The meeting was called to order.

1. **CHANGES TO THE AGENDA (Item 1)**

   The Clerk noted the following changes, which were approved:

   (i) Added Motion by Councillor McHattie respecting the Lister Block.

2. **DECLARATIONS OF INTEREST (Item 2)**

   There were none declared.

3. **APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 3)**

   *(Manson/Wray)*
   
   That Item 5.10 – Endangered Buildings List, Subsection (e) – Auchmar, 88 Fennell Avenue, Hamilton, paragraph 3, be amended to read as follows:
A. Denham informed the Committee that a group of volunteers, herself included, attended the site to clean up, prior to Doors Open Hamilton. It appears that the film crew, who last occupied the building, had completed some re-painting in the main house. It was also noted that evidence of leaking was observed in the back area within the Chapel.

**AMENDMENT CARRIED**

(Stark/Hartnett)
That the Hamilton LACAC (Municipal Heritage Committee) meeting Minutes, dated April 27, 2006 be approved, as amended.

**MOTION AS AMENDED CARRIED**

4. **DISCUSSION ITEMS (Item 4)**

4.1 **Heritage Permit Application (HP2006-017) Under Part IV of the Ontario Heritage Act to Demolish a Designated Property at 28-44 James Street North (Lister Block), Hamilton (Ward 2)**

Tim McCabe, Director of Development and Real Estate provided an overview of a staff report to Committee.

**(Pearson/French)**
(a) That Council is advised that Heritage Permit (HP2006-017) be approved for the demolition of the designated property at 28-44 James Street North (Lister Block), Hamilton, subject to the following conditions:

(i) That prior to the issuance of a demolition permit for the Lister Block at 28-44 James Street North and prior to any other demolition activity, that the applicant apply for and receive all necessary approvals under the Planning Act and the Building Code Act and any other applicable by-laws of the City of Hamilton related to the proposed construction and development activities.

(ii) That the applicant arrange for the retrieval of building remnants and features including but not restricted to terra cotta units, copper spandrels, designated store front features and designated arcade features to the satisfaction and approval of the Director of Development and Real Estate in consultation with the Hamilton LACAC (Municipal Heritage Committee).

(iii) That all retrieved building remnants and features be appropriately stored by the applicant with quality representatives of key remnants and features being subsequently incorporated into a commemorative or interpretive display to be located within a publicly accessible portion of the new replacement structure at 28-44 James Street North, all subject to the approval of the Director of Development.
and Real Estate in consultation with the Hamilton LACAC (Municipal Heritage Committee).

(iv) That the applicant submit plans and drawings of all elevations of the replacement structure including all façade materials to be approved by the Director of Development and Real Estate in consultation with the Hamilton LACAC (Municipal Heritage Committee).

(b) That staff be directed to prepare any necessary by-laws under Subsection 34.3(1) of the Ontario Heritage Act to repeal the designating by-law subsequent to building demolition.

(c) That Council be advised that the lease commencement date of September 1, 2007, and lease termination date of August 31, 2022, as adopted in Item 4 (a)(i) of the Council Minutes of May 9th, 2005 and recommended in Report PD05095/FCS05052/CM05018 be amended to a commencement date of October 1, 2008, and termination date of September 30, 2023, respectively.

(d) That Council be advised that the lease commencement date of September 1, 2007, and lease termination date of August 31, 2022, as adopted in Item 4 (a)(iii) of the Council Minutes of May 9th, 2005 and recommended in Report PD05095/FCS05052/CM05018 be amended to a commencement date of October 1, 2008, and termination date of September 30, 2023, respectively.

(e) That Council be advised that the final date for entering into a signed Lease Agreement by the Landlord and Tenant of May 31, 2005, as adopted in Item 4(a)VI(5) of the Council Minutes of May 9, 2005 and recommended in Report PD05095/FCS05052/CM05018, be amended to a signed lease agreement date of September 15, 2006.

