Present: Mayor F. Eisenberger

Mayor Eisenberger called the meeting to order and called upon Reverend Ian Sloan of Centenary Church in Hamilton to lead Council in prayer.

APPROVAL OF THE AGENDA

The Clerk advised of the following changes to the agenda:

1. ADDED CORRESPONDENCE

   5.8 Correspondence from Peter Hutton outlining concerns respecting process for the upcoming Committee of the Whole meeting on Transit

       Recommendation: For the consideration of Council

   5.9 Correspondence from Tina Agnello and Sandy Simonitis, Danielle & Joseph Heins, Marie and Anthony Benassi respecting 10 Houndtrail Drive, Waterdown

       Recommendation: Be received

(Collins/Pearson)
That the Agenda for the City Council meeting being held on October 28, 2009, be approved, as amended.

CARRIED

DECLARATIONS OF INTEREST

None.

CEREMONIAL ACTIVITIES/ANNOUNCEMENTS

3.1 Gold Box Presentation

The Mayor recognized the following citizens for their participation in the City of Hamilton’s Gold Box Program:

<table>
<thead>
<tr>
<th>Month</th>
<th>Name</th>
<th>Community</th>
<th>Ward</th>
<th>Diversion Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>May</td>
<td>Anne Clarkin</td>
<td>Hamilton</td>
<td>6</td>
<td>97%</td>
</tr>
<tr>
<td>June</td>
<td>Marg Charlebois</td>
<td>Waterdown</td>
<td>15</td>
<td>97%</td>
</tr>
<tr>
<td>July</td>
<td>Teresa DiFalco</td>
<td>Stoney Creek</td>
<td>10</td>
<td>99%</td>
</tr>
<tr>
<td>August</td>
<td>Amanda Chepack</td>
<td>Hamilton</td>
<td>4</td>
<td>99%</td>
</tr>
</tbody>
</table>

APPROVAL OF MINUTES

4.1 October 14, 2009

(Bratina/Mitchell)
That the Minutes of the October 14, 2009, meeting of Council be approved, as presented.

CARRIED

4.2 October 20, 2009 (Special)

(Pasuta/Morelli)
That the Minutes of the October 20, 2009, Special meeting of Council be approved, as presented.

CARRIED

COMMUNICATIONS

(Jackson/McCarthy)
That Council Communications 5.1 to 5.9 be approved, as amended, as follows:

5.1 Correspondence from AMO respecting Ontario Harmonized Sales Tax
Recommendation: Be received

5.2 Correspondence from the Honourable Jim Watson, Minister of Municipal Affairs and Housing respecting projects for submission under the Canada-Ontario Affordable Housing Program

Recommendation: Be received

5.3 Correspondence from The Honourable David Caplan, Minister of Health and Long Term Care respecting funding in the amount of $598,154 to support the purchasing of IT equipment for the ph1N1 vaccination clinics

Recommendation: Be received

5.4 Correspondence from Danielle and Joe Heins respecting OMB Hearing for 10 Houndtrail Drive, Waterdown Committee of Adjustment Decision, Application FL/A-09:173

Recommendation: Be received

5.5 Correspondence from Scott and Laura Johansen respecting OMB Hearing for 10 Houndtrail Drive, Waterdown Committee of Adjustment Decision, Application FL/A-09:173

Recommendation: Be received

5.6 Correspondence from Tina Agnello and Sandy Simonits respecting OMB Hearing for 10 Houndtrail Drive, Waterdown Committee of Adjustment Decision, Application FL/A-09:173

Recommendation: Be received

5.7 Correspondence from Vera Pawis Tabobondung, National Association of Friendship Centres respecting enhanced funding for the centres

Recommendation: Be received and referred to the Mayor’s Office for review and a response.

5.8 Correspondence from Peter Hutton outlining concerns respecting process for the upcoming Committee of the Whole meeting on Transit
Recommendation: Be received and referred to the October 29, 2009 Committee of the Whole Transit Budget meeting.

5.9 Correspondence from Tina Agnello and Sandy Simonitis, Danielle & Joseph Heins, Marie and Anthony Benassi respecting 10 Houndtrail Drive, Waterdown

Recommendation: Be received

CARRIED
(Ferguson/McCarthy)
That Council move into Committee of the Whole for consideration of the Committee Reports.

