GENERAL ISSUES COMMITTEE
REPORT 13-009
(as amended by Council on April 24, 2013)
9:30 a.m.
Wednesday, April 17, 2013
Council Chambers
Hamilton City Hall
71 Main Street West

Present: Deputy Mayor L. Ferguson (Chair)

Absent with Regrets: Mayor R. Bratina – City Business
Councillor R. Powers – City Business
Councillor B. Clark – Illness
Councillor J. Farr – Vacation

THE GENERAL ISSUES COMMITTEE PRESENTS REPORT 13-009 AND RESPECTFULLY RECOMMENDS:

1. Public Art Master Plan and Program Annual Update (PED13066) (City Wide) (Outstanding Business List) (Item 5.1)

That Report PED13066 respecting “Public Art Master Plan and Program Annual Update” be received.

2. Main West Esplanade Business Improvement Area (BIA) – Proposed Budget and Schedule of Payment for 2013 (PED13072) (Wards 1 and 2) (Item 5.2)

(a) That the 2013 Operating Budget for the Main West Esplanade Business Improvement Area (BIA) (attached as Appendix “A” to Report PED13072), in the amount of $20,783, be approved;

(b) That the levy portion of the Operating Budget for the Main West Esplanade Business Improvement Area (BIA), in the amount of $6,942, be approved;

Council – April 24, 2013
(c) That the General Manager of Finance and Corporate Services be authorized and directed to prepare the requisite By-law pursuant to Section 208, The Municipal Act, 2001, to levy the 2013 Budget as outlined in recommendation (b) of Report PED13072;

(d) That the following schedule of payments for 2013 be approved:

- April $3,471.00
- July $1,735.50
- October $1,735.50

Note: Assessment appeals may be deducted from the levy payments.

3. Locke Street Business Improvement Area (BIA) – Revised Board of Management (PE11034(b)) (Ward 1) (Item 5.3)

That Lisa Dalia and Rob Bernacci be appointed to the Locke Street Business Improvement Area (BIA) Board of Management.

4. Memorandum of Understanding (MOU) with the Hamilton Port Authority (HPA) regarding Piers 7 and 8 (CM12015(a) (Ward 2) (Outstanding Business List) (Item 7.2)

(a) That Appendix “A” to Report CM12015(a) entitled “Memorandum of Understanding (“MOU”) Re: Long-Term Marina and Boat Storage Management Agreement & Piers 7-8 Lease Transfer & Partial Early Termination” between the City of Hamilton and the Hamilton Port Authority (HPA), be approved;

(b) That the Mayor and City Manager be authorized and directed to execute the “Memorandum of Understanding (“MOU”) Re: Long-Term Marina and Boat Storage Management Agreement & Piers 7-8 Lease Transfer & Partial Early Termination”, between the City of Hamilton and the Hamilton Port Authority (HPA), in a form satisfactory to the City Solicitor;

(c) That the Capital Funding for the proposed shoreline, wavebreak, and current boat slip replacement be approved in principle, and be allocated throughout the 2014, 2015, 2016 and 2017 Capital Budgets, with staff reporting back in 2013 on a financing strategy;

(d) That staff be directed to seek out all funding options available including: direct and indirect City of Hamilton sources, public-private partnerships, as well as assessing other provincial or federal funding sources, and report back with options;
(e) That the City Manager be directed to prepare a formal “Management Agreement”, for presentation to the General Issues Committee (GIC), between the City of Hamilton and the Hamilton Port Authority (HPA), respecting the Long-term Marina and Boat Storage Operations and the Piers 7 and 8 Lease Transfer and Partial Early Termination, based upon the terms, conditions and intent of the “Memorandum of Understanding” (“MOU”) (Appendix “A”), in a form satisfactory to the City Solicitor.

5. HECFI Transition Update (FCS13039) (City Wide) (Item 7.3)

That Report FCS13039 respecting “HECFI Transition Update” be received.

6. Re-Launch of the Citizen Engagement Project regarding City Services (CM13008) (City Wide) (Item 7.4)

That Report CM13008 respecting “Re-Launch of the Citizen Engagement Project regarding City Services” be received.

7. Hamilton Downtown Business Improvement Area (BIA) – 2012 Pedestrian Pilot Program and Gore Park Summer Promenade (PED13071) (Ward 2) (Outstanding Business Item)

(a) That Report PED13071 respecting “Hamilton Downtown Business Improvement Area (BIA) – 2012 Pedestrian Pilot Program and Gore Park Summer Promenade” be received;

(b) That Report PED13071 be referred to the Grants Sub-Committee with the request that “Special Event Park Rental Fees” be included as part of the Community Partnership Program review.

