driver.

The Committee confirmed service in accordance with Section 2.14.6.0.0 of By-Law 2006-265. Evidence was heard by the Committee on behalf of the Issuer of Licences and the Applicant.

The Representative of the Issuer of Licences presented evidence that as part of his application the Applicant provided information that indicated the Applicant had been convicted of the following Criminal Code offences on August 20, 2010: Utter Forged Documents, Forgery, Fraudulent Concealment and multiple counts relating to Possession of Property Obtained by Crime. After reviewing the by-law and the materials provided, the application was refused on the basis of public interest concerns. The Issuer determined that there was reasonable cause to believe that the Applicant would not carry on or engage in the business in accordance with the law, or with honesty and integrity. The Representative of the Issuer of Licences submitted that based upon the nature and scope of the Applicant's significant criminal record, there was and should be a concern with respect to the public interest related to this type of licence given the access, care and control that would be afforded to the personal property of members of the public and that the licence should properly be refused.

The Committee identified the following issue(s) from the submissions and evidence presented by the Applicant:

1. The Representative of the Applicant submitted that his prior criminal convictions were unrelated to the access to personal property, and as a result, was not sufficient cause to raise a concern for public interest.
2. The Representative of the Applicant advised that the Applicant has four children, a house and a mortgage and is the sole provider for his family and as a result, requires this licence to support his family.
3. The Representative of the Applicant submitted that the Applicant's company and vehicle(s) are licensed by the municipality.
4. The Representative of the Applicant argued that the Applicant is licensed in another municipality and provides services to the Ontario Provincial Police and that these organizations have no concerns with respect to his criminal convictions.
5. The Representative of the Applicant argued that the Applicant has served his time and paid the majority of his penalty and suggested that the Committee consider the issuance of a licence on a probationary basis.

The Committee determined that the Issuer of Licences had followed the Business Licence Refusal Policy Guidelines associated with By-law 2006-265 (Transportation Industry) in her decision to refuse to grant the Applicant a business license to conduct business as a tow truck driver.

In reviewing the first matter, the Committee was not compelled by the evidence or submissions supplied by the Representative of the Applicant and determined that there was a public interest concern given the type of licence sought and the nature of the Applicant's criminal convictions. With respect to the matter at hand the Committee determined that it agreed with the decision made by the Issuer of Licences. The nature of the convictions and access to the personal property of other members of the public inherent to this employment position were sufficient to raise a legitimate public interest concern which was properly considered by the Issuer of Licences. In applying the provisions of By-law 2006-265 and City Guidelines,

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the Applicant's convictions on August 20, 2010 for Utter Forged Documents, Forgery, Fraudulent Concealment and Possession of Property Obtained by Crime (multiple counts) raised significant concerns for the Committee with respect to public interest as set out in Section 2.12.2.0.0 of By-law 2006-265.

In reviewing the second matter, while the Committee empathized with the Applicant's financial circumstances, it noted that the Committee's responsibility was to maintain the broader public interest. The Committee accepted the evidence of the Issuer of Licences that the Applicant's company could still continue to operate and his vehicles could be utilized by other drivers.

In reviewing the third matter, the Committee identified that the licensing of the vehicle(s) owned by the Applicant and the licensing of the company jointly owned by the Applicant was a separate and distinct matter from the licensing of the driver, and did not deem it relevant.

In reviewing the fourth matter, the Committee determined that the licensing process used by other municipalities or organizations was not relevant nor was it determinative of the matter before it. The Committee noted that other municipalities and organizations may have different time frames associated with their issuance of licences and/or different licensing refusal policies.

In reviewing the fifth matter, the Committee gave due consideration to the suggestion for the issuance of a licence with a condition(s) related to any further charges or convictions. The Committee determined that the nature and extent of the relatively recent convictions was of sufficient concern with respect to public interest as set out in Section 2.12.2.0.0 of By-law 2006-265. Under the circumstances the Committee did not agree that the imposition of such a condition would act as a sufficient safeguard to protect the public interest.

Accordingly, the decision of the Finance and Corporate Services Committee is that the applicant, Bryan Booth be DENIED a business licence as a tow truck driver.

Dated this 5th day of May, 2011 at the City of Barrie.

"original signed"

Councillor Michael Prowse, Chairman

"original signed"

Councillor, John Brassard, Member

"original signed"

Councillor, Bonnie Ainsworth, Member