CARRIED

AUDIT & ADMINISTRATION COMMITTEE REPORT 09-014

10. Residential Protective Plumbing Subsidy Program (FCS09100/PW09082(a)) (Item 8.5)

(Collins/Merulla)
That recommendation (d) of Item 10 of the Audit & Administration Committee Report 09-014, be referred back to the Audit & Administration Committee for discussion.

(Clark/Bratina)
That the FOURTEENTH Report of the Audit & Administration Committee be adopted, as amended, and the information section received.

CARRIED

EMERGENCY & COMMUNITY SERVICES COMMITTEE REPORT 09-013

6. Lynn Aquin, on behalf of the Campaign for Adequate Welfare, requesting support from Council respecting the continuing Clawback to OW and ODSP (Item 6.1)

(McHattie/Merulla)
(a) That recommendation (a) of Item 6 of the Emergency & Community Services Committee Report 09-013 be amended by deleting the words “a minimum of” and the words “, prior to the introduction of the Ontario Child Benefit”, and adding the words “June 2009” to read as follows:

“(a) That the Mayor correspond, on behalf the city’s most vulnerable citizens, with the Honourable Madeleine Meilleur, Minister of Community and Social Services, to compel the Province to restore the Basic Needs portion of social assistance payments to the levels of June 2009; and,”
(b) That the following be added as recommendation (c):

“(c) That the City of Hamilton strongly endorses the concept of a Social Assistance Rates Board.”

CARRIED

11. Donating Used Ambulances to Not-for-profit Organizations (HES09005) (City Wide) (Item 8.4)

Item 11 CARRIED on a Recorded Voted, as follows:

Yeas: Eisenberger, Bratina, Clark, Collins, Duvall, Ferguson, Jackson, McHattie, Merulla, Morelli, Pasuta, Mitchell, Pearson, Powers, Whitehead

Total: 15

Nays: McCarthy
Total: 1

(Pasuta/Pearson)
That the THIRTEENTH Report of the Emergency & Community Services Committee be adopted, as amended, and the information section received.

CARRIED

ECONOMIC DEVELOPMENT & PLANNING COMMITTEE REPORT 09-022

That the following be added as Item 2 to Economic Development and Planning Committee Report 09-022:

2. Tree Protection Guidelines

That the Tree Protection Guidelines, dated July 2009, attached as Appendix “B” to Report PD02229(c), be referred back to the Economic Development & Planning Committee.

CARRIED

(Pearson/Mitchell)
That the TWENTY-SECOND Report of the Economic Development & Planning Committee be adopted, as amended, and the information section received.

CARRIED

ECONOMIC DEVELOPMENT & PLANNING COMMITTEE REPORT 09-021

6. Maintaining Animal Control Customer Service Counter Hours of Operation (PED09276) - (City Wide) (Item 5.6)

Item 6 CARRIED on a Recorded Voted, as follows:
7. **Lease – 21 King Street West, Suite 1101 and 1200 - MVD Properties Inc. (PED09282) (Ward 2) (Item 5.7)**

**(Pearson/Mitchell)**

That subsections (a), (a)(i), (a)(iii), (c) and (d)(i) and (iii) of Item 7 of the Economic Development and Planning Committee respecting Lease – 21 King Street West, Suite 1101 and 1200 - MVD Properties Inc. be amended as per highlighted text:

(a) That the City of Hamilton enters into a new lease agreement with MVD Properties Inc. or its successor on title for the property known as Suite 1101, 21 King Street West, Hamilton, subject to the following terms:

(i) **Term:** 9 year, 10 month term commencing **November 16, 2009**, terminating August 31, 2019.

(ii) **Property:** Comprised of Suite 1101, 21 King Street West, with a total rentable area of 288.6 square metres (3,107 square feet) more or less as shown on Appendix "B" attached to Report PED09282.

