



## **CITY COUNCIL MINUTES**

**Wednesday, January 28, 2009**

**7:00 p.m.**

**Albion Rooms**

**Hamilton Convention Centre**

**One Summer's Lane**

**Hamilton, Ontario**

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

**Absent with Regrets:** Councillors S. Duvall, R. Pasuta – Vacation

Mayor Eisenberger called the meeting to order and called upon Reverend Peter Wall of the Rector of Christ's Church Cathedral, to lead Council in prayer.

### **APPROVAL OF THE AGENDA**

The Clerk advised of the following changes to the agenda:

**1. CEREMONIAL**

3.2 Presentation respecting Defibrillators

**2. MINUTES**

4.2 Minutes of special Council meeting of January 26, 2009 (noted as "to be distributed" on the agenda)

**3. ADDED COMMUNICATIONS**

5.6 Correspondence from Lynda Lukasik, Environment Hamilton respecting 201 King Street East, Dundas

Recommendation: Be received

- 5.7 Correspondence from Susan Rogers respecting Urban Structure Plan – Twenty Road East

Recommendation: Be received and referred to Planning staff for review in the overall public consultation process.

Note: Please be advised that the Planning Analysis referred to in the correspondence is available for perusal in the Office of the Clerk due to bulk.

- 5.8 Correspondence from Brian Rogers, Hamilton Conservation Authority respecting 2009 Budget of the Hamilton Region Conservation Authority

Recommendation: Be received

- 5.9 Correspondence from Keith Murch, Grand River Conservation Authority respecting 2009 Budget and Levy Meeting of the Grand River Conservation Authority

Recommendation: Be received

**4. COMMITTEE REPORTS “TO BE DISTRIBUTED”**

- 6.5 Board of Health Report 09-002, January 26, 2009

- 6.6 Economic Development and Planning Committee Report 09-002, January 20, 2009

**5. NOTICES OF MOTION**

- 8.1 Revised Notice of Motion being presented by Councillor Merulla

**6. PRIVATE AND CONFIDENTIAL**

- 10.1 Minutes of the Closed Session Meeting of January 26, 2009  
(to be distributed under separate cover)

**(Morelli/Collins)**

That the Agenda for the City Council meeting being held on January 28, 2009, be approved, as amended.

**CARRIED**

**DECLARATIONS OF INTEREST**

Councillor Ferguson declared an interest in Item 20 of the Economic Development & Planning Committee Report 09-002, as he has an interest in the Taxi Industry.

**CEREMONIAL ACTIVITIES/ANNOUNCEMENTS****3.1 Citizen Recognition – Mr. Tony Burns**

Councillor M. McCarthy praised Mr. Tony Burns, and his son Andrew, for their tireless and dedicated efforts with respect to graffiti cleanup in the Waterdown community, recognizing their exemplary civic pride.

**3.2 Presentations respecting Public Access Defibrillators**

The Mayor commended Mr. Ken Mandeno; who was in attending a show at the Convention Centre and was dressed as Santa Claus, at the time, for utilizing a Public Access Defibrillator; and, Missy Dunn, a by-stander, who provided CPR to an elderly woman who was also attending the show, subsequently, saving the woman's life. Both Mr. Mandeno and Ms. Dunn were presented with Certificates of Appreciation.

Mayor Eisenberger then called upon Brent Browett, Director of Hamilton's Emergency Medical Services (EMS), Blaine Lucas, EMS Manager, Leonard James, EMS Supervisor and Russ King, representing BERRN Consulting, the local Public Access Defibrillator Training Agent, to present Kenneth Bain, Associate Director of Education for the Hamilton-Wentworth School Board with a donated Automated External Defibrillator and training to the Hamilton-Wentworth District School Board, specifically for Beverly Public School.

This donation was facilitated by staff and very generously provided by Russ King, BERRN Consulting, on behalf of Madison McCune, a 5 year old Flamborough resident with heart condition and a student of Beverly Public School, and her parents Christine and Noble McCune.

