Committee of the Whole
REPORT 08-019

9:30 a.m.
May 12, 2008
Albion Rooms
Hamilton Convention Centre

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

Absent with regrets:
Councillor M. McCarthy – Other City Business
Councillor T. Whitehead - Vacation

Also Present:
G. Peace, City Manager
S. Stewart, General Manager, Public Works
T. McCabe, General Manager, Planning and
Economic Development
J. Kay, Fire Chief/General Manager HES
Dr. E. Richardson, Medical Officer of Health
P. Barkwell, City Solicitor
M. Gallagher, Coordinator, COW

COMMITTEE OF THE WHOLE PRESENTS REPORT 08-019 AND
RESPECTFULLY RECOMMENDS:

1. Presentation by Diedre Pike, Social Planning and Research Council
   respecting LGBTQ needs assessment (Item 7.3)
   
   (a) That the presentation by Diedre Pike, Social Planning and
       Research Council be received;
(b) That the report and recommendations of the Needs Assessment of the LGBTQ Community of Hamilton be referred to the Community Services Department for further review and for a report back to the Emergency and Community Services Committee;

(c) That the report and recommendations of the Needs Assessment of the LGBTQ also be referred to the Hamilton Centre for Civic Inclusion.

2. **Update on Building Collapse - Balfour Building – 15-21 King William Street, Hamilton (CM08017)(Item 8.6)**

   (a) That Report CM08017 respecting information regarding the collapse of the Balfour Building at 15-21 King William Street, Hamilton be received;

   (b) That staff report back to the Committee of the Whole on improved inspection procedures related to vacant buildings and other properties that are potentially unsafe and that this report include the review of other Municipal Best Practices and the possibility of a new, proactive inspection protocol for such buildings in the City of Hamilton.

   (c) That the Planning and Economic Development Department and the City’s Municipal Heritage Committee expedite a report regarding a Designating By-law under the Ontario Heritage Act for the significant heritage attributes of 46-52 James Street North (William Thomas Building) for consideration by Council.

   (d) That a working group of Council be established to work on the issues affecting the King William and James Street North area and to plan the future of the streetscape for this area.

   (e) That the comments/concerns raised at the Committee of the Whole meeting be forwarded to staff for review and report back to committee.

3. **Advisory Committee for Persons with Disabilities - Follow up Report (CM08015) (City Wide) (Item 8.1)**

   (a) That Councillor Morelli be appointed to the membership on the Advisory Committee for Persons with Disabilities;

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(b) That Members of Senior Management Team upon receiving a written request by the Advisory Committee for assistance be directed to assign the most appropriate staff person within their department to work with the Advisory Committee to discuss next steps (i.e. type of information requested, scheduling of presentations etc.)

4. Advisory Committee for Persons with Disabilities Report 08-002, April 8, 2008 (Item 8.2)

That Report 08-002 of the Advisory Committee for Persons with Disabilities be referred to the General Manager of Community Services for review and report back to the Emergency and Community Services Committee.

5. Tax and Rate Operating Budget Variance Report to December 31, 2007 (Unaudited) (FCS08038) (City Wide) (Item 8.3)

(a) That the 2007 Tax and Rate Operating Budget Variance Report to December 31, 2007 be received for information and

(b) That, subject to Final Audit, Table 1 - Disposition of Year-End Surplus, of Report FCS08038, be approved.

6. Police Services Board - Funding Agreement: Safer Communities – 1,000 Officers Partnership Program (SCOPP) (City Wide) (PSB05-055h) (Item 8.4)

That the Mayor and City Clerk be authorized and directed to execute the Funding Agreement: Safer Communities – 1,000 Officers Partnership Program (SCOPP) respecting additional funding for front-line officers between Her Majesty in Right of Ontario as represented by the Minister of Community Safety and Correctional Services, the City of Hamilton and the Hamilton Police Services Board, such agreement to be in a form satisfactory to the City Solicitor.

