Thank you for the opportunity to speak on the issue of the proposed 2011 development charges by-law.

I am here to speak for the silent majority, a group of people best described as the Hamilton Ratepayers. I think this is the name that best describes the group, because it captures the fact that all of the money that Council chooses to give away in the form of reduced development charges is ultimately paid for by everyone else in the form of increased rates for either property taxes (e.g., for homeowners), or water/sewer rates, or both. Even renters are dinged when development charges are reduced, both through increased water rates and higher rents that are passed through when taxes are increased on landlords.

Why then, have we seen a steady parade of professional lobbyists from the developers, and only a single volunteer presentation from the Hamilton Ratepayers? Part of the reason has to do with inequities in wealth. On a per capita basis, the Hamilton Ratepayers do not have the resources to pay lobbyists to the extent that the developers do. More importantly, the reason has to do with what political scientists call “concentrated versus diffuse interest”. If a professional lobbyist for a developer gets a development charge lowered, then that money goes straight to the developer’s bottom line (concentrated interest). On the other end, when that shortfall is made up by increases in rates and taxes, that money is spread across the entire population (diffuse interest). Hard working Ratepayers are too busy with their jobs to fight what are perceived to be small (but repeated) raids on the public purse, particularly when an individual’s share of the lost revenue is small when spread across the entire population.

The Hamilton Ratepayers are asking that Council cease and desist from bowing to the special interest lobbyists by reducing (or freezing or exempting or failing to collect) development charges, because the Ratepayers are tired of being stuck with the bill for the shortfalls that result.

Information for most of the following discussion is taken from the comments of Gary Scandlan of Watson and Associates, who prepared the background study. Some of the other figures are from other municipal documents. I apologize that I have not had the time to fully annotate all of the sources, but I have been very busy recently. The main point is that I am not making this up, it is all from information that has been presented in one form or another to Council.

The fact of the matter is that in Hamilton in particular, development has never “paid its own way”. There are an astonishingly varied number of reasons why development charges do not cover the costs of development, but to outline a few:

1) “Excess capacity” has always been used as a way to “donate” funds from the Hamilton Ratepayers to developers. When the Development Charges Act came out in 1989, it was supposed to be “a full-cost recovery piece of legislation”. But even then, there were many ways that developers could push some of their costs onto the Hamilton Ratepayers. An example is that developers could hire professionals to argue that in some way there was “excess capacity” in the existing infrastructure that was paid for by the Hamilton Ratepayers, and that that “excess capacity” should be given, without charge, to developers. I am fairly confident that a comparative study of “best practices” between surrounding municipalities would show that Hamilton Ratepayers have “donated” far
more to developers than the ratepayers of neighboring municipalities have under this loophole.

2) The current Development Charges Act (1997) only allows 75% of growth related costs to be collected. In 1997 there were “refinements to the act which did a lot of reductions, deductions and limitations, so the act really isn’t a full cost recovery piece of legislation. On average, I would say, it probably covers about 75 percent of the municipality’s growth related costs.” (Scandlan, Watson and Associates) The current “bargain discount” version of the act now excludes or reduces development charges for (partial list only): parkland acquisition, city halls, administrative buildings, arts and cultural facilities, tourism, Solid waste (recycling, reuse, landfilling and even the vehicles for curbside pickup), Hospitals, vehicles and equipment (police and ambulance), computer equipment, 10% mandatory hard service deduction, “ten year service standard deduction”, change in by-law deduction, expansion exemptions, ..... 

3) For reasons that are not clear to me, what is viewed as “allowable” 75% development charge recovery under the 1997 DCA is far less in Hamilton than in neighboring municipalities. I have to tip my hat to the professional lobbyists for the developers, they seem to be very effective at keeping Hamilton’s development charges very low. Part of the reason for this is the special access they are given to both staff and politicians. Every since 2001/2002, there have been meetings that included representatives of the Hamilton Halton Homebuilders Association, municipal politicians, and staff. I wish I could tell you more about what transpired at these meetings, but I can’t because there are no public records of what transpired. These meetings occurred outside of the Development Charges Stakeholder Committee process, and due to the lack of transparency their legality is an open question. 

4) In neighboring municipalities, that 75% figure (see 2) is viewed as a floor to be added to, whereas in Hamilton that 75% figure is viewed by lobbyists for developers as a ceiling to be “bargained” down from. In Hamilton, the parade of lobbyists that Council has been, and will be, entertaining in this process will be arguing that paying 75% of the cost of development is too onerous, and that Council should be giving more money away to developers. In contrast, neighboring municipalities like Mississauga and Halton have fought the 75% 1997 DCA “ceiling” by adding additional development charges for growth related costs. In Halton in 2009, an additional $7,888 per house was added ABOVE the 1997 “ceiling”. This brings the total development charges for a single house in Oakville to more than $60,000 (compare Hamilton at $27,000). Despite repeated threats from developers that “the Province won’t allow this” and “the OMB won’t allow this”, these charges have held. Developers threatened that they would also stop building in Halton, but that hasn’t happened either. At the end of the day, if Council decides to INCREASE rather than decrease development charges (to move a little bit towards making “development pay its own way”), the only lasting effect will be the gratitude of the Hamilton Ratepayers.

5) Council grants exemptions to DC over and above the already low rates. From 2006-2009, Council granted exemptions to the Hamilton DC By-law totaled more than $41
million. This does not include the lost revenue from the “freeze” Council imposed on residential development charges that ended last year.

6) Even after the 25% provincially mandated shortfall, the artificially low Hamilton rates, and the Council mandated exemptions, the City consistently fails to meet its targets for collecting even the small residual amounts of development charges that Council “allows”. As a result, there are chronic shortages in development charges accounts that in the short run mean delays to capital projects and in the long run mean increased water/sewer rates and property taxes when these shortfalls are “topped off” by Hamilton Ratepayers.

The Hamilton Ratepayers are asking that Council stop using our money (water/sewer fees and property tax revenues) as a pot of money to grant reductions to development charges. Council can start by doing both the Ratepayers and Council a favor by ceasing to reward the professional lobbyist parade with what is in effect public money. These are professional lobbyists, they are paid to be here. Many of them are engineers and lawyers, the most expensive lobbyists money can buy. Council needs to consider where the money to pay for all of these lobbyists comes from. Council should turn off the tap that funds these lobbyists, and by doing so protect Hamilton Ratepayers as well.