**APPROVAL OF MINUTES****4.1 January 12, 2009  
(Collins/Ferguson)**

That the Minutes of the January 12, 2009, meeting of Council be approved, as presented.

**CARRIED****4.2 January 26, 2009 (Special Council)****(Whitehead/Pearson)**

That the Minutes of the January 26, 2009, meeting of Council be approved, as presented.

**CARRIED**

<b>COMMUNICATIONS</b>
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**(Pearson/Whitehead)**

That Council Communications 5.1 to 5.9 be approved, as amended, as follows:

- 5.1 Correspondence from Ann Book respecting proposed expansion of the Hamilton Urban Boundary to accommodate Aerotropolis

Recommendation: Be received

- 5.2 Correspondence from Richard Reble respecting proposed expansion of the Hamilton Urban Boundary to accommodate Aerotropolis

Recommendation: Be received

- 5.3 Correspondence from Dr. Bryon De France, Department of Obstetrics & Gynecology, McMaster University, Hamilton Health Sciences respecting Access to Best Care Plan

Recommendation: Be received

- 5.4 Correspondence from Jim Stirling, ArcelorMittal Dofasco respecting City's request to provide regular quarterly updates on the progress of their abatement plans to mitigate/eliminate fallout

Recommendation: Be received

- 5.5 Resolution from the City of Kingston respecting Christmas Wrapping Paper

Recommendation: Be received

- 5.6 Correspondence from Lynda Lukasik, Environment Hamilton respecting 201 King Street East, Dundas

Recommendation: Be referred to the Economic Development & Planning Committee for consideration once the application has been submitted.

- 5.7 Correspondence from Susan Rogers respecting Urban Structure Plan – Twenty Road East

Recommendation: Be received and referred to Planning staff for review in the overall public consultation process.

Note: Please be advised that the Planning Analysis referred to in the correspondence is available for perusal in the Office of the Clerk due to bulk.

- 5.8 Correspondence from Brian Rogers, Hamilton Conservation Authority respecting 2009 Budget of the Hamilton Region Conservation Authority

Recommendation: Be received

- 5.9 Correspondence from Keith Murch, Grand River Conservation Authority respecting 2009 Budget and Levy Meeting of the Grand River Conservation Authority

Recommendation: Be received

**(Pearson/Whitehead)**

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

**ECONOMIC DEVELOPMENT & PLANNING COMMITTEE 09-001**

**(Ferguson/Jackson)**

That the FIRST Report of the Economic Development & Planning Committee be approved, and the information section received.

**CARRIED**

**PUBLIC WORKS COMMITTEE REPORT 09-002**

- 5. North End Traffic Management Study (PW08094) (Ward 2) (Item 8.1)**

**(Bratina/Clark)**

That Item 5 of Public Works Committee Report 09-002 respecting the North End Traffic Management Study, be referred back to staff.

**CARRIED**

- 9. Establishment of a Joint Advisory Committee to Determine the Future Business Mandate of Hamilton Utilities Corporation (PW09006) (City Wide) (Item 8.5)**

**(Clark/Ferguson)**

That Item 9(e)(i), of Public Works Report 09-002, be amended by adding the words "D. Mitchell", in his capacity as Chair of Hamilton Renewable Energy Corporation, and that Item 9(e)(ii) be amended by deleting the word "two" and replacing it with the word "three" to read as follows:

- (e) That the Joint Advisory Committee membership be comprised of:
- (i) The Mayor and Councillors L. Ferguson, D. Mitchell and R. Powers representing the City as voting members;

- (ii) The HUC Chair and three other HUC board members representing HUC as voting members;

**AMENDMENT CARRIED  
MOTION AS AMENDED CARRIED**

Councillors R. Powers and T. Whitehead wished to be recorded as OPPOSED to Item 9(j).

**(Bratina/Clark)**

That the SECOND Report of the Public Works Committee be approved, as amended, and the information section received.

