



CITY COUNCIL MINUTES

Monday, January 12, 2009

5:35 p.m.

Albion Rooms

Hamilton Convention Centre

One Summer's Lane

Hamilton, Ontario

Present: Mayor F. Eisenberger

Councillors B. Bratina, B. Clark, C. Collins, S. Duvall,
L. Ferguson, T. Jackson, M. McCarthy, S. Merulla, R.
Pasuta, M. Pearson, R. Powers, T. Whitehead

Absent with regrets: Councillor B. Morelli – Police Services
Councillor D. Mitchell – Another Commitment
Councillor B. McHattie – Another Commitment

APPROVAL OF THE AGENDA

The Clerk advised of the following changes to the agenda:

Added Council Communications:

- 5.14 Correspondence from MP's Chris Charlton, Hamilton Mountain, David Christopherson, Hamilton Centre, Wayne Marston, Hamilton East-Stoney Creek respecting input into the Conservative Government's Pre-Budget Consultations and the City's reply by Mayor Fred Eisenberger.

Recommendation: For the consideration of Council

- 5.15 Correspondence from AMO respecting extension of Federal Gas Tax Fund Schedule of Payments to March 31, 2014.

Recommendation: Be received

- 5.16 Correspondence from the Honourable Minister of Community and social Services Madeleine Meilleur respecting Temporary Care Assistance through the Ontario Works Program

Recommendation: Be received

- 5.17 Correspondence from the Honourable Minister of Transportation Jim Bradley respecting truck spot checks in Hamilton

Recommendation: Be received

- 5.18 Correspondence from the Honourable Minister of Municipal Affairs and Housing Jim Watson respecting municipal deadlines approaching in the Canada-Ontario Affordable Housing Program

Recommendation: Be received

- 5.19 Correspondence from Debbie Zimmerman, Chair, MPAC providing an update on the 2008 Property Assessment Notice Mailing

Recommendation: Be received

- 5.20 Correspondence from Barbara Hall, Chief Commissioner, Ontario Human Rights Commission respecting Rental housing licensing by-law

Recommendation: Be received and referred to the General Manager of Planning and Economic Development for a report to the Economic Development and Planning Committee

- 5.21 Communication from AMO respecting Support for AMO's position on the Waste Diversion Act and the Blue Box Program Plan Review

Recommendation: For the consideration of Council

- 5.22 Correspondence from the Corporation of the Municipality of Clarington respecting process for streamlining Lottery Licensing

Recommendation: For the consideration of Council

Added Committee Report

- 6.2 Licensing Committee Report 09-001, January 8, 2009

(Powers/Pearson)

That the Agenda for the City Council meeting being held on January 12, 2009, be approved, as amended. **CARRIED**

DECLARATIONS OF INTEREST

None

CEREMONIAL ACTIVITIES/ANNOUNCEMENTS
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None

APPROVAL OF MINUTES

(Powers/Pearson)

That the Minutes of the December 10, 2008, meeting of Council be approved, as presented. **CARRIED**

COMMUNICATIONS

(Pearson/Powers)

That Council Communications 5.1 to 5.22, as amended, be approved, as follows:

- 5.1 Correspondence from the Honourable Minister of Health and Long-Term Care, David Caplan respecting land ambulance funding for 2009
Recommendation: Be received
- 5.2 Correspondence from Steve Miazga, Hamilton Conservation Authority respecting support for a future West Harbour Recreation Master Plan that protects the existing fisheries and fish habitat and supporting vegetative communities along the shore
Recommendation: Be received
- 5.3 Correspondence from Francois Guimont on behalf of the Honourable Christian Paradis, Minister of Public Works and government respecting 2008 property taxes on 55 Bay Street South
Recommendation: Be received
- 5.4 Correspondence from the Honourable Minister of Health and Long-Term Care, David Caplan respecting funding allocations for HIV/AIDS programs
Recommendation: Be received
- 5.5 Correspondence from Susan Rogers, Townsend, Rogers LLP respecting City of Hamilton Urban Structure Plan and Rural Plan
Recommendation: Be received

