Present: Councillors D. Mitchell, Chair and M. McCarthy, Vice Chair
Councillors D. Braden, C. Collins, P. Bruckler, M. Ferguson, T. Jackson and S. Merulla

Also Present: Councillors B. Bratina and A. Samson

S. Stewart, General Manager, G. Davis, B. Goodger, J. Harnum, C. Murray, B. Shynal, J. Dahms, C. Hill, and, P. Parker, Public Works Department
T. McCabe, T. Redmond, M. Watson, Planning and Economic Development Department
B. L. Purdon, Public Health and Community Services
J. McLennan, Corporate Services
I. Bediou, Clerk’s Office

THE FOLLOWING ITEMS WERE REFERRED TO COUNCIL FOR CONSIDERATION:

1. Volunteer Committee Minutes – For Information (Item 5.1):
(McCarthy/Braden)
That the following Volunteer/Sub-Committee Minutes be received for information:

(a) Waste Reduction Task Force Minutes of September 21, 2005 Meeting
(b) Waste Reduction Task Force Minutes of October 19, 2005 Meeting
(c) Niagara-Hamilton WastePlan Working Group Minutes of September 15, 2005 Meeting.

Council – November 23, 2005
2. **To Incorporate Certain City Land Into Various Streets by By-Law (PW05002g) - (Affects Wards 7, 8, 9 and 11) (Item 5.2)**

*(McCarthy/Braden)*

(a) That the following City land be incorporated into the following streets:

<table>
<thead>
<tr>
<th>Street</th>
<th>Block</th>
<th>Plan</th>
<th>Ward</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bolzano Drive</td>
<td>40</td>
<td>62M-806</td>
<td>7</td>
</tr>
<tr>
<td>Brigadoon Drive</td>
<td>Part 1</td>
<td>62R-17071</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>Block BX</td>
<td>62M-136</td>
<td></td>
</tr>
<tr>
<td>Gatestone Drive</td>
<td>153</td>
<td>62M-964</td>
<td>9</td>
</tr>
<tr>
<td>Waterberry Trail</td>
<td>25</td>
<td>62M-974</td>
<td>8</td>
</tr>
<tr>
<td>Whitefish Crescent</td>
<td>60</td>
<td>62M-1013</td>
<td>11</td>
</tr>
</tbody>
</table>

(b) That the By-Laws to carry out the incorporation of the said land into the foregoing streets be prepared to the satisfaction of the Corporate Counsel and be enacted by Council.

(c) That the General Manager, Public Works, be authorized and directed to register the By-Laws.

**CARRIED**

3. **Reduced School Area Speed Limit - Terrace Drive, South Bend Road, Warren Avenue - Norwood Park Elementary School (PW05139) - (Ward 7) (Item 5.3)**

*(McCarthy/Braden)*

(a) That the speed limit on South Bend Road between Allenby Avenue and Dana Drive be set at 40 km/h.

(b) That the speed limit on Terrace Drive between Mohawk Road East and McElroy Road East be set at 40 km/h.

(c) That the speed limit on Warren Avenue between Mohawk Road East and McElroy Road East be set at 40 km/h.

**CARRIED**
(d) That the by-law outlined in Report PW05139 as Appendix “A” to amend the City of Hamilton Traffic By-law 01-215 be passed and enacted.  

CARRIED

4. Petition - East 28th Street from Fennell to Queensdale (Ward 7) (PW5133) (Item 5.4)  
(McCarthy/Braden)  
(a) That Report PW5133 respecting Petition - East 28th Street from Fennell to Queensdale be received for information.  

(b) That the corresponding Outstanding Business List Item be deleted.  

CARRIED

5. Petition for Road Improvements at the Junction of Centre Road and 14th Concession (Ward 15) (PW05140) (Item 5.5)  
(McCarthy/Braden)  
(a) That Report PW5140 respecting Petition for Road Improvements at the Junction of Centre Road and 14th Concession be received for information.  

(b) That the corresponding Outstanding Business List Item be deleted.  

CARRIED

6. Enforcement Strategy for Solid Waste Management By-law 05-190 (PW04034c) - (City Wide) (Item 7.1)  
(Bruckler/Braden)  
(a) That the enforcement strategy for Solid Waste Management By-law 05-190 contained in Report PW04034c be approved;  

(b) That the Director of Waste Management be directed to make application to the Regional Senior Justice for the establishment of the set fines, as set out in Appendix A attached to Report PW04034c;  

(c) That the Reward and Recognition Program be approved and funded from the Waste Management Community Outreach account 512830-57213; and  

(d) That the corresponding item be removed from the Public Works, Infrastructure and Environment Outstanding Business List.  

