CITY COUNCIL
MINUTES

Wednesday, February 13, 2008
7:00 p.m.
Albion Rooms
Hamilton Convention Centre
One Summer’s Lane
Hamilton, Ontario

Present: Mayor F. Eisenberger

Mayor Eisenberger called the meeting to order and called upon Reverend Gaye Norrie of People's Church to lead Council in prayer.

APPROVAL OF THE AGENDA

The Clerk advised of the following changes to the agenda:

1. ADDED COMMUNICATIONS

   5.11 Correspondence from Mirza Ansir respecting Item 4 of Licensing Committee Report 08-001

       Recommendation: Be received

   5.12 Letter from Councillor David Mitchell withdrawing application of severance.

       Recommendation: Be received
5.13 Correspondence from Hamilton Conservation Authority respecting 2008 Budgets – Hamilton Region Conservation Authority Budgets

Recommendation: Be received

5.14 Correspondence from Ron and Noreen Harrison respecting Item 6 of the Economic Development and Planning Committee Report 08-003 – Demolition Permit for 100 Sherman Avenue South

Recommendation: Be received

2. ADDED PRIVATE AND CONFIDENTIAL MATTER

10.1 Private and Confidential Item relating to Labour Relations and Employee Negotiations respecting CUPE 5167

(Pearson/Morelli)
That the Agenda for the City Council meeting being held on February 13, 2008, be approved, as amended. CARRIED

DECLARATIONS OF INTEREST

Councillor David Mitchell declared an interest with respect to Item 5.12 which is his letter to Council advising that he is withdrawing his severance application for 1308 Guyatt Road and also an interest with respect to Item 3 of Economic Development and Planning Committee Report 08-003 respecting his severance application.

Councillor Lloyd Ferguson declared an interest with respect to Item 20 of the Economic Development and Planning Committee Report 08-003 as he is an investor in the taxi industry.

CEREMONIAL ACTIVITIES/ANNOUNCEMENTS

3.1 OPWA Public Works Week Award

The Mayor advised that the City of Hamilton's Public Works Department has been awarded the Provincial Public Works Week Award from the Ontario Public Works Association for a second time. The award recognizes the innovative community outreach activities and events that Department staff coordinated in May 2007 to celebrate National Public Works Week. The Department previously received this honour in 2005.
The Mayor invited Kelly Anderson and Phil Homerski to accept the award on behalf of the Public Works Department.

3.2 OPWA Project of the Year Award

The Mayor congratulated the staff of the Waste Management division of Public Works for receiving another award from the Ontario Public Works Association that recognizes Hamilton’s commitment to manage municipal solid waste in a socially, economically and environmentally acceptable manner. Craig Murdoch and Glen Watt of the Waste Management Division accepted the award on behalf of the Public Works Department.

**APPROVAL OF MINUTES**

(Duvall/Collins)
That the Minutes of the January 30, 2008, meeting of Council be approved, as presented. CARRIED

**COMMUNICATIONS**

(Whitehead/Powers)
That Council Communications 5.1 to 5.14 be received:

5.1 Correspondence from The Honourable Michael Chan, Minister of Citizenship and Immigration respecting nominations for the Newcomer Champion Awards

Recommendation: Be received

5.2 Correspondence from the Honourable Jim Watson, Minister of Municipal Affairs and Housing respecting Hamilton Rural Official Plan

Recommendation: Be received

5.3 Correspondence from David Christopherson, MP, Hamilton Centre respecting 2010 BMP Canadian figure Skating Championship

Recommendation: Be received

5.4 Correspondence from the Honourable Jim Watson, Minister of Municipal Affairs and Housing respecting Canada-Ontario Affordable Housing Program – Conversion Business Case

Recommendation: Be received
5.5 Correspondence from the Rt. Honourable Dalton McGuinty, Premier of Ontario respecting aggregate fees

Recommendation: Be received

5.6 Correspondence from Ross Snowden respecting Trinity Development proposal at Aberdeen and Longwood Avenue

Recommendation: Be received

5.7 Correspondence from the Rt. Honourable Dalton McGuinty, Premier of Ontario respecting poverty reduction and the Nutrition Food Basket Report

