



CITY COUNCIL MINUTES

Wednesday, April 25, 2012

5:00 p.m.

Council Chambers
Hamilton City Hall
71 Main Street West

Present: Mayor R. Bratina
Councillors C. Collins, B. Clark, S. Duvall, T. Jackson, B. Johnson,
J. Farr, L. Ferguson, B. McHattie, S. Merulla, B. Morelli,
J. Partridge, M. Pearson, R. Pasuta, R. Powers and T. Whitehead

Mayor Bratina called the meeting to order and advised that Monsignor Murray J. Kroetsch, Vicar General for the Roman Catholic Diocese of Hamilton and the Moderator of the Pastoral Offices of the Hamilton Diocese, sends his regrets. In lieu, Mayor Bratina delivered Mahatma Gandhi's Seven Deadly Sins.

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| APPROVAL OF THE AGENDA |
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The Clerk advised of the following changes to the agenda:

1. ADDED CORRESPONDENCE

- 5.10 Petition to Redistribute Wards in Hamilton, under the *Ontario Municipal Act*

Recommendation: For the consideration of Council

- 5.11 Correspondence from Citizens in support of the petition for the realignment of the City of Hamilton's Ward boundaries.

(a) Laura Cattari (b) Christopher Cutler
(c) Ken Sills

Recommendation: Be received

- 5.12 Correspondence from the Lynwood Charlton Centre respecting By-law Modification Application – 121 Augusta Street.

Recommendation: Be received

(Pearson/Ferguson)

That the Agenda for the City Council meeting being held on April 25, 2012, be approved, as amended.

CARRIED

DECLARATIONS OF INTEREST

Councillor Ferguson declared a conflict of interest for item 5.9, Correspondence from the Town of Caledon respecting the Aggregate Resources Act Review, as a family member is employed by one of the appellants.

Councillor Morelli declared a conflict of interest for items 6, 7 and 8 of the Audit Finance and Administration Report 12-004, as he is a condominium owner.

CEREMONIAL ACTIVITIES/ANNOUNCEMENTS

3.1 OLDIES 1150 CKOC, 90th Birthday in Hamilton

Mayor Bratina welcomed David DeRocco, and Ted Yates from CKOC to the Council floor to commemorate CKOC's 90th Birthday in Hamilton.

APPROVAL OF MINUTES

4.1 April 11, 2012

(Pearson/Powers)

That the Minutes of the April 11, 2012, meeting of Council, be approved, as presented.

CARRIED

COMMUNICATIONS

(Collins/Merulla)

That Council Communications 5.1 through 5.12 be approved, as amended, as follows:

- 5.1 Correspondence from the Ministry of the Environment respecting PFOS in the Welland River and Lake Niapenco

Recommendation: Be received

- 5.2 Correspondence from the organizers of Lyme Disease Awareness Day in Brampton, Ontario respecting Lyme Disease Awareness and Proclamation for Lyme Disease Awareness Month

Recommendation: Be received

- 5.3 Correspondence from Clinton Shane Ekdahl respecting the Day of the Honey Bee

Recommendation: Be received

- 5.4 Correspondence from the Township of Cavan Monaghan respecting the Slots at Racetrack Program

Recommendation: Be received

- 5.5 Correspondence from the Canadian Labour Congress respecting a Proclamation regarding the Annual Day of Mourning for Workers Killed and Injured on the Job.

Recommendation: Be received

- 5.6 Correspondence from United Steelworkers Local 5328 respecting a request for Councillor Scott Duvall to represent the City of Hamilton on May 9, 2012 in Stellarton N.S. for the commemoration of the Westray Mine disaster

Recommendation: That Councillor Scott Duvall represent the City of Hamilton, in commemoration of the Westray Mine disaster in Stellarton N.S. and that all associated costs be charged to the General Legislative 300100 account

- 5.7 Correspondence from Infrastructure Ontario respecting P3 Canada Fund Round Four application intake

Recommendation: Be referred to the General Manager of Finance and Corporate Services for appropriate action.

- 5.8 Correspondence from the Municipality of Meaford respecting an Increase in Provincial Payment-In-Lieu of Taxes

Recommendation: Be supported.

- 5.9 Correspondence from the Town of Caledon respecting the Aggregate Resources Act Review

Recommendation: Be referred to the General Manager of Planning and Economic Development for a report to the Planning Committee.

