

CITY COUNCIL MINUTES

Wednesday, April 15, 2009
7:00 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 B. McHattie, S. Merulla, D. Mitchell, R. Pasuta, M. Pearson, T. Whitehead

Absent: Councillor B. Morelli – City Business (PSB)

Councillor R. Powers – Illness

Mayor Eisenberger called the meeting to order and called upon Father George Palamattam of St. Patrick's and St. Lawrence Roman Catholic Churches in Hamilton to lead Council in prayer.

APPROVAL OF THE AGENDA

The Clerk advised of the following changes to the agenda:

- 1. Added Special Council Minutes of March 24, 2009
- 2. Added correspondence from The Honourable Ministers John Baird, Minister of Transport, Infrastructure and Communities and George Smitherman, Deputy Premier and Minister of Energy and Infrastructure respecting Infrastructure Stimulus Fund

Recommendation: Be received and referred to the City Manager

- 3. Added Private and Confidential
 - (a) Stoney Creek Urban Boundary Expansion
 - (b) Appointment of Treasurer/General Manager of Finance and Corporate Services

(Pasuta/Pearson)

That the Agenda for the City Council meeting being held on April 15, 2009, be approved, as amended. **CARRIED**

DECLARATIONS OF INTEREST

None declared.

CEREMONIAL ACTIVITIES/ANNOUNCEMENTS

None

APPROVAL OF MINUTES

(Pearson/Whitehead)

That the Minutes of the April 1, 2009, meeting of Council be approved, as presented.

CARRIED

(Ferguson/Duvall)

That the Minutes of the March 24, 2009 meting of Council, be approved, as presented.

CARRIED

COMMUNICATIONS

(Whitehead/Pearson)

That Council Communications 5.1 to 5.7, as amended, be approved, as follows:

5.1 Correspondence from The Honourable George Smitherman, Deputy Premier, Minister of Energy and Infrastructure respecting amendments to official plans to confirm to the policies in the Growth Plan for the Greater Golden Horseshoe – deadline of June 16, 2009 for municipalities

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

5.2 Correspondence from the Honourable Madeleine Meilleur, Minister of Community and Social Services respecting increases to per diem rate for domiciliary hostels and emergency shelters

Recommendation: Be received

5.3 Correspondence from the Honourable David Caplan, Minister of Health and Long Term Care respecting one-time funding for nurses to receive ambulance patients at locally selected hospitals for 2009/2010

Recommendation: **(Duvall/Jackson)** Be referred to the Emergency and Community Services Committee.

5.4 Correspondence from The Honourable Michael Chan, Minister of Citizenship and Immigration respecting Lincoln M. Alexander Award to honour young Ontarians who have demonstrated exemplary leadership

Recommendation: **(Ferguson/Duvall)** Be referred to educational institutions.

5.5 Correspondence from the Municipality of Grey Highlands respecting removal of local land use planning controls for renewable energy facilities

Recommendation: (Ferguson/Jackson) Be endorsed.

5.6 Correspondence from Carlo DiGioacchino, Dundurn Edge Developments respecting Parkland Dedication

Recommendation: Be received

5.7 Correspondence from The Honourable Ministers John Baird, Minister of Transport, Infrastructure and Communities and George Smitherman, Deputy Premier and Minister of Energy and Infrastructure respecting Infrastructure Stimulus Fund

Recommendation: Be received and referred to the City Manager

CARRIED as amended

(Whitehead/Pearson)

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

PUBLIC WORKS COMMTTEE REPORT 09-006

Item 6 Plastic Shopping Bag Reduction and Recycling (PW07155(b)) (City Wide)

The motion **CARRIED** on the following vote:

Yeas: Eisenberger, Bratina, Clark, Collins, Duvall, Ferguson, Jackson,

McCarthy, Merulla, Pasuta, Mitchell, Pearson, Whitehead

Total: 13 Nays: McHattie Total: 1

Absent: Morelli, Powers

Total: 2

(Bratina/Clark)

That the SIXTH Report of the Public Works Committee be adopted, and the information section received. **CARRIED**

EMERGENCY & COMMUNITY SERVICES COMMITTEE 09-006

(Duvall/Collins)