8. Capital Projects Status and Closing Report as of December 31, 2012 (FCS12074(b)) (City Wide) (Item 8.2)

(a) That the December 31 st, 2012, Capital Projects’ Status and Projects’ Closing Report and the attached Appendices A, B, C, D, and E to Report FCS12074(b) for the Tax Levy and the Rate Supported capital projects be received;

(b) That the General Manager of Finance & Corporate Services be directed to close the completed capital projects listed in Appendix B to Report FCS12074(b) in accordance with the Capital Closing Policy and that the net transfers be applied as listed below and as detailed by project in Appendix B to Report FCS12074(b):
Summary of Net Transfers

Dedicated Reserves/Projects

Roads, Bridges & Traffic Capital Reserve (119,587)
Unallocated Capital Levy Reserve 194,645

Net Transfers 75,058

9. Tax and Rate Operating Budget Variance Report to December 31, 2012 (Unaudited) (FCS13036) (City Wide) (Item 8.3)

(a) That the 2012 Best Start Child Care fee subsidy pressure of $915,984 be funded from Best Start Reserve 112218;

(b) That, in accordance with the “Budgeted Complement Control Policy”, the 2013 complement transfers, transferring complement from one department/division to another with no impact on the levy, as outlined in Appendix C to Report FCS13036 be approved;

(c) That, subject to final audit, the Disposition of Year-End Surplus/Deficit be approved as follows:

<table>
<thead>
<tr>
<th>DISPOSITION / RECONCILIATION OF YEAR-END SURPLUS/(DEFICIT)</th>
<th>$</th>
<th>$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corporate Surplus from Tax Supported Operations</td>
<td></td>
<td>3,411,767</td>
</tr>
<tr>
<td>Less: Disposition to Self-Supporting Programs &amp; Agencies</td>
<td></td>
<td>(633,539)</td>
</tr>
<tr>
<td>HECFI (Transfer from HECFI Reserve)</td>
<td>$280,618</td>
<td></td>
</tr>
<tr>
<td>Police (Transfer from Police Reserve)</td>
<td>$286,491</td>
<td></td>
</tr>
<tr>
<td>Library (Transfer to Library Reserves)</td>
<td>($1,200,648)</td>
<td></td>
</tr>
<tr>
<td>Balance of Corporate Surplus</td>
<td></td>
<td>2,778,228</td>
</tr>
<tr>
<td>Less: Transfer to AODA WIP Account</td>
<td></td>
<td>($89,920)</td>
</tr>
<tr>
<td>Less: Transfer for Ontario Summer Jobs Services</td>
<td></td>
<td>($6,940)</td>
</tr>
<tr>
<td>Less: Transfer of Flamboro Slot Revenues to Flamboro Capital Reserve</td>
<td>$118,225</td>
<td></td>
</tr>
<tr>
<td>Less: Transfer for HECFI Transition Costs</td>
<td></td>
<td>($2,400,000)</td>
</tr>
<tr>
<td>Less: Transfer to Tax Stabilization Reserve</td>
<td></td>
<td>($163,143)</td>
</tr>
<tr>
<td>Balance of Tax Supported Operations</td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Corporate Surplus from Rate Supported Operations</td>
<td></td>
<td>12,273,555</td>
</tr>
<tr>
<td>Less: Transfer to the Rate Supported Reserves</td>
<td></td>
<td>($12,273,555)</td>
</tr>
<tr>
<td>Balance of Rate Supported Operations</td>
<td></td>
<td>0</td>
</tr>
</tbody>
</table>
10. Hamilton Waterfront Trust Update – GST Audit and Operating Losses (FCS12092(a)) (City Wide) (Item 8.4)

That Report FCS12092(a) respecting “Hamilton Waterfront Trust Update – GST Audit and Operating Losses” be received.

11. Corporate Service Delivery Review – Selection of Opportunities for Service Improvement (CM11009(c)/FCS11056(c)) (City Wide) (Item 8.5)

That additional work on the following Opportunities, based on the list of Opportunities presented in Appendix “A” to Report CM11009c/ FCS11056c, be reviewed for service improvement:

(a) Fleet Management related opportunities be reviewed for potential savings or efficiencies and implementation requirements;

(b) Information Services (IS) Governance be reviewed to assist the Service Delivery Strategy Team with the completion of an inventory and development of governance options;

12. Senior Advisory Committee – KPMG Option (SAC13004) (City Wide) (Item 8.6)

That Report SAC13004 respecting “Senior Advisory Committee – KPMG Option” be received.

13. Report 13-001 of the Pan Am Stadium Precinct Sub-Committee – March 26, 2013 (Item 8.7)

(a) Sale of Memorabilia – Ivor Wynne Stadium (PW 13023) (Ward 3)

That Report PW13023 respecting the “Sale of Memorabilia – Ivor Wynne Stadium be received.

(b) Pan Am Games Update #3 (City Wide)

That Pan Am Games Update #3 be received.
Correspondence from Tom Atterton, Secretary, Hamilton and District Labour Council CLC respecting the City of Hamilton Fare Wage Policy not being associated to the Pan Am Stadium Construction

That the correspondence from Tom Atterton, Secretary, Hamilton and District Labour Council CLC respecting "the City of Hamilton Fare Wage Policy not being applied to the Pan Am Stadium Construction", be received and referred to staff for a report back to the Pan Am Stadium Precinct Sub-Committee.