CARRIED
7. Intersection Control - McKay Road and McKay Court (PW05138) - (Ward 13) - Public Works, Infrastructure & Environment Committee Agenda Outstanding Business List (Item 8.1)

(Braden/McCarthy)
(a) That northbound stop control be implemented on McKay Road at McKay Court.

(b) That an appropriate by-law to amend the City of Hamilton Traffic By-law 01-215 be passed and enacted.

(c) That the item relating to the proposed stop sign at McKay Road and McKay Court Dundas be removed from the Public Works, Infrastructure & Environment Committee Outstanding Business List.

CARRIED

8. Temporary Closure of Bowen Street for Slainte Vanier Cup Event December 3 to December 4, 2005 (PW05137) - (Ward 2) (Item 8.3)

(Braden/Ferguson)
That the application by Slainte Irish Pub to temporarily close Bowen Street from Main Street to Jackson Street on Saturday, December 3, 2005 at 11:00 a.m. to Sunday, December 4, 2005 at 7:00 a.m. be approved subject to the following conditions:

(a) That the prior approval of the Chief of Police or his designate be received and that such permits or authorizations as may be required by the Chief of Police or his designate be obtained.

(b) That the applicant provide proof of $5,000,000 liability insurance, naming the City of Hamilton as an added insured party with a provision for cross liability and holding the City harmless from all actions, causes of action, interests, claims, demands, costs, damages, expenses and loss.

(c) That all barricading, detour signing, and traffic control be subject to the direction and satisfaction of the General Manager of Public Works, or his designate.

(d) That all barricading be provided by and at the expense of the applicant.

(e) That "Temporary Road Closure" signs be installed in advance by the Public Works Department, on the affected roadways, if deemed necessary by the General Manager, Public Works and at the expense of the applicant.

(f) That the applicant ensures that clean up operations are carried out immediately before the re-opening of the road, to the satisfaction of the City of Hamilton and at the expense of the applicant.
(g) That no property owner or resident within the closure area be denied access to their property upon request.

(h) That all property owners and tenants along the closed portion of the road be notified of the event by the applicant prior to the event in a form acceptable to the General Manager of Public Works.

(i) That the Alcohol and Gaming Commission of Ontario (AGCO) be advised that the City of Hamilton is aware of the application by Slainte Irish Pub, 33 Bowen Street to serve alcohol on the road allowance of Bowen Street on Saturday, December 3, 2005 from 11:00 a.m. until 11:00 p.m. and that the City has no objection to the AGCO issuance of the appropriate liquor license for the event.

(j) That any amplified sound, including set up, testing and performance will not begin prior to 11:00 am and will cease by 11:00 pm on Saturday, December 2, 2005.

CARRIED

9. Intersection Control List, November 21, 2005 (PW05001f) (Item 8.4)

That the appropriate By-law be presented to Council to provide traffic control as follows

(Ferguson/Braden)

<table>
<thead>
<tr>
<th>Intersection</th>
<th>Street 1</th>
<th>Street 2</th>
<th>Stop Direction</th>
<th>Class</th>
<th>Location – Comments</th>
<th>Ward</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Reding Rd.</td>
<td>Dalley Dr.</td>
<td>N/C</td>
<td>S/B</td>
<td>A</td>
<td>W. of Wilson St., S. of Sulpher Springs</td>
<td>12</td>
</tr>
<tr>
<td>(b) Foxmeadow Dr.</td>
<td>Candlewood Dr.</td>
<td>N/C</td>
<td>S/B</td>
<td>A</td>
<td>N. of Rymal Rd., W. of Upper Centennial Pkwy.</td>
<td>9</td>
</tr>
<tr>
<td>(c) Rogers Rd.</td>
<td>Hillside Ave. S.</td>
<td>N/C</td>
<td>E/B</td>
<td>A</td>
<td>S. of Osler Dr., E. of Main St. W</td>
<td>13</td>
</tr>
<tr>
<td>(e) Hannon Cres.</td>
<td>Pinehill Dr.</td>
<td>N/C</td>
<td>S/B</td>
<td>B</td>
<td>S. of Rymal Rd. E, W. of Fletcher Rd.</td>
<td>11</td>
</tr>
<tr>
<td>(f) Blue Mountain Dr.</td>
<td>Pinehill Dr.</td>
<td>N/C</td>
<td>N/B</td>
<td>C</td>
<td>S. of Rymal Rd. E, W. of Fletcher Rd.</td>
<td>11</td>
</tr>
<tr>
<td>(g) McKibbon Ave.</td>
<td>Pinehill Dr.</td>
<td>N/C</td>
<td>N/B</td>
<td>B</td>
<td>S. of Rymal Rd. E, W. of Fletcher Rd.</td>
<td>11</td>
</tr>
<tr>
<td>(h) McKibbon Ave.</td>
<td>Blue Mountain Dr.</td>
<td>N/C</td>
<td>S/B</td>
<td>B</td>
<td>S. of Rymal Rd. E, W. of Fletcher Rd.</td>
<td>11</td>
</tr>
<tr>
<td>(i) Simpson Ave.</td>
<td>Pinehill Dr.</td>
<td>N/C</td>
<td>N/B</td>
<td>B</td>
<td>S. of Rymal Rd. E, W. of Fletcher Rd.</td>
<td>11</td>
</tr>
<tr>
<td>(j) Simpson Ave.</td>
<td>Blue Mountain Dr.</td>
<td>N/C</td>
<td>S/B</td>
<td>B</td>
<td>S. of Rymal Rd. E, W. of Fletcher Rd.</td>
<td>11</td>
</tr>
<tr>
<td>(k) Tossell Ave.</td>
<td>Pinehill Dr.</td>
<td>N/C</td>
<td>N/B</td>
<td>B</td>
<td>S. of Rymal Rd. E, W. of Fletcher Rd.</td>
<td>11</td>
</tr>
</tbody>
</table>

