CITY COUNCIL
AMENDED MINUTES

Wednesday, February 17, 2010
2:00 p.m.
Albion Room
Hamilton Convention Centre

Present: Mayor F. Eisenberger

Absent: Councillor M. McCarthy – Personal Matters
Councillor R. Powers – Other City Business

Also Present: C. Murray, City Manager
P. Barkwell, City Solicitor
T. McCabe, General Manager, Planning & Economic Development Department
R. Rossini, General Manager, Finance & Corporate Services
N. Everson, Director, Economic Development & Real Estate
T. Sergi, Director, Development Engineering
B. Farkas, Manager, Real Estate
J. Spiler, Manager, Capital Budgets & Development
C. Phillips, Senior Advisory
M. Kirkopolous, Senior Advisory, Policy & Public Affairs
K. Christenson, City Clerk
S. Paparella, Legislative Assistant

DECLARATIONS OF INTEREST

There were none declared.

CEREMONIAL ACTIVITIES/ANNOUNCEMENTS

None.
APPROVAL OF MINUTES

None.

COMMUNICATIONS

None.

MOTIONS

(Eisenberger/Pearson)
That the Rules of Order be waived to allow the introduction of a motion respecting 2010 Property/Liability Policies Renewal, which was tabled by Committee of the Whole on February 8, 2010, pending the disposition of the Avero Matter.

CARRIED

7.1 2010 Property/Liability Policies Renewal (FCS10008) (City Wide)

(Eisenberger/Pearson)
(a) That the Liability and Property Insurance coverage for the term January 1, 2010, to January 1, 2011, be renewed through the City’s General Managing Agent, Frank Cowan Company Limited (FCCL), at a cost of $3,951,257 (including applicable taxes) in accordance with Appendix “A” to Report FCS10008;

(b) That the General Manager, Finance and Corporate Services, be authorized and directed to execute all associated documents on behalf of the City; and,

(c) That the 2010 Premium Costs in the amount of $3,951,257 be funded through the 2010 Risk Management Services Budget.

The above motion CARRIED on a Standing Recorded Vote, as follows:

Yeas: F. Eisenberger, B. Clark, T. Jackson, D. Mitchell, M. Pearson, R. Pasuta
Total: 6
Nays: C. Collins, S. Duvall, S. Merulla, T. Whitehead
Total: 4
Absent: B. Bratina, L. Ferguson, M. McCarthy, B. McHattie, B. Morelli, R. Powers
Total : 6

NOTICES OF MOTION

None.
(Pearson/Mitchell)
That Council move into Closed Session, at 2:05 p.m., to consider Item 10.1, respecting a Land Sale: City of Hamilton (PED10056), pursuant to Section 239, sub-section (c) of the Ontario Municipal Act; and, Section 8.1 of the City of Hamilton Procedural By-law 03-301, sub-section (c), as the subject matter pertains to a proposed or pending acquisition or disposition of land by the municipality or local board.

CARRIED

10.1 Land Sale: City of Hamilton (PED10056) (City Wide)

(Mitchell/Jackson)
(a) That the City of Hamilton enter into an Agreement of Purchase and Sale with Canada Bread Company Ltd. for lands situated on the south-east corner of Nebo and Twenty Roads in the City of Hamilton, containing in approximately 25 acres, legally described as Part of Lot 14, Concession 2, Geographic Township of Glanford, now in the City of Hamilton, being Part of PIN 17387-0002 (LT) and more particularly shown on Appendices “A and C” attached to Report PED10056 be approved and completed. Further, that these lands be subject to any adjustments, up or down, based upon the final location of the southerly lot line in order to facilitate their final site plan. These lands will be subject to an easement which will be approximately 1 acre in size in favour of the City of Hamilton, at nominal consideration, for storm water and drainage purposes.

(b) That the financial details and terms of the sale outlined in Appendix “D” attached to Report PED10056 remain confidential until final disposition by Council, and the balance of the Report PED10056 remain confidential and not to be released as a public document.

