CITY COUNCIL
MINUTES

Wednesday, March 11, 2009
7:00 p.m.
Albion Rooms
Hamilton Convention Centre
One Summer’s Lane
Hamilton, Ontario

Present:
Mayor F. Eisenberger


Mayor Eisenberger called the meeting to order and called upon Reverend Thomas Kay of MacNab St. Presbyterian Church, to lead Council in prayer.

APPROVAL OF THE AGENDA

The Clerk advised of the following changes to the agenda:

1. CEREMONIAL

   Presentation of CANMET Trophy

2. ADDED COMMUNICATIONS

   Added correspondence:

   5.9 Correspondence from Steve Miazga, Hamilton Conservation Authority respecting the resignation of Sergio Manchia from Board of Directors

   Recommendation: Be received and referred to the Selection Committee for appropriate action
5.10 Correspondence from Hamilton-Halton Home Builders Association respecting proposed increases to permit and planning fees and development charges

Recommendation: Be received

5.11 Correspondence respecting Proposed Amendment to the Parkway Belt West Plan (relates to Item 14 of Economic Development and Planning Committee Report 09-006)

(a) Linda and Vince Robinson
(b) Don Charlong
(c) Julia Kollek
(d) Cheryl Tigchelaar
(e) Patricia Arnett
(f) Dianne Wojcik
(g) Kris Robinson
(h) Sean Ernst
(i) John and Jean McCloy
(j) Mary Anne Peters
(k) Greg Russell
(l) Caroline Thomson
(m) Dawn Ludbrook
(n) Ildiko Racho
(o) David and Mary Schmidt
(p) Peter Hurrell
(q) Ann Brandt
(r) Rashne Baetz
(s) Peter Hurrell
(t) Philip Mansfield
(u) Kevin and Allison Jowett
(v) Phil Roberts
(w) Rick and Jo-Anne Crawford
(x) Rick and Yoanne Speers
(y) Margaret Tigchelaar
(z) Fred and Gail Beddoe
(aa) Marcia Cooper
(bb) Gabe and Marta Smiarowski
(cc) Jane Neysmith
(dd) Les and Lyn Kendall
(ee) Sherri Turkstra-Blok
(ff) Robin Jun
(gg) Janet Nacekivell
(hh) Derek and Elizabeth Shrubsole
(ii) Tom Blok
(jj) Ann Parker

Recommendation: Be received
3. COMMITTEE REPORTS “TO BE DISTRIBUTED”

6.5 Committee of the Whole Report 09-009(a), March 9, 2009

4. BY-LAW LISTING

(Whitehead/Pasuta)
That the Agenda for the City Council meeting being held on March 11, 2009, be approved, as amended.  CARRIED

DECLARATIONS OF INTEREST

None declared.

CEREMONIAL ACTIVITIES/ANNOUNCEMENTS

3.1 Presentation of CANMET Trophy

The Mayor advised that Dr. Jennifer Jackman, Director-General of CANMET Materials Technology Laboratory, spoke last week to over 225 people at the Mayor’s luncheon speakers series and she presented the City with a replica statue of the hammer forge at the Canmet Materials Technology Laboratory. The original was made in 1894 by John Bertram Co. of Dundas, Ontario.

To commemorate this historical connection, CANMET plans to bring the original Press back to Hamilton and construct this statue at their new home at McMaster Innovation Park

APPROVAL OF MINUTES

(Morelli/Ferguson)
That the Minutes of the February 25, 2009, meeting of Council be approved, as presented.  CARRIED

COMMUNICATIONS

(McHattie/Merulla)
That Council Communications 5.1 to 5.11 be approved, as amended, as follows:

5.1 Correspondence from Clean Air Partnership respecting GTA Clean Air Council 2008 Inter-governmental Declaration on Clean Air

Recommendation: Be received
5.2 Correspondence from the International Joint Commission Canada/United States respecting the 2008 Air Quality Agreement Progress Report

Recommendation: Be received

5.3 Correspondence from Polaris Institute respecting alternatives to bottled water

Recommendation: Be received and referred to the General Manager of Public Works.