The following as added as Item 14:


(a) That Report LS13009 respecting the Proposed Settlement of the Ontario Municipal Board (OMB) Appeals of Development Charges By-laws 09-143/09-144/11-173/11-174/11-175 – Hamilton Halton Homebuilders’ Association and Losani Homes (1998) Ltd., OMB File No’s. DC090025 and DC110008, be received;

(b) That Report LS13009, respecting the Proposed Settlement of the Ontario Municipal Board (OMB) Appeals of Development Charges By-laws 09-143/09-144/11-173/11-174/11-175 – Hamilton Halton Homebuilders’ Association and Losani Homes (1998) Ltd., OMB File No’s. DC090025 and DC110008 together with Appendices “A” and “B” attached thereto, remain confidential;

(c) That Appendices “C” and “D” to Report LS13009, respecting the Proposed Settlement of the Ontario Municipal Board (OMB) Appeals of Development Charges By-laws 09-143/09-144/11-173/11-174/11-175 – Hamilton Halton Homebuilders’ Association and Losani Homes (1998) Ltd., OMB File No’s. DC090025 and DC110008, be released to the public after Council approval thereof;

(d) That staff be directed to settle the Ontario Municipal Board appeals of Development Charges By-laws 09-143/09-144/11-173/11-174/11-175 – Hamilton Halton Homebuilders’ Association and Losani Homes (1998) Ltd., in accordance with the Minutes of Settlement attached as Appendices “C” and “D” to Report LS13009;
(e) That the City Solicitor, or designate, be authorized to execute the said Minutes of Settlement on behalf of the City, respecting the Proposed Settlement of the Ontario Municipal Board (OMB) Appeals of Development Charges By-laws 09-143/09-144/11-173/11-174/11-175 – Hamilton Halton Homebuilders’ Association and Losani Homes (1998) Ltd., OMB File No’s. DC090025 and DC110008.

(f) That the City communicate the fact of the rebates to the Hamilton-Halton Homebuilders’ Association members, to non-member recipients, and the public to bring the matter of the rebates to the attention of potentially affected purchasers.

Refer to attached Appendix “C” and “D” as outlined in subsection (c) above.

FOR THE INFORMATION OF COUNCIL:

CEREMONIAL ACTIVITIES

Deputy Mayor L. Ferguson performed the swearing-in ceremony for the following new Municipal Law Enforcement Officers and extended congratulations on behalf of the Committee:

- Officer Shawn Kitto
- Officer Ryan Powless
- Officer Shawn McCloud
- Officer John Bridgeman
- Officer Colby Constant
- Officer Jay Berberick
- Officer Chris Nokes

(a) CHANGES TO THE AGENDA (Item 1)

The Clerk advised of the following changes:

(i) Added Delegation Request from Christopher Cutler, on behalf of The Canadian Peace Organization – Hamilton Chapter, respecting the establishment of a Federal Department of Peace (Added as Item 4.3)

(ii) Item 6.1 – Presentation by the Canadian Ballet Youth Ensemble Board of Directors has been postponed at the request of the organization.

(iii) Added Notice of Motion respecting Resolution Urging the Federal Government to Establish a National Department of Peace (Added Item 10.1)

The agenda was approved as amended.

Council – April 24, 2013
(b) DECLARATIONS OF INTEREST (Item 2)

None.

(c) APPROVAL OF PREVIOUS MINUTES (Item 3.1)

The minutes of the General Issues Committee Meetings held on April 3 and 4, 2013, were approved as presented.

(d) DELEGATION REQUESTS

(i) The delegation request from Maria Ahmed, McMaster University, respecting on-campus polling stations at McMaster University and Mohawk College, was approved;

(ii) The delegation request from Joey Coleman respecting the Lobbyist Registry was approved. Mr. Coleman will be invited to attend the General Issues Committee meeting at which the report from the Accountability and Transparency Committee addressing this matter is to be presented;

(iii) The delegation request from Christopher Cutler on behalf of The Peace Initiative – Hamilton Chapter, respecting the establishment of a Federal Department of Peace was approved.

(e) PUBLIC HEARINGS/DELEGATIONS

(i) Commodore Russell Perry, Royal Hamilton Yacht Club, respecting Agreement between the Hamilton Port Authority and the City of Hamilton (Item 6.2)

Russ Perry, Past Commodore, Royal Hamilton Yacht Club (RHYC) appeared before the Committee to speak to the proposed agreement between the City of Hamilton and the Hamilton Port Authority and to thank and acknowledge all staff who worked on this issue.

The Committee was distributed with a PowerPoint presentation which addressed the following:

- RHYC position
- What RHYC brings to Hamilton
- What is RHYC to Hamilton
- Community involvement
- Needs of Hamilton boaters
- The RHYC needs to grow
- What the RHYC is looking for
- What financial stability brings
• Future considerations
• Conclusion.

A copy of the presentation was submitted to the Clerk for the official record and is available for viewing on the City of Hamilton website.

The presentation from Russ Perry, Past Commodore, Royal Hamilton Yacht Club, respecting the Agreement between the Hamilton Port Authority and the City of Hamilton, was received.

(f) PRESENTATIONS

(i) Waterfront and Shoreline Initiative – Update (Item 7.1)

Chris Murray provided opening comments with respect to the waterfront and shoreline initiative and stated that the presentation will include update on exactly what is unfolding on land use, planning and other initiatives moving forward on the waterfront. Staff involved in the development of the waterfront were introduced.