Recommendation: Be received

5.8 Correspondence from Dan and Brenda Jefferies respecting Re-zoning of 40 and 46 Flamboro Street, Waterdown (Ward 15) (File No. ZAC-06-94

Recommendation: Be received

5.9 Correspondence from Tim Bullock, Chairman, Downtown Hamilton BIA respecting future developments in Hamilton’s downtown core

Recommendation: Be received

5.10 Correspondence from the City of Waterloo respecting Canadian Broadcasting Corporation

Recommendation: Be received

5.11 Correspondence from Mirza Ansir respecting Item 4 of Licensing Committee Report 08-001

Recommendation: Be received

5.12 Correspondence from Councillor Dave Mitchell withdrawing application of severance

Recommendation: Be received

5.13 Correspondence from Hamilton Conservation Authority respecting 2008 Budgets – Hamilton Region Conservation Authority Budgets

Recommendation: Be received
5.14 Correspondence from Ron and Noreen Harrison respecting Item 6 of the Economic Development and Planning Committee Report 08-003 – Demolition Permit for 100 Sherman Avenue South

Recommendation: Be received

CARRIED

(Whitehead/Powers)
That Council move into Committee of the Whole for consideration of the Standing Committee Report.

CARRIED

PUBLIC WORKS COMMITTEE REPORT 08-003

(Powers/Pearson)
That the THIRD Report of the Public Works Committee be adopted and the information section received.

CARRIED

ECOMONIC DEVELOPMENT AND PLANNING COMMITTEE REPORT 08-003

Item 3 Appeal of the City of Hamilton Committee of Adjustment Decision to Approve Severance Application GL/B-07:126 Dave Mitchell (Owner), 1308 Guyatt Road (Former Township of Glanbrook) (PED08031) (Ward 11) (Item 5.3)

(Whitehead/Powers)
That Item 3 of Economic Development and Planning Committee Report 08-003 be deferred to the Private and Confidential Section to discuss a matter that is subject to solicitor-client privilege and the approval of the Report be TABLED until following the Closed Session of Council.

CARRIED

Item 15 Application for a Draft Plan of Subdivision for Green Forest Estates Located in the Southeast Quadrant of the Westover Settlement Area (Flamborough) (PED08033) (Ward 14) (Item 6.9)

This Item CARRIED on the following votes:

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

Total: 15

Nays: Pasuta
Total: 1
Item 16 Applications for Approval of a Draft Plan of Subdivision, "Ardleigh Heights", and for a Change in Zoning for the Property Located at Part of Lot 8, Concession 7 (North Side of Stone Church Road East Between Upper Sherman Avenue and Rambo Street) (Hamilton) (PED08016) (Ward 7) Item 8.1)

This Item CARRIED on the following votes:

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

Item 17 Application for a Certificate of Approval (Waste Disposal / Processing / Transfer Station) Ministry of Environment Reference 4713-72FJAD, 217, 221 and 223 Lottridge Street and 103 Clinton Street (PED08012) (Ward 3) (Item 8.2)

(Clark/Bratina)
That subsection (v) of Item 17 of the Economic Development and Planning Committee Report 08-003 be amended by deleting the words “waste from rendering plants” and adding the words “sludge from rendering plant lagoons” therein as follows:

(v) That the waste streams be limited to solid non-hazardous mixed waste from industrial, commercial, institutional and residential construction and demolition waste materials. That no putrescible waste and no sludge from rendering plant lagoons be accepted at this facility. That no other waste be accepted at this facility. That the incidental waste component accepted at this facility be limited to 2% or less of the waste received at the proposed facility.

