MOTION

Council Date: January 28, 2009

MOVED BY COUNCILLOR M. MCCARTHY..........................

SECONDED BY COUNCILLOR ...........................................

BILL 138, PROTECTION OF PUBLIC PARTICIPATION ACT, 2008

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;

AND 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;

AND 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.”;

AND 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;
AND 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;

AND 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;

AND 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:

(a) Support the efforts of MPP Andrea Horwath with respect to the current Bill 138 – Protection of Public Participation Act, 2008.

(b) Circulate this resolution to all other Ontario municipalities encouraging them to consider similar resolutions of support.