Committee of the Whole
REPORT 08-009

9:30 a.m.
February 11, 2008
Council Chambers
Hamilton City Hall
71 Main Street West, Hamilton

Present:
Mayor F. Eisenberger
Councillors B. Bratina, B. Clark, C. Collins, S. Duvall, L. Ferguson,
T. Jackson, B. McHattie, M. McCarthy, D. Mitchell, M. Pearson, S.
Merulla, R. Pasuta, and R. Powers and T. Whitehead

Absent with regrets: Councillor B. Morelli – Sick Leave

Also Present:
G. Peace, City Manager
J. Rinaldo, General Manager, Finance and Corporate Services
S. Stewart, General Manager, Public Works
T. McCabe, General Manager, Planning and Economic
Development
J.A. Priel, General Manager, Community Services
J. Kay, General Manager/Chief HES
Dr. E. Richardson, Medical Officer of Health
P. Barkwell, City Solicitor
K. Christenson, City Clerk
M. Gallagher, Coordinator, COW

COMMITTEE OF THE WHOLE PRESENTS REPORT 08-009 AND IN
RESPECTFULLY RECOMMENDS:

1. Minutes of the Community Council’s Task Force, December 4, 2007 (Item
4.1)

That the Minutes of the December 4, 2007 meeting of the Community Council’s
Task Force be received.
2. Lister Block (Item 6.4)

(a) That MHPM Project Managers Inc. be hired to undertake an independent Peer Review of the project costing relating to the LIUNA/HI-Rise 2008 joint Lister proposal to the upset limit of $25,000;

(i) That the terms of reference shall include but not be limited to the following:

(aa) Review proposal to ensure compliance with the Provincial Facilitators Report
(bb) Review the scope of the restoration work
(cc) Assess Building Code standards
(dd) Assess existing technical reports
(ee) Assess the construction schedule
(ff) Determine tenant improvement and operating costs
(gg) Assess useable and commercial square footage
(hh) Asset evaluation on the buildings ongoing lease costs/lease impact 21 years onward
(ii) Allowances for lease space – comparable vs. true costs
(jj) Assess potential square footage
(kk) Explore with Hi Rise the condition to proceed with towers within 18 to 24 month period
(ll) Role of Community Energy Power (downtown)

(b) That Clinton Brown Company Architecture, PC to be hired for the purpose of architectural advisory support to the City of Hamilton, to ensure that the principles of the Provincial Facilitators Report regarding building design elements are achieved to the upset limit of $25,000

(c) That the Province of Ontario be requested to release the previously committed $50,000 for the purpose of funding the financial and architectural reviews and support;

(d) That the independent peer reviewers report back to Council by no later than February 27, 2008 on the outcome of the reviews

(e) That Council request that the Province amend the current $7,000,000 Conditional Grant Agreement between The Province of Ontario and The City of Hamilton dated September 7, 2007 to include the option to purchase by the City.
3. **Legal Services Operational Review Sub-Committee Report 07-001, December 17, 2007 (Item 7.1)**

   (a) **Election of Chair**

   That Councillor Maria Pearson be appointed Chair of the Legal Services Operational Review Sub-Committee.

   (b) **Legal Services 2007 Client Satisfaction Survey Results (LS07026) (City Wide)**

   That Report LS07026 respecting the Legal Services 2007 Client Satisfaction Survey, be received.

4. **Status Report on Recommendations from Operational Review of Internal Audit Division (CM08005) (City Wide) (Item 7.3)**

   That Report CM08005 respecting Status Report on Recommendations from Operational Review of Internal Audit Division be received.

5. **City of Hamilton/Ministry of Transportation Dedicated Gas Tax Funding Agreement (FCS08011) (Item 7.4)**

   (a) That the Mayor and General Manager of Finance & Corporate Services (City Treasurer) be authorized and directed to enter into an Agreement between the City of Hamilton and the Province of Ontario, related to the funding commitment made by the Province of Ontario to the Municipality under the Dedicated Gas Tax Funds For Hamilton’s Public Transportation Program;

   (b) That the Mayor and General Manager of Finance and Corporate Services (City Treasurer) be authorized and directed to execute the Letter of Agreement attached as Appendix “A” to Report FCS08011;

   (c) That the appropriate by-law, *City of Hamilton/Ministry of Transportation Dedicated Gas Tax Funding Agreement By-Law* be passed and enacted attached as Appendix “C”; and

   (d) That a certified copy of this by-law be forwarded to the Ministry of Transportation upon Council approval.
6. **Municipal Infrastructure Investment Initiative (FCS08015) (Item 7.5)**

   (a) That the East Hamilton Recreational Trail Hub and Waterfront Link Project be approved for submission to Infrastructure Ontario for consideration under the Municipal Infrastructure Investment Initiatives program;

   (b) That the East Hamilton Recreational Trail Hub and Waterfront Link Project be submitted, to the sum of $14 million, in accordance with the terms and conditions associated with the Municipal Infrastructure Investment Initiative (MIII) grant funding program; and

   (c) That the appropriate By-Law be passed and enacted.