- 5.10 Petition to Redistribute Wards in Hamilton, under the *Ontario Municipal Act*

Recommendation: Be referred to the General Issues Committee for discussion, within the appropriate time frame to allow citizens to address the issue.

- 5.11 Correspondence from Citizens in support of the petition for the realignment of the City of Hamilton's ward boundaries.

(a) Laura Cattari (b) Christopher Cutler
(c) Ken Sills

Recommendation: Be received and that the citizens be invited to attend the General Issues Committee at which time the petition will be discussed.

- 5.12 Correspondence from the Lynwood Charlton Centre respecting By-law Modification Application – 121 Augusta Street.

Recommendation: Be received

(Clark/Pearson)

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

CARRIED

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| AUDIT FINANCE & ADMINISTRATION COMMITTEE REPORT 12-004 |
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(Johnson/Pearson)

That the FOURTH Report of the Audit Finance & Administration Committee, be adopted, and the information section received. (Attached hereto)

CARRIED

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| HAMILTON LICENSING TRIBUNAL REPORT 12-003 |
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1. **APPEAL HEARING: Nocholas T. Macos, Black, Sutherland LLP, on behalf of Peter Gassner, respecting the Refusal of an Application for a City of Hamilton Adult Film Theatre Establishment Licence, for 501857 New Brunswick Limited operating as Show World, located at 61 King Street East, Hamilton, Ontario (Item 4.1)**

Item 4 CARRIED on a vote, as follows:

Yeas: B. Bratina, C. Collins, B. Clark S. Duvall, T. Jackson, B. Johnson, J. Farr, L. Ferguson, B. McHattie, S. Merulla, B. Morelli, M. Pearson, R. Pasuta, R. Powers and T. Whitehead
Total: 15
Nays: J. Partridge
Total: 1

(Whitehead/Duvall)

That the THIRD Report of the Hamilton Licensing Tribunal, be adopted, and the information section received.

CARRIED

PUBLIC WORKS COMMITTEE REPORT 12-005

(McHattie/Farr)

That the FIFTH Report of the Public Works Committee, be received. (Attached hereto)

CARRIED

BOARD OF HEALTH REPORT 12-003

(Bratina/Partridge)

That the THIRD Report of the Board of Health, be adopted, and the information section received. (Attached hereto)

CARRIED

PLANNING COMMITTEE REPORT 12-006

4. Appeal of Sign Variance Application SW-11-008 for Property Located at 1000 Upper James Street (Hamilton) – Denied by the Director, Planning Division (PED12057) (Ward 8) (Item 6.3)

Item 4 CARRIED on a vote, as follows:

Yeas: B. Bratina, C. Collins, S. Duvall, T. Jackson, B. Johnson, J. Farr, L. Ferguson, B. McHattie, S. Merulla, B. Morelli, J. Partridge, M. Pearson, R. Pasuta, R. Powers and T. Whitehead
Total: 15
Nays: B. Clark
Total: 1

7. Liquor License Application Review Update (PED09127(f)) (City Wide) (Item 8.3)

(Pearson/Farr)

That recommendation (c)(i) to Report PED09127(f), Liquor License Application Review Update, be deleted and replaced with the following:

(c) (i) That the amended Liquor Licence Application Review Assessment Tool revised in consultation with the Ontario Restaurant Hotel Motel Association (ORHMA), be approved incorporating the following changes and for use in assessing the City's position with respect to all new liquor licence applications and extensions:

- (aa) Edits to “Owner/Operator Experience” recognizing “Experienced owner/operator with greater than 5 years” is valued at (1) point whereas “Experienced owner/operator with less than 5 years” is valued at (5) points;
- (bb) Addition of a new factor “History of Owner/Operator’s Experience (within the last 5 years)”;
- (cc) Edit to criteria of “Estimated Ratio of Liquor to Gross Sales” to mirror the current industry/insurance standards for licensed establishments;
- (dd) Deletion of “Other Relevant Information” as this information is currently captured in other factors and criteria of Assessment Tool;
- (ee) Amendments to the Score Criteria for Conditions Imposed on Liquor Licences for Categories A & B to include that a license review will occur “as necessary if an incident(s) has occurred.”