Chris Phillips, Senior Advisor, and Anita Fabac, Senior Project Manager, Community Planning and Design, provided a PowerPoint presentation with respect to the waterfront and shoreline initiatives, including:

Waterfront and Shoreline
• Review of waterfront priorities: West Harbour Area, Confederation Park
• Waterfront and Shoreline – “Corporate Team: Structure
• Status update – current and on-going waterfront projects
• Hamilton’s Waterfront – Success over Time, including:
  o Bayfront Park
  o Piers 4 Park
  o 2000 West Harbour (Millennium Trail)
  o Environmental Sustainability
  o Hamilton Waterfront Trust
  o Catalyst for Waterfront Development
  o Pier 8
• The importance of the “Setting Sail” Secondary Plan
• Next Steps – Servicing Plan and Financing Strategy
• Timeline

Setting Sail
• What is it all about?
• Appeals to the Setting Sail Secondary Plan
• Public Realm
• Areas of change
• What’s next for planning studies?

A copy of the presentation was submitted to the Clerk for the official record and is available for viewing on the City of Hamilton website.

The update respecting “Waterfront and Shoreline Initiative” was received.

(ii) Memorandum of Understanding (MOU) with the Hamilton Port Authority (HPA) regarding Piers 7 and 8 (CM12015(a)) (Ward 2) (Outstanding Business List) (Item 7.2)

Chris Phillips, Senior Analyst, provided a PowerPoint presentation with respect to the Memorandum of Understanding (MOU) for Piers 7 and 8 between the City of Hamilton and the Hamilton Port Authority, which addressed the following:

• Review of the August 13, 2012 GIC Direction
• Review main elements of the MOU
  o Termination of the Land-Lease on Piers 7 and 8
  o Marina Operations – Long-term Management Agreement
  o Slip Rentals
  o Boat Storage Facility
  o Capital Cost Allocation
  o Revenue Allocation
• Financial Implications
• Recommendations

A copy of the presentation was submitted to the Clerk for the official record and is available for viewing on the City of Hamilton website.

The update respecting “Memorandum of Understanding (MOU) with the Hamilton Port Authority (HPA) regarding Piers 7 and 8” was received.

Sub-section (b) was amended to include the words, “Mayor and” prior to the words, “City Manager.

The Amendment CARRIED.

Sub-section (c) was further amended as follows:

(i) by adding the words, “in principle” following the word, “approved”;

(ii) by adding the words, “with staff reporting back in 2013 on a financing strategy” following the word, “Budgets”.

Council – April 24, 2013
The Amendment CARRIED.
The Main Motion, as amended, CARRIED.

(iii) **HECFI Transition Update (Item 7.3)**

John Hertel, Director of Enterprise Management and Revenue Generation, provided an update with respect to the HECFI Transition with the assistance of a PowerPoint presentation, and spoke to the following issues:

- **Introduction**
  - Maximizes return on investment for taxpayers
  - Fulfills community mandates
  - Optimizes economic stimulation
  - First 6 weeks has seen a volume of the expected “setting in” activities resolved, targeting end of May completion

- **Governance**
  - Facilities Management Team
  - Contract Management
  - Financial Administration
  - Personnel Impacts
  - Short-term Personnel Issues

A copy of the presentation was submitted to the Clerk for the official record and is available for viewing on the City of Hamilton website.

The presentation respecting “HECFI Transition Update” was received.

(iv) **Re-Launch of the Citizen Engagement project regarding City Services (CM13008) (City Wide) (Item 7.4)**

Paul Johnson, Director of Neighbourhood Development Strategies, provided a PowerPoint presentation with respect to the Re-launch of the citizen Engagement Project regarding City Services. The presentation addressed the following:

- **Staff Team**
- **Planning Guidelines**
- **Audience**
- **City Approach**
- **Engaging About Services**
- **Development of Public Engagement Policy**
- **What Will We Learn**
- **Investments – External**
- **Internally-delivered Actions**
• Desired Outcomes
• Why Evaluate?
• Evaluation – Review of Our Voice, Our Hamilton; Evaluation of Re-launched Project
• Next Steps: Timeline
• Council Role

A copy of the presentation was submitted to the Clerk for the official record and is available for viewing on the City of Hamilton website.

The presentation respecting “Re-Launch of the Citizen Engagement project regarding City Services” was received.

(g) DISCUSSION ITEMS

(i) Hamilton Downtown Business Improvement Area (BIA) – 2012 Pedestrian Pilot Program and Gore Park Summer Promenade (PED13071) (Ward 2) (Outstanding Business Item) (Item 8.1)

The following was added as sub-section (b):

(b) That Report PED13071 be referred to the Grants Sub-Committee with the request that “Special Event Park Rental Fees” be included as part of the Community Partnership Program review.

The Amendment CARRIED and the Main Motion, as amended, CARRIED.

(ii) Corporate Service Delivery Review – Selection of Opportunities for Service Improvement (CM11009(c)/FCS11056(c)) (City Wide) (Item 8.5)

Staff was directed to report back to the General Issues Committee with the findings and recommendations for next steps.