Transfer/Deed of land registered July 8, 2010, Instrument No. WE702157

Appendix "D"-Financial Details and Key Terms/Conditions:

i) Sale price of the land, save and except the area of the easement lands be at a rate of $117,000 per acre;

ii) City of Hamilton to contribute towards Site preparation and road upgrades not to exceed $500,000;

iii) The City permits the submission by the Purchase to make the necessary applications at the expense of the Purchaser and prior to the closing of the transaction, and agrees to execute such documentation necessary in connection with the said applications.
iv) The City of Hamilton and the Purchaser enter into a Development Charge Deferral Agreement for a period of 5 years at the City's rate of debenture and administration.

v) Authority to Enter be granted to the purchaser to undertake site preparation, environmental and survey works.

vi) The City is obligated to provide sanitary and water stubs to the property line in conjunction with the proposed capital works to this initial phase of the park.

(c) That AMEC Earth and Environmental be retained to carry out the design, preparation and other necessary work or actions required to facilitate the re-alignment of the creek channel storm drainage works.

(d) That the Mayor and City Clerk be authorized and directed to execute the Agreement of Purchase and Sale, subject to the terms and conditions approved herein this report and in a form satisfactory to the General Manager of Planning and Economic Development and the City Solicitor.

(e) That staff be authorized and directed to commence construction of the Hannon Creek tributary diversion and related Storm Water Management pond at an estimated cost of $500,000 to be funded from appropriate Development Charge Revenues and Provincial Subsidy contained within the previously approved Glanbrook Industrial Park Capital Program ($30m previously approved, $23m available). Said works to be completed with and/or coordinated with the site servicing undertaken by the Purchaser.

(f) That the North Glanbrook Industrial Business Park and the Hamilton Mountain Business Park be renamed (for marketing purposes only) as the “Red Hill Business Park”.

CARRIED

10.2 City v. Avero Security (GTA1) Inc. et al – Superior Court Action No. 09-11760

(Pearson/Mitchell)

That Council move into Closed Session, at 3:23 p.m., to consider Item 10.2, City of Hamilton versus Avero Security (GRA1) Inc. et al – Superior Court Action No. 09-11760, pursuant to Section 239, sub-sections (e) and (f), and Section 8.1 of the City of Hamilton Procedural By-law 03-301, sub-sections (e) and (f), as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board; and, advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

CARRIED

As shown in the Closed Session Minutes, Council reconvened in Open Session at p.m., and provided its recommendations as shown in Item 10.2 above.

(Merulla/Collins)
(a) That a settlement relating to the failure by Avero Security (GTA1) Inc. to make bank deposits on the City’s behalf reached on the terms set out in Report LS10001(a), be received and approved.

(b) That Report LS1001(a) be received.

(c) That neither Report LS1001 nor Report LS1001(a), be released as public documents.

The above motion CARRIED on a Standing Recorded Vote, as follows:

Yeas: F. Eisenberger, B. Clark, T. Jackson, M. Pearson, D. Mitchell, R. Pasuta, B. Morelli
Total: 7

Nays: C. Collins, S. Duvall, S. Merulla, T. Whitehead
Total: 4

Absent: B. Bratina, L. Ferguson, M. McCarthy, B. McHattie, R. Powers
Total: 5

BY-LAWS

(Merulla/Collins)
That Bill No. 10-033 to 10-034, attached hereto, be passed, that the Corporate seal be affixed thereto, and that the By-laws be signed by the Mayor and Clerk, and numbered as 10-033 and 10-034 as follows:

By-law 10-033 Interim Tax Levy

By-law 10-034 To confirm the proceedings of the special Council of February 17, 2010

(Pearson/Clark)
There being no further business, the City Council meeting adjourned at 4:05 p.m.

CARRIED

Respectfully submitted,

Mayor F. Eisenberger