**CARRIED**

**AUDIT & ADMINISTRATION COMMITTEE 09-002**

**(Clark/Bratina)**

That the SECOND Report of the Audit & Administration Committee be approved, and the information section received.

**CARRIED**

**EMERGENCY & COMMUNITY SERVICES COMMITTEE 09-002**

**(Merulla/Morelli)**

That the SECOND Report of the Emergency & Community Services Committee be approved, and the information section received.

**CARRIED**

**BOARD OF HEALTH REPORT 09-002**

- 5. **Public Access to Food Premises Inspection Information – BOH07006 (c) (City Wide) (Item 7.1)**

Councillor B. Clark wished to be recorded as OPPOSED to Item 5.

**(Powers/Mitchell)**

That the SECOND Report of the Board of Health be approved, and the information section received.

**CARRIED**

**ECONOMIC DEVELOPMENT & PLANNING COMMITTEE 09-002**

- 17. **Re-establishment of the Taxi Reform Sub-Committee (PED09014) (City Wide) (Item 5.17)**

**(Whitehead/Eisenberger)**

That Report PED09014 – Re-establishment of the Taxi Reform Sub-Committee, be referred back to the Economic Development & Planning Committee for further discussion.

**CARRIED**

**20. Amendments to the City of Hamilton Licensing Code By-Law No. 07-170 (PED09030)****(Bratina/Whitehead)**

- (a) That recommendation (a) of Item 20 of the Economic Development & Planning Committee Report 09-002 be referred to the Taxi Reform Subcommittee.
- (b) That recommendation (c), the By-law to Amend By-law No. 07-170, a By-law to Licence and Regulate Various Businesses, attached hereto, be amended by deleting Section 3 in its entirety and replacing it with:
  - 5. Section 3, Subsection 20(d) of Schedule 25 be amended by deleting the words "This subsection takes effect on May 29, 2008." and replacing them with the words "This subsection takes effect on September 30, 2009."

**MOTION WITHDRAWN****(Bratina/Powers)**

That recommendations (a) and (b) of Item 20 of the Economic Development & Planning Committee Report 09-002 be referred to the February 9, 2009 meeting of Committee of the Whole.

**CARRIED****(Collins/Clark)**

That recommendation (c) of Item 20 of the Economic Development & Planning Committee Report 09-002 be deleted in its entirety and replaced to read as follows:

- (c) That the By-law, attached as Appendix 'A' to Report 09-002, be amended by deleting Section 3 in its entirety and replacing it with:
  - 5. Section 3, Subsection 20(d) of Schedule 25 be amended by deleting the words "This subsection takes effect on May 29, 2008." and replacing them with the words "This subsection takes effect on February 12, 2009."

**AMENDMENT CARRIED  
MOTION AS AMENDED CARRIED****27. Animal Control Advisory Committee - Terms of Reference (PED08147(a)) (City Wide) (Item 8.2)****(McHattie/Jackson)**

- (a) That recommendation (b) be split into two recommendations, as shown below, and then referred back to the Economic Development & Planning Committee for further discussion:
  - (b)(i) That, in view of the current economic situation, the creation of an Animal Control Community Liaison Officer, not be approved at this time.

(b)(ii) That the creation of an Animal Control Advisory Committee be referred back to the Economic Development & Planning Committee for further discussion.

(b) That recommendation (c) be referred back to the Economic Development & Planning Committee.

Recommendations (a) and (b) of the above motion LOST on a Standing Recorded voted, as shown below:

Yeas: Eisenberger, Collins, Jackson, McHattie, Merulla, Morelli, Powers

Total: 7

Nays: Bratina, Clark, Ferguson, McCarthy, Mitchell, Pearson, Whitehead

Total: 7

Absent: Duvall, Pasuta

Total: 2

Recommendation (c) of the above motion was WITHDRAWN by Councillor McHattie.