(h) NOTICES OF MOTION

Councillor B. McHattie introduced the following Notice of Motion:

Resolution Urging the Federal Government to Establish a National Department of Peace

WHEREAS during the course of the 20th century, more than 100,000,000 people perished in wars, and continuing into the 21st century, violence seems to be an overarching theme in the world;
AND WHEREAS such conflict is often unquestionably seen as a reflection of the human condition;

AND WHEREAS the citizens of Hamilton have been, and are, adversely affected by war and violence, whether through the personal loss of loved ones, or through the diversion of public resources that could be used to promote and support healthier and more secure lives;

AND WHEREAS the City of Hamilton has declared itself a nuclear weapons-free zone;

AND WHEREAS the City of Hamilton is a member of the international organization Mayors for Peace;

AND WHEREAS the proposed Federal Department of Peace will benefit the City of Hamilton by working to support existing programs and developing new programs to address and reduce the number and frequency of incidents related to domestic violence, child and spousal abuse, school violence, gang violence, gun violence, and hate crimes;

AND WHEREAS promoting a culture of peace has been recognized by the United Nations Educational, Scientific and Cultural Organization (UNESCO) through passage of a resolution declaring an International Decade for a Culture of Peace and Non-Violence for the Children 2001-2010;

AND WHEREAS it is our collective responsibility to create institutions that foster the development of a culture of peace in our neighbourhoods, city and nation;

AND WHEREAS communities across North America have recently experienced tragic incidents of extreme violence.

NOW THEREFORE BE IT RESOLVED:

(a) That the City of Hamilton hereby expresses support for legislation to establish a Federal Department of Peace, and urges our members of Parliament to support such legislation;

(b) That this Department of Peace work collaboratively with the Department of National Defense to reduce violence domestically and promote peace internationally.

(i) GENERAL INFORMATION/OTHER BUSINESS (Item 11.1)

(i) Outstanding Business Items List

(a) The revised due date for the following item on the Outstanding Business List was approved:

   Council – April 24, 2013
Item H: Removal of Fill from Toxic Contaminated Site at Hamilton Airport
Due Date: April 17, 2013
Revised Due Date: September 5, 2013

(b) That the following item was deemed complete and removed from the Outstanding Business List:

Item V: Memorandum of Understanding between the City of Hamilton and the Hamilton Port Authority (Item 7.2)

(j) PRIVATE & CONFIDENTIAL

(i) Closed Session Minutes – April 3 and 4, 2013 (Items 12.1 and 12.2)

The Minutes of the Closed Session Meetings of the General Issues Committee held on April 3 and 4, 2013, were approved. These Minutes will remain confidential and restricted from public disclosure.

The Committee moved into closed session at 10:27 pursuant to sub-sections (e) and (f) of the City’s Procedural By-law and Section 239(2) of the Municipal Act as the subject matters pertain to:

(e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
(f) the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose,

respecting:


The Committee reconvened in Open Session.


Direction provided to staff in camera.
Report LS13009 respecting “Proposed Settlement of OMB Appeals of Development Charges By-laws 09-143/09-144/11-173/11-174/11-175 – Hamilton Halton Homebuilders’ Association and Losani Homes (1998) Ltd. – OMB File No’s. DC090025 and DC11008” was tabled pending a report at the April 24, 2013 meeting of Council.

(iii) Performance Review – Senior Management Team (Item 12.4)

The Performance Review – Senior Management Team, was deferred to a future meeting of the General Issues Committee.

(k) ADJOURNMENT

There being no further business, the Committee adjourned at 2:37 p.m.

Respectfully submitted

Councillor L. Ferguson
Deputy Mayor

Carolyn Biggs
Legislative Co-ordinator
Office of the City Clerk
ONTARIO MUNICIPAL BOARD

IN THE MATTER OF Section 14 of the Development Charges Act, 1997, S.O. 2007, c. 27

Appellants: 2054971 Ontario Inc.
Parkside Hills Inc.
Silverwood Homes Limited
Waterdown Bay Ltd.
Losani Homes (1998) Ltd.

Subject: DC By-law 09-143, DC By-law 09-144
Municipality: City of Hamilton

OMB Case No: DC090025

IN THE MATTER OF Section 14 of the Development Charges Act, 1997, S.O. 2007, c. 27

Appellants: 2054971 Ontario Inc.
Parkside Hills Inc.
Silverwood Homes Limited
Waterdown Bay Ltd.
Losani Homes (1998) Ltd.