Amendment CARRIED
Motion as amended CARRIED

(Clark/Pearson)

That the SIXTH Report of the Planning Committee, be adopted, as amended, and the information section received. (Attached hereto)

CARRIED

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| GENERAL ISSUES COMMITTEE REPORT 12-010 |
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6. 2012-2015 Strategic Plan (CM12001) (City Wide) (Item 7.2)

(Ferguson/Powers)

That the matter respecting amending Appendix A to read the addition of:
“Cost Conscious – WE must ensure that we are receiving value for taxpayer’s dollars spent” to the list of values in the Strategic Plan be lifted from the Information Section of the General Issues Committee Report 12-010

CARRIED

(Ferguson/Powers)

That sub-section (a) of item 6 to the General Issues Committee Report 12-010 respecting 2012-2015 Strategic Plan be amended by adding the following value to the Strategic Plan:
“Cost Conscious – WE must ensure that we are receiving value for taxpayer’s dollars spent”

Item 6 CARRIED on a STANDING RECORDED vote, as follows:

Yeas: C. Collins, S. Duvall, T. Jackson, B. Johnson, J. Farr, L. Ferguson, B. McHattie, S. Merulla, B. Morelli, J. Partridge, R. Pasuta, R. Powers and T. Whitehead
Total: 13
Nays: B. Bratina, B. Clark, M. Pearson
Total: 3

23. Art Gallery of Hamilton – Request for Proposal

(McHattie/Farr)

That further to the additional information requested by the General Issues Committee Report 12-010 noted in Information Item (f)(iv) respecting an upcoming project at the Hamilton Art Gallery, that the matter be lifted from the Information Section and introduced as Item 23 for discussion.

CARRIED

The Motion to lift Item (f)(iv) from the Information Section CARRIED on a vote, as follows:

Yeas: B. Bratina, C. Collins, B. Clark, S. Duvall, T. Jackson, B. Johnson, J. Farr, L. Ferguson, B. McHattie, S. Merulla, B. Morelli, J. Partridge, R. Pasuta, M. Pearson and R. Powers
Total: 15
Nays: T. Whitehead
Total: 1

(McHattie/Farr)

- (a) That the additional information (attached as Appendix “A”) provided by the General Manager of Public Works be received;
- (b) That the Art Gallery of Hamilton proceed with a Request for Proposal for the Proposed Feasibility Study, Main Street – Entrance Improvements at their own expense;
- (c) That the Art Gallery be advised that the following six key elements identified by staff be addressed in the Request For Proposal document as follows:
 - (i) A detailed structural review of the roof deck/ Commonwealth Square plaza, due to potential increases of weight from the proposed Galleria corridor structure and significant sculpture features;

- (ii) As per the Downtown Secondary Plan - Putting People First: The consultant will recognize that Commonwealth Square will function as a prime civic gathering space for the citizens of Hamilton;
- (iii) The consulting assignment will provide an integrated design which promotes pedestrian linkages to Hamilton Place, Hamilton Convention Centre, Summers Lane, the Board of Education property, Main Street and the City Hall forecourt'
- (iv) The project schedule shall accommodate timing for stakeholder meetings, detail design, approvals, working drawings, specifications, and tendering;
- (v) A public process be utilized for the commissioning of any art or sculpture feature for the outdoor space;
- (vi) A staff stakeholder resource team provide assistance to the Art Gallery through the Feasibility Study, detail design and assist in defining maintenance and operating impacts.

Item 23 CARRIED on a STANDING RECORDED vote, as follows:

Yeas: C. Collins, S. Duvall, T. Jackson, B. Johnson, J. Farr, L. Ferguson, B. McHattie, S. Merulla, B. Morelli, J. Partridge, R. Pasuta, R. Powers and T. Whitehead
Total: 13
Nays: B. Bratina, B. Clark and M. Pearson
Total: 3

(Bratina/Partridge)

That the TENTH Report of the General Issues Committee be TABLED to allow for deliberations with respect to item 19 during the Private and Confidential portion of the agenda.

CARRIED

HAMILTON LICENSING TRIBUNAL REPORT 12-004

(McHattie/Morelli)

That the FOURTH Report of the Hamilton Licensing Tribunal be TABLED to the Wednesday May 9, 2012 Council meeting.

(McHattie/Morelli)

That the motion to table the FOURTH Report of the Hamilton Licensing Tribunal, be withdrawn.

CARRIED

(Merulla/Morelli)

That the FOURTH Report of the Hamilton Licensing Tribunal, be adopted, and the information section received.

