



CITY COUNCIL MINUTES

Wednesday, February 27, 2008

7:00 p.m.

Albion Rooms

Hamilton Convention Centre

One Summer's Lane

Hamilton, Ontario

Present: Mayor F. Eisenberger

Councillors B. Bratina, B. Clark, C. Collins, S. Duvall,
L. Ferguson, T. Jackson, M. McCarthy B. McHattie,
S. Merulla, D. Mitchell, B. Morelli, R. Pasuta, M. Pearson, R.
Powers, T. Whitehead

Mayor Eisenberger called the meeting to order and called upon Reverend Dianne Distler, an Anglican priest serving the parish of St. Alban the Martyr, to lead Council in prayer.

APPROVAL OF THE AGENDA

The Clerk advised of the following changes to the agenda:

1. CEREMONIAL ACTIVITIES

3.3 Added Ceremonial Activity – Presentation to Brayden Aljoe

2. COMMUNICATIONS

5.12 Correspondence from Catherine Beattie respecting lands located at 630
Trinity Road South Ancaster

Recommendation: Be received

- 5.13 Correspondence from Vince Cornacchia, Cornacchia Planning Services Inc., respecting TRL Investments Limited, 1173 and 1203 Old Golf Links Road, Hamilton (formerly Ancaster), OPA-06-22 and ZAC-06-47

Recommendation: Be received.

- 5.14 Correspondence from Agatha Garcia-Wright, Acting Director, Environmental Assessment and Approvals Branch, Ministry of the Environment, respecting Liberty Energy

Recommendation: Be received.

(Pearson/Pasuta)

That the Agenda for the City Council meeting being held on February 27, 2008, be approved, as amended.

CARRIED

DECLARATIONS OF INTEREST

Councillor M. Pearson declared an interest in Item 1 of the Economic Development & Planning Committee Report 08-004, respecting Commercial Property Improvement Grant Program (C.P.I.G.) Applications (PED08045) (Wards 1, 2, 3, 4, 6, 7, 13), as she is directly related to the applicant.

Councillor L. Ferguson declared an interest in Items 7.1 – Security Deposits for Pit/Quarry Rehabilitation, and 8.1 – Potential Adverse Impacts on the Carlisle Groundwater-Based Municipal Drinking Water System, as his daughter works in the aggregate industry.

CEREMONIAL ACTIVITIES/ANNOUNCEMENTS
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3.1 Ontario Heritage Trust Recognition Awards

Councillor Brian McHattie was awarded with the Ontario Heritage Recognition Award for Natural Heritage and Dr. Diane Dent was awarded the Ontario Heritage Recognition Award for Lifetime Achievement

3.2 Designated Property Award

The following three properties were recognized at the Ontario Heritage Day Celebration, for their designation under the Ontario Heritage Act as properties of architectural and historical significance, and each were presented with a Certificate of Designation at the Ontario Heritage Day Celebration on February 15, 2008:

- (i) 1059 Highway 8, Stoney Creek
A two and one-half storey, brick residence built in 1888

- (ii) 209-211 James Street South, Hamilton
A two storey, brick row house built in 1889

Andrea Farquhar, Director of Public and Government Relations at McMaster, was in attendance to receive the heritage designation certificate, on behalf of McMaster University, for:

- (iii) McMaster University Historic Core Buildings
Including the original five brick and stone buildings built in 1929-30 – University Hall, Hamilton Hall, the Refectory, Wallingford Hall and Edwards Hall as well as Alumni Hall, built 1949-51

3.3 Presentation to Brayden Aljoe

Brayden Aljoe (five years old) was presented with a certificate of recognition for his bravery when he alerted his mother that something was wrong with his younger sister, Savana. Savana was experiencing a seizure and was unresponsive upon arrival by the paramedics; Brayden saved his little sister's life by altering his mother to her condition.