That the SIXTH Report of the Emergency & Community Services Committee be adopted, and the information section received. CARRIED

ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE 09-008

Item 9 Title amended to read as follows:

Parkland Dedication/Cash-in-Lieu: Official Plan Amendment, New Implementing by-law and Policy (PE09028(a)) (City Wide)

(Ferguson/Bratina)

That Item 9(i) Economic Development and Planning Committee Report 09-008 respecting Parkland Dedication be referred back to the Economic Development and Planning Committee. **CARRIED**

Motion as amended CARRIED

Item 11 Prohibition or Regulation of Drive-Through Facilities within the City of Hamilton (PED09082) (City Wide)

The motion **CARRIED** on the following vote:

Yeas: Eisenberger, Bratina, Clark, Collins, Duvall, Ferguson, Jackson,

McCarthy, Merulla, Pasuta, Mitchell, Pearson, Whitehead

Total: 13 Nays: McHattie Total: 1

Absent: Morelli, Powers

(Pearson/Mitchell)

That the EIGHTH Report of the Economic Development and Planning Committee be adopted, as amended, and the information section received. **CARRIED**

COMMITTEE OF THE WHOLE REPORT 09-012

Item 8 International Event Opportunities – 2015 Pan Am Games Bid – Use of Hamilton Future Funds

The motion **CARRIED** on the following vote:

Yeas: Eisenberger, Bratina, Clark, Collins, Duvall, Ferguson, Jackson,

McHattie, Pasuta, Mitchell, Pearson, Whitehead

Total: 12

Nays: McCarthy, Merulla

Total: 2

Absent: Morelli, Powers

Total: 2

Item 9 Accessible Transportation Services (ATS) Review – Request for Additional Information (PW05075(e)) (City Wide)

(McHattie/Merulla)

That Item 9 be amended by adding the following as sub-section (e):

"(e) That while DARTS will be the sole provider of non-ambulatory specialized transit services, staff be directed to ensure the City's unrestricted access to alternate service delivery of ambulatory specialized transit services."

The Amendment **CARRIED** on the following standing recorded vote:

Yeas: Eisenberger, Bratina, Clark, Collins, Duvall, Ferguson, Jackson,

McCarthy, McHattie, Merulla, Pearson, Whitehead

Total: 12

Nays: Mitchell, Pasuta

Total: 2

Absent: Morelli, Powers

Total: 2

The Main Motion, as amended, **CARRIED** on the following recorded vote:

Yeas: Eisenberger, Bratina, Collins, Ferguson, Jackson, McCarthy,

McHattie, Pasuta, Mitchell, Pearson, Whitehead

Total: 11

Nays: Clark, Duvall, Merulla

Total: 3

Absent: Morelli, Powers

Total: 2

(Whitehead/Pearson)

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

(Whitehead/Pearson)

That the Committee of the Whole rise and report.

CARRIED

MOTIONS

7.1 St. Mary's Cement Aggregate License Application

(McCarthy/Clark)

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 <u>before</u> this system is implemented <u>or added</u> 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 hydro-geologist 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. Provincially 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. Marys 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. Marys 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.

 CARRIED

7.2 Job/Resource Fair

(Merulla/McHattie)

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 lobby all chartered banks to dialogue with the City to mitigate the financial impacts of this economic crisis;
- (b) That the City of Hamilton assess the shortage of food bank inventory and establish a plan to mitigate or alleviate the shortage;
- (c) That staff investigate the feasibility of hosting a job fair/resource fair in conjunction with the Federal and Provincial Governments and local industries in an attempt to provide services to those who have lost their jobs.

The Motion **CARRIED** on the following standing recorded vote:

Yeas: Eisenberger, Bratina, Clark, Collins, Duvall, Ferguson, Jackson,

McHattie, Merulla, Pasuta, Mitchell, Pearson, Whitehead

Total: 13

Nays: None

Total:

Absent: McCarthy, Morelli, Powers

Total: 3

7.3 Status of Solid Waste Management Master Plan, Options for Increasing Diversion and Landfill Capacity (PW07151) (City Wide)

(Whitehead/Merulla)

That Subsection 3(c) and 3(c) (iv) (in **bold print**) of Public Works Committee Report 07-015 approved by Council on November 28, 2007 respecting container limit on garbage be reconsidered:

