To: Chair and Members  
Public Works Committee

From: Scott Stewart, C.E.T.  
General Manager  
Public Works Department  

| Telephone: | 905 546-2313 |
| Facsimile: | 905 546-4481 |
| E-mail:    | sstewart@hamilton.ca |

Date: April 10, 2008

Re: Federation of Canadian Municipalities (FCM) Right-of-Way Sub-Committee (PW08047) - (City Wide)

Council Direction:
N/A

Information:

For information, attached is a letter of support from the Federation of Canadian Municipalities (FCM) augmented by the following background.

This is an outline of the collaboration that the City of Hamilton has experienced as a member of the FCM Right-of-Way (ROW) Sub-committee. Since 2005 the City has been represented on this team to help steer this Corporation and contribute to the larger municipal voice in matters concerning our Rights-of-Way.

The efforts of both the City and the FCM Subcommittee have led to a greater understanding of the issues that face Cities when dealing with large nationally based utility firms. By being involved the City of Hamilton has been able to stay current in the rapidly changing arena of utility relations. The City has used the knowledge gained through FCM to foster the following initiatives:

- **Pavement degradation recoveries:** Using industry accepted studies we were able to implement a fair method of recovering funds for road assets that had their life spans shortened due to utility activity. Implemented in 2007 we recovered over $30,000 in the first year, and more importantly strengthened our position in capital project planning with utility firms.

- **Municipal Access Agreements (MAA):** Through networking with the FCM subcommittee the City has been able to gather current information about court and regulatory body decisions. These decisions provide the framework for our agreements (Bell Canada - November 2007) and other telecommunications firms. The City of Hamilton MAA reflects these decisions and now establishes policy and timelines for:
  - Utility locations,
Cost sharing for utility relocations,
As built requirements, and
Long term capital coordination.

These policies and agreements help mitigate cost overruns on construction projects, assure each party of satisfactory timeframes for responses to capital and operating issues.

The City of Hamilton is now poised to help shape Federal and Provincial public policy by staying involved with this Subcommittee. We can add our voice as a part of the larger public body and direct future legislation to align more closely with sound municipal practices.

Scott Stewart, C.E.T.
General Manager
Public Works Department
Mr. Scott Stewart  
General Manager, Public Works Department  
City of Hamilton  
77 James Street North, Suite 320  
Hamilton, Ontario  
L8R 2K3

Dear Mr. Stewart:

On behalf of the Federation of Canadian Municipalities (FCM), I'm writing to express my appreciation for Mr. Gord McGuire’s ongoing contribution to FCM’s Rights-of-Way (ROW) subcommittee.

The management of municipal rights-of-way has become a major issue for municipalities across Canada. Since the introduction of increased competition in the telecommunications industry in the 1990s, municipalities have faced unprecedented demands for the occupation of their ROWs. Municipalities continue to be faced with successive requests from carriers to dig up roads to install facilities, sometimes immediately after the roads had been repaved after being torn up by an earlier carrier.

Unfortunately, the combination of a flawed regulatory regime and a series of CRTC decisions have undermined the ability of municipalities to manage their roadways and recover a fair price for granting access to telecommunications companies. To make matters worse, the telecommunications industry is actively lobbying the federal government for legislative changes that would further strip away the authority of municipalities to manage their roadways and recover fair compensation for the use of their property.

FCM’s ROW subcommittee is a national working group representing municipal interests in ROW issues. The committee helps to oversee a $500,000 legal defence fund for municipal ROW cases; works closely with FCM staff on strategies to lobby for federal telecommunications reform; and provides technical advice to FCM’s National Board of Directors on ROW issues. The subcommittee also provides a unique venue for municipal professionals to exchange information on ROW issues that individual members can then take back to address specific issues in their own municipalities.

Since 1901  
Depuis 1901
To continue its important work in this area, the ROW subcommittee requires the active involvement of municipal staff and the support of their municipalities for the work they do with FCM. I appreciate the staff contribution your municipality has already made to ROW issues, and look forward to continuing our work together.

If you require further information on this matter, please feel free to contact Tess Ackland, Policy Analyst, telephone: 613-907-6230; email: tackland@fcm.ca

Sincerely,

[Signature]

Gord Steeves
President

GS/ta:sd

c: Mr. Gerry Davis, Senior Director, Public Works Department, City of Hamilton

c: Mr. Gord McGuire, City of Hamilton