APPROVAL OF MINUTES

(Duvall/Ferguson)

That the Minutes of the February 13, 2008, meeting of Council be approved, as presented. **CARRIED**

COMMUNICATIONS

(Whitehead/Powers)

That Council Communications 5.1 to 5.14 be approved, as follows:

- 5.1 Correspondence from the Assistant Deputy Attorney General, Court Services Division, Ann Merritt respecting proposed reform of reducing the fee to copy court documents in municipally-administered Ontario Court of Justice courts from two dollars per page to one dollar per page

Recommendation: Be received

- 5.2 Correspondence from The Honourable John Gerretsen, Minister of the Environment respecting support for the City of Waterloo's resolution with regard to reviewing and confirming the safety of all approved chemical pesticides

Recommendation: Be received

- 5.3 Correspondence from The City of Brampton respecting Ontario Auto Insurance Legislation
Recommendation: Be received
- 5.4 Correspondence from David Sweet, MP for Ancaster-Dundas-Flamborough-Westdale respecting BIZPAL.ca
Recommendation: Be received
- 5.5 Correspondence from Richard Waugh, Scotia Bank respecting Scotia Bank's submission to the Competition Policy Review Panel
Recommendation: Be received
- 5.6 Correspondence from the Township of Russell respecting formula used to calculate a municipality's debt capacity
Recommendation: Be referred to the General Manager of Finance and Corporate Services for a report back to the Audit & Administration Committee.
- 5.7 Correspondence from the City of Colborne respecting FCM Report "Danger Ahead the Looming Collapse of Canada's Municipal Infrastructure"
Recommendation: Be referred to the General Manager of Public Works for a report back to the Public Works Committee.
- 5.8 Correspondence from Township of Greater Madawaska respecting Logging on Crown Lands
Recommendation: Be received.
- 5.9 Correspondence from Township of Galway-Cavendish & Harvey respecting banning the ownership of handguns
Recommendation: Be received.
- 5.10 Correspondence from Town of Northeastern Manitoulin and the Islands respecting ownership of all municipal drinking water systems with the Province
Recommendation: Be referred to the Medical Officer of Health and the General Manager of Public Works for a joint report to the Public Works Committee.

- 5.11 Correspondence from Western Ontario Wardens' Caucus respecting Farm Tax Rebate Program

Recommendation: That Council's position on this matter approved on September 12, 2007 be forwarded to the Western Ontario Wardens' Caucus

- 5.12 Correspondence from Catherine Beattie respecting lands located at 630 Trinity Road South Ancaster

Recommendation: Be received

- 5.13 Correspondence from Vince Cornacchia, Cornacchia Planning Services Inc., respecting TRL Investments Limited, 1173 and 1203 Old Golf Links Road, Hamilton (formerly Ancaster), OPA-06-22 and ZAC-06-47

Recommendation: Be received.

- 5.14 Correspondence from Agatha Garcia-Wright, Acting Director, Environmental Assessment and Approvals Branch, Ministry of the Environment, respecting Liberty Energy

Recommendation: Be received.

(Whitehead/Powers)

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

AUDIT & ADMINISTRATION COMMITTEE 08-003

(Pearson/Bratina)

That the THIRD Report of the Audit & Administration Committee be adopted and the information section received. **CARRIED**

EMERGENCY & COMMUNITY SERVICES COMMITTEE 08-003

(Jackson/Merulla)

That sub-section (a) of Item 10 of the Emergency & Community Services Committee Report 08-003, as shown below, be referred back to the Emergency & Community Services Committee for receipt of additional information and further consideration:

- 10. 2008 Transition of National Child Benefit (NCB) Programs (ECS08011) (City Wide) (Item 12.2)**

- (a) That the City of Hamilton discontinue funding of the YWCA Employment Resource Centre Program, as of April 30, 2008.

CARRIED

(Jackson/McCarthy)

That the THIRD Report of the Emergency & Community Services Committee be adopted, as amended, and the information section received. **CARRIED**

ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE REPORT 08-004**(Whitehead/Pearson)**

That Item (n)(i) of the Economic Development & Planning Committee Report 08-004 be amended by deleting the words "Audit & Administration Committee" and replacing them with the words "Board of Health" to read as follows:

That Staff in the Planning and Economic Development Department provide information to the Environmental Health Department, for inclusion in the upcoming report to the **Board of Health**, respecting the current process for locating cell phone towers in the City of Hamilton and provide recommendations for consideration on the placement of future cell phone towers.

CARRIED**(Whitehead/Powers)**

That the FOURTH Report of the Economic Development & Planning Committee be adopted, as amended, and the information section received. **CARRIED**

Councillor Ferguson wished to be recorded as OPPOSED to Item 11.

PUBLIC WORKS 08-004**(Powers/Collins)**

That the FOURTH Report of the Public Works Committee be adopted and the information section received.