Amendment CARRIED

This Item, as amended CARRIED on the following votes:

Yeas: Eisenberger, Bratina, Clark, Duvall, Ferguson, Jackson, McCarthy, McHattie, Pasuta, Mitchell, Pearson, and Powers
Total: 12
Nays: Collins, Merulla, Morelli, and Whitehead
Total: 4
Item 20  Licencing By-law (Added Item)

(Whitehead/Powers)
That Item 20 of the Economic Development and Planning Committee Report 08-003 be amended by removing the words “and GPS” as follows:

That the section of the Licensing By-law, 07-170, which requires that security cameras be installed in all taxis by May, 2008 be amended, and that this date be changed to November, 2008, to allow time for a full review of taxi shield installation, including a Public Meeting on the matter with the Taxi Industry.

Amendment CARRIED
Motion as amended CARRIED

Item u  Business Case to Purchase Lands Along Airport Road Adjoining the John C. Munro/Hamilton international Airport

(Whitehead/Powers)
That Information Item u from the Economic Development and Planning Committee Report 08-003 respecting Business Case to Purchase Lands Along Airport Road Adjoining the John C. Munro/Hamilton international Airport be lifted from the information section and renumbered as Item 21 to the report.

21. Business Case to Purchase Lands Along Airport Road Adjoining the John C. Munro/Hamilton international Airport

(a) That Option 1 – acquisition of all future land required for runway and airport expansion now (approximately 149 acres), as outlined in Business Case to Purchase Lands along Airport Road adjoining the John C. Munro/ Hamilton International Airport attached to Confidential Report PED07048(c)/FCS07042(c), be approved;

(b) That the requisite funding in the amount of $3 million be pre-approved for inclusion in the 2009 Capital Budget;

(c) That Report PED07048(c)/FCS07042(c), in its entirety, remain a confidential document.

CARRIED

(Whitehead/Powers)
That Item 21 of the Economic Development and Planning Committee Report 08-003 respecting Business Case to Purchase Lands Along Airport Road Adjoining the John C. Munro/Hamilton international Airport be referred to a special Committee of the Whole meeting.
The referral motion CARRIED on the following votes:

Yeas: Eisenberger, Bratina, Clark, Collins, Duvall, Jackson, McCarthy, McHattie, Morelli, Pasuta, Merulla, Powers, and Whitehead
Total: 13
Nays: Ferguson, Mitchell, and Pearson
Total: 3

COMMITTEE OF THE WHOLE REPORT 08-006

(Whitehead/Powers)
That the SIXTH Report of Committee of the Whole be received for information. CARRIED

COMMITTEE OF THE WHOLE REPORT 08-009

Item 8 Settlement of Claims Made Under The *Expropriations Act* by: Arrowline Gas Ltd., M.C.G.W. Properties Corporation and Q Lube Ontario Inc., McDonald's Restaurants of Canada Limited, Vinnefield Trading Inc., Avondale Stores Limited, Donut Diners Inc. and 1136075 Ontario Limited arising from the closure of Limeridge Road East, at Upper Wentworth Street (LS08001) - (Ward 7 with City Wide Implications) (Item 10.4)

This Item CARRIED on the following votes:

Yeas: Eisenberger, Bratina, Clark, Duvall, Ferguson, McCarthy, McHattie, Merulla, Mitchell, Morelli, Pasuta, Pearson, and Powers
Total: 13
Nays: Collins, Jackson, and Whitehead
Total: 3

(Whitehead/Powers)
That the NINTH Report of Committee of the Whole be adopted, and the information section received. CARRIED

BOARD OF HEALTH REPORT 08-002

(McHattie/Merulla)
That Item 1(a) of the Board of Health Report 08-002 be received. Amendment CARRIED
Motion as amended CARRIED
That the SECOND Report of the Board of Health be adopted, as amended and the information section received.  

CARRIED

LICENSING COMMITTEE REPORT 08-001

That the FIRST Report of the Licensing Committee be adopted and the information section received.  

CARRIED

MOTIONS

7.1(a) Waive the Rules of Order

(Whitehead/Powers)  
That the Rules of Order be waived to allow the introduction of a motion respecting Plate Denial for unpaid parking tickets.  