- 5.6 Correspondence from the Honourable Minister of Community and Social Services respecting 2008 Nutritious Food Basket Report

Recommendation: Be received

- 5.7 Correspondence from Gail Cosman, President, Nestle Waters Canada respecting bottled water

Recommendation: Be received with a copy to be forwarded to the Solid Waste Master Plan Steering Committee

- 5.8 Correspondence from the Honourable Minister of Finance and Minister of Municipal Affairs and Housing, Dwight Duncan and Jim Watson respecting release of the Ontario Municipal Partnership Fund Allocations for 2009

Recommendation: Be received

- 5.9 Correspondence from Burkhard Mausberg, President, Friends of the Greenbelt Foundation respecting installation of Regional Road signs in Hamilton

Recommendation: Be received

- 5.10 Correspondence from The Honourable Minister of Justice and Attorney General of Canada respecting Changes to Alcohol Legislation for Driving

Recommendation: Be received

- 5.11 Correspondence from City of Oshawa respecting Response to a Call for Action – Recreation, Parks and Sport Infrastructure Funding from Parks and Recreation Ontario

Recommendation: Be referred to Acting General Manager of Public Works and the Director of Recreation for a report to the Emergency and Community Services Committee

- 5.12 Correspondence from Township of South Stormont respecting Bill 50, the Provincial Animal Welfare Act – powers to inspectors under the Act

Recommendation: Be referred to SPCA for comment and report back to Planning and Economic Development Committee

- 5.13 Correspondence from Debbie Zimmerman, Chair, MPAC respecting legislative amendment to the definition of “current value”

Recommendation: Be referred to the Audit and Administration Committee for review and recommendation

- 5.14 Correspondence from MP's Chris Charlton, Hamilton Mountain, David Christopherson, Hamilton Centre, Wayne Marston, Hamilton East-Stoney Creek respecting input into the Conservative Government's Pre-Budget Consultations and the City's reply by Mayor Fred Eisenberger.

Recommendation: Be referred to the Mayor and City Manager to formulate a continuing response.

- 5.15 Correspondence from AMO respecting extension of Federal Gas Tax Fund Schedule of Payments to March 31, 2014.

Recommendation: Be received

- 5.16 Correspondence from the Honourable Minister of Community and social Services Madeleine Meilleur respecting Temporary Care Assistance through the Ontario Works Program

Recommendation: Be received

- 5.17 Correspondence from the Honourable Minister of Transportation Jim Bradley respecting truck spot checks in Hamilton

Recommendation: Be received

- 5.18 Correspondence from the Honourable Minister of Municipal Affairs and Housing Jim Watson respecting municipal deadlines approaching in the Canada-Ontario Affordable Housing Program

Recommendation: Be received

- 5.19 Correspondence from Debbie Zimmerman, Chair, MPAC providing an update on the 2008 Property Assessment Notice Mailing

Recommendation: Be received

- 5.20 Correspondence from Barbara Hall, Chief Commissioner, Ontario Human Rights Commission respecting Rental housing licensing by-law

Recommendation: Be received and referred to the General Manager of Planning and Economic Development for a report to the Economic Development and Planning Committee

- 5.21 Communication from AMO respecting Support for AMO's position on the Waste Diversion Act and the Blue Box Program Plan Review

Recommendation: That Council support AMO's position on the Waste Diversion Act and the Blue Box Program Plan Review and that AMO, the Minister of the Environment and Waste Diversion Ontario be so advised.

- 5.22 Correspondence from the Corporation of the Municipality of Clarington respecting process for streamlining Lottery Licensing

Recommendation: Be received

(Pearson/Powers)

That Council move into Committee of the Whole for consideration of the Standing Committee Reports. **CARRIED**

COMMITTEE OF THE WHOLE REPORT 09-001

10. West Harbour Waterfront Recreation Master Plan (PW09004) (City Wide) (Item 6.2)

(Collins/Duvall)

That subsection (c) be amended to include the words “of the Waterfront Trust Presentation” following the words Schedule A in the first line.