The motion was DEFEATED on a Recorded Vote as follows:

Yeas: Councillor Pearson
Total: 1

Nays: Councillor McHattie, Dent, Charlton, Denham, French, Hartnett, Manson, Neufeld, Shaker, Stark, Wakeman, Wray
Total: 12

(McHattie/Manson)
WHEREAS, the landlord was required to submit a heritage impact study, construction drawings, and heritage rehabilitation plans prepared by a qualified heritage restoration professional and failed to do so, despite advice to the contrary from the Hamilton LACAC (Municipal Heritage Committee); and,
WHEREAS, the all three members of the City’s Independent Peer Review team, working independently of each other, felt that the heritage impact assessment was inadequate and incomplete; and,

WHEREAS, the Permit Review Sub-Committee of the Hamilton LACAC (Municipal Heritage Committee) has conducted a thorough analysis and has recommended against issuing a demolition permit (see appendix F to Item 4.1 on LACAC (MHC) agenda); and,

WHEREAS, the proposal is contrary to the Ontario Heritage Act and does not satisfy the heritage policies of the City of Hamilton’s Official Plan, nor the heritage policies of the Downtown Secondary Plan; and,

WHEREAS, the landlord did not make the case that the option of building conservation and adaptive reuse was not economically viable, as they failed to conduct a proper heritage assessment and thorough cost analysis of alternatives and options; and,

WHEREAS, the proposed demolition can be viewed as being contrary to sustainable development under the Ontario Heritage Act; and,

WHEREAS, Parks Canada notes that the loss of heritage commercial buildings weakens the distinctiveness of our communities and our sense of attachment to the past.

(a) Therefore, the Hamilton LACAC (Municipal Heritage Committee) recommends that the request for Heritage Permit (HP2006-017), for the demolition of the designated property at 28-44 James Street North (known as the Lister Block), Hamilton, be denied.

(b) That the statement (attached) be forwarded to Committee of the Whole along with this motion, for consideration.

The following is the text of the statement, which is referenced in subsection (b) of the motion above:

“Dear Council,

After a long and difficult process of evaluation, the Hamilton LACAC (Municipal Heritage Committee) has decided to recommend against issuing a Heritage Permit (Application HP2006-017) concerning the Lister Block as it is currently submitted.

It was with great optimism that this project was announced about one year ago. The Lister Block is a significant piece of our history and as such it is recognized and protected under Provincial legislation. As the Committee of Council charged with the task of providing you with recommendations on matters dealing with heritage, we looked forward to working with the applicants to see this building renewed.
The process outlined in the City report of April 21, 2005 articulated a clear and fair set of criteria to which the applicants should abide in order to receive a significant commitment of taxpayers’ dollars to rent space in the renovated building. Essentially, the applicant was to demonstrate that “it is not economically viable or structurally possible or practical” to restore the Lister Block in order to be able to demolish and build a new structure. The applicant was to prepare a Heritage Impact Assessment (HIA) within which options for redevelopment were considered and evaluated. Further, a peer review process was agreed to in order to provide an independent evaluation of whether the HIA was complete and valid.

While our formal motion outlines our recommendation, there are important and significant questions that remain unanswered:

1. **How can the Heritage Impact Assessment be considered credible and acceptable for the current permit review process concerning the Lister?**

   The City report outlining the arrangement between the municipality and the proponent states that, “as a requirement of obtaining a heritage permit, the Landlord must complete a heritage impact assessment, to be peer reviewed by the City,” and that this requirement must be undertaken, “by a qualified heritage restoration professional.” All three independent peer review reports deem the Heritage Impact Assessment (HIA) to be incomplete or inadequate.

2. **Two of the three Peer Review reports contend that the HIA is not a thorough examination, but a means to justify a predetermined decision that was made up front by the proponents. How does this demonstrate that the proponents are acting in good faith in evaluating restoration options for a designated historic building?**

   HIA Excerpts:
   
   “Overall the case appears to be being made that despite the fact that a high percentage of the façade cladding is sound (brick, copper spandrels and areas of terra cotta) as well as that of the full concrete structure (never questioned in the H.I.A.) the optimum solution is to demolish the building and rebuild. Clearly it is not the integrity of the heritage materials or existing structure that is driving the decision making.” (Andy Huctwith, P. Eng.)