7. BMA Management Report on Recommendations Nos. 33, 42, 44, 45 of the January 2007 Internal Audit of the Former Standards and Licensing Section (PED08127) (Item 8.5)

(a) That the BMA Management Report on Recommendations Nos. 33, 42, 44, 45 of the January 2007 Internal Audit of the Former Standards and Licensing Section (PED08127) be received.

(b) That the presentation respecting highlights of BMA Management Consulting report be received;
(c) That the management’s decision to immediately implement the team based enforcement approach as recommended in the BMA report be supported;

(d) That the increase of 1 officer FTE in the Municipal Law Enforcement Section to be funded by increased licensing revenues be approved;

(e) That management’s decision to convert 2 existing positions in the current staff complement to officer positions be endorsed;

(f) That the principle of eliminating unnecessary/nuisance work and direction to staff to report back with recommendations be endorsed;

(g) That staff be directed to report back with a recommended priority based response system for by-law enforcement (including proactive advertising and promotion) once the team based approach is established, team workloads are determined and a comprehensive listing of unnecessary and nuisance work is identified;

(h) That management’s decision to create an Operational Planner position by using a current vacancy in the Hamilton Municipal Parking System, and approve the creation of an administrative support position and a Project Manager, Process Control (net increase of 2 FTE) be endorsed;

(i) That, to house additional enforcement and support staff, approval be given to negotiate and enter into a lease agreement for approximately 1,500 square feet within Suite 256, City Centre, for a 5 year term with 1 year renewable options, similar to the existing terms and conditions the City has for Suite 250;

(j) That approval be given to a one-time capital expenditure (estimated at $70,000), for an additional 2 vehicles for increased enforcement staff from within current budget

8. Hamilton Utilities Shareholders – Annual Report and Resolution of Shareholders (Item 9.1)

(a) Receive HUC 2007 Financial Statements

That the Financial Statements for the year 2007 be approved by the Board of Directors, of Hamilton Utilities Corporation.
(b) **Change to Shareholder Agreement**

WHEREAS the Shareholder Agreement Section 4 (b) provides that the Board shall comprise of the President & CEO as a member of the Board;

AND WHEREAS the Hamilton Utilities Corporation board is making recommendation to the Shareholder that the Shareholder Agreement Section 4 (b) be changed to provide that the President & CEO ‘may’ be appointed as a member of the board.

BE IT RESOLVED THAT, the City of Hamilton amend the Shareholder Agreement between the City of Hamilton and Hamilton Utilities Corporation, Section 4 (b) Board Composition to provide that the President & CEO of the Corporation ‘may’ be appointed as a member of the board.

(c) **Appointment of Directors**

That the following slate of Nominees be re-appointed to serve as independent Directors, as put forth by the Nominating Committee and supported by the Board of Directors, of Hamilton Utilities Corporation, and that, the corresponding terms of office are approved, effective June 30, 2008;

- Robert Dolan 1 year term
- Charles Hantho 6 month term
- Edward Minich 3 year term
- Peter Routliff 1 year term
- Owen Shewfelt 3 year term
- Marnie Spears 3 year term

FURTHER THAT, the following slate of Nominees be approved to serve as new independent Directors, as put forth by the Nominating Committee and supported by the Board of Directors, of Hamilton Utilities Corporation, and that, the corresponding terms of office are approved, effective June 30, 2008;

- Sandy Adam, Chair Designate 3 year term
- Joan Weppler 3 year term

This slate of independent directors combined with Mayor Fred Eisenberger comprises the Hamilton Utilities Corporation slate of Directors effective June 30, 2008.
(d) **Appointment of the Auditors**

That KPMG LLP, Chartered Accountants be re-appointed auditors of Hamilton Utilities Corporation for the fiscal year 2008.

**FOR THE INFORMATION OF COUNCIL:**

(a) **CHANGES TO THE AGENDA**

The Clerk circulated an addendum to the agenda which highlighted the additions to the agenda.