Council – November 23, 2005
10. **Transit Master Plan Steering Committee, Consideration of Revised Terms of Reference Report** (PW05011c) - (City Wide) (Item 8.5)

(Collins/Jackson)

(a) That the minutes of the Transit Master Plan Steering Committee meeting held on July 12, 2005, attached to Report PW05011c as Appendix A, be received.

(b) That the minutes of the Transit Master Plan Steering Committee meeting held on September 29, 2005, attached to Report PW05011c as Appendix B, be received.

(c) That the minutes of the Transit Master Plan Steering Committee meeting held on October 27, 2005, attached to Report PW05011c as Appendix C, be received.

CARRIED
11. Application for 2005 Ontario Transit Vehicle Program (OTVP) Subsidy (PW05134) (City Wide) (Item 8.6)  

(Jackson/Collins)  

(a) That pursuant to the Ontario Transit Vehicle Program (OTVP) - Guidelines and Requirements, the Council of the City of Hamilton hereby requests an allocation of 2005 transit fleet capital renewal funds for the replacement of 14 conventional transit vehicles in the amount of $1,823,822 representing 33% of gross expenditures of $5,471,471 as reported in Capital Project ID: 5300583101.

(b) That pursuant to the Ontario Transit Vehicle Program (OTVP) - Guidelines and Requirements, the Council of the City of Hamilton hereby requests an allocation of 2005 transit fleet capital renewal funds for the replacement of 9 specialized transit vehicles in the amount of $549,245 representing 33% of gross expenditures of $1,647,737 as reported in Capital Project ID: 5310582100.

(c) That pursuant to the Ontario Transit Vehicle Program (OTVP) - Guidelines and Requirements, the Council of the City of Hamilton hereby requests an allocation of 2005 transit fleet capital expansion funds for 5 high floor specialized transit vehicles in the amount of $167,880 representing 33% of gross expenditures of $503,642 as reported in Capital Project ID: 5310582502.

(d) That pursuant to the Ontario Transit Vehicle Program (OTVP) - Guidelines and Requirements, the Council of the City of Hamilton hereby requests an allocation of 2005 transit fleet capital expansion funds for 3 conventional transit vehicles in the amount of $361,869 representing 33% of gross expenditures of $1,085,609 as reported in Capital Project ID: 5300583507.

(e) That pursuant to the Ontario Transit Vehicle Program (OTVP) - Guidelines and Requirements, the Council of the City of Hamilton hereby requests an allocation of 2005 transit fleet capital expansion funds for 3 conventional transit vehicles in the amount of $361,869 representing 33% of gross expenditures of $1,085,609 as reported in Capital Project ID: 5300583506.

(f) That pursuant to the Ontario Transit Vehicle Program (OTVP) - Guidelines and Requirements, the Council of the City of Hamilton hereby requests an allocation of 2005 transit fleet capital renewal funds for the replacement of 14 conventional transit vehicles in the amount of $1,829,888 representing 33% of gross expenditures of $5,489,669 as reported in Capital Project ID: 5300483101.

(g) That pursuant to the Ontario Transit Vehicle Program (OTVP) - Guidelines and Requirements, the Council of the City of Hamilton hereby requests an allocation of 2005 transit fleet capital renewal funds for the replacement of 9 specialized transit vehicles in the amount of $554,245 representing 33% of gross expenditures of $1,678,822 as reported in Capital Project ID: 5310582100.
amount of $283,708 representing 33% of gross expenditures of $851,125 as reported in Capital Project ID: 5310482100.