CARRIED**BOARD OF HEALTH 08-003****(Whitehead/Powers)**

That the THIRD Report of the Board of Health be adopted and the information section received. **CARRIED**

COMMITTEE OF THE WHOLE REPORT 08-010

- 3. Business Case to Purchase Lands Along Airport Road Adjoining the John C. Munro/Hamilton International Airport (PED07048(c)/FCS07042(c)) (City Wide) (10.1)**

(Clark/Collins)

That a sub-section (d) to Item 3 of Committee of the Whole Report 08-010 be added, to read as follows:

- (d) That the City purchase land outside of requirements for a runway extension, as per the lease, only where it can be funded through the application of a user fee or passenger head tax collected at the gates.

DEFEATED

Item 3 above was DEFEATED on a Standing Recorded Vote, as shown below:

Yeas: B. Bratina, B. Clark, C. Collins, S. Duvall, B. McHattie, S. Merulla, B. Morelli,
R. Powers

Total: 8

Nays: Eisenberger, L. Ferguson, T. Jackson, M. McCarthy, R. Pasuta, D. Mitchell,
M. Pearson, T. Whitehead

Total: 8

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

Yeas: F. Eisenberger, L. Ferguson, T. Jackson, M. McCarthy, R. Pasuta, D.
Mitchell, M. Pearson, R. Powers, T. Whitehead

Total: 9

Nays: B. Bratina, B. Clark, C. Collins, S. Duvall, B. McHattie, S. Merulla, B. Morelli

Total: 7

5. Veteran's Parking Permit

(Merulla/Morelli)

That Item 5 of the Committee of the Whole Report 08-010 be amended by deleting the word "or" and replacing it with the word "and" to read as follows:

That staff be directed to investigate, in consultation with the Hamilton Veterans' Committee, on the implementation of a Veteran parking permit program; whereby, Veterans who honourably served in World War I, World War II, Korean War, **and** any Veteran who resides in the City of Hamilton may be issued an annual parking exemption permit at no charge, which provides for an exemption from the fee payment regulations at on-street parking meters and in municipal parking facilities and report back to the Economic Development and Planning Committee.

**AMENDMENT CARRIED
MOTION AS AMENDED CARRIED**

(Whitehead/Powers)

That the TENTH Report of Committee of the Whole be adopted, as amended, and the information section received.

CARRIED

COMMITTEE OF THE WHOLE REPORT 08-011

Councillor R. Powers directed that Item (d) of the Committee of the Whole Report 08-011 be amended by adding a missing motion, which reads as follows:

“(Merulla/Jackson)

That Councillor Mitchell be provided the opportunity to address committee.

CARRIED”

Councillor D. Mitchell requested that his formal statement, as shown below, be added to Item (d) of the Committee of the Whole Report 08-011, which reads as follows:

“It seems Council is now asking either for my side of the story or for my response to Council’s censure. I found out about the allegations of conflict of interest when I got a call from a reporter at the Hamilton Spectator. I read about the censure in the Hamilton Spectator.

On both occasions, Council and Committee were meeting in camera and all those present at the meetings had a duty to the Council and to the City itself to keep what was said confidential. Yet on both occasions everyone could read about it in the newspaper the very next day.

I’m not criticizing the newspaper. They are just doing their job.

It’s Council’s or staff’s disregard for the duties of confidentiality that concerns me. Now when I read the Code of Conduct, it’s clear to me that breaching confidentiality violates that Code.

Council members or staff seem intent on breaching the Code of Conduct in order to prove that I broke the Code of Conduct. It seems to me that we can’t hold it up as a governing document on one hand while breaking it right, left and centre on the other hand.

There’s something else called “Natural Justice” that we have here in Canada and its supposed to protect people from being judged by others without being given a chance to know the facts and to respond.

This Council sat as judge, jury and hangman at its last meeting and did so after the Mayor told me not just to wait outside, but to go home. Again, I read about it in the newspaper the next day.

You can’t just fix that unfair procedure now by saying “Dave, we’ve already decided to hang you, but feel free to tell us your side of the story.”

You can’t unring a bell. You can’t fix your unfair procedure by asking me now for my side of the story.

I urge Council to move forward and focus on why either members of Council or staff feel they do not have to abide by the duties of confidentiality.

