Committee of the Whole
REPORT 06-005

2:00 p.m
March 6, 2006
Council Chambers
Hamilton City Hall
71 Main Street West, Hamilton

Present: Mayor L. Dilanni

Absent with regrets: Councillors M. Ferguson, B. Morelli - Illness

Also Present: G. Peace, City Manager
J. Rinaldo, General Manager, Finance and Corporate Services
P. Barkwell, City Solicitor
T. Wilkin, Counsel
K. Froese, Auditor
K. Christenson, City Clerk
M. Gallagher, Co-ordinator, City Clerks

Mayor Dilanni called the meeting to order.

COMMITTEE OF THE WHOLE PRESENTS REPORT 06-005 AND RESPECTFULLY RECOMMENDS:
1. **Addendum to the Report for the City of Hamilton respecting Municipal Election Compliance audit on Campaign Finances of Candidate Larry DiIanni, February 6, 2006 (Item 6.1)**

*WHEREAS* Council has received, reviewed, and considered, the Report of Ken Froese dated October 25th, 2005, being his Compliance Audit Report regarding the Campaign Finances of Larry Dilanni;

*AND WHEREAS* Council has received, reviewed, and considered, the Report of Ken Froese dated February 6th, 2006, being his Addendum to the Compliance Audit Report regarding the Campaign Finances of Larry DiIanni;

*AND WHEREAS* Council has received, reviewed, and considered, the Report of Ken Froese dated February 16th, 2006, being a letter containing corrections and clarification to his Report of February 6th, 2006 regarding the campaign finances of Larry DiIanni;

*AND WHEREAS* Mr. Froese has attended before City Council and answered questions arising out of his Reports of October 25th, 2005 and February 6th, 2006 regarding the campaign finances of Larry Dilanni, and Council has received, reviewed, and considered, those oral answers;

*AND WHEREAS* Council has received, reviewed, and considered, the legal opinion of Timothy J. Wilkin, dated March 3rd, 2006;

*AND WHEREAS* Council has considered the duties of a candidate under the Municipal Elections Act, S.O. 1996, Chapter 32, as amended;

*AND WHEREAS* Council has considered the overall public interest;

**THIS COUNCIL NOW THEREFORE RESOLVES:**

(a) That the City of Hamilton institute the laying of charges against Larry DiIanni under the Municipal Elections Act, S.O. 1996, Chapter 32, as amended; and

(b) That the charges to be laid shall be those for which reasonable and probable grounds exist for believing that an offence has been committed, as detailed in the legal opinion of Timothy J. Wilkin, dated March 3rd, 2006; and
(c) That the City Solicitor shall report back to Committee of the Whole at the earliest opportunity setting out for Council’s approval an appropriate retainer of outside counsel to have carriage of the prosecution of the charges.

Councillor B. Kelly indicated that he wished to be recorded Opposed.

2. Addendum to the Report for the City of Hamilton respecting Municipal Election Compliance audit on Campaign Finances of Candidate Marvin Caplan, February 6, 2006 (Item 6.2)

WHEREAS Council has received, reviewed, and considered, the Report of Ken Froese dated February 6th, 2006, being his Compliance Audit Report regarding the Campaign Finances of Marvin Caplan;

AND WHEREAS Mr. Froese has attended before City Council and answered questions arising out of his Reports of October 25th, 2005 and February 6th, 2006 regarding the campaign finances of Marvin Caplan, and Council has received, reviewed, and considered, those oral answers;

AND WHEREAS Council has received, reviewed, and considered, the legal opinion of Timothy J. Wilkin, dated March 3rd, 2006;

AND WHEREAS Council has considered the duties of a candidate under the Municipal Elections Act, S.O. 1996, Chapter 32, as amended;

AND WHEREAS Council has considered the overall public interest;

THIS COUNCIL NOW THEREFORE RESOLVES:

(a) That the City of Hamilton institute the laying of charges against Marvin Caplan under the Municipal Elections Act, S.O. 1996, Chapter 32, as amended; and

(b) That the charges to be laid shall be those for which reasonable and probable grounds exist for believing that an offence has been committed, as detailed in the legal opinion of Timothy J. Wilkin, dated March 3rd, 2006; and

(c) That the City Solicitor shall report back to Committee of the Whole at the earliest opportunity setting out for Council’s approval an appropriate retainer of outside counsel to have carriage of the prosecution of the charges.