That the following be added as subsection (g):

- (g) That a minimum of 75,000 square feet of space be allocated to Piers 5 and 6 and the designation be commercial.

Motion as amended CARRIED on a Recorded Vote as follows:

Yeas:	Mayor F. Eisenberger, Councillors B. Bratina, B. Clark, C. Collins, S. Duvall, L. Ferguson, T. Jackson, S. Merulla, R. Pasuta, M. Pearson, R. Powers, T. Whitehead
Total:	12
Nays:	Councillor M. McCarthy
Total:	1
Absent:	Councillors B. Morelli, D. Mitchell, B. McHattie
Total:	3

(Pearson/Powers)

That the FIRST Report of Committee of the Whole be approved as amended, and the information section received. **CARRIED**

LICENSING TRIBUNAL REPORT 09-001

(Merulla/Pasuta)

That the FIRST Report of the Licensing Tribunal be approved and the information section received. **CARRIED**

(Pearson/Powers)

That Committee of the Whole rise and report. **CARRIED.**

MOTIONS

None

NOTICES OF MOTION

On behalf of Councillor Bratina, Councillor Merulla introduced the following Notice of Motion:

That Item 18 of Committee of the Whole Report 08-026 approved by Council on August 8, 2008 respecting Residential Municipal Relief Assistance program for Basement Flooding be amended by inserting the date June 13, 2008 to the title and in subsection (a) of the recommendation to read as follows:

18. Residential Municipal Relief Assistance Program for Basement Flooding for the Events of June 13 and 22, 2008 to August 5, 2008 (City Wide) (New Business)

- (a) That for the purpose of invoking the Residential Municipal Relief Assistance Program for Basement Flooding, City Council declare the rainstorm events of June 13 and 22, 2008 through to August 5, 2008 inclusive, as a "Disaster" for all affected properties within the City of Hamilton;
- (b) That payment of claims be based on compassionate grounds only and not to be construed as an admission of liability on the part of the City of Hamilton;
- (c) That the Eligibility Criteria for the Residential Municipal Disaster Relief Assistance Program as previously approved in report FCS06007 be applied;
- (d) That the costs associated with these claims be funded from the Residential Municipal Disaster Relief Program Reserve; and
- (e) That staff be authorized to retain an independent adjuster for the administration of claims under the Residential Municipal Disaster Relief Assistance Program and that these administrative costs be funded from the reserve.

(Merulla/Pasuta)

That the Rules of Order be waived to allow the introduction of a motion respecting the Residential Municipal Relief Assistance Program.

CARRIED.

(Merulla/Pasuta)

That Item 18 of Committee of the Whole Report 08-026 approved by Council on August 8, 2008 respecting Residential Municipal Relief Assistance program for Basement Flooding be amended by inserting the date June 13, 2008 to the title and in subsection (a) of the recommendation to read as follows:

18. Residential Municipal Relief Assistance Program for Basement Flooding for the Events of June 13 and 22, 2008 to August 5, 2008 (City Wide) (New Business)

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- (b) That payment of claims be based on compassionate grounds only and not to be construed as an admission of liability on the part of the City of Hamilton;
- (c) That the Eligibility Criteria for the Residential Municipal Disaster Relief Assistance Program as previously approved in report FCS06007 be applied;
- (d) That the costs associated with these claims be funded from the Residential Municipal Disaster Relief Program Reserve; and
- (e) That staff be authorized to retain an independent adjuster for the administration of claims under the Residential Municipal Disaster Relief Assistance Program and that these administrative costs be funded from the reserve.

AMENDMENT CARRIED.

(Duvall/Merulla)

That the date of August 5th be amended to August 14th **AMENDMENT CARRIED.**
MOTION AS AMENDED CARRIED.