Additional written submission by Grant Head on the Integrity Commissioner By-law and a request to speak to committee by Matt Jelly on the Balfour building collapse was also circulated.

The agenda was adopted as amended.

(b) **DECLARATIONS OF INTEREST**

None

(c) **ADOPTION OF MINUTES**

3.1 April 21, 2008

That the Minutes of April 21, 2008 were adopted as presented.

(d) **ANNOUNCEMENTS**

(i) Deputy Mayors for the Day - Jennifer Michor and Sarah Donoff (Item 4.1)

The Mayor recognized the two Deputy Mayors for the Day, Jennifer Michor of Saltfleet District High School in Stoney Creek and Sarah Donoff of Sir William Osler School in Dundas.

(e) The following items were received:

(i) Minutes of the January 8, 2008 meeting of the Advisory Committee for Persons with Disabilities (Item 5.1)

(ii) Minutes of the February 12, 2008 meeting of the Advisory Committee for Persons with Disabilities (Item 5.2)

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(f) **DELEGATION REQUESTS**

The following delegation requests were approved:

6.1 Request by Chair Judith Bishop, Hamilton-Wentworth District School Board to present the Board’s Capital Plan

6.2 Kathy Drewitt, Downtown BIA respecting Item 8.6 – Balfour Building Collapse

6.3 Kevin MacKay, Sky Dragon respecting Item 8.6 – Balfour Building Collapse

6.4 Karen Burson, The Bread and Roses Café @ Sky Dragon respecting Item 8.6 – Balfour Building Collapse

6.5 Kieran Dickson respecting Item 8.6 – Balfour Building Collapse

6.6 Barbara Murray respecting Item 8.6 – Balfour Building Collapse

6.7 Janice Brown, Durand Neighbourhood Association respecting Item 8.6 – Balfour Building Collapse

6.8 Matt Jelly respecting Item 8.6 – Balfour Building collapse

(g) **Public Meeting – Draft By-law to Establish the Office of Integrity Commissioner (Item 7.1)**

(a) Santo Barbieri – not in attendance

(b) Written Submission submitted by Greg Levine

Mr. Levine addressed Committee and highlighted the pros and cons to the by-law and further provided an overview of his submission.

He also suggested that council review the following website by googling - Government Ethics Law in Canada

(c) Written Submission submitted by Tom Atterton, Hamilton and District Labour Council

The submission was received.
Following the presentations, members of council provided areas of concern with respect to the by-law which should receive further review and consideration. They included:

- **Section 12(2)** – delete word “shall” with the word “may”
- **Section 13** – be deleted
- **Section 14(1)** – amend 180 days to 6 weeks in keeping with municipal Conflict of Interest Act
- **Section 21(1)** – is appropriate clause to be there – suggest coming back to council with recommendation
- **33(1)** – concern with the 90 days prior to an election – is it necessary? – May be redundant because of Section 12

- **Section 21(2)** who is delegate? – clarification on delegating authority
- **Section 29 and 30** – moving to public inquiries act – exposing citizens to expense if there is a public inquiry – should come back to council for approval before an inquiry is called
- **Non Refundable filing fee - $100** pros and cons

Following the discussion the committee directed that the submissions, and suggested amendments/concerns be referred to the Accountability and Transparency Sub-committee for review and report back to a Committee of the Whole

**(h) Community Council’s Task Force Report 07-001 (Item 7.2)**

Art Samson Chair of the Task Force introduced members of the Task Force and provided an overview of the Report. He also thanked Ida Bediou, Clerks Office and Ted McMeekin, MPP for their assistance during the process.

Mr. Samson provided information on various types of community councils, provided an overview of the mandate of the Committee, consultation process held with the public and highlighted feedback received.