CARRIED

7.1(b) Plate Denial for Unpaid Parking Tickets

(Whitehead/Powers)  
That City Council send a letter immediately to the Attorney General, thanking him for his assistance respecting the matter of plate denial for unpaid fines, and respectfully requesting confirmation of his staff’s agreement that the City may process fine collections, respecting plate denial, back to 2002.  

CARRIED

7.2(a) Waive the Rules of Order

(Whitehead/Powers)  
That the Rules of Order be waived to allow the introduction of a motion respecting Rate Increases for Proposed Planning and Economic Development Department.  

CARRIED

7.2(b) Rate Increases for Proposed Planning and Economic Development Department

(Whitehead/Powers)  
(a) That the entire package of fine and fee increases, as considered by the Economic Development and Planning Committee be forwarded to a Special Committee of the Whole for consideration and approval thereafter by Council, ahead of the regular 2008 Budget process; and
(b) That Committee of the Whole be advised that Economic Development and Planning Committee endorse the increase in parking meter charges, the extension of paid parking to all commercial areas, the increase in animal control fees, the increase in parking fines and fines for parking of heavy vehicles, the consideration of the potential of sharing some parking meter receipts with the BIAs and the retention of the reduced early payment fees for parking fines.

CARRIED

7.3(a) Waive the Rules of Order

(Merulla/Morelli)
That the Rules of Order be waived to allow the introduction of a motion respecting the Ottawa Street Farmers’ Market.

CARRIED

7.3(b) Ottawa Street Farmers’ Market

(Merulla/Morelli)
That staff be directed to prepare a report to the Grants Sub-Committee respecting a proposal to grant $40,000 in “seed money” to the Ottawa Street Farmers’ Market as a priority item for consideration.

CARRIED

7.4(a) Waive the Rules of Order

(Collins/McHattie)
That the Rules of Order be waived to allow the introduction of a motion respecting the strategic planning process.

CARRIED

7.4(b) Strategic Sessions

(Collins/McHattie)
(a) That the City Clerk be directed to schedule three meetings of Committee of the Whole for the purpose of discussing a Strategic Plan for the 2007-2010 Term of Council;

(b) That the agenda items include, but not be limited to, Council’s 2008 to 2010 Capital Plan, Strategic Policy initiatives, departmental work plans, and other related matters.

CARRIED
7.5 **Introduction of an Added Private and Confidential Item respecting Bokrika Inc.**

*(Whitehead/Powers)*

That the Rules of Order be waived to introduce an additional item to the Private and Confidential section of the agenda pertaining to a litigation or potential litigation matter concerning Bokirca Inc.

**CARRIED**

**NOTICES OF MOTION**

Councillor McCarthy presented the following notice of motion:

8.1 **Security Deposits for Pit/Quarry Rehabilitation**

Whereas in 1997 – 1998 the security deposits that were to guarantee rehabilitation of aggregate pits and quarries were liquidated

And, Whereas the bulk of these funds, $48 million, was handed back to the operators of these pits and quarries

And Whereas this liquidation removed much of the incentive for pits/quarries to be rehabilitated

And Whereas although progressive and final rehabilitation is required by the Aggregate Resources Act, only about half of disturbed lands in pits and quarries is being rehabilitated

And Whereas this liquidation was done by The Ontario Aggregate Resources Corporation (TOARC) at the order of the Ministry of Natural Resources,

And Whereas that Corporation TOARC is completely owned by the Ontario Stone, Sand and Gravel Association (OSSGA)

And Whereas Ontario Stone, Sand and Gravel Association is registered as a lobbyist with the Integrity Commissioner of Ontario

(a) A review of the role of security deposits for pit/quarry rehabilitation
(b) Re-instatement of those security deposits
(c) A review of the role of OSSGA and TOARC in regard to rehabilitation and security deposits toward determining if this role has been in the public good and has been effective for promoting rehabilitation

Councillor McHattie presented the following Notice of Motion:

8.2 **City Land to Ronald MacDonald House for Playground Purposes**

That the City of Hamilton (via Business Services Section, Public Works) convey a portion of the Cootes Drive road allowance lands in the amount of 50 feet
(15.21 metres) more or less by 145.24 feet (44.27 metres) more or less behind the current property at 1510 Main Street West to Kids Care Oncology Central West Ontario (KCOCWO) -Ronald MacDonald House, and that any application or processing fees be waived and the cost could be $1.00 per year with the KCOCWO providing the insurance coverage as required related matters.