Councillor B. Kelly indicated that he wished to be recorded Opposed.
3. **Addendum to the Report for the City of Hamilton respecting Municipal Election Compliance audit on Campaign Finances of Candidate John Best, February 6, 2006 (Item 6.3)**

**WHEREAS** Council has received, reviewed, and considered, the Report of Ken Froese dated October 25th, 2005, being his Compliance Audit Report regarding the Campaign Finances of John Best;

**AND WHEREAS** Council has received, reviewed, and considered, the Report of Ken Froese dated February 6th, 2006, being his Addendum to the Compliance Audit Report regarding the Campaign Finances of John Best;

**AND WHEREAS** Mr. Froese has attended before City Council and answered questions arising out of his Reports of October 25th, 2005 and February 6th, 2006 regarding the campaign finances of John Best, and Council has received, reviewed, and considered, those oral answers;

**AND WHEREAS** Council has received, reviewed, and considered, the legal opinion of Timothy J. Wilkin, dated March 3rd, 2006;

**AND WHEREAS** Council has considered the duties of a candidate under the Municipal Elections Act, S.O. 1996, Chapter 32, as amended;

**AND WHEREAS** Council has considered the overall public interest;

**THIS COUNCIL NOW THEREFORE RESOLVES:**

(a) That the City of Hamilton institute the laying of charges against John Best under the Municipal Elections Act, S.O. 1996, Chapter 32, as amended; and

(b) That the charges to be laid shall be those for which reasonable and probable grounds exist for believing that an offence has been committed, as detailed in the legal opinion of Timothy J. Wilkin, dated March 3rd, 2006; and

(c) That the City Solicitor shall report back to Committee of the Whole at the earliest opportunity setting out for Council’s approval an appropriate retainer of outside counsel to have carriage of the prosecution of the charges.

Councillor B. Kelly indicated that he wished to be recorded Opposed.
4. **Release of Private and Confidential Documents**

That the legal opinion of Timothy J. Wilkin, dated March 3, 2006 and Report LS05012(a)/CL05018(a) be released as public documents.

5. **Correspondence from Joanna Chapman dated February 14, 2006 (Item 6.4)**

That the correspondence from Joanna Chapman dated February 14, 2006 be received.

FOR THE INFORMATION OF COUNCIL:

(a) **DECLARATIONS OF INTEREST**

Mayor L. Dilanni declared his interest in the items noted on the agenda as he is named in the compliance audit and abstained from discussion and voting on the matter.

(b) **PUBLIC HEARINGS/DELEGATIONS**

Committee of the Whole received presentations from the following individuals:

5.1 **Joanna Chapman**

Ms. Chapman addressed Members of Council and provided information including overview of the reasons for filing a compliance audit, process of the audit, obligations of candidates with respect to financial statements. A copy of Ms. Chapman’s presentation is a matter of public record in the Clerk’s office.

The presentation was received.

5.1.1 Additional correspondence dated February 18, 2006

The additional correspondence from Ms. Chapman dated February 18, 2006 was received.

5.2 **Marvin Caplan**

Mr. Caplan addressed Members of Council and provided information to council with respect to the compliance audit including the audit process, further information with respect to financial statements filed, standards for accepting donations, costs of the
audit. A copy of Mr. Caplan’s presentation is a matter of public record in the Clerk’s office.

5.3 John Best

Mr. Best addressed Members of Council and provided information to council with respect to the compliance audit including audit process, omissions in financial statements, discussions held with donors, donations which were returned.

5.3.1 Correspondence from Graydon Sheppard
The correspondence from Mr. Sheppard was received.

5.3.2 Additional Correspondence circulated respecting Notes to D. Christopherson 2003 Financial Statement submitted by Mr. Best for council’s consideration
The correspondence from Mr. Best was received.

5.4 John Santarelli

Mr. Santarelli addressed Members of Council and provided information to council with respect to the hard work of the Mayor, infusion of monies towards projects over the last two years in the City, inequities of previous campaigns, cost of the audit

5.5 Mr. Jeffrey Levy

Mr. Levy, Counsel for Mr. Larry Dilanni addressed Members of Council with respect to the compliance audit including, correspondence received from Ms. Chapman, Mr. Caplan and Mr. Best’s opportunity to address Council and the Conflict of Interest Act which prohibits Mayor L. Dilanni from addressing council on this issue.

(c) PRIVATE AND CONFIDENTIAL

Committee moved In Camera to receive advice that was subject to solicitor/client privilege and reconvened in Open Session. Mayor L. Dilanni vacated the chambers during the in camera portion of the meeting.

(d) Clarification by Councillor D. Braden

Councillor Braden clarified his association/interest with the property in Waterdown as he indicated in the correspondence provided to the City Clerk.
There being no further business the meeting adjourned at 4:30 p.m.

Respectfully submitted,

Deputy Mayor D. Mitchell

M. Gallagher
Co-ordinator
March 6, 2006