Subject: DC By-law 11-173, DC By-law 11-174, DC By-law 11-175
Municipality: City of Hamilton

OMB Case No: DC110008

MINUTES OF SETTLEMENT

HAMILTON HALTON HOMEBUILDERS' ASSOCIATION, LOSANI HOMES (1998) LTD. and the CITY OF HAMILTON

CITY OF HAMILTON DEVELOPMENT CHARGE BY-LAWS 09-143, 09-144, 11-173, 11-174 and 11-175

RECITALS:

A. On June 24, 2009 Council of the City of Hamilton (the "City") passed development charge by-laws 09-143 and 09-144;
Appendix “C” to Report LS13009
Page 2 of 8

B. On July 30, 2009 Losani Homes (1998) Ltd. ("Losani") appealed the development charge by-law 09-143 (the "Losani 2009 Appeal");


D. Development charge by-law 11-173 amends development charge by-law 09-143;

E. On August 15, 2011 Losani appealed development charge by-laws 11-173, 11-174 and 11-175 (the "Losani 2011 Appeal");

F. On August 12, 2011, the Hamilton Halton Homebuilders’ Association ("HHHBA") appealed development charge by-law 11-175 (the "HHHBA 2011 Appeal");

G. Discussions among representatives for the City, Losani and the HHHBA have resolved the Losani 2009 Appeal, the Losani 2011 Appeal and the HHHBA 2011 Appeal; and

H. By these Minutes of Settlement ("Minutes") the City, Losani and HHHBA have reduced the settlement of the appeals to writing.

NOW THEREFORE THESE MINUTES WITNESSETH that in consideration of the sum of ten dollars ($10.00) of lawful money of Canada now paid by each party hereto to the other and in consideration of the covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

Disposition of the Appeals

1. The City, Losani and the HHHBA consent to an order of the Board allowing the Losani 2011 Appeal, in part, and the HHHBA 2011 Appeal, in part, by:

   (a) amending development charge by-law 11-175 by removing Schedule “C” to development charge 11-175 and replacing it with a new Schedule “C”, attached as Appendix “A” to these Minutes;
(b) replacing Table 1 of development charge by-law 09-143 as amended by development charge by-law 11-173 with the table attached hereto as Appendix "B" to these Minutes; and

(c) replacing Table 1 of development charge by-law 11-175 with the table attached hereto as Appendix "C" to these Minutes.

2. The amendments set out in:

   (a) subparagraph 1(a) shall be effective commencing on July 6, 2011; and
   (b) subparagraphs 1(b) and (c) of these Minutes shall be effective commencing on January 6, 2013.

3. Except as provided for in paragraphs 1 and 2 above the City, Losani and HHHBA shall consent to an order of the Board dismissing the Losani 2009 Appeal, the Losani 2011 Appeal and the HHHBA 2011 Appeal without costs.

4. The City confirms that it will not use the methodology to obtain the residential/non-residential percentage splits used for development charge by-laws in 2011 for the 2014 development charge background study.

5. Any refunds resulting from the change to development charge by-law 11-175 in subparagraphs 1(a) and 2(a) shall bear interest as prescribed under the Development Charges Act, 1997, S.O. 2007, c. 27.

General

6. The parties agree that the recitals herein are true and accurate and form part of these Minutes.

7. The headings contained herein are for reference only and in no way affect these Minutes or their interpretation.

8. These Minutes shall be construed and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereto and shall be treated in all respects as an Ontario contract.
9. No modifications or amendments to these Minutes may be made unless agreed to by the parties hereto in writing.

10. These Minutes shall enure to the benefit of and be binding on the City, Losani and the HHHBA and their respective successors and assigns.

11. These Minutes constitute the entire agreement between the parties hereto and there are no other oral or written representations or agreements in respect of the matters herein.

12. These Minutes may be executed in counterparts with the same effect as if both parties had signed the same document. All counterparts shall be construed together, and shall constitute one and the same Minutes. Counterparts may be executed either in original or faxed form and the parties may adopt any signatures received by a receiving fax machine as original signatures of the parties.

IN WITNESS WHEREOF the parties have duly executed and delivered these Minutes without condition on March 2013.

THE CITY OF HAMILTON

Per:
Name: Bob Bratina
Title: Mayor

Per:
Name: Rose Caterini
Title: City Clerk

LOSANI HOMES (1998) LTD.

Per:
Name: [Signature]
Title: President
I have authority to bind the Corporation.
HAMilton halTon
homebuildErs' assoCIatIOn

Per: [Signature]
Name: Anthony Chiarella
Title: President
I have authority to bind the Hamilton Halton
Homebuilders' Association
**NEW SCHEDULE "C" TO BY-LAW 11-175**

**SCHEDULE OF DEVELOPMENT CHARGES**

<table>
<thead>
<tr>
<th>SERVICE</th>
<th>Residential</th>
<th>Non-Residential</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water and Wastewater Services:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wastewater Services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single-Detached Dwelling &amp; Semi-Detached Dwelling (per unit)</td>
<td>8,516</td>
<td>3,435</td>
</tr>
<tr>
<td>Apartments 2 Bedrooms + 1 Bedroom (per unit)</td>
<td>5,159</td>
<td>5,501</td>
</tr>
<tr>
<td>Bachelor &amp; 1 Bedroom (per unit)</td>
<td>5,961</td>
<td>2,698</td>
</tr>
<tr>
<td>Multiple Dwellings (per unit)</td>
<td>2,929</td>
<td>1,072</td>
</tr>
<tr>
<td>Residential Facility Dwelling (per bedroom)</td>
<td>1,234</td>
<td>1,346</td>
</tr>
<tr>
<td>Total Water and Wastewater Services</td>
<td>16,590</td>
<td>5,122</td>
</tr>
</tbody>
</table>

Note: there are two categories of non-residential charge, "industrial" and "non-industrial" as defined in this by-law.