(iii) **Rental Rate:**

- **November 16, 2009** to August 31, 2010, $23,367.25, (Net), $2,459.71 per month, plus G.S.T. The rental rate is $9.50 net, per square foot.
- September 1, 2010 to August 31, 2014, $29,516.50, (Net) per annum, $2,459.71. per month, plus G.S.T. The rental rate is $9.50 net, per square foot.
- September 1, 2014 to August 31, 2019, $31,070.00 (Net) per annum, $2,589.17 per month, plus G.S.T. The rental rate is $10.00 net, per square foot.

(iv) **Operating Costs:** Operating costs which were estimated at $7.50 per square foot in 2007, $23,302.50 per annum or $1,941.88 monthly plus G.S.T. The operating costs reflect that the premises will be designated as a City Capital Facility and exempt from property taxes.

(v) **Parking:** One underground parking space will be provided at market rate.

(vi) **Payment:** All rent and operating costs are to be paid monthly and charged to Risk Management Services Section.
against Account No. 791530-357005.

(vii) **Special Conditions:** The landlord agrees to provide the premises to the tenant 3 months free gross rent to allow the tenant time to complete all tenant improvements as shown on Appendix “B” attached to Report PED09282. It should be noted that the 3 months free gross rent effectively reduces the rental rate to $9.29 per square foot throughout the entire lease term.

The City shall not be required to demolish the existing tenant improvements at the termination of the lease term however the City is allowed to remove all Teknion cubicles.

A rent abatement clause will be included in the lease agreement.

The landlord agrees to co-operate fully with the tenant’s project consultants and contractors to ensure that construction of the tenant improvements proceed without incident, delay or loss of access in any way.

(viii) **Option to Renew:** Upon 6 months written notice before expiry of the 9 year, 10 month term, (August 31, 2019) the City of Hamilton will have the option to renew the lease for an additional 5 year term under the same terms and conditions as this lease, save for the rental rate, which will be negotiated at market levels.

(ix) **Lease:** The lease shall be prepared by the Landlord in accordance with the terms and conditions contained within the Landlord’s Letter of Intent and shall be subject to the City’s solicitor being completely satisfied with the terms contained therein.

(b) That the Legal Services Division be authorized to prepare a by-law, under Section 110 of the *Municipal Act*, to propose that the 11th floor premises become designated as a City Capital Facility, whereby the City would be exempt from paying realty taxes at this location.

(c) That the **Mayor, and City Clerk** be authorized and directed to execute the Lease in a form satisfactory to the City Solicitor and subject to all taxes being paid in full unless otherwise directed by the General Manager of Finance and Corporate Services.
That the Legal Services Division be allowed to assume the space previously occupied and shared by Risk Management Services Section at Suite 1200, 21 King Street West, Hamilton, subject to the following terms:

(i) **Term:** Assume Risk Management’s share of the remaining existing lease as of **November 16, 2009** terminating August 31, 2014. Risk Management Services Section will no longer be responsible or obligated to honour any terms and conditions of that lease for the remainder of the term.

(ii) **Property:** Comprised of 21 King Street West, 12th floor, with a rentable area of 184.4 square metres (1,985 square feet) more or less. Note: Legal Services Division will now occupy the entire 12th floor, as shown on Appendix “C” attached to Report PED09282.

(iii) **Rental Rate:** The rate for the remainder of the term will be as follows:

- **November 16, 2009 to August 31, 2010, $14,928.87 (Net), $1,571.46 per month, plus G.S.T.**
- **September 1, 2010 to August 31, 2014, $18,857.50 (Net) per annum, $1,571.46 per month. The rental rate agreed to September 1, 2009 is $9.50 net, per square foot.**

(iv) **Operating Costs:** Operating costs which were estimated at $7.50 per square foot in 2007, $14,887.50 per annum or $1,240.63 monthly plus G.S.T. The operating costs reflect that the premises have been designated as a City Capital Facility and are exempt from property taxes.

(v) **Payment:** All rent and operating costs are to be paid monthly and charged to Legal Services Division against Account No. 55358-791530.

(vi) **Special Conditions:** The Landlord, at its expense, contractually agreed to clean and shampoo the broadloom annually throughout the term of the lease.

A rent abatement clause was included in the existing lease agreement.