- 3. Status of Solid Waste Management Master Plan, Options for Increasing Diversion and Landfill Capacity (PW07151) (City Wide) (Item 7.1)
 - (a) That the Solid Waste Management Master Plan (SWMMP) Recommendation 3, "The City of Hamilton must set an aggressive objective of 65% waste diversion by the end of 2008, based on 2000 waste generation rates." be amended to "The City must strive to meet an aggressive objective of 65% waste diversion by the end of 2011, based on 2006 waste diversion rates.";
 - (b) That the implementation of the multi-residential diversion program be accelerated in 2008 for completion in 2009 as outlined in this report PW07151;
 - (c) That a one (1) container limit on garbage be established for implementation on March 31, 2008 together with:
 - (i) three (3) grace weeks following Victoria Day, Thanksgiving and New Years when residents could set out up to three (3) containers of garbage;
 - (ii) a transition period between March 31, 2008 and March 28, 2009 during which enforcement will focus on education and customer service:
 - (iii) a special consideration process for medical circumstances and families with three (3) or more children under the age of five (5) years; and
 - (iv) an allowance in the event that should residents require set outs beyond the weekly one (1) container limit, that an additional one (1) clear plastic bag be permitted to be set out for the period of March 30, 2009 to April 5, 2010, providing that it does not contain Unacceptable Garbage as defined in Solid Waste Management By-law 05-190;

all in conjunction with the 2008-09 Waste Collection Calendar;

- (d) That the two (2) temporary Customer Service Co-ordinator positions, funded through the Waste Management operating budget since April 2006 continue as temporary positions for an eighteen (18) month term, and staff report back on the future need for the positions prior to the end of the new term;
- (e) That enhanced enforcement of the Solid Waste Management Bylaw 05-190 be undertaken, including the addition of one half (.5) full-time employee (FTE) to the Municipal By-law Enforcement staffing in 2008 at no net cost, and further, that this be referred to the 2008 Budget Process;
- (f) That, effective March 31, 2008, appropriate compostable bags be accepted in the City's Green Cart program;
- (g) That staff continues to explore options to reduce waste and to increase diversion in 2009 and 2010 to achieve the 65% diversion target;
- (h) That Waste Management Project ID 5120890100 Annual User Pay Implementation in the amount of \$835,000 be removed from the 2008 Tax Capital Budget request.
- (i) That staff be directed to meet with the Agricultural and Rural Affairs Advisory Committee respecting their ability to comply with the one-container limit for garbage. **CARRIED**

The Motion to Re-consider was **DEFEATED** on the following standing recorded vote:

Yeas: Collins, Duvall, Jackson, Merulla, Whitehead

Total: 5

Nays: Eisenberger, Bratina, Clark, Ferguson, McHarttie, Pasuta, Mitchell,

Pearson

Total: 8

Absent: McCarthy, Morelli, Powers

Total: 3

7.4 Policies respecting Severances for Elected Officials

That staff be directed to review and report back to the Audit and Administration Committee on the following:

(a) Policies and procedures of other municipalities with respect to severance for elected officials who are unsuccessful in their bid for re-election;

(b) A review of the Employment Standard Act, the Municipal Act, current Hamilton bylaws, and any other relevant legislation. **WITHDRAWN**

(McHattie/Merulla)

That the Rules of Order be suspended in order to allow for the introduction of a motion respecting appointments to and the composition of the Environmentally Significant Areas Impact Evaluation Group (ESAIEG).

CARRIED.

7.5 Citizen Appointments to and Composition of the Environmentally Significant Areas Impact Evaluation Group (ESAIEG).

(McHattie/Merulla)

(a) That the following members be appointed to ESAIEG, until November 30, 2009, or until such time as successors are appointed:

Marcus Buck George Coker Ken Glasbergen Pat Chow-Fraser Robert Curry Christopher Zoladeski

(b) That the Terms of Reference for ESAIEG be amended to specify that the minimum number of members be six (6) and the maximum number of members be nine (9).