Respectfully,

David L. Mitchell”

(Whitehead/Powers)

That the ELEVENTH Report of Committee of the Whole be adopted, as amended, and the information section received. **CARRIED**

MOTIONS

7.1 Security Deposits for Pit/Quarry Rehabilitation

(McCarthy/Powers)

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

And Whereas in July 2006, MNR promised to examine in detail, within 2 years, the merits of a rehabilitation incentive system, including the re-introduction of the former rehabilitation security deposit system

Therefore Be it Resolved,

That the Council of the City of Hamilton recommend the following to the Ontario Minister of Natural Resources with the goal of improving the status of rehabilitation in the City of Hamilton and across the Province:

- (a) A review of the role of security deposits for pit/quarry rehabilitation;
- (b) Re-instatement of those security deposits; and,

- (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.

CARRIED

7.2 City Land to Ronald MacDonald House for Playground Purposes

(McHattie/Merulla)

The Motion 7.2 be deleted in its entirety and replaced with the following in lieu thereof:

That the City of Hamilton (via Business Service Section, Public Works) enter into an encroachment agreement for playground equipment within the Cootes Drive road allowance 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 St West with Kids Care Oncology Central West Ontario (KCOCWO) – Ronald MacDonald House, and that any application or processing fees be waived and that an annual fee of \$1.00 per year be applicable, with the KCOCWO providing the insurance and liability coverage as required. Location Sketch was attached.

CARRIED

NOTICES OF MOTION

(McCarthy/Jackson)

That the Rules of Order be waived to allow the introduction of a motion respecting potential adverse impacts on the Carlisle groundwater-based municipal drinking water system.

CARRIED

(McCarthy/Powers)

That Item 8.1, a motion respecting the potential adverse impacts on the Carlisle groundwater-based municipal drinking water system, be amend by adding the words “**as part of the local source protection process**” at the end of recommendation (c) to read as follows:

- (c) Before any provincial permits or approvals are issued for the proposed St. Mary’s Flamborough Quarry, the province should require a formal review by the Halton/Hamilton Source Protection Authority ***as part of the local source protection process.***

CARRIED

8.1 Impacts on the Carlisle groundwater-based Municipal Drinking Water System

(McCarthy/Powers)

Whereas the Carlisle groundwater-based municipal system has a well documented history of both quantity and quality problems, in staff and consultants’ reports,

And, Whereas there is a Permit to Take Water (PTTW) application for a pilot test of the proposed mitigation system for a proposed Flamborough quarry before the Ontario Ministry of the Environment

And, Whereas the proposed quarry development sits within the recharge area and the two year Time of Travel (TOT) for the Carlisle municipal system's Wellhead Protection Area

And, Whereas the final land use disposition for the proposed quarry development is to flood the quarry and to make a lake with potential for surface-to-groundwater-issues

And, Whereas the *Ontario Clean Water Act* is premised on the pre-cautionary principle and the recharge areas and wellhead protection areas in municipal systems are the first priority for protection and implementation

And, Whereas, in November 2004, the Ontario Minister of the Environment's Technical Experts' Committee identified quarries as a land use activity that threatens drinking water sources and are sufficiently serious to be of provincial concern that the Committee recommended they and their final land use be assessed according to new municipal well standards and/or restricted within the 5 year Time of Travel to a municipal wellhead protection area

And, Whereas Justice O'Connor in his inquiry into the Walkerton tragedy wrote a report which recommended that the Provincial Government establish multi-barrier systems to protect drinking water, including local source protection planning, and whereas the Halton/Hamilton Source Protection Committee is just beginning its work

And, Whereas, Hamilton Public Health Services notified the Ontario Ministry of the Environment in October 2007 regarding concerns of a reasonable and probable risk of a public health concern in the form of adverse groundwater quantity and/or quality impacts and whereas these concerns will only be considered satisfied when the details have been included and implemented in a revised Hydro geological Work Plan for pump tests (and a PTTW) to assess a proposed Groundwater Circulation System (GRS) for the proposed Flamborough quarry site .