(vii) **Option to Renew:** Upon 6 months written notice before expiry of the first 5 year term, (August 31, 2014) the City of Hamilton has the option to renew the lease for an additional 5 year term under the same terms and conditions as this lease, save for the rental rate, which will be negotiated at market levels.
8. Committee of Adjustment Minor Variance Application FL/A-09:173 for the Property Known as 10 Houndtrail Drive, Flamborough - Supported by the Planning and Economic Development Department, but Denied by the Committee of Adjustment (PED09267) (Ward 15) (Item 6.1)

(McHattie/Merulla)
(a) That Item 8 of the Economic Development & Planning Committee Report 09-021 be referred back to the Economic Development & Planning Committee.

(b) That staff be directed to obtain a binding agreement/arrangement from the owners of 10 Houndtrail Drive, Flamborough regarding their proposed changes to the property and to share this information with the surrounding neighbours, prior to the matter returning to the Economic Development & Planning Committee.

CARRIED

10. Staging of Development Plan (2010 - 2012) (PED08205(a)) (City Wide) (Item 7.1)

(Pearson/Mitchell)
That Item 10 of Economic Development and Planning report 09-021 be amended as follows;

That Recommendation (a) of Report PED08205(a) be deleted in its entirety and replaced with the following:

(a) That City Council approve the Staging of Development Report (2010-2012) attached as Appendix "A" to Report PED08205(a) with the following amendments to Tables 8 and 9 in Appendix "A", and corresponding mapping changes in Appendix 'C'

TABLE 8-Priority Processing for Draft Plan Approval:

(i) 25T200614 - Fairground West – Date change from 2011 to 2010 (B)
(ii) 25T200610 – Caterini – Date change from 2011 to 2010 (B)
(iii) 25T99001 - Highbury Meadows - 2010 (B) (Added to list)
(iv) 25T200513 - Waterdown Bay Phase 2 - 2011) (Added to list)

TABLE 9- Timing of Servicing for Draft Approved Plans

(i) 25T86008 - DiCenzo Gardens Phase 10 - 2010 (1) (Added to list)
(ii) 25T91007 - Jamesmount Gardens Phase 2 - Date change from 2011+ to 2010 (2)
(iii) 25T97009 - Paradise Meadows Phase 2 - 2010 (2) (Added to list)
(iv) 25T97009 - Paradise Meadows Phase 3 – 2011 (Added to list)
(v) 25T88031 - Sandrina Gardens Phase 7 – 2011 (Added to list)
(vi) 25T76024 - Battleridge Subdivision Phase 3 - 2011+ (Added to list)
Item 10 CARRIED on a Recorded Voted, as follows:

Yeas: Eisenberger, Bratina, Collins, Duvall, Ferguson, Jackson, McCarthy, McHattie, Merulla, Morelli, Pasuta, Mitchell, Pearson, Powers, Whitehead
Total: 15
Nays: Clark
Total: 1

(Pearson/Mitchell)
That the TWENTY-FIRST Report of the Economic Development & Planning Committee be adopted, as amended, and the information section received.
CARRIED

COMMITTEE OF THE WHOLE REPORT 09-028

(Eisenberger/Whitehead)
That the TWENTY-EIGHTH Report of the Committee of the Whole be adopted, and the information section received.
CARRIED

(Ferguson/McCarthy)
That the Committee of the Whole rise and report.
CARRIED

MOTIONS

Councillor Duvall tabled the following motion to the next meeting of Council:

7.1 Retention of “Nora Frances Henderson” Hospital

That the City of Hamilton provides their full support for the retention of the name, “Nora Frances Henderson” on the hospital located at 711 Concession Street, and that the Hamilton Health Sciences Board be requested to reconsider their decision.

7.2 Use of Outdoor Cameras

(Clark/Collins)
That staff be directed to investigate the use of outdoor cameras, which may be aimed at neighbours homes and yards, and the feasibility of establishing a by-law prohibiting such use.
CARRIED
7.3 Waiving of Minor Site Plan Application Fee of $730.00 for Minor Site Plan Approvals triggered by an application for a new Outdoor Boulevard Café Encroachment Agreements

(Bratina/Pearson)
That the Rules of Order be waived to allow the introduction of a motion respecting the waiving of minor site plan application fee of $730.00 for minor site plan approvals triggered by an application for a new Outdoor Boulevard Café Encroachment Agreements.