(h) That pursuant to the Ontario Transit Vehicle Program (OTVP) - Guidelines and Requirements, the Council of the City of Hamilton hereby requests an allocation of 2005 transit fleet capital renewal funds for the refurbishment of 12 conventional transit vehicles, forecasted to be in the amount of $200,000.

(i) That the Mayor, Treasurer and Clerk be authorized to sign the application forms as required by the Ministry of Transportation.

CARRIED

12. Mill Street Outfall Class Environmental Assessment (PW05136) - (Ward 15) (Item 8.7)

(McCarthy/Jackson)
(a) That the General Manager, Public Works Department, be authorized and directed to file the Mill Street Outfall Class Environmental Assessment Project File Report with the City Clerk for a minimum 30 day public review period;

(b) That upon final approval of the 2006 Capital Budget, the General Manager, Public Works Department, be authorized and directed to proceed with the design and implementation of the proposed improvements to the Mill Street sewer and outfall, upon completion of the minimum thirty (30) day public review period; and,

(c) That the Real Estate Section of the Development and Real Estate Division of the Planning and Economic Development Department be authorized and directed to proceed with the acquisition of lands and easements required to implement the proposed improvements for the Mill Street storm sewer and outfall, subject to approval of the 2006 Capital Budget.

CARRIED

13. Lease for Swing Space - 77 James Street North - Fercan Developments Inc. (PED05178/PW05132/CM05036) (City Wide) (Item 12.1)

(Braden/Ferguson)
(a) That for the purpose of “swing space” required as a result of renovations to City Hall; the City of Hamilton enter into a lease agreement with Fercan Development Inc., subject to the following terms and conditions as set out in Report PED05178/PW05132/CM05036, for the property known as 77 James Street North, Hamilton.
(i) **Term:** Two (2) to Two and a half (2.5) year term (Minimum of Two Years) commencing in phases; December 1, 2006 for the larger space, shown as Area "J" as Appendix "B", and the second phase to commence by January 1, 2007, being Areas "F, G, and either H or I", as shown as Appendix "A" to Report PED05178/PW05132/CM05036. The Landlord will complete all the (Owner's Work) and tenant improvement renovations in a good workmanlike manner by the aforesaid dates in order for the City to commence moving in its various Departments. If at the end of the 2.5 year term the City Hall renovations are not completed, then the lease with Fercan Development Inc. shall be extended upon providing the Landlord with 30 days notice, at the same terms and conditions including rental rate, until the City Hall renovations are complete. If the City Hall renovations are completed earlier than two years, then the minimum lease term shall be two years.

(ii) **Property:** 77 James Street North, Hamilton, being part of the Ground Floor of the former mall shown as Areas “F and “G” with either Area “H” or “I” used for the Tax Department” on the plan attached as Appendix "A" to Report PED05178/PW05132/CM05036, having an approximate area of 24,500 rentable square feet and part or all of Area "J", third level of the former Eaton's Department Store, having an area of 79,632 rentable square feet, as shown on Appendix "B". The final area will not be determined until the final floor layout plans have been determined, verified and adjusted in accordance with B.O.M.A. 1996 measurement standard. In order to keep the cost of the City Hall Project in line, the objective was to reduce the amount of square feet leased for the swing period from the current office area of City Hall (approximately 120,000) to an approximate range of 80,000 to 100,000 square feet. All budget projections for analysis purposes are calculated on the basis of 90,000 rentable square feet.

(iii) **Rental Rate:** Upon the commencement date, which means the date City Departments move into the space, the City shall pay rent based on $18.50 per square foot plus G.S.T. for the area occupied. All rent and additional operating costs shall be charged to Capital Account #540441442.

(iv) **Operating Costs:** The City shall be responsible for its share of the actual operating cost over the 2005 Base Year with any increases thereafter to be charged on a prorated basis, but not to exceed the cost of the Consumer Price Index.
(C.P.I.) subject to recommendation (v). The City shall be responsible for the costs of cleaning and hydro (separately metered, meters to be provided by the owner at its own costs) which are estimated at $2 per square foot.

(v) That the Legal Services Division be authorized to prepare a By-law, under Section 110 of the Municipal Act, to propose that this leased area become a City Capital Facility, whereby the City would be exempt from paying realty taxes at this location. Upon passing the By-law and the space becoming exempt from paying realty taxes, the Landlord shall reduce the City’s rent by the amount of realty taxes that would have been paid.

(vi) Special Conditions:

(1) The City shall not be required to demolish the existing tenant improvements at the termination of the lease term.