New "non-industrial" developments are charged as follows:

- 1-5,000 sq ft: 50% of the Total Water & Wastewater Services charge in effect
- 5,001-10,000 sq ft: 75% of Total Water & Wastewater Services charge in effect
- 10,000 sq ft and greater: 100% of the Total Water & Wastewater Services charge in effect

For expansions of "non-industrial" developments already in existence at the commencement of this by-law, the following rates apply:

- 1st 5,000 sq ft of expansion: Exempt
- sq footage in excess of 5,000: 100% of the Total Water & Wastewater Services charge in effect

*Note: where a permanent/centralized stormwater management facility in a particular subdivision has been provided at the cost of the developer as a condition of approval of a plan of subdivision, the facility shall be considered a credit for services-in-lieu and accordingly, DCs on any of the proponents' unbuilt lots within the subject subdivision shall be reduced by the extent of the stormwater management facility sub-component which is 50% of the total stormwater drainage and control services.
## Appendix "B"

**REPLACEMENT TABLE 1 TO BY-LAW 09-143 AS AMENDED BY BY-LAW 11-173**

<table>
<thead>
<tr>
<th>Table 1</th>
<th>Non-Residential Industrial Charge To Be Imposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roads</td>
<td>$2.27</td>
</tr>
</tbody>
</table>

*Rates subject to indexing as per section 38 of By-law 09-143.*
REPLACEMENT TABLE 1 TO BY-LAW 11-175

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Wastewater Services</td>
<td>$3.92</td>
<td>$4.56</td>
<td>$4.96</td>
</tr>
<tr>
<td>Water Services</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>Stormwater Services</td>
<td>$0.46</td>
<td>$0.53</td>
<td>$0.58</td>
</tr>
</tbody>
</table>

*Rates subject to indexing as per section 35 of By-law 11-175
ONTARIO MUNICIPAL BOARD

IN THE MATTER OF Section 14 of the Development Charges Act, 1997, S.O. 2007, c. 27

Appellants:  2054971 Ontario Inc.
            Parkside Hills Inc.
            Silverwood Homes Limited
            Waterdown Bay Ltd.
            Losani Homes (1998) Ltd.

Subject:     DC By-law 09-143, DC By-law 09-144
Municipality: City of Hamilton

OMB Case No: DC090025

IN THE MATTER OF Section 14 of the Development Charges Act, 1997, S.O. 2007, c. 27

Appellants:  2054971 Ontario Inc.
            Parkside Hills Inc.
            Silverwood Homes Limited
            Waterdown Bay Ltd.
            Losani Homes (1998) Ltd.

Subject:     DC By-law 11-173, DC By-law 11-174, DC By-law 11-175
Municipality: City of Hamilton

OMB Case No: DC110008

MINUTES OF SETTLEMENT

HAMILTON HALTON HOMEBUILDERS’ ASSOCIATION, LOSANI HOMES (1998) LTD. and the CITY OF HAMILTON

CITY OF HAMILTON DEVELOPMENT CHARGE BY-LAWS 09-143, 09-144, 11-173, 11-174 and 11-175

RECITALS: -

A. On June 24, 2009 Council of the City of Hamilton (the “City”) passed development charge by-laws 09-143 and 09-144;
B. On July 30, 2009 Losani Homes (1998) Ltd. ("Losani") appealed the development charge by-law 09-143 (the "Losani 2009 Appeal");


D. Development charge by-law 11-173 amends development charge by-law 09-143;

E. On August 15, 2011 Losani appealed development charge by-laws 11-173, 11-174 and 11-175 (the "Losani 2011 Appeal");

F. On August 12, 2011, the Hamilton Halton Homebuilders' Association ("HHHBA") appealed development charge by-law 11-175 (the "HHHBA 2011 Appeal");

G. Discussions among representatives for the City, Losani and the HHHBA have resolved the Losani 2009 Appeal, the Losani 2011 Appeal and the HHHBA 2011 Appeal; and

H. By these Minutes of Settlement ("Minutes") the City, Losani and HHHBA have reduced the settlement of the appeals to writing.

NOW THEREFORE THESE MINUTES WITNESSETH that in consideration of the sum of ten dollars ($10.00) of lawful money of Canada now paid by each party hereto to the other and in consideration of the covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

Disposition of the Appeals

1. The City, Losani and the HHHBA consent to an order of the Board allowing the Losani 2011 Appeal, in part, and the HHHBA 2011 Appeal, in part, by:

   (a) amending development charge by-law 11-175 by removing Schedule "C" to development charge 11-175 and replacing it with a new Schedule "C", attached as Appendix "A" to these Minutes;
(b) replacing Table 1 of development charge by-law 09-143 as amended by development charge by-law 11-173 with the table attached hereto as Appendix “B” to these Minutes; and

(c) replacing Table 1 of development charge by-law 11-175 with the table attached hereto as Appendix “C” to these Minutes.

2. The amendments set out in:

(a) subparagraph 1(a) shall be effective commencing on July 6, 2011; and

(b) subparagraphs 1(b) and (c) of these Minutes shall be effective commencing on January 6, 2013.