CARRIED

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| MOTIONS |
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7.1 Lynwood Charlton Centre**(Farr/Merulla)**

That the item respecting Lynwood Charlton Centre, be lifted from the table for consideration.

CARRIED

(Powers/Clark)

That Council waive its solicitor-client privilege to hear the Solicitor's advise in open session.

The motion respecting waiving the privilege was DEFEATED on a STANDING RECORDED vote, as follows:

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| Yeas: | B. Clark, B. Johnson, S. Merulla, J. Partridge, R. Pasuta and R. Powers |
| Total: | 6 |
| Nays: | B. Bratina, C. Collins, J. Farr, L. Ferguson, T. Jackson, B. McHattie, B. Morelli, M. Pearson and T. Whitehead |
| Total: | 9 |
| Absent: | S. Duvall |
| Total: | 1 |

(Farr/Merulla)

Application for an Amendment to Hamilton Zoning By-law No. 6593 for Lands Known as 121 Augusta Street (Hamilton) (PED12002) (Ward 2) (Item 6.5)

That Zoning Application ZAR-11-034 by Lynwood Charlton Centre, Owner, for a change in zoning from the "L-mr-2/S-1345" (Planned Development - Multiple Residential) District, Modified, to the "L-mr-2/S-1345a-'H'" (Planned Development - Multiple Residential - Holding) District, Modified, with a Special Exception, to permit a residential care facility for 8 residents, on lands located at 121 Augusta Street (Hamilton), as shown on Appendix "A" to Report PED12002, be DENIED on the following basis:

- (a) The proposal is contrary to By-law No. 01-142, in that it would further aggravate the existing over-intensification of residential care facilities within the central City.

The motion respecting Lynwood Charlton Centre CARRIED on a standing recorded vote, as follows:

Yeas: B. Bratina, C. Collins, S. Duvall, T. Jackson, B. Johnson, J. Farr, L. Ferguson, B. McHattie, S. Merulla, B. Morelli, J. Partridge and R. Powers
Total: 12
Nays: B. Clark, R. Pasuta, M. Pearson and T. Whitehead
Total: 4

(Farr/Merulla)

That the item respecting the Lynwood Charlton Centre, be considered complete and removed from the Council outstanding business list.

CARRIED

7.2 Water Fluoridation: New Data and Recent Developments

(Partridge/Collins)

That subsection (b) of item 4 of Board of Health Report 11-005 respecting Water Fluoridation: New Data and Recent Developments, approved by Council on May 11, 2011, be amended by deleting it in its entirety and replaced with the following:

- (b) That staff be directed to provide a report to the Board of Health respecting water fluoridation when requested by the Board of Health.

The motion respecting Water Fluoridation: New Data and Recent Developments CARRIED on a vote, as follows:

Yeas: B. Bratina, C. Collins, B. Clark, S. Duvall, T. Jackson, B. Johnson, J. Farr, L. Ferguson, B. McHattie, S. Merulla, B. Morelli, J. Partridge, R. Pasuta, M. Pearson and R. Powers
Total: 15
Nays: T. Whitehead
Total: 1

7.3 Nomination for Election to FCM Board of Directors**(Powers/Ferguson)**

- (a) That the Council of the City of Hamilton endorses Councillors Scott Duvall and Terry Whitehead to stand for election on FCM's Board of Directors/and or Advisory Committees for the 2010-2014 Term of Council;
- (b) That all associated costs regarding Councillors Scott Duvall and Terry Whitehead's attendance at the FCM Board of Directors and/or Advisory Committee meetings be charged to the General Legislative 300100 account.

CARRIED**7.4 Council Meeting Start Times****(Powers/ Ferguson)**

That the pilot program respecting Council meeting start times of 5:00 p.m. be extended until June 2012, to allow the Governance Review Sub-Committee additional time to gauge public response with respect to the 5:00 p.m. Council start time.

CARRIED

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| STATEMENT BY MEMBERS |
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Members of Council used this opportunity to discuss matters of general interest.