(2) The Landlord shall pay for the cost of retaining the City of Hamilton’s approved architectural and engineering consultants at a specified amount of $3.80 per rentable square foot for the area that the Tenant proposes to occupy. The Landlord shall provide a credit for this amount in the way of free rent (approximately 2.5 months) applied at the commencement of the lease.

(3) The Landlord shall renovate the building, at its own cost, in accordance with the following conditions and specifications. Said specifications and conditions shall form part of the final lease agreement.

   (i) The Landlord shall carry out all Leaseholds at the Landlord's own cost in a good workmanlike manner; the space shall be completed as standard commercial office space (e.g. this will include new ceiling tile and paint all walls to the Tenant's specifications) and in accordance with all other specifications and plans prepared by the City's architect with consultation with the Landlord's architect, R. F. Lintack Architect Inc. The lease shall not be executed until such time as all aspects of the City's specifications and that of the Landlord's standard commercial office space specifications are resolved to both
parties, failing which this lease commitment is null and void. Due to the short term of the lease, both the Landlord and the Tenant agree to keep the Leaseholds improvements to a reasonable level, both parties shall be sensitive towards upgraded costs, without compromising the finished product in quality and function, keeping in mind the profile of the tenant, its employees and the public. The Landlord shall apply for and pay for all permits required in order to carry out the construction of the space.

(ii) EXECUTIVE OFFICES: Mayor's office, Executive Assistant and City Manager offices to be completed with 32oz. commercial grade carpet or equivalent valued floor covering as well as solid 8 foot wood double doors with steel frames. A private washroom, boardroom and kitchenette shall be installed for this group.

COUNCILLOR OFFICES: Individual private Councillors offices at a range of up to 10'x15' will be supplied and finished with 28oz. commercial grade carpet or equivalent valued floor covering and standard 7' doors with steel frames, one kitchenette area, both male and female washrooms and one 12' x 12' meeting room for use by the Councillors.

GENERAL MANAGERS: General Manager's offices to be finished to the same standard as City Councillors offices. The number of private offices for General Managers shall be defined once an interior design plan has been developed and subject to the Landlord's approval. A meeting room shall be provided for the General Mangers in a location in close proximity to each General Manager's office.

GENERAL OFFICE AREAS: To be finished with 28oz. commercial grade carpet or equivalent value floor covering, light fixtures, electrical outlets, both male and female barrier free washrooms to accommodate staff, as per the Ontario Plumbing and the National Plumbing Code of Canada, lunchroom and kitchen to be defined for location and size and
extra meeting rooms to be determined by all parties which will allow the Tenant to carry out its day to day function. The Landlord shall supply, at its own cost, all electrical and computer conduits to facilitate the Tenant’s floor layout. Keeping in mind the high ceiling of the existing space, attempts shall be made to construct the aforesaid drops in areas where columns and office walls are located; however, because of the size of Area “J” some wiring and cabling will have to come from floor mounts. It is understood and agreed by the Tenant that the number of closed private offices, lunchrooms, meeting rooms, washrooms, kitchenettes and all upgrades (if any) requested by the Tenant, shall be subject to the Landlord's approval once a floor plan is finalized.

The lease shall not be executed until the plans have been finalized and approved by both parties. The Mechanical systems shall be compatible and co-ordinated with the architectural, structural, electrical and other project systems. All new or modified HVAC systems and equipment shall meet or exceed the performance criteria as outlined in the latest version of ASHRAE 90.1.

The building fire protection must meet the requirements of the Fire Commissioner of Canada. On the third level (former Eaton's Department Store, shown as Area “J”), the Landlord shall install, at its own cost, windows as shown on the plan attached as Appendix “B”, as well as skylights as determined by the Tenant. The windows are to be double-glazing units with thermal break and low-emissivity soft coating to achieve a minimum thermal resistance of RSI-0.53.

Entrances shall meet the City of Hamilton Barrier Free specifications; entrance lobbies and vestibule shall be of sufficient size to funnel traffic to and from interior corridors, elevators and stairs without crowding. The Landlord shall install, at its own cost, a new
elevator in the location of the former escalator which will serve all levels. The elevator shall be provided fully automatic such that 15% of the building population may be transported up into the building in five minute period. It shall have be equipped with a card access system and designed in accordance with CAN/CSA-B651-95(2002) BARRIER FREE DESIGN.

Illumination levels throughout the entire term of the lease shall be provided and maintained at the following levels within the leased space and common areas. Required illumination levels shall be present on a plane 750mm above and parallel to the floor in the office areas and at floor level in all other areas.