CARRIED

NOTICES OF MOTION

None

STATEMENT BY MEMBERS

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

PRIVATE AND CONFIDENTIAL

(Pearson/Mitchell)

That Council move into Closed Session, at 9:00 p.m., pursuant to Section 8.1(b) of the City's Procedural By-law as the subject matters relate to personal matters about identifiable individuals, including municipal or local board employees, and to a matter which refers to litigation or potential litigation, including matters before administrative tribunals affecting the municipality.

(Merulla/Pearson)

That the Committee reconvene in Open Session at 9:35 p.m.

10.1 Stoney Creek Urban Boundary Expansion (SCUBE)

(Pearson/Mitchell)

That Item 26 of Economic Development and Planning Committee Report 09-007, approved by Council on April 1, 2009, which reads as follows, be reconsidered:

26. Stoney Creek Urban Boundary Expansion (SCUBE) (Item 12.3)

While the City takes a neutral position, City Council has no objection to the inclusion of additional lands in the urban boundary, west of Fifty Road, north of Barton Street and south of CNR railway, not identified in Attachment 1 of OMB Decision 2634.

(Pearson/Mitchell)

That Item 26 of Economic Development and Planning Committee Report 09-007, approved by Council on April 1, 2009, be deleted in its entirety and replaced with the following in lieu thereof:

26. Stoney Creek Urban Boundary Expansion (SCUBE)

Given that the Ministry of Municipal Affairs and Housing objects to the inclusion of additional lands in the urban boundary, west of Fifty Road, north of Barton Street and south of the CNR railway and not identified in Attachment 1 of OMB Decision 2634.

That the City of Hamilton uphold its settlement within the Ministry of Municipal Affairs and Housing, as confirmed in Board Orders 0802, 1562, 2634 and 1202, with regard to the Stoney Creek Urban Boundary Expansion.

CARRIED

10.2 Appointment of Treasurer and General Manager, Finance and Corporate Services

(Whitehead/Pearson)

- (a) That Rob Rossini be appointed as General Manager of Finance and Corporate Services for the City of Hamilton effective May 11, 2009;
- (b) That Antonio D. Tollis be appointed Treasurer for the City of Hamilton effective May 11, 2009;
- (c) That the appropriate by-law be passed and enacted. CARRIED

BY-LAWS

(Whitehead/Pearson)

(a) That the Bill List be amended by adding the following as Bill No. 78:

By-law No. Bill No.

09-078 078 To Appoint a Treasurer

(b) That the remaining Bill be renumbered accordingly. Amendment CARRIED

(Whitehead/Pearson)

That Bill Nos. 09-069 to 09-079 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 09-069 to 09-079 as follows:

By-law No.	Bill No.	
09-069	069	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 Schedule 14 – Wheelchair Loading Zones Schedule 15 – Commercial Vehicle Loading Zones Schedule 20 – School Bus Loading Zones
09-070	070	To Amend By-law No. 01-215, To Regulate Traffic: Schedule 2 – Speed Limits Schedule 11 – No Left turn On Red Schedule 13 – Designated Traffic Lanes
09-071	071	To Amend Zoning By-law No. 05-200, Respecting lands located at 306 Woodworth Drive (Ancaster)
09-072	072	To Adopt Official Plan Amendment No. 146 to the former City of Stoney Creek, Respecting 568 Highway No. 8
09-073	073	To Amend Zoning By-law No. 3692-92 (Stoney Creek), Respecting the Lands Located at 568 Highway No. 8
09-074	074	To Amend Zoning By-law No. 90-145-Z (Flamborough), Respecting Lands Located at 153 Highway 52
09-075	075	To Amend Zoning By-law No. 90-145-Z (Flamborough), as amended by By-law No. 94-67-Z, Respecting Lands Located at 65 Oak Avenue
09-076	076	Respecting Removal of Part Lot Control, Lots 2-11 & 14, Registered Plan No. 62M-1123, "Ardleigh Heights"
09-077	077	Respecting Removal of Part Lot Control, Blocks 163, 164, and 165, Registered Plan No. 62M-1065, "Meadowlands Phase 8"

By-law No. Bill No.

CARRIED as amended

(Pearson/Merulla)

There being no further business, the City Council meeting adjourned at 9:40 p.m.

CARRIED

Respectfully submitted

Fred Eisenberger Mayor

Kevin Christenson Clerk April 15, 2009