Councillor McCarthy presented the following Notice of Motion:

WHEREAS Andrea Horwath, Ontario's NDP Critic for Municipal Affairs, has introduced a private members bill to counter Strategic Lawsuits Against Public Participation (SLAPP) used by proponents to silence those who object to their developments

WHEREAS the well-heeled industrial interests suing citizens to silence public objections while bulldozing projects through municipal councils and the Ontario Municipal Board (OMB) will be a thing of the past

WHEREAS "Ontario could be the birthplace of North America's most effective anti-SLAPP legislation," Horwath said. "When individuals and groups can be sued for millions of dollars simply because they take a stand against unwanted developments in

their communities, something is terribly wrong. My bill will take the sting out of SLAPP. I want the McGuinty government to accelerate this initiative in order to end this scourge on our democracy once and for all.”

WHEREAS Horwath’s Bill 138, *Protection of Public Participation Act, 2008*, would enable such lawsuits to be dismissed at an early stage. It would indemnify defendants for costs incurred and allow additional costs for damages to be awarded to them by a court or tribunal. A significant mechanism in Horwath’s bill would stop governments and tribunals from proceeding with the planning process where SLAPP tactics exist

WHEREAS Horwath has strong support for her bill from Environmental Defence, a group at the forefront of fighting SLAPP and the chill it has brought to citizen’s groups such as the Innisfil District Association (IDA). The IDA has been hit with a \$3.2 million SLAPP at the OMB because of its courageous stand against a massive and unwanted resort development on the shores of Lake Simcoe at Big Bay Point.

WHEREAS The recent Uniform Law Conference, a yearly gathering of provincial Attorneys General, identified SLAPPs as a growing and worrisome trend across Canada and specifically identified the ongoing Big Bay Point OMB cost application as a case in point.

WHEREAS Dr. Rick Smith, Executive Director, and lawyer, David Donnelly, himself the target of such a lawsuit, says a law protecting public participation is very much needed. “Surely it’s Job 1 of the Ontario legislature to ensure that Ontarians can engage with our democracy – including provincial courts and tribunals -- without fear of intimidation by bullying developers or crippling financial liability,” Smith said. “Unless the current system is changed, I am very concerned that citizens will increasingly shy away from speaking their mind publicly and our public life, urban planning regimes and environmental protection will be the poorer for it.”

THEREFORE BE IT RESOLVED,

That the Council of the City of Hamilton:

1. support the efforts of MPP Andrea Horwath with respect to the current Bill 138.
2. Circulate this resolution to all other Ontario municipalities encouraging them to consider similar resolutions of support.

STATEMENT BY MEMBERS

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

PRIVATE AND CONFIDENTIAL

None

BY-LAWS

(Pearson/Merulla)

That Bill Nos. 09-001 to 09-006 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 09-001 to 09-006 as follows:

- | | | |
|---------------|------------|--|
| 09-001 | 001 | To Amend Zoning By-law No. 6593 (Hamilton), Respecting Lands Located at 85 Robinson Street (Hamilton Thistle Club) |
| 09-002 | 002 | Respecting Removal of Part Lot Control, Bridgeport Phase 3, Blocks 62 and 63, Registered Plan No. 62M-1092 |
| 09-003 | 003 | Respecting Removal of Part Lot Control, Lots 1-9 and 11-17, Inclusive, and Lot 20, Registered Plan No. 62M-1028, "Sandrina Gardens, Phase 6" |
| 09-004 | 004 | Respecting Removal of Part Lot Control, Lots 53, 57, 58 and 61, Registered Plan No. 62M-1028, "Sandrina Gardens, Phase 6" |
| 09-005 | 005 | To Appoint a Treasurer |
| 09-006 | 006 | To Confirm the Proceedings of City Council |

(Powers/Pearson)

There being no further business, the City Council meeting adjourned at 5:50 p.m.

CARRIED

Respectfully submitted

Fred Eisenberger
Mayor

Kevin Christenson
Clerk
January 12, 2009