325 Lux Entrances, foyers, elevator lobbies, washrooms
220 Lux Hallways, corridors, stairwells, elevators
200 Lux Exterior entrances to building and leased premises
400 Lux for offices, work station and meeting rooms

Signage including exterior signage indicating the presence of the City of Hamilton shall be provided at all entrances into the building by the Landlord, at its own cost, which clearly indicates the location of the various City Departments within the building. The Landlord shall, at its own cost, improve the exterior appearance of the building (window displays, flags and lighting similar to that indicated in the photo attached to Report PED05178/PW05132/CM05036 as Appendix "C").

The Landlord shall provide, at its own cost, roll-up mesh style blinds on all exterior windows. Colour, materials, patterns, textures, and specifications shall be approved by the Tenant.

(4) The lease shall contain a clause to state that if the Landlord is behind in the taxes during any period of the duration of this agreement for the 77 James Street North facility, then the City of Hamilton, as Tenant,

Council – November 23, 2005
shall have the right to direct any rent payments to the City of Hamilton, Tax Division, to pay down the outstanding taxes.

(5) The lease shall be prepared by the Landlord in accordance with the terms and conditions contained in the Offer to Lease and shall be signed subject to the tenant’s solicitor being completely satisfied with the terms and conditions contained in the lease.

(6) **Project Approval Process:**

The Tenant and the Tenant’s project consultants shall review and approve all the following actions prior to the Landlord proceeding to issue instructions on behalf of the Tenant. Any decisions or directions made without the Tenant’s written approval shall be the cost of the Landlord:

- Base Building Tender Documents
- Review of Costs Prior to Acceptance
- Approval Process Authorization
- Cost Management and Review

(7) **Landlord Covenants:** The Landlord warrants and represents that, from and after the Commencement Date and throughout the Term of this lease, and any renewal or extension thereof, the Building shall be free of any defects or errors due to faulty materials, workmanship, or faulty design, including without limitation, any defects or errors relating to the Building’s foundations, structure, roof membrane and structure, and building envelope, and the Landlord shall immediately repair and rectify any such defects or errors as aforesaid; and the Landlord further covenants with the Tenant that it shall, indemnify and save harmless the Tenant from and against all loss, expense, damages, injury, actions, causes of action, suits, interest, claims, liens, costs and demands whatsoever on account of the construction and implementation of the Renovations, or on account of any defects or errors due to faulty workmanship, materials or design as aforesaid, or which may be incurred by reason, or in consequence of the execution or non-execution, or imperfect or negligent execution thereof, and shall pay to the Tenant, on
demand, any expense, loss, costs, interest, or damages which may be sustained by the Tenant in consequence of any such action, suits, claim, lien or demand, and any monies paid by it in settlement or in discharge thereof, or on account thereof, and any monies so paid or payable by the Tenant may be deducted from any monies of the Landlord then remaining in the hand of the Tenant on account of this Lease including gross rent hereunder. Such warranty and indemnification shall extend to the entire Landlord's Work and to Tenant improvements and renovations carried out by the Landlord on behalf of the Tenant. The Landlord shall transfer the warranties that it has received for those contracts entered into by the Landlord.

(8) Abatement of Rent: Without restricting any right of set-off given or implied by law, the tenant may set-off against the Rent, or against any other sum payable hereunder by the Tenant to the Landlord, any amount payable by the Landlord to the Tenant hereunder or under any other lease or contract, and without restricting the generality of the foregoing, the Tenant may, when making payment of the Rent or of any other sum, withhold any amount which is then payable to the Tenant by the Landlord under this lease or which, by virtue of the right of set-off, may be retained by the Tenant. The Tenant shall only exercise its right to set-off under this clause after providing written notice to the Landlord of its intention to do so and only if the Landlord fails to cure its default within a period of five (5) days after having received such notice.

(b) That Council approve the transfer of City Hall operations and maintenance savings identified for the period of renovation, to the Hamilton City Hall Upgrade Capital Project #3540441442.

(c) That the Mayor, General Manager, Finance and Corporate Services and City Clerk be authorized and directed to execute the Lease in a form satisfactory to the Corporate Counsel.

(d) That during the renovation of City Hall, City Council and Standing Committee meetings shall take place at the Convention Centre with the Stoney Creek Council Chamber being the back up location.

CARRIED

Council – November 23, 2005
FOR THE INFORMATION OF COUNCIL:

(a) Changes to the agenda (Item 1):

(Ferguson/Braden)
That the following delegation requests be added to the agenda:

(i) E-mails from Mrs. Julie Crowe and Ms. Laura Wolfson with respect to the proposed stop sign at the junction of McKay Road and McKay Court, Dundas, which is listed as Item 8.1 on today’s agenda. These requests were added as Items 4.3 and 4.4.