**STATEMENT BY MEMBERS**

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

**PRIVATE AND CONFIDENTIAL**

*(Whitehead/Pearson)*

That Council move into closed session at 8:35 p.m. pursuant to Section 239 of the Municipal Act, 2001, to discuss the following matters:

(a) labour relations or employee negotiations respecting CUPE 5167;

(b) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board, respecting an update on City of Hamilton ats Bokirca Inc., Ontario Superior Court File No. 03-CV-252395;

(c) advice that is subject to solicitor-client privilege including communications necessary for that purpose respecting the Committee of Adjustment decision to approve severance application GL/B-07:126, 1308 Guyatt Road and for solicitor-client privilege concerning opinions and advice requested from the City Solicitor during the in-camera portion of the Economic Development and Planning Committee meeting held February 5, 2008.

**CARRIED**

*(Pearson/Jackson)*

That Council reconvene in Open Session at 11:15 p.m.

**CARRIED**

*(Ferguson/Pearson)*

That Council recess to allow the City Solicitor and City Clerk time to prepare an appropriate motion for Council's consideration.

**CARRIED**

*(Ferguson/McHattie)*

That Council move into closed session at 11:45 p.m. to make final decisions with respect to private and confidential items previously outlined.

**CARRIED**
(Ferguson/McHattie)
That Council reconvene in Open Session. (Time 12:00 a.m.)

CARRIED

10.1 Private and Confidential Item relating to Labour Relations and Employee Negotiations respecting CUPE 5167

Canadian Union of Public Employees Local 5167 Memorandum of Settlement (HUR08003) – (City Wide)

(Jackson/Whitehead)
(a) That the Memorandum of Settlement between the City of Hamilton and the Canadian Union of Public Employees, Local 5167 (CUPE 5167), in the Human Resources Department, be approved, and
(b) That the contents of Report HUR08003 remain confidential as they contain information related to labour relations and employee negotiations.

CARRIED

10.2 Private and Confidential Item respecting an update on City of Hamilton ats Bokirca Inc., Ontario Superior Court File No. 03-CV-252395.

The Mayor announced that In camera direction was given to staff with respect to this Item.

10.3 Private and Confidential Item relating to the Committee of Adjustment decision to approve severance application GL/B-07:126, 1308 Guyatt Road

(a) Waive Council’s Solicitor/Client Privilege

(Whitehead/Collins)
That Council waive its solicitor/client privilege to ask legal advice of the City Solicitor in Open Session respecting the Conflict of Interest Act and Council's options and responsibilities.

CARRIED

(b) Item 3 of Economic Development and Planning Committee Report 08-003 respecting Committee of Adjustment decision to approve severance application GL/B-07:126, 1308 Guyatt Road

(Whitehead/Pearson)
That sub-section (b) of Item 3 of Economic Development and Planning Committee Report 08-003 respecting Committee of Adjustment decision to approve severance application GL/B-07:126, 1308 Guyatt Road be amended by inserting the words “if necessary” after the words “at the Hearing” as follows:
(b) That Council directs Planning staff to attend the future Ontario Municipal Board (OMB) Hearing, and further directs the City Solicitor to retain outside counsel to represent the City at the Hearing, if necessary, with the retainer of the outside counsel to be framed in such a manner as to ensure a maximum arms length relationship between the outside counsel and City staff and City Council.