7. **City of Hamilton vs Bokirca Inc. Ontario Superior Court File No. 03-CV-252395 (Item 10.3)**

   (a) That the City decline to accept the Plaintiff’s Offer to Settle in Ontario Superior Court File No. 03-CV-252395 CM2, dated January 8, 2008

   (b) That the City Solicitor be directed to submit an Offer to Settle in Ontario Superior Court File No. 03-CV-252395 CM2, in the terms as outlined in Report LS08002.

   (c) That Report LS08002 remain a confidential document and not for release as the matter pertains to litigation.


   (a) That the City of Hamilton enter into minutes of settlement to resolve the claims made under the *Expropriation Act* by: Arrowline Gas Ltd., M.C.G.W. Properties Corporation and Q Lube Ontario Inc., McDonald's Restaurants of Canada Limited, Vinnefield Trading Inc., Avondale Stores Limited, Donut Diners Inc. and 1136075 Ontario Limited (collectively, the "claimants"), arising from the closure of Limeridge Road East, at Upper Wentworth Street as shown in Appendix “A” attached to Report LS 08001;

   (b) That the final net payment of approximately $1,795,000 resulting from the settlement be approved and that this amount be charged to Account Number 4060087001 (Expressway - Land Purchase);
(c) That the final net payment of $1,795,000 resulting from the settlement of the expropriation claim be made to Legal Counsel, in Trust for Arrowline Gas Ltd., M.C.G.W. Properties Corporation and Q Lube Ontario Inc., McDonald’s Restaurants of Canada Limited, Vinnefield Trading Inc., Avondale Stores Limited, Donut Diners Inc. and 1136075 Ontario Limited;

(d) That staff be directed to continue to pursue the settlement of the claim made by Jamestown Construction Limited, also arising from the closure of Limeridge Road East, at Upper Wentworth Street, and failing the negotiation of a settlement, that staff be directed to proceed to respond to the claim at the Ontario Municipal Board;

(e) That the Mayor and Clerk be authorized and directed to execute any documents necessary to implement these settlements, in a form satisfactory to the City Solicitor.

(f) That Report LS08001 remain a confidential document and not for release as the matter pertains to litigation.

FOR THE INFORMATION OF COUNCIL:

(a) CHANGES TO THE AGENDA

Added Private and Confidential Items

10.3 City of Hamilton ats Bokirca Inc. Ontario Superior Court File No. 03-CV-252395

10.4 Settlement of Expropriation Claims Arising from the Closure of Limeridge Road East at Upper Wentworth Street, Hamilton

The agenda was adopted as amended.

(b) DECLARATIONS OF INTEREST

None

(c) ADOPTION OF MINUTES

(i) January 29, 2008 (Item 3.1)

The Minutes of January 29, 2008 were adopted as presented.

(ii) January 30, 2008 (Item 3.2)

The Minutes of January 30, 2008 were adopted as presented.
(d) ANNOUNCEMENTS

The Mayor introduced the two Deputy Mayors for the Day.

Natalya Odoardi representing St. Joachim School in Ancaster and Jodie Sarvari representing Guardian Angels Elementary School in Waterdown

(e) DELEGATIONS/PRESENTATIONS

(i) Presentation by The Honourable Steven Mahoney respecting Community Workplace Health and Safety Charter – The Road to Zero (Item 6.1)

The Honourable Steven Mahoney, Chair of the Workplace Safe Insurance Board provided an overview of the Community Workplace Health and Safety Charter. The Charter will be formally signed at a future council meeting.

Mr. Mahoney suggested that Council receive a regular report from staff on lost time injuries for the corporation on a regular basis.

Mr. Mahoney addressed the ads in bus shelters, and showed a number of commercials, which although may be graphic in nature are important to get the message across.

The presentation was received.

(ii) Presentation by Madina Wasuge, Hamilton Centre for Civic Inclusion (Item 6.2)

The delegation presented an overview of the First Year in Review of the Hamilton Centre for Civic Inclusion highlighting the Centre’s Mission, Vision and Goals and Strategic Directions, and activities.

The presentation was received.