(ii) E-mail from Bob Birnie of Thos R. Birnie & Sons Ltd requesting delegation status on behalf of the following contractors wishing to speak to Item 8.2, the staff update concerning the City’s new Sewer Lateral Policy. (This request was added as Item 4.5.):

1. Mr. Len Woods, Plugged Piper
2. Armand Pitton, Pitton Plumbing
3. Tom Gauthier, Gauthier Plumbing
4. Phil Groves, Phil Groves Sewer Service
5. Roy Birnie, Mr Rooter Plumbing
6. Jim Groves, William Groves Sewer Contractors
7. Bob Birnie, Thos.R.Birnie &Sons Ltd

CARRIED

(b) Declarations of Interest (Item 2)
None declared.

(c) Minutes (Item 3)

(McCarthy/Ferguson)
That the Minutes of the November 7, 2005 meeting be approved as presented.

CARRIED

(d) Delegation Requests

(Ferguson/Jackson)
(i) That the delegation request from Mr. Neil Fisher, Account Manager of W. Ralston (Canada) Inc., respecting the use of biodegradable plastic bags for the City’s new organic waste composting program be referred to the Director of Waste Management for review and response to the writer.

CARRIED
(Jackson/Collins)
(ii) That the rules be waived to hear the delegation request today from Robert Spencer and Laura Bishop respecting damage to their property at 13 Clarence Street.

CARRIED

(iii) The Committee decided that the delegations from Mrs. Julie Crowe and Ms. Laura Wolfson were not necessary as they had already addressed Committee at the October 17, 2005 meeting and the staff recommendation in Report PW05138 is in support of their request for a stop sign. Mrs. Julie Crowe and Ms. Laura Wolfson agreed to withdraw their delegation request.

(Jackson/Bruckler)
(iv) That the delegation request from Joanne Adams respecting closure of the alley alongside 10 Weir Street North be approved to be heard at the next meeting.

CARRIED

(Braden/Jackson)
(v) That the decision respecting the delegation request from Bob Birnie of Thos R. Birnie & Sons Ltd on behalf of seven contractors wishing to speak to Item 8.2 be deferred until after Committee heard the staff update.

CARRIED

(e) Public Hearings/Delegations

(i) Delegation from Robert Spencer and Laura Bishop respecting damage to their property at 13 Clarence Street (Added Item 6.3)

Mr. Spencer and Ms. Bishop expressed their frustration with their current living conditions and how long it is taking the City to address the problem. On August 19, 2005, their home incurred extensive damage following a heavy rain storm. Since then they have evacuated their home and are living in a trailer on their property.

Staff explained that part of the delay in addressing this matter was due to liability issues. All parties have now agreed to put the question of liability on hold and continue with the repairs to the house.

Mr. Spencer and Ms. Bishop argued that there is a major problem with their road and with Patterson Street, the neighbouring road.
and the City should expropriate the homes and do repairs to the whole area.

Staff indicated that as a short term solution, a contractor has been hired to put a proper footing in the basement and undertake the necessary repairs to the home so that the residents could move back in. This work should be completed by mid December. On the long term, staff will review the problems with the whole area and will report back to Committee with a plan.

Mr. Spencer and Ms. Bishop were offered other more suitable accommodations but they advised the Committee that they did not want to move from their property.

(McCarthy/Bruckler)
That the delegation from Mr. Spencer and Ms. Bishop respecting the damage sustained to their home on 13 Clarence Street following a heavy rainstorm be received.

CARRIED

(ii) Delegation from Mr. William Mitchell respecting landscaping issues in public spaces. (Approved November 7, 2005) (Item 6.1)

Mr. Mitchell provided a hand-out containing photos of various vistas across the City including the view of the bay from Dundurn Park and from the adjoining Harvey Park and from various views from the Mountain Brow which are blocked by trees and other vegetation.

(Ferguson/Bruckler)
That staff be directed to meet with Mr. Mitchell on site and discuss what can be done to improve the vistas and report back to Committee.

CARRIED

(iii) Presentation by the Hamilton Waterfront Trust, 47 Guise Street East, Hamilton respecting Projects update (Approved November 7, 2005) (Item 6.2).

Mr. Werner Plessl, Executive Director of the Hamilton Waterfront Trust made a PowerPoint presentation providing an overview of the Hamilton Waterfront Trust projects. He provided a hand-out with respect to a Trolley proposal and indicated that the Trust hopes to implement it through various partnerships including a partnership with the City of Hamilton.
The Trust is hopeful that the City may provide a grant to cover the cost of the insurance.

(McCarthy/Jackson)
That the presentation by Mr. Werner Plessl, Executive Director of the Hamilton Waterfront Trust be received and referred to staff to investigate the various issues discussed with respect to the trolley proposal (i.e. safety, environmental and budget issues) and report back to Committee.