CARRIED
Motion as amended CARRIED

(Whitehead/Powers)
That the THIRD Report of the Economic Development and Planning Committee be adopted as amended, and the information section received. CARRIED

(c) Re: Conduct of Councillor David Mitchell

(Whitehead/Clark)
Whereas Council, has reviewed the actions of Councillor Mitchell in regards to Severance Application GL/B-07:126, 1308 Guyatt Road (former Township of Glanbrook) and;

Whereas, despite declaring an interest in Item 3 of Economic Development and Planning Committee Report 08-003, Council believes that Councillor David Mitchell attempted to influence the voting of other members of Council on this issue, and;

Whereas, this Council believes these actions fall below the standards of conduct which are expected of Members of Council;

Now therefore be it resolved that Council:

(i) Formally expresses its censure of Councillor David Mitchell for his conduct in this matter,

(ii) Directs that Councillor David Mitchell be, and is hereby excluded from holding the position of Chair or Vice Chair of any Standing Committee for the balance of the term of Council;

(iii) Directs that Councillor David Mitchell be, and is hereby excluded from holding the position of Deputy Mayor for the balance of the term of Council;

(iv) Directs that Councillor David Mitchell attend AMO’s “Effective Municipal Councillor Program” or a similar course as may be satisfactory in content to the City Solicitor and the City Clerk.

CARRIED
(d) Waive the rules to introduce an added motion

(McHattie/Collins)
That the Rules of Order be waived to introduce a motion respecting investigation of breach of confidential information.

CARRIED

(e) Issue of Police Investigation

(Ferguson/McHattie)
That the Chief of Police formally outline in writing the process the police would follow to investigate a breach of confidential information from a closed session meeting of Committee or Council.

CARRIED

BY-LAWS

(Whitehead/Powers)
That Bill Nos. 08-027 to 08-038 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 08-027 to 08-038 as follows:

<table>
<thead>
<tr>
<th>By-law No.</th>
<th>Bill No.</th>
<th>Description</th>
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<tbody>
<tr>
<td>08-027</td>
<td>027</td>
<td>To Amend By-law No. 01-215, To Regulate Traffic Schedule 2 – Speed Limits</td>
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<tr>
<td>08-028</td>
<td>028</td>
<td>To Amend Downtown Hamilton Business Improvement Area By-law No. 82-151, as amended</td>
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<td>08-029</td>
<td>029</td>
<td>To Remove Lands Located at 40 and 46 Flamboro Street and 62 Barton Street from Zoning By-law No. 05-200</td>
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<tr>
<td>08-030</td>
<td>030</td>
<td>To Amend Zoning By-law No. 90-145-Z (Flamborough), Respecting Lands Located at 40 and 46 Flamboro Street and 62 Barton Street</td>
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<tr>
<td>08-031</td>
<td>031</td>
<td>To Amend Zoning By-law No. 6593 (Hamilton), Respecting 1610 and 1622 Rymal Road East</td>
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<tr>
<td>08-032</td>
<td>032</td>
<td>To Rename of Portion of Falcon Road to Halifax Street</td>
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<tr>
<td>08-033</td>
<td>033</td>
<td>To Amend Zoning By-law No. 6593 (Hamilton), Respecting Part of Lot 8, Concession 7 (north side of Stone Church Road East between Upper Sherman Avenue and Rambo Street)</td>
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By-law 08-033 CARRIED on the following votes:

Yeas: Eisenberger, Whitehead, Pearson, Pasuta, Merulla, McHattie, Bratina, Clark, Ferguson, Collins, Powers,
08-034 034 To Rename Malwood Drive to Stoneglen Way
08-035 035 To Rename a Portion of Monza Drive to Vancouver Lane
08-036 036 To Authorize the Submission of an Application to the Ontario Infrastructure Projects Corporation (“OIPC”) for Funding from the Municipal Infrastructure Investment Initiative for a New Eligible Capital Project of the City of Hamilton, and to Approve the Expenditure of Funds on said Eligible Capital Project

08-037 037 To Amend By-law no. 01-218, a amended, To Regulate On-Street Parking:
Schedule 5 – Parking Meters
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 20 – School Bus Loading Zones

08-038 038 To Confirm the Proceedings of City Council

CARRIED

(McHattie/Ferguson)
There being no further business, that the City Council meeting adjourn at 12:15 a.m.

CARRIED

Respectfully submitted

Fred Eisenberger
Mayor

Kevin C. Christenson
Clerk
February 13, 2008