(iii) Presentation by Dr. Lynda Redwood-Campbell respecting update on Banda Aceh project - post Tsunami (Item 6.3)

Dr. Redwood-Campbell and Dr. Rinaldi, a physician in Banda Aceh and Kanwall Shankardass, Rotary Club of Dundas, addressed Committee and provided an update on the work done post Tsunami in Banda Aceh

The presentation was received.
(iv) **Lister Block – Presentation by Joe Mancinelli, LIUNA (Item 6.4)**

Joe Mancinelli provided an overview of options for the purchase/lease of Lister Block.

The presentation be received.

Joe Rinaldo, General Manager of Finance and Tim McCabe, General Manager of Planning and Economic Development provided a presentation on the Lister Block Proposal.

Highlights included:
- review purchase option
- lease option
- provincial grant
- overall downtown accommodation strategy and options

A motion moved by Councillor Whitehead and Seconded by Councillor McHattie to amend the Lister Block recommendation by adding a subsection (f) was withdrawn:

“(f) That the agreement be approved in principle, subject to the peer review report and staff report to be brought back to the Committee of the Whole on February 25, 2008, and securing provincial funding.”

(v) **Ward Boundary Review (FCS08009) (City Wide) (Item 7.2)**

A Motion to defer Report FCS08009 respecting Ward Boundary Review to January 2009 CARRIED ON A RECORDED VOTE AS FOLLOWS:

Yeas: Eisenberger, Whitehead, Powers, Collins, Merulla, Bratina, McHattie, Mitchell, Jackson, Duvall

Total: 10

Nays: Clark, Ferguson, McCarthy, Pasuta, Pearson

Total: 5

Absent: Morelli

Total: 1

A motion moved by Councillor Clark and Seconded by Councillor Bratina to amend subsection (a) of the report to include the following was DEFEATED ON A RECORDED VOTE AS FOLLOWS:

That sub-section (a) be amended to include the following:

“….and that the consultant study include a comparison and review of an at-large system or a hybrid of an at-large/ward system”
Yeas: Bratina, Clark, Whitehead
Total: 3

Nays: Eisenberger, Duvall, Ferguson, Jackson, McCarthy, McHattie, Merulla, Collins, Pasuta, Mitchell, Pearson, Powers
Total: 12
Absent: Morelli

A motion moved by Councillor Merulla and Seconded by Councillor McHattie to have the consultant explore publicly-funded elections was DEFEATED ON A RECORDED VOTE AS FOLLOWS:

Yeas: Merulla, McHattie
Total: 2
Nays: Eisenberger, Bratina, Clark, Duvall, Ferguson, Jackson McCarthy, Collins, Pasuta, Mitchell, Pearson, Powers, Whitehead
Total: 13
Absent: Morelli
Total: 1

(vi) PRIVATE AND CONFIDENTIAL

(i) Closed Session Minutes of meeting held January 29, 2008

That the Minutes of January 29, 2008 closed session meeting be adopted as presented and remain confidential and restricted from public disclosure, in accordance with exemptions provided in the Municipal Freedom of Information and Protection of Privacy Act."

(ii) Closed Session Minutes of meeting held January 30, 2008

That the Minutes of January 30, 2008 closed session meeting be adopted as presented and remain confidential and restricted from public disclosure, in accordance with exemptions provided in the Municipal Freedom of Information and Protection of Privacy Act."

(iii) City of Hamilton ats Bokirca Inc. Ontario Superior Court
File No. 03-CV-252395

Refer to Item 7 of this report for disposition of this matter.

10.4 Settlement of Expropriation Claims Arising from the Closure of Limeridge Road East at Upper Wentworth Street, Hamilton

Council – February 13, 2008
Refer to Item 8 of this report for disposition of this matter.

The motion as amended CARRIED ON A RECORDED VOTE AS FOLLOWS:
Yeas: Eisenberger, Clark, Duvall, McHattie, Pasuta, Mitchell,
Pearson, Powers
Total: 8
Nays: Ferguson, Jackson, Collins, Whitehead
Total: 4
Absent: Morelli, Merulla, Bratina, McCarthy
Total: 4

The main motion was approved with the following amendments noted:

sub-sections (b) and (c) be amended to delete the amount of $1,780,000 and replace it with $1,795,000 in lieu thereof.

That sub-section (c) be amended by deleting the words, “Manfred Rudolph Law Office, in Trust”, and replacing it with the words, “Legal Counsel, in Trust”, in lieu thereof.

The meeting adjourned at 3:35 p.m.

Respectfully submitted,

Mayor F. Eisenberger

M. Gallagher, Co-ordinator
Committee of the Whole/Council/Budgets
February 11, 2008