Following the discussion on this item, Committee approved the following:

“That Hamilton City Council take advantage of the new powers granted pursuant to the recent amendments to the Municipal Act, and further directed Staff to review the attached Terms of Reference submitted by the Community Councils Task Force and report to committee on any conflicting issues which may not be consistent with current practices at the City of Hamilton (i.e. Permissive Powers section) as well as reviewing the costing and costing implications and preparing a by-law to create Community Councils in 2008 for Committee’s review.”

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Councillor Powers also submitted to the Clerk submissions from the Dundas Community Council Meeting for referral to the sub-committee for inclusion with the review.

(i) **Presentation by Diedre Pike, Social Planning and Research Council respecting LGBTQ needs assessment (Item 7.3)**

Ms. Pike provided an overview of the findings included in the LGBTQ Needs Assessment.

Councillor Bratina will meet with the LGBTQ Task Force and the staff of the Downtown Renewal group to assist in developing a plan for a community centre.

(j) **Update on Building Collapse - Balfour Building – 15-21 King William Street, Hamilton (CM08017)(Item 8.6)**

A motion to move Item 8.6 up on the agenda CARRIED with the following noted oppositions Mayor Eisenberger, Councillors Pearson, Pasuta.

Tim McCabe, General Manager of Planning and Economic Development and staff (John Spolnik, Dave Duncliffe, Marty Hazell, Rob Hall) provided an overview of the pre and post collapse of the Balfour building and a further overview of the staff report.

The following delegations were entertained with respect to this item:

(i) **Kathy Drewitt, Downtown BIA (Item 6.2)**

Ms. Drewitt address the following issues in her presentation:
- Occurrences on the street over the past few weeks – impacts on the rest of the business in area.
- loss of business, uncertainty
- two businesses closed and one asked to move
- loss of parking has caused disruption
- demo and removal of rubble taking too long
- business people had to recover towed vehicles
- street lighting damage
- BIA sense of urgency on the entire Lister project
- act responsibly around perimeter around building – falling debris
- should be a temporary sidewalk be constructed in area
- restore lighting following construction
- secure the building
- petition the provincial government to remove the vacant property tax rebate exemption from vacant properties

(ii) Kevin MacKay, Sky Dragon (Item 6.3)

Mr. MacKay highlighted the following issues in his written presentation:
- 2 standards applied in the city – one for large developers and one for local, small developers
- saving heritage – use this to attract business, cultural institutions
- suggestions: (1) immediate enforcement of property standards by-law in downtown core – a more proactive approach (2) some fund/protocol to compensate local businesses due to collapse of buildings due to neglect, failure of city infrastructure
- municipal legislation should be enacted

(iii) Karen Burson, The Bread and Roses Café @ Sky Dragon (Item 6.4)

Ms. Burson highlighted the following issues in her presentation:
- stake in the future of downtown development
- learn from what has happened with Balfour
- be preventative
- adopt a fresher perspective on development
- opportunity for Hamilton to say we want a better future – i.e. greening of Lister Block – LEED certification

(iv) Kieran Dickson (Item 6.5)

Mr. Dickson addressed committee and expressed concerns with errors and omissions in the staff report. He noted that the Lister Block is one of the rare remaining blocks of older buildings, and regardless of merits of the building on stretch it was an attractive asset and would spur investment and economic development downtown. He expressed concern with the lack of leadership on Lister project by city management. He suggested council refuse to accept the staff report until the matters have been addressed. Mr. Dickson also addressed the orders to comply and the damage to neighbouring buildings.

