



**Committee of the Whole  
REPORT 09-015**

**As Amended by City Council on May 27, 2009**

**9:30 a.m.**

**May 21, 2009**

**Albion Room**

**Hamilton Convention Centre**

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**Present:** Mayor F. Eisenberger  
Councillors B. Bratina, B. Clark, C. Collins, S. Duvall,  
T. Jackson, M. McCarthy, B. McHattie, S. Merulla, B.  
Morelli, D. Mitchell, R. Pasuta, M. Pearson, R.  
Powers, T. Whitehead

**Absent with regrets:** Councillor L. Ferguson – City Business

**Also Present:** C. Murray, City Manager  
R. Rossini, General Manager, Finance and Corporate  
Services  
G. Davis, General Manager, Public Works  
J. Kay, General Manager, HES, Fire Chief  
T. McCabe, General Manager, Planning and Economic  
Development  
M. Gallagher, Co-ordinator, Council and Committee of the  
Whole/Budgets

**COMMITTEE OF THE WHOLE PRESENTS REPORT 09-015 AND RESPECTFULLY  
RECOMMENDS:**

- 1. Hess Village Review (PED09127) (City Wide) (Item 7.1)**
  - (a) That with respect to the processing of liquor license applications in the City of Hamilton:

- (i) That Parking and By-law Services Division Staff be directed to investigate further the liquor licence application review processes of other municipalities, develop a process suitable for Hamilton, and report back to the Economic Development & Planning Committee within 3 months.
- (ii) That, as an interim step, until Parking and By-law Services Division staff report back to the Economic Development and Planning Committee on a liquor licence review process, that staff be directed to make the following changes to the City's review process of liquor licence applications:
- aa) That at the time the applicant submits the Municipal Information Form for signature by the City Clerk, the applicant be required to complete and submit a Supplementary Information Form outlining all necessary details of the proposal to determine zoning conformity.
- bb) That the proposed fee of \$150.00 for a Zoning Compliance Letter from the Building Services Division, to be submitted to the City Clerk by an applicant for a liquor licence together with their Municipal Information Form and Supplementary Information Form, be approved and included (by means of an amending by-law should the 2009 By-law have been passed by Council) in the City's 2009 User Fees and Charges By-law.
- cc) That all Municipal Information Forms submitted to the City Clerk for signature, be circulated to the following for comment:
- Ward Councillor
  - Building Services Division
  - Hamilton Police Services
  - Public Health Department
  - Parking and By-law Services Division – Municipal Law Enforcement Section
  - Public Works Department – Traffic Engineering and Operations Section

- (iii) That where the Building Services Division is unable to determine from their records the maximum patron occupant load, the following comment be included on the Zoning Compliance Letter to be forwarded to the Alcohol and Gaming Commission of Ontario:

"The City is unable to determine whether the proposal is in conformity with the Zoning By-law and recommends that the liquor licence not be issued until such time as the applicant can satisfy the Building Services Division that the patron occupant load conforms with the requirements of the Zoning By-law. Please note that this may require the issuance of a Building Permit."
- (b) That with respect to Zoning By-law 05-200:
  - (i) For the reason given in this report that there is no differentiation between restaurants and nightclubs, that staff take no further action relating to the creation of new definitions for nightclubs in the Comprehensive Zoning By-law 05-200.
  - (ii) That staff be directed to undertake amendments to the comprehensive Zoning By-law 05-200 related to seated capacity on outdoor commercial patios as recommended in Report PED09127.
- (c) That with respect to the issue of Outdoor Patio Encroachment Agreements:
  - (i) That the existing Outdoor Boulevard Café Agreements in Hess Village be terminated in accordance with the required notice as set out in each agreement (including an opportunity to be heard at Committee for those agreements that are "at the pleasure of Council"), the termination date being effective as of either the date that a new Agreement is entered into or the end of the 2009 patio season, whichever occurs first;
  - (ii) That applications for new Agreements be required by each property owner that wishes to encroach on the public road allowance in accordance with the Encroachment Agreement process as set out in Report PED09127.

- (iii) That the one time new application fee of \$1,352.19 and registration fees of approximately \$70.00 per transaction to deregister each of the existing Agreements and to register a new Agreement on title to their