The main motion CARRIED on a Standing Recorded Vote, as follows:

Yeas: Eisenberger, Bratina, Clark, Ferguson, McCarthy, Mitchell, Pearson, Powers, Whitehead

Total: 9

Nays: Collins, Jackson, McHattie, Merulla, Morelli

Total: 5

Absent: Duvall, Pasuta

Total: 2

**29. Appeal of the Rural Official Plan (Items 8.6 and 12.1)**

**(Ferguson/Jackson)**

That Item 29 of Economic Development and Planning Committee Report 09-002 respecting Appeal of the Rural Official Plan be deleted in its entirety as this issue was dealt with at a special Council meeting on January 26, 2009 and the remaining items of the report be renumbered accordingly.

**CARRIED**

**30. 109 George Street, OMB File No.: PL080779, OMB Case No.: PL080779, C of A File No.: A-113/08**

**(Ferguson/Jackson)**

(a) That Item 30 of the Economic Development & Planning Committee Report 09-002 be referred to the Committee of the Whole meeting of February 9, 2009, in order that representatives of the Hamilton Police Services, and other members of the community who have standing at the above-mentioned OMB hearing, may address Council, prior to the decision of Council on the recommendation

**CARRIED**



**(Ferguson/Jackson)**

That the SECOND Report of the Economic Development & Planning Committee be approved, as amended, and the information section received.

**CARRIED****(Pearson/Whitehead)**

That Committee of the Whole rise and report.

**CARRIED**

<b>MOTIONS</b>
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**7.1 Bill 138, *Protection of Public Participation Act, 2008*****(McCarthy/Clark)**

**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.

**CARRIED**

**7.2 Funding for Hamilton Centre for Civic Inclusion**

**(Eisenberger/Bratina)**

That the Rules of Order be waived to allow the introduction of a motion to reconsider a previous resolution of Council respecting funding for Hamilton Centre for Civic Inclusion.

**CARRIED**

**(Eisenberger/McHattie)**

That Item 43 of Committee of the Whole Report 07-010 approved by Council on April 24, 2007 respecting funding for Hamilton Centre for Civic Inclusion be reconsidered.

“That funding be approved on a one-time basis in the amount of \$250,000 over three years, subject to final budget approval and that the funding source be severed in 2009.”

**CARRIED**

**(Eisenberger/McHattie)**

That Item 43 of Committee of the Whole Report 07-010 approved by Council on April 24, 2007 respecting funding for Hamilton Centre for Civic Inclusion be rescinded.

**CARRIED**

**(Eisenberger/McHattie)**

That funding in the amount of \$260,000 for Hamilton Centre for Civic Inclusion be referred to the Budget Steering Committee for consideration.

This motion CARRIED on a Standing Recorded Vote, as follows:

Yeas: Eisenberger, Bratina, Clark, Collins, Jackson, McHattie, Merulla, Morelli,  
Mitchell, Pearson, Powers, Whitehead  
Total: 12  
Nays: Ferguson  
Total: 1  
Absent: Duvall, Pasuta, McCarthy  
Total: 2

<b>NOTICES OF MOTION</b>
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Councillor S. Merulla introduced the following Notice of Motion:

**8.1 Plan to Expedite Work that would Eliminate and/or Mitigate Sustainable Infrastructure Needs and Funding for the Pan Am Games**

**WHEREAS** the City of Hamilton has a significant infrastructure deficit;

**AND WHEREAS** the Hamilton Future Fund should be invested into sustainable infrastructure, such as water and sewer, roads, sidewalks and bridges;

**AND WHEREAS** the residents of the City of Hamilton should not experience any tax increases for any unsustainable projects such as a proposed stadium and/or other facilities, as outlined in the proposed 2015 Pan Am Games bid;

**AND WHEREAS** the City of Hamilton has approximately a \$180 million deficit in infrastructure;

**THEREFORE, BE IT RESOLVED,**

- (a) That Public Works staff be directed to report to the Committee of the Whole with a plan that will expedite work that will eliminate and/or mitigate sustainable infrastructure needs.
- (b) That any monies being considered for use toward the Pan Am Games not be allocated from the Future Fund.