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| PRIVATE AND CONFIDENTIAL |
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(Jackson/Merulla)

That the following items be referred to the next meeting of the General Issues Committee:

- 10.1 City Manager Performance Review (No Copy) (Referred from April 18, 2012 GIC meeting)
- 10.2 City Manager Remuneration Options (HUR12005) (Referred from April 18, 2012 GIC meeting)

CARRIED**(Morelli/Farr)**

That Council move into Closed Session at 9:40 p.m. pursuant to sub-section 8.1 (e) and (f) of the City's Procedural By-law and Section 239.2 (e) and (f) of the Municipal Act, as amended, as the subject matter pertains to:

- (e) litigation or potential litigation, including matters before administrative tribunals, affecting the City;
- (f) the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

CARRIED

Council reconvened in Open Session at 9:47 p.m.

(Collins/Duvall)

That the TENTH Report of the General Issues Committee be lifted from the table.

CARRIED

19. City of Hamilton v Metcalfe & Mansfield (FCS09066(b)/LS09006(b)) (Item 12.3)

(Collins/Duvall)

- (a) That Report FCS09066(b)/LS09006(b), including its appendices, be received;
- (b) That Council ratify the commencement of the action by the City against Henry Juroviesky and Juroviesky & Ricci LLP for purposes of the litigation;
- (c) That Report FCS09066(b)/LS09006(b) and its appendices remain confidential.

CARRIED

That the following be added as Item 24 to the General Issues Committee Report 12-010:

24. City of Hamilton v. Mansfield Metcalfe Corporation et al.

(Pearson/Clark)

- (a) That Report FCS09066(c)/LS09006(c) respecting City of Hamilton v. Mansfield Metcalfe Corporation et al be received;
- (b) That the contents of Report FCS09066(c)/LS09006(c) and direction also provided in closed session remain confidential.

CARRIED

(Collins/Jackson)

That the TENTH Report of the General Issues Committee, be adopted, as amended, and the information section received. (Attached hereto)

CARRIED

(Clark/Pearson)

That the Committee of the Whole Rise and Report.

CARRIED

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| BY-LAWS |
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(Collins/Jackson)

That Bills No. 12-092 to 12-103 be passed, as amended, and that the Corporate Seal be affixed thereto, and that the By-laws be numbered and signed by the Mayor and the City Clerk to read as follows:

| Bill No. | By-law No. | |
|-----------------|-------------------|---|
| 092 | 12-092 | To Impose a Storm Sewer Charge upon owners of land abutting Binbrook Road West from 100m east of Fall Fair Way to 100m west of Fall Fair Way, in the City of Hamilton |
| 093 | 12-093 | To Incorporate City Land Designated as Block 122 on Plan 62M-872 into Theodore Drive |
| 094 | 12-094 | To Authorize the borrowing of monies by way of bank loans in the principal amounts of \$38,000,000 and \$14,740,000 |
| 095 | 12-095 | To Amend By-law No. 01-218, as amended, To Regulate On-Street Parking: Schedule 8 – No Parking Zones Schedule 12 – Permit Parking Zones |
| 096 | 12-096 | Respecting Removal of Part Lot Control, Blocks 20 and 32, Registered Plan No. 62M-1132, “Aquamarine”, 96, 100 and 104 Copes Lane (Stoney Creek) |
| 097 | 12-097 | Respecting Removal of Part Lot Control, Block 71 of Plan No. 62M-1167, “Silverwoods” |
| 098 | 12-098 | To Amend Zoning By-law No. 87-57 (Ancaster), Respecting Lands Located at 515 Hamilton Street, in the former Town of Ancaster, now in the City of Hamilton |
| 099 | 12-099 | To Amend By-law No. 01-215, To Regulate Traffic: Schedule 2 – Speed Limits Schedule 3 – Flashing School Zones – Reduced Speed Limits Schedule 6 – One-Way Streets Schedule 10 – No Left Turns Schedule 13 – Designated Traffic Lanes |
| 100 | 12-100 | To Amend By-law No. 10-053, the Council Procedural By-law |
| 101 | 12-101 | To Amend By-law No. 07-17, A By-law to License and Regulate Various Businesses |
| 102 | 12-102 | To Amend Zoning By-law No. 05-200, Respecting Lands Located at 260 Nebo Road, Hamilton |
| 103 | 12-103 | To Confirm the Proceedings of Council |

CARRIED

City Council

(14)

April 25, 2012

(Pearson/Clark)

That there being no further business, the City Council meeting be adjourned at 10:00 p.m.

CARRIED

Respectfully submitted,

Mayor R. Bratina

R. Caterini
City Clerk
April 25, 2012