(v) Barbara Murray (Item 6.6)

Ms. Murray highlighted the following issues in her presentation:
- private citizen lives in ward 2
- realize the importance of the landmark of the building
- second time in four years we have had spontaneous collapse of a building
- what other jurisdiction in this province and country has this kind of record
- need to be more proactive with respect to building code
- where is the project management between the city and proponent to identify next steps
- what has to be done to mitigate risks in these properties and to protect the assets
- encourage council to think creatively with senior staff to get more proactive
- we need more aggressive project management on this Lister block proposal

(vi) Janice Brown, Durand Neighbourhood Association (Item 6.7)

Ms. Brown highlighted the following issues in her presentation:
- demolition by neglect – Balfour perfect example
- early 70’s Durhand experienced uncontrolled cycles of demolition
- Former St. Marks Church site purchased by the city and designated heritage site. This property has been neglected since its purchase.
- suggest that the city lead by example
- suggest the city has tools to enforce property standards but not the will
- suggest the city undertake a through review of the property standards by-law

(vii) Matt Jelly (Item 6.8)
Not present.

(viii) David Kerr (Item 8.7)

Mr. Kerr highlighted the following issues in her presentation:
- concerns with respect to leadership
- city has been negotiating with LIUNA for years – has failed to use its bargaining power
- city did not follow its own official plan
- city can demand preservation of Lister
- staff report on collapse should address how city will make demands of LIUNA
- refuse staff report

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Issues raised by members of Council included:

- 2006 report 15-21 King William – structural problems evidenced by major cracks
  Mr. Mancinelli was present and was asked to address this matter. He advised there was no follow up as the building was scheduled for demolition and it wasn’t part of the Lister Block rehabilitation
- The presence of an engineer on site - Staff advised there was an engineer of record for the project that did provide a report after initial collapse. An engineer is not required to be on site at all times.
- What are we doing to maintain the standard of St. Marks – staff advised that minimal standards are being enforced.
- The trespassers who were in the Balfour and Lister building should be noted in the staff report
- Building not kept in a secure way by owner - Part of fire code violation
- Emergency order comply – determination of structure
- Structural engineers – do we have any on staff or roster that could have assisted with the decision – staff responded yes
- Need to explore the issue of compensation in closed session
- Need to immediately address the broken glass of the Lister Block windows – staff advised they would take immediate action.
- Need to be proactive in taxation with respect to designated buildings
- Role of a municipal council with respect to demolition permits – residential vs. commercial

(k) BMA Management Report on Recommendations Nos. 33, 42, 44, 45 of the January 2007 Internal Audit of the Former Standards and Licensing Section (PED08127) (Item 8.5)

Marty Hazell, Director, Parking/By-law Services provided an overview of the BMA Management Report and highlighted the following:
- Organizational overview
- Operational Review
- Summary Findings by consultant
- Recommendations for consideration

There was an amendment to include proactive advertising and promotion of the by-law to recommendation 7(g)
The Committee also addressed the role of the Licensing Committee and the correct terminology to be used in its naming. (i.e. should it be called the Licensing Tribunal as it is a quasi judicial body)

The City Manager advised that the matter is currently under review and a report will be forthcoming.

(l) Hamilton Utilities Shareholders – Annual Report and Resolution of Shareholders (Item 9.1)
Representatives of HUC provided an overview of the following:
- HUC Year in Review
- Business Review: Horizon Utilities, FibreWired, Hamilton Community Energy
- The Year Ahead

Council members extended appreciation to Charles Hantho for his dedication and leadership on the Hamilton Utilities Board.

(m) Private and Confidential

Committee moved into Closed Session further to Section 8.1(d) of the Procedural By-law as the issue related to personal matters respecting identifiable individuals including municipal employees and to also address the matter respecting compensation as it related to the collapse of the Balfour Building.

Committee reconvened in Open Session.

(i) Closed Session Minutes of April 7, 2008 (Item 12.1)

The Closed Session Minutes of April 7, 2008 were adopted as presented and remain confidential and restricted from public disclosure in accordance with the exemptions provided in the Municipal Freedom of Information and Protection of Privacy Act.

(ii) Personal Matter respecting identifiable Individuals including municipal or local board employees (PED08127)

Recommendation approved in Open Session.
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The meeting adjourned at 6:00 p.m.

Respectfully submitted,

Mayor F. Eisenberger

M. Gallagher, Co-ordinator
May 12, 2008