And, Whereas the Environment Commissioner of Ontario cited this proposed development in his 2006/2007 Annual Report in December 2007 and called on the Province to reconcile its conflicting priorities between aggregate extraction and environmental protection and to screen out proposals with identified natural heritage or source water protection values

And, Whereas the Carlisle area falls within the Greenbelt Plan and said Greenbelt Plan specifically prohibits new and extensions to existing lake-based water systems

And, Whereas City of Hamilton residents in the communities of Carlisle, Freulton, and Mountsberg, along with our neighbours in Milton, through Friends of Rural Communities and the Environment (FORCE) and Environmental Defence, have started a provincial advocacy campaign regarding their concerns about potential risks to their drinking water,

Therefore Be it Resolved,

That the Council of the City of Hamilton:

- (a) bring to the attention of the Provincial Government its concerns regarding potential adverse impacts on the Carlisle groundwater-based municipal drinking water system;
- (b) request the Provincial Government, through the Premier and the Ontario Minister of the Environment, to fully consider the potential ramifications of the proposed development; and,
- (c) before any provincial permits or approvals are issued for the proposed St. Mary's Flamborough Quarry, the province should require a formal review by the Halton/Hamilton Source Protection Authority.

**AMENDMENT CARRIED
MOTION AS AMENDED CARRIED**

Councillor B. McHattie presented the following Notice of Motion:

8.2 INTERNATIONAL CHARTER FOR WALKING

Whereas, the International Charter for Walking was developed at the October 2006 International Walk 21 conference, and;

Whereas, the City of Hamilton has made the pedestrian mode of travel a key component of the Master Transportation Plan, and;

Whereas, reducing vehicle trips by promoting a more walkable community cuts down on air pollution and greenhouse gas emissions, and;

Whereas, making a community more walkable directly addresses our community's obesity problem and promotes better public health, and;

Whereas, 16 Ontario communities (including Brantford, Niagara, Toronto and Sudbury) have already signed the International Charter for Walking;

Therefore, be it Resolved

That the Council of the City of Hamilton endorse the "International Charter for Walking" attached hereto, in recognition of the benefits of walking as a key indicator of healthy, efficient, social inclusive and sustainable communities.

Councillor B. McHattie presented the following Notice of Motion:

GREEN COMMUNITIES CANADA/WALK 21 ORGANIZATION

Whereas, the Green Communities Canada/Walk 21 organization (who the Public Health Department is currently working with on their Active and Safe Routes to School Program) is seeking proposals from Canadian Municipalities

Therefore, be it resolved,

That the Public Health Department prepare a funding proposal for the Green Communities Canada/Walk 21 Master Class Walking 2008 program in order to be considered as one of four communities in Canada in this program.

STATEMENT BY MEMBERS

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

PRIVATE AND CONFIDENTIAL

10.1 Closed Session Minutes of February 13, 2008

As the Council determined that no discussion or amendments, respecting the Closed Session Minutes of the February 13, 2008, meeting of Council were required, the Minutes were approved in Open Session, as shown below:

(Whitehead/Powers)

- (a) That the Closed Session Minutes of the February 13, 2008, meeting of Council be approved, as presented.
- (b) That the Closed Session Minutes of the February 13, 2008, meeting 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

(Whitehead/Powers)

That Bill Nos. 08-039 to 08-045 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 08-039 to 08-045 as follows:

By-law No.

08-039 Respecting Removal of Part Lot Control, Block 152,

- Registered Plan 62M-1065, "Meadowlands – Phase 8"
- 08-040** Respecting Removal of Part Lot Control, Red Hill Vista, Phase 1, Block 22, Registered Plan No. 62M-1030
- 08-041** To Amend Zoning By-law No. 90-145-Z (Flamborough), as amended, Respecting Lands Located at 55 Rockcliffe Road
- 08-042** To Amend Zoning By-law No. 3692-92 (Stoney Creek), Respecting Lands Located at the Northwest Corner of Upper Centennial Parkway and Rymal Road East
- 08-043** To Adopt Official Plan Amendment No. 32 to the former Region of Hamilton-Wentworth Official Plan and Official Plan Amendment No. 118 to the former Town of Ancaster Official Plan, Respecting 630 Trinity Road South (formerly 1718 Wilson Street West)
- 08-044** To Amend By-law No. 01-218, as amended, To Regulate On-Street Parking:
Schedule 6 – Time Limit Parking
Schedule 8 – No Parking Zones
Schedule 12 – Permit Parking Zones
Schedule 13 – No Stopping Zones
Schedule 14 – Wheelchair Loading Zones
Schedule 20 – School Bus Loading Zones
- 08-045** To Confirm the Proceedings of City Council

CARRIED

(Powers/Bratina)

There being no further business, the City Council meeting adjourned at 9:20 p.m.

CARRIED

Respectfully submitted

Fred Eisenberger
Mayor

Rose Caterini
Deputy Clerk/Manager of
Legislative Services & Records
February 27, 2008