CARRIED

(f) STAFF PRESENTATIONS

(i) Enforcement Strategy for Solid Waste Management By-law 05-190 (PW04034c) - (City Wide) (Item 7.1)

Beth Goodger, Director of Waste Management provided a brief introduction and Pat Parker, Manager of Solid Waste Planning made a PowerPoint presentation which provided an overview of the report. Staff also provided a hard copy of the presentation which was distributed.

After some discussion the Committee received the presentation and approved the staff report.

(g) Intersection Control - McKay Road and McKay Court (PW05138) - (Ward 13) - Public Works, Infrastructure & Environment Committee Agenda Outstanding Business List (Item 8.1)

On a motion (McCarthy/Jackson) the Item was lifted from the TABLE.

Councillor Samson spoke to the issue. He provided an update to committee with respect to the meetings that he held with residents and staff and indicated he is not contrary to the report.

The Committee approved the staff recommendation.

(h) Verbal update from the Senior Director of Water and Wastewater Division respecting the City’s New Sewer Lateral Management Policy. (Item 8.2)

Jim Harnum provided a verbal update to Committee with respect to the meetings held with the sewer contractors. He advised committee that four meetings were held in total to hear their concerns. As a result, staff made numerous concessions; however, the contractors wanted further changes. They were concerned with the $600.00 cap and with the fact that the City would receive the first response. Staff advised that with a $2 million budget, the City needs accountability.
(McCarthy/Jackson)
That the delegation request from the sewer contractors be denied as they had already expressed their concerns at the September 12, 2005 meeting.
CARRIED

(i) **Intersection Control List, November 21, 2005 (PW05001f) (Item 8.4)**
The Committee approved the staff recommendation and took no action with respect to the unwarranted location at Highland Road and Glenhollow Drive.

(j) **General Information / Other Business**
Changes were made to the Outstanding Business List as follows:

11.1 Outstanding Business List Item E, Individual Water Meter Policy, due date November 21, 2005 changed to **January 16, 2005**

11.2 Outstanding Business List Item G, Whistle Blowing at Public Railway Crossings, due date November 21, 2005 changed to **February 20, 2006**.

11.3 Outstanding Business List Item O, Highway 52 Speed limit change, due date November 21, 2005 changed to **December 5, 2005**.

11.4 Outstanding Business List Item T, Snow calls to Contact Centre and directly to Department, due date not indicated – addressed at the November 7, 2005 Committee meeting through staff's PowerPoint presentation to Council respecting 2005/06 Winter Control Program Planning (No copy)
On a motion (Ferguson/Bruckler) this item was **removed** from Outstanding business list.

11.5 Outstanding Business List Item U, Toronto Tree Advocacy Program, due date November 21, 2005 changed to **December 5, 2005**.

The following Items were dealt with on this agenda except for Item 11.8 which will be considered by a report to the Planning and Economic Development Committee and on a motion (Ferguson/Merulla) were removed from the outstanding business list:

11.6 Outstanding Business List Item AA, Petition for Road Improvements at the Junction of Centre Road and the 14th Concession, due date November 21, 2005. - **Removed**
11.7 Outstanding Business List Item BB, Solid Waste Management By-law – set fines Removed

11.8 Outstanding Business List Item CC, Previous Council Commitment to reduction of green house emissions (No copy) – report will be considered by the Planning and Economic Development Committee Recommendations: Removed

11.9 Outstanding Business List Item LL, Petition for road and sidewalk repair to area between Fennell and Queensdale, due date November 21, 2005. Removed

11.10 Outstanding Business List Item OO, Proposed stop sign at McKay Road and McKay Court Dundas, due date November 21, 2005. Removed

Councillor Braden wished to inform his fellow Councillors that he is again encouraging tree planting and anyone interested should contact him or Councillor McHattie.

(k) Private and Confidential

(a) Lease for Swing Space - 77 James Street North - Fercan Developments Inc. (PED05178/PW05132/CM05036) (City Wide) (Item 12.1)

(Braden/Ferguson)
That the Committee move In Camera to consider a subject matter which pertains to a proposed or pending acquisition or disposal of lands for municipal or local board purposes.

CARRIED

(Ferguson/Bruckler)
That the Committee reconvene in Open Session

CARRIED

The Committee approved the staff recommendation which can now be made public and the balance of the report will remain confidential.
There being no further business, the meeting of the Public Works, Infrastructure and Environment Committee adjourned at 12:05 p.m.

Respectfully submitted,

Councillor David Mitchell, Chair
Public Works, Infrastructure and Environment Committee

Ida Bedioui, Legislative Assistant
Public Works, Infrastructure and Environment Committee
November 21, 2005