   “The reader is left to surmise the proponent’s intent; demolition and pseudo replication. There is not a clear evaluation of the heritage attributes and little assessment of the impact on the heritage attributes of other buildings of historical interest on the site, or the neighbourhood.” (Jane Burgess, OAA, CAPHC)

3. **How can there be sufficient information to determine whether restoration is possible or not if this option was never considered and fully analyzed?**

   The City report outlining the arrangement between the municipality and the proponent states that, “The City of Hamilton recognizes that development of the Lister Block property is vital to the rejuvenation of the downtown core. The
Landlord will use its best efforts to maintain the architectural detail of the existing building.” However, the proponents never fully considered the option of preserving the building in their HIA. As one of the peer review reports states, “It is completely possible that the project is not viable for other reasons but a clear illustration that this [restoration] is not viable is warranted before a designated building is demolished.”

4. At a meeting with the policy review sub-committee of the Municipal Heritage Committee on April 19, 2006, the proponents stated that restoration of the Lister Block is possible, but the economics of doing business in Hamilton would not justify it. However, the City report outlining the arrangement between the municipality and the proponent states that the rental rate to be paid by the City is significantly above the current market rate in Hamilton. Wasn’t this premium rental rate specifically offered by the city in order to compensate for the “market conditions” in Hamilton in order to make redevelopment and restoration possible?

5. If Council approves the permit to demolish the Lister Block based on an inadequate HIA and unwillingness by the proponent to honour public process, does this not set a dangerous precedent that the rules do not need to be followed in Hamilton?

Further, there have been recent attempts to discredit our Committee of Council and the open suggestion that councillors should ignore any decision made by the committee before the public process is complete. Also, there have been suggestions that LACAC has caused significant delays. However, it should be clearly noted that it was the applicants, not any Committee of Council, that delayed this process by choosing to submit the HIA some 2 and a half months late. Additionally, it was the independent opinion of three outside experts, not any Committee of Council that determined that the applicant’s documentation was inadequate.

The applicants agreed to abide by a public process outlined in the City report of April 21, 2005, and now appear to see fit to opt out of that process as they disagree with how it is unfolding. Specifically, they have not undertaken the necessary analysis to substantiate their position that restoration of the Lister Block is economically unfeasible. They have essentially asked our Committee, and Council, to take their word for it. It is not in the public interest to make a decision without the facts, especially when there is significant taxpayers dollars that will be invested in this project. We urge Council to consider this fact when rendering a decision.

We would also like to emphasize that while we are recommending against issuing the demolition permit as currently submitted, we would like to stress that we hope the applicants will provide additional information so that they are in fulfilment of their obligations outlined in the original arrangement with Council announced in April 2005.

Sincerely,
Diane Dent, PhD
Chair, Hamilton LACAC (Municipal Heritage Committee)"
The motion was CARRIED on a Recorded Vote as follows:

Yeas: Councillor McHattie, Dent, Charlton, Denham, French, Hartnett, Manson, Neufeld, Shaker, Stark, Wakeman, Wray

Total: 12

Nays: Councillor Pearson

Total: 1

5. GENERAL INFORMATION (Item 5)

5.1 Heritage Permit Application (HP2006-0014), 343 Wilson Street East, Ancaster (Ward 12)

5.2 Notice of Property Declared Surplus: 20 Dundurn Street South, Hamilton, Part Lot 6 on Plan 111 (Ward 1)

(Pearson/Wakeman)
That staff review and document the cultural heritage value of the property located at 20 Dundurn Street South, Hamilton Plat Lot 6 on Plan 111, for reference.

CARRIED

5.3 Road Construction at 51 Herkimer Street, Hamilton

5.4 Endangered Buildings and Landscapes:

(a) Victoria Hall, 68 King Street East (NHS, D) – P. Shaker

S. Vattay spoke with the owners last week. There is no additional information at this time.

(b) Treble Hall, 6-12 John Street North, Hamilton (L) – Councillor B. McHattie

No update.