3. Except as provided for in paragraphs 1 and 2 above the City, Losani and HHHBA shall consent to an order of the Board dismissing the Losani 2009 Appeal, the Losani 2011 Appeal and the HHHBA 2011 Appeal without costs.

4. The City confirms that it will not use the methodology to obtain the residential/non-residential percentage splits used for development charge by-laws in 2011 for the 2014 development charge background study.

5. Any refunds resulting from the change to development charge by-law 11-175 in subparagraphs 1(a) and 2(a) shall bear interest as prescribed under the Development Charges Act, 1997, S.O. 2007, c. 27.

General

6. The parties agree that the recitals herein are true and accurate and form part of these Minutes.

7. The headings contained herein are for reference only and in no way affect these Minutes or their interpretation.

8. These Minutes shall be construed and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereto and shall be treated in all respects as an Ontario contract.
9. No modifications or amendments to these Minutes may be made unless agreed to by the parties hereto in writing.

10. These Minutes shall enure to the benefit of and be binding on the City, Losani and the HHHBA and their respective successors and assigns.

11. These Minutes constitute the entire agreement between the parties hereto and there are no other oral or written representations or agreements in respect of the matters herein.

12. These Minutes may be executed in counterparts with the same effect as if both parties had signed the same document. All counterparts shall be construed together, and shall constitute one and the same Minutes. Counterparts may be executed either in original or faxed form and the parties may adopt any signatures received by a receiving fax machine as original signatures of the parties.

IN WITNESS WHEREOF the parties have duly executed and delivered these Minutes without condition on 3 March 2013.

THE CITY OF HAMILTON

Per: _____________________________
Name: Bob Bratina
Title: Mayor

Per: _____________________________
Name: Rose Caterini
Title: City Clerk

LOSANI HOMES (1998) LTD.

Per: _____________________________
Name: William Liske
Title: President General Counsel

I have authority to bind the Corporation.
HAMILTON HALTON
HOMEBUILDERS' ASSOCIATION

Per:
Name: Anthony Chiarella
Title: President
I have authority to bind the Hamilton Halton Homebuilders' Association
### Appendix "A"

**NEW SCHEDULE "C" TO BY-LAW 11-175**

**SCHEDULE OF DEVELOPMENT CHARGES**

<table>
<thead>
<tr>
<th>SERVICE</th>
<th>RESIDENTIAL</th>
<th>NON-RESIDENTIAL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Single-Detached Dwelling &amp; Semi-Detached Dwelling (per unit)</td>
<td>Residential Facility Dwelling (per bedroom)</td>
</tr>
<tr>
<td></td>
<td>Apartments 2 Bedrooms (per unit)</td>
<td>Multiple Dwellings (per unit)</td>
</tr>
<tr>
<td>Water and Wastewater Services:</td>
<td>8,316</td>
<td>5,153</td>
</tr>
<tr>
<td>Wastewater Services</td>
<td>1,511</td>
<td>3,052</td>
</tr>
<tr>
<td>Stormwater Services</td>
<td>5,123</td>
<td>3,174</td>
</tr>
<tr>
<td>Total Water and Wastewater Services</td>
<td>16,950</td>
<td>10,279</td>
</tr>
</tbody>
</table>

*Note: there are two categories of non-residential charge, "Industrial" and "non-Industrial" as defined in this by-law

New "non-Industrial" developments are charged as follows:

- 1-4,000 sq ft: 80% of the Total Water & Wastewater Services charge in effect
- 5,001-10,000 sq ft: 75% of Total Water & Wastewater Services charge in effect
- 10,000 sq ft and greater: 100% of the Total Water & Wastewater Services charge in effect

For expansions of "non-Industrial" developments already in existence at the commencement of this by-law, the following rates apply:

- 1st 5,000 sq ft of expansion: Exempt
- sq footage in excess of 5,000: 100% of the Total Water & Wastewater Services charge in effect

*Note: where a permanent/centralized stormwater management facility in a particular subdivision has been provided at the cost of the developer as a condition of approval of a plan of subdivision, the facility shall be considered a credit for services-in-lieu and accordingly, SDs on any of the proponents' unbuilt lots within the subject subdivision shall be reduced by the extent of the stormwater management facility sub-component which is 65% of the total stormwater drainage and control services.
**Appendix "B"**

REPLACEMENT TABLE 1 TO BY-LAW 09-143 AS AMENDED BY BY-LAW 11-173

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Roads</td>
<td>$2.27</td>
<td>$2.66</td>
<td>$2.96</td>
</tr>
</tbody>
</table>

*Rates subject to indexing as per section 38 of By-law 09-143*
## REPLACEMENT TABLE 1 TO BY-LAW 11-175

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Wastewater Services</td>
<td>$3.82</td>
<td>$4.56</td>
<td>$4.96</td>
</tr>
<tr>
<td>Water Services</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>Stormwater Services</td>
<td>$0.46</td>
<td>$0.53</td>
<td>$0.58</td>
</tr>
</tbody>
</table>

*Rates subject to indexing as per section 35 of By-law 11-175*