<b>STATEMENT BY MEMBERS</b>
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Members of Council used this opportunity to discuss matters of general interest.

**PRIVATE AND CONFIDENTIAL****10.1 Minutes of the Closed Session Meeting of January 26, 2009****(Whitehead/Powers)**

That the Closed Session Minutes of the January 26, 2009 meeting of Council be approved, as presented.

**CARRIED****BY-LAWS****(Pearson/Powers)**

That Bill Nos. 09-008 to 09-025 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 09-008 to 09-025 as follows:

**By-law No.**

- |               |  |
|---------------|--|
| <b>09-008</b> | To Authorize An Interim Tax Levy for 2009  |
| <b>09-009</b> | To Authorize the Temporary Borrowing of Monies to Meet Current Expenditures Pending Receipt of Current Revenues  |
| <b>09-010</b> | To Amend By-law No. 06-147, To Authorize the City to Enter into Extension Agreements   |
| <b>09-011</b> | To Amend By-law No. 01-218, as amended, To Regulate On-Street Parking:<br>Schedule 5 – Parking Meters<br>Schedule 6 – Time Limit Parking<br>Schedule 8 – No Parking Zones<br>Schedule 10 – Alternate Side Parking<br>Schedule 12 – Permit Parking Zones<br>Schedule 13 – No Stopping Zones<br>Schedule 14 – Wheelchair Loading Zones |
| <b>09-012</b> | Respecting Removal of Part Lot Control, Blocks 69 & 70, Registered Plan No. 62M-1057, Fifty Road Joint Venture – Phase 3   |
| <b>09-013</b> | Respecting Removal of Part Lot Control, Block 87, Registered Plan No. 62M-1057, Fifty Road Joint Venture – Phase 3   |
| <b>09-014</b> | Respecting Removal of Part Lot Control, Blocks 90, Registered Plan No. 62M-1057, Fifty Road Joint Venture – Phase 3  |
| <b>09-015</b> | Respecting Removal of Part Lot Control, Block 71, Registered Plan No. 62M-1057, Fifty Road Joint Venture – Phase 3   |
| <b>09-016</b> | Respecting Removal of Part Lot Control, Block 1, Registered Plan No. 62M-1081, “Flamborough Power Centre – Phase 3”  |
| <b>09-017</b> | Respecting Removal of Part Lot Control, Block 107, Registered Plan No. 61M-1098, Rose Garden, Phase 3  |

**By-law No.**

- 09-018** To Amend By-law No. 08-233, Respecting The Appointments of Inspectors
- 09-019** To Repeal The Corporation of the Town of Ancaster By-law 99-114 to Establish the Ancaster Village Core Advisory Committee
- 09-020** To Amend Zoning By-law No. 3581-86 (Dundas), Respecting Lands Located at 101 Creighton Road and 223 Governor's Road in the former Town of Dundas, now in the City of Hamilton
- 09-021** To Amend Zoning By-law No. 05-200, Respecting Lands Located at 101 Creighton Road and 223 Governor's Road in the Former Town of Dundas, now in the City of Hamilton
- 09-022** To Amend Zoning By-law No. 90-145-Z (Flamborough), Respecting Lands Located 75 Overdale Ave. in the former Town of Flamborough, now in the City of Hamilton
- 09-023** To Amend Zoning By-law No. 6593 (Hamilton), Respecting Lands Located at 310-328 Rymal Road West
- 09-024** To Amend Zoning By-law No. 07-170, To Licence and Regulate Businesses
- 09-025** To Confirm the Proceedings of City Council

**(Mitchell/Pearson)**

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

**CARRIED**

Respectfully submitted,

Fred Eisenberger  
Mayor

Kevin Christenson  
City Clerk  
January 28, 2009