(c) Red Hill Creek Valley, Hamilton (L, ND) – Councillor M. Pearson

The following motion was withdrawn:

(Pearson/Wakeman)
That the Red Hill Creek Valley be removed from the Endangered Buildings and Landscapes List.
Councillor Pearson will keep Committee informed as to when Red Hill staff are ready to speak about the possibility of plaquing the site.
(d) **Lister Block, 28-40 James Street North, Hamilton (D) – D. Dent**

Nothing further at this time.

(e) **Auchmar, 88 Fennell Avenue West, Hamilton (D) – D. Dent**

Auchmar’s participation in Doors Open Hamilton was a great success, and there was terrific interest shown in the site.

The Urban Design group is working on development opportunities, which will be brought forward to Committee this June or July.

(f) **Gate House at Auchmar, 71 Claremont Drive – Michelle Stark**

Michelle Stark noted that she had visited the Gate House at Auchmar and advised Committee that the maintenance of the property was not being kept up very well.

**Stark/Charlton**

That the Building and Licensing Division Operational Review Subcommittee, Property Standards Section be notified and that the property be brought up to an acceptable standard of maintenance.

**CARRIED**

(g) **Smart-Turner Building, 191 Barton Street E. (ND, L) – D. Dent**

Councillors McHattie and Pearson met with representatives from Hamilton Health Sciences (HHS), and informed Committee that the discussions were quite positive. The Mark Preece House has been working with HHS to determine feasibility of using the building.

Committee was informed that Report PED05197 - Recommendation to Designate 191 Barton Street East, Hamilton, Under Part IV of the Ontario Heritage Act (PED05197) (Ward 2) was tabled to the September 19, 2006, meeting of the Planning & Economic Development Committee.

(h) **St. Marks, 120 Bay Street South, Hamilton (D) – D. Dent/K. Wakeman**

Kathy Wakeman volunteered to assist in monitoring this site, as she was recently informed that her grandparents were married at St. Mark’s Church.
(i) Tivoli, 108 James Street North, Hamilton – Councillor B. McHattie

No update.

(j) Book House, 167 Book Road East, Ancaster – A. Charlton

No update.

(k) 2 Hatt Street, Dundas – Frances Neufeld

No update.

5.5 Heritage Permit Application (HP2006-008) under Part V of the Ontario Heritage Act to permit the Construction of a New Sunroom, a Master Suite, Entrance and Connecting Porticos, an Attached Two Car Garage, an Attached Three Car Garage, a Motor Court, a Driveway and Associated Miscellaneous Alterations at 31 Cross Street, Dundas (Ward 13)

B. Manson voiced his concerns with respect to an article written by the Hamilton Spectator, shortly after the April 27, 2006 Committee meeting. In the article Mr. Clair Sellens, the owner and applicant, mentions that the Hamilton LACAC (Municipal Heritage Committee) had shown bias with respect to the submitted Heritage Permit Application (HP2006-008), due to Mr. Clair Sellens’ former involvement with “Bellevue”.

B. Manson wished to clarify that Mr. Sellens, who was scheduled to speak to the matter respecting 31 Cross Street, Dundas, at the April 27, 2006 meeting of the Hamilton LACAC (Municipal Heritage Committee), withdrew his delegation request just moments before the meeting commenced.

The “Bellevue” matter was not mentioned or discussed at anytime during the April 27th meeting, and in fact, there are some members who were not aware of who Mr. Sellens was or of his association with “Bellevue”. B. Manson reiterated that the Committee could not have been biased and was disappointed in the way the article was written.

5.6 CHO News, May 2006

(Pearson/Wakeman)
That Items 5.1 through 5.6 be received.  

CARRIED
6. ADJOURNMENT

(Charlton/Wray)
There being no further business, the Committee adjourned at 12:00 p.m.

CARRIED