CARRIED

(Bratina/Pearson)
Whereas Council previously approved Item 1 of Committee of the Whole Report 09-015 (PED09127) on May 27, 2009, wherein staff were directed to terminate existing Outdoor Boulevard Café Encroachment Agreements for the establishments in Hess Village operating patios on the City’s road allowance and to require those establishments to enter into new Agreements;

And whereas Council waived the application fees associated with the Outdoor Boulevard Café Encroachment Agreements for these establishments;
And whereas Council directed staff to develop a new process for approving Outdoor Boulevard Café Encroachment Agreements which process has now been completed;

And whereas this new process triggers an additional requirement for applicants to apply for minor site plan approval and pay a fee of $730.00 which fee was not included in Report PED09127;

And whereas the waiving of fees for this process is permitted by virtue of Hess Village’s location within the Downtown Hamilton Community Improvement Project Area;

Therefore be it resolved:

That the Minor Site Plan application fee of $730.00 for minor site plan approvals triggered by an application for a new Outdoor Boulevard Café Encroachment Agreement for those establishments with existing Outdoor Boulevard Café Encroachment Agreements within Hess Village be hereby waived.

CARRIED

NOTICES OF MOTION

Councillor S. Merulla introduced the following Notice of Motion:
8.1 Non Union Compensation

Whereas the City of Hamilton is experiencing a potential operating deficit of $31.5 million dollars in the 2010 budget;

And, Whereas $900,000 dollars will be saved from freezing non-union staff salaries including City Councillors salaries;

Therefore Be It Resolved,

That Hamilton City Council freeze Councillors Salaries and Non Union Staff thereby saving nearly one million dollars on behalf of hard working Hamiltonians.

STATEMENT BY MEMBERS

Members of Council used this opportunity to discuss matters of general interest.

PRIVATE AND CONFIDENTIAL

10.1 Closed Session Minutes of the October 14, 2009 Meeting

(Duvall/Bratina)
As Council determined that no discussion, respecting the Closed Session Minutes of the October 14, 2009 meeting of Council, was required the Minutes were approved in Open Session, as shown below:

(a) That the Closed Session Minutes of the October 14 2009 meeting of the Council be approved, as presented.

(b) That the October 14, 2009 minutes, of Council, remain confidential and restricted from public disclosure, in accordance with exemptions provided in the Municipal Freedom of Information and Protection of Privacy Act." CARRIED

BY-LAWS

(Jackson/McCarthy)
That Bill Nos. 09-218 to 09-224 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 09-218 to 09-224 as follows:

By-law No.

09-218 To Amend the leash free zones Provisions of City of Hamilton By-law No. 01-169 Being a By-law Respecting the Control and Licensing of Dogs and Kennels

09-219 To Amend By-law No. 01-215, as amended, Being a By-law to Regulate Traffic, and To Amend By-law No. 01-218, as amended,
Being a By-law To Regulate On-Street Parking

Amending By-law No 01-215:
Schedule 5 – Stop Signs
Schedule 2 – Through Highways

Amending By-law No. 01-218:
Schedule 5 – Parking Meters
Schedule 6 – Time Limit Parking
Schedule 8 – No Parking Zones
Schedule 10 – Alternate Side Parking
Schedule 12 – Permit Parking Zones
Schedule 13 – No Stopping Zones
Schedule 14 – Wheelchair Loading Zones
Schedule 15 – Commercial Vehicle Loading Zones
Schedule 20 – School Bus Loading Zones

09-220 To Amend By-law No. 09-188, a By-law To Establish Certain 2009 User Fees and Charges For Services, Activities or the Use of Property

09-221 To Amend Zoning By-law No. 6593 (Hamilton), Respecting Lands Located at 427 Aberdeen Avenue

09-222 To Amend Zoning By-law No. 6593 (Hamilton), Respecting Lands Located at 615 to 647 Rymal Road East (Rymal Square)

09-223 To Confirm the Proceedings of City Council CARRIED

[ADJOURNMENT]

(Pearson/Duvall)
There being no further business, the City Council meeting adjourned at 9:10 p.m. CARRIED

Respectfully submitted,

Fred Eisenberger
Mayor

Kevin Christenson
City Clerk
October 28, 2009