5.4 Correspondence from Grand River Conservation Authority respecting 2009 Budget and General Levy

Recommendation: Be received

5.5 Correspondence from the Honourable Diane Finley, Minister of Human Resources and Social Development in reply to the City’s correspondence respecting supports for seniors and other non-parent caregivers of children

Recommendation: Be received

5.6 AMO Alert – Government Releases Draft Employment Standard under AODA for Public Review

Recommendation: Be received and referred to the Advisory Committee for Persons with Disabilities for a report to Committee of the Whole

5.7 Correspondence from City of Greater Sudbury respecting Regulation and Provision of Resources to Monitor Retirement Homes

Recommendation: Be received and referred to the General Manager of Community Services for a report.

5.8 Correspondence from the City of Cambridge respecting Internet Filtering Software on Computers

Recommendation: Be received and referred to the Library Board.

5.9 Correspondence from Steve Miazga, Hamilton Conservation Authority respecting the resignation of Sergio Manchia from Board of Directors

Recommendation: Be received and referred to the Selection Committee for appropriate action

5.10 Correspondence from Hamilton-Halton Home Builders Association respecting proposed increases to permit and planning fees and development charges

Recommendation: Be received and referred to the Development Charges Sub-Committee and the Economic Development and Planning Committee
5.11 Correspondence respecting Proposed Amendment to the Parkway Belt West Plan
(relates to Item 14 of Economic Development and Planning Committee Report 09-006)

(a) Linda and Vince Robinson
(b) Don Charlong
(c) Julia Kollek
(d) Cheryl Tigchelaar
(e) Patricia Arnett
(f) Dianne Wojcik
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(ee) Sherri Turkstra-Blok
(ff) Robin Jun
(gg) Janet Nacekivell
(hh) Derek and Elizabeth Shrubsole
(ii) Tom Blok
(jj) Ann Parker

Recommendation: Be received  CARRIED

(McHattie/Merulla)
That Council move into Committee of the Whole for consideration of the Standing Committee Reports.  CARRIED
PUBLIC WORKS COMMITTEE 09-004

(Bratina/Clark)
That the FOURTH Report of the Public Works Committee be approved and the information section received.

CARRIED

AUDIT & ADMINISTRATION COMMITTEE 09-005

(Clark/Collins)
That the FIFTH Report of the Audit & Administration Committee be approved and the information section received.

CARRIED

EMERGENCY & COMMUNITY SERVICES COMMITTEE 09-004

(Duvall/Collins)
That the FOURTH Report of the Emergency & Community Services Committee be approved, and the information section received.

CARRIED

ECONOMIC DEVELOPMENT & PLANNING COMMITTEE 09-006

Item 14 Request for Comments by Ministry of Municipal Affairs and Housing (MMAH) Regarding an Amendment to the Parkway Belt West Plan (PED09059) (Ward 13) (Item 8.1)

(Powers/Mitchell)
THAT Item 14 from Economic Development & Planning Committee Report 09-006, respecting Comments to the Ministry of Municipal Affairs and Housing regarding a proposed Amendment to the Parkway belt West Plan, be deleted in its entirety and replaced with the following:

(a) That the City of Hamilton advise the Ministry of Municipal Affairs and Housing (MMAH) that it does not support approval of an amendment to the Parkway Belt West Plan to permit increased development in the “PleasantView” lands in the former Town of Dundas, and;

(b) That the City of Hamilton reaffirm its decision of April 25, 2007 wherein the City of Hamilton has no objection to the inclusion of the “PleasantView” lands within the proposed expansion of the Niagara Escarpment Plan, and;

(c) That notwithstanding paragraphs (a) and (b) above, that the City of Hamilton intensify its efforts to involve the ministries of Natural
Resources and Municipal Affairs and Housing (MMAH) in discussion to determine the appropriate provincial governance legislation and applicable land use planning for this area.

CARRIED

(Pearson/Powers)
That the SIXTH Report of the Economic Development & Planning Committee be approved, as amended, and the information section received.

CARRIED

COMMITTEE OF THE WHOLE REPORT 09-009(a)

Item 3 Planning Study of Private Waste Disposal Sites (PED08064(b) (City Wide) (Item 8.1)

(Clark/Collins)
That subsection (c)(ix) of Item 3 of Committee of the Whole Report 09-009(a) be amended by inserting the words “the Province of Ontario be requested to amend” after the word “That” and inserting the word “to” after the word “sites” to read as follows:

(c)(ix) That the Province of Ontario be requested to amend the Ministry of Environment Guidelines for applying for waste disposal sites to require proponents and applicants to consult with the City in advance of filing their application.

CARRIED

(Pearson/McCarthry)
That the question be called with respect to Item 3 of Committee of the Whole Report 09-009(a).

CARRIED

This Item CARRIED on the following standing recorded vote:

Total: 11
Nays: Bratina, Clark, Merulla, Morelli and Whitehead
Total: 5
Absent: 0

(Pearson/Powers)
That Report 9(a) of the Committee of the Whole be approved, as amended, and the information section received.

CARRIED
(McHattie/Merulla)
That Committee of the Whole rise and report.  

MOTIONS

7.1(a) Waive the Rules of Order

(Mitchell/Jackson)
That the Rules of Order be waived in order to allow the introduction of a motion respecting an offer to purchase “0” Nebo Road West, Hamilton.  

CARRIED

7.1(b) Offer to Purchase – “0” Nebo Road West, Hamilton

(Mitchell/Jackson)
(a) That the Offer to Purchase executed by John Voortman, In Trust for a company to be incorporated, on July 30, 2008, which has an acceptance date of May 29, 2009 and is scheduled to close on that date which is 30 days after the expiry date of the Interim Control By-law 08-104 and By-law 08-117 for the purchase of the vacant City owned lands known as “0” Nebo Road East, Hamilton be approved.

(b) That the Purchaser be allowed access onto City owned lands known municipally as 0 Nebo Road East, Hamilton, pursuant to an Authority to Enter, for the purpose of undertaking inspections, assessments and review of environmental, engineering, geo-technical and soil-testing, prior to the transaction closing.

(c) That all other terms and conditions as set out in the Offer to Purchase executed by John Voortman, In Trust for a company to be incorporated, on July 30, 2008, remain in full force.

(d) That the Confidential Report PED08209 remain confidential until the Mayor and City Clerk has executed any necessary documents, in a form satisfactory to the City Solicitor.

This Item CARRIED on the following vote:

Yeas: Eisenberger, Bratina, Clark, Collins, Duvall, Ferguson, Jackson, McCarthy, McHattie, Merulla, Morelli, Mitchell, Pasuta, Pearson, and Powers

Total: 15
Nays: Whitehead
Total: 1
Absent: 0
7.2(a) Waive the Rules of Order

(McHattie/Merulla)
That the Rules of Order be waived in order to allow the introduction of a motion respecting Liquor License, Jimmy Gringo’s Burrito Factory Restaurant, 1008 King Street West Unit B – Application #203962 – File # 813750.

CARRIED

7.2(b) Request to AGCO respecting the application from Jimmy Gringo’s Burrito Factory Restaurant

(McHattie/Merulla)
Whereas, the Jimmy Gringo’s Burrito Factory Restaurant has applied for a new 51 seat liquor sale licence at 1008 King Street West Unit B; and,
Whereas, the AGCO shall consider a resolution of Council of the municipality, in which are located the premises for which a person makes an application to sell liquor or holds a licence to sell liquor, as proof of the needs and wishes of the residents of the municipality for the purposes of clause 6 (2) (h) of the Act; and,
Whereas, due to the preponderance of student housing in the area surrounding the restaurant, there have been a greater number of behavioural problems in the neighbourhoods that negatively affect student/permanent resident relations; and,

Whereas, Hamilton City Council must make this request to AGCO prior to March 18, 2009.

Therefore, Hamilton City Council respectfully requests:

(a) That the AGCO give the public notice and hold a hearing or meeting into the application so as to hear directly from residents on the public interest and their needs and wishes.

(b) That the AGCO provide Hamilton City Council with more time to allow Council to carry out necessary processes before making a decision on a resolution or to receive written submissions directly from residents.

CARRIED

7.3(a) Waive the Rules of Order

(Jackson/McCarthy)
That the Rules of Order be waived to allow the introduction of a motion respecting Citizen Appointments to the Tenant Advisory Committee.

CARRIED
7.3(b) CITIZEN APPOINTMENTS TO THE TENANT ADVISORY COMMITTEE

(Jackson/McCarthy)

(a) That the following four (4) applicants be appointed to the Tenant Advisory Committee for the balance of the 2006-2010 term of Council or until such time as successors are appointed by Council:

(i) John Hawker
(ii) Daryn Deon
(iii) Susan Andrews
(iv) Sana Ahmad Minhas

(b) That the membership for the Tenant Advisory Committee be increased from (seven) 7 members to 8 (eight) members.

CARRIED

NOTICES OF MOTION

Councillor McCarthy introduced the following Notice of Motion:

8.1 Licence Application from St. Mary’s Cement

WHEREAS St Marys Cement submitted an Aggregate Resources Act application to the Ministry of Natural Resources (MNR) on January 22, 2009, resubmitted on February 13, 2009, and the application was found to be complete by MNR on March 3, 2009.

AND WHEREAS the Ministry of Natural Resources has the legislative authority to approve or deny Aggregate Licenses.

AND WHEREAS there is currently an application for an Aggregate License by St. Marys Cement in Flamborough.

AND WHEREAS the McGuinty government has passed numerous initiatives to monitor, enforce and protect the environment. With legislation in place that is meant to secure the protection of areas such as we have in Flamborough against assault of it's environmentally protected features.

AND WHEREAS Section 12.1 of the Aggregate Resources Act states:

12. (1) In considering whether a license should be issued or refused, the Minister or the Board, as the case may be, shall have regard to,

(a) the effect of the operation of the pit or quarry on the environment;
(b) the effect of the operation of the pit or quarry on nearby communities;
(c) any comments provided by a municipality in which the site is located;
(d) the suitability of the progressive rehabilitation and final rehabilitation plans for the site;

(e) any possible effects on ground and surface water resources;

(f) any possible effects of the operation of the pit or quarry on agricultural resources;

(g) any planning and land use considerations;

(h) the main haulage routes and proposed truck traffic to and from the site;

(i) the quality and quantity of the aggregate on the site;

(j) the applicant's history of compliance with this Act and the regulations, if a licence or permit has previously been issued to the applicant under this Act or a predecessor of this Act; and

(k) such other matters as are considered appropriate. R.S.O. 1990, c. A.8, s. 12; 1996, c. 30, s. 9 (1, 2); 2002, c. 17, Sched. F, Table.

AND WHEREAS all parameters listed under 12.1 apply to this proponent's application and are clearly irresolvable.

AND WHEREAS St Marys Cement is refusing to redo groundwater testing with respect to Phase 1 (1 of 3 Phases) of the Permit to Take Water (PTTW) as ordered by the Ministry of the Environment (MOE), stating in a January 22, 2009 letter that they (St Marys Cement) “do not believe that any further data will be gained by repeating Phase 1 of the pumping test and will not be repeating the Phase.”

AND WHEREAS the MOE in a letter to St. Marys Cement dated March 5, 2009 state: “It is the ministry position that hydrogeological studies completed to date have not provided information to conclude that the proposed Groundwater Recirculation System is an acceptable mitigation strategy for this site. Further pumping tests are necessary to demonstrate that the proposed Groundwater Recirculation System for this site will protect the quality and quantity of both groundwater and surface water.” (NOTE: St. Marys Cement’s letter indicates that they will not be carrying out any further testing under the mandate of the PTTW. Accordingly, unless they advise the MOE otherwise by March 20, 2009, the permit will be revoked.)

AND WHEREAS MOE has stated that completion of necessary studies (which includes the pump tests) is required prior to consideration of or any PTTW being issued for a quarry operation.

AND WHEREAS the City’s Medical Officer of Health, Dr. Elizabeth Richardson, has stated in a letter to the Ministry of Natural Resources dated February 10, 2009, that Public Health Services has health concerns regarding the operation of a limestone quarry as proposed by an Aggregate Resources Act Application made by CBM St Marys Cement, and that these concerns are due to a potential risk for adverse impacts upon groundwater quantity and quality that could be caused by the quarry.
AND WHEREAS the Region of Halton’s Medical Officer of Health, Dr. Bob Nosal, has stated in a letter to the Ministry of Natural Resources dated February 20, 2009, that the Halton Regional Health Department has health concerns regarding the operation of a limestone quarry as proposed by an Aggregate Resources Act Application made by CBM St. Marys Cement, and that these concerns are due to a potential risk for adverse impacts upon groundwater quantity and quality that could be caused by the quarry.

AND WHEREAS St Marys Cement stated in the Fall 2007 Newsletter #6 that “St Marys is committed to successfully demonstrating our GRS method here in Flamborough before this system is implemented or added as a component to our final application.” And, with the refusal to complete the MOE ordered test phases, no mitigation system, of any kind, has been tested on-site to evaluate if the unacceptable impacts of quarry dewatering can be managed.

AND WHEREAS this proposed quarry falls within our community’s significant recharge area and Well Head Protection Area (WHPA). The new Clean Water Act promises protection for our drinking water right at its source. The law promises to prevent problems before they happen. The Greenbelt Plan prohibits extending lake-based water systems to our communities. If something goes wrong, there is no Plan B for our drinking water. Protection of water must be the first priority and take precedence over a proposed quarry.

AND WHEREAS the City of Hamilton unanimously approved a Motion on February 27, 2008 with respect to the Carlisle groundwater-based municipal system, with the following resolution:

That the City of Hamilton

(a) bring to the attention of the Provincial Government its concerns regarding potential adverse impacts on the Carlisle groundwater-based municipal drinking water system

(b) request the Provincial Government, through the Premier and the Ontario Minister of the Environment, to fully consider the potential ramifications of the proposed development and

(c) before any provincial permits or approvals are issued for the proposed St Marys Quarry, the province should require a formal review by the Halton/Hamilton Source Protection Authority, as part of the local source protection process.

AND WHEREAS in the City of Hamilton Public Health Services letter dated October 26, 2007 to the MOE, as per Item 3 (b) (i), (ii), (iii) and 3 (c), the City of Hamilton’s hydrogeologist requested special testing of organics because of identified contaminants within the area.

AND WHEREAS there has been no Official Plan Amendment change or rezoning approved by the City of Hamilton for the lands. The lands are currently zoned as “Agriculture and Conservation Management”. The proposed use is not a permitted use.

AND WHEREAS the proposed site falls completely within the Natural Heritage System of Ontario’s Greenbelt, the area of highest environmental value. Providentially Significant Wetlands, significant woodlands, and other nationally, provincially, regionally and
municipally designated natural features and species at risk, or their habitats, are present on and around the site.

AND WHEREAS St Marys Cement has failed to complete vital impact studies requested by Municipal, Regional and Provincial bodies with respect to issues such as the Permit to Take Water, Transportation Study and related public information meetings, and the company was found negligent in the amount of $30,000 payable to the City of Hamilton for damages to our roads because of unauthorized road core sampling,

AND WHEREAS St Marys Cement has suddenly shifted the process, abandoning their current work with the Municipal Government, and moving on to the Provincial Government level, showing complete disregard for the welfare of our community.

AND WHEREAS the timeframe provided to allow municipal and agency technical experts to digest, review, and submit detailed comments on the material is very short (45 days), a significant disadvantage is imposed to commenting bodies.

AND WHEREAS St Marys Cement have yet to make any successful inroads towards their application to establish what would be the 8th largest quarry in Canada in an area that is already established residential, agricultural and conservation lands.

THEREFORE BE IT RESOLVED:

That the Council of the City of Hamilton:

(a) Objects to the Aggregate License Application submitted by St. Mary’s Cement.

(b) Call upon the Minister of Natural Resources under the authority granted to her by Section 12.1 of the Aggregate Resources Act RSO 1990 to refuse the aggregate license submitted by St. Mary’s Cement

(c) Circulate this resolution to Premier Dalton McGuinty, Conservation Halton and the municipalities of Milton, Burlington and Halton so that those Councils may consider a similar resolution.

Councillor Merulla presented the following notice of motion:

8.2 Registry of Residents affected by the Economic Downturn

Whereas, the City of Hamilton is experiencing the worst economic crisis in recent history;

Whereas, thousands of residents in the City of Hamilton have been terminated from employment thereby creating an environment conducive to foreclosure of their homes and suffering in other aspects of quality of life;

Therefore be it resolved:
(a) That the City of Hamilton in partnership with Industry representatives and Provincial and Federal Governments create a registry of all affected individuals;

(b) That the City of Hamilton lobby all chartered banks to partner with the City to mitigate the financial impacts of this economic crisis;

(c) That the City of Hamilton assess the shortage of food bank inventory and establish a plan to mitigate or alleviate the shortage.

**STATEMENT BY MEMBERS**

Members of Council used this opportunity to discuss matters of general interest.

**PRIVATE AND CONFIDENTIAL**

None

**BY-LAWS**

(McHattie/Morelli)
That Bill Nos. 09-042 to 09-051 attached hereto be passed, that the corporate seal be affixed thereto and the By-laws be signed by the Mayor and the City Clerk, and numbered as 09-042 to 09-051 as follows:

<table>
<thead>
<tr>
<th>By-law No.</th>
<th>Bill No.</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>09-042</td>
<td>042</td>
<td>To Amend By-law No. 01-218, as amended, To Regulate On-Street Parking: Schedule 6 – Time Limit Parking Schedule 8 – No Parking Zones Schedule 10 – Alternate Side Parking Schedule 12 – Permit Parking Zones Schedule 13 – No Stopping Zones</td>
</tr>
<tr>
<td>09-043</td>
<td>043</td>
<td>To Amend Solid Waste Management By-law No. 05-190, as amended, and Implement the 2009 Waste Management Fees and Charges</td>
</tr>
<tr>
<td>09-044</td>
<td>044</td>
<td>To Amend Zoning By-law No. 3271-86 (Dundas), Respecting Lands Located at 675 York Road in the former Town of Dundas</td>
</tr>
<tr>
<td>09-045</td>
<td>045</td>
<td>To Amend Zoning By-law No. 6593 (Hamilton), Respecting Lands Located at Springvalley Crescent (Lots 3-9 inclusive and Block 27, Plan 62M-1102) and the rear portion of 850 West 5th Street</td>
</tr>
</tbody>
</table>
To Adopt Official Plan Amendment No. 71 to the former Township of Glanbrook Official Plan, Respecting “Summerlea West”, Lands Located Within Part of Lot 3, Concession 4, Located South of Binbrook Road and East of Fletchers Road, Within the Binbrook Village Secondary Plan, Known Municipally as 3385 Binbrook Road West

To Amend Zoning By-law No. 464 (Glanbrook), Respecting the Property Located at 3385 Binbrook Road, former Township of Glanbrook (Binbrook)

To Amend Zoning By-law No. 05-200, Respecting Lands Located at 3385 Binbrook Road, Former Township of Glanbrook (Binbrook)

To Amend By-law No. 07-061, as amended, Respecting the Downtown and Community Renewal Community Improvement Project Area

To Adopt Amendment No. 3 to the Downtown and Community Renewal Community Improvement Plan

To Confirm the Proceedings of City Council

CARRIED

(Jackson/Pearson)
There being no further business, the City Council meeting adjourned at 9:30 p.m.

CARRIED

Respectfully submitted,

Fred Eisenberger
Mayor

Kevin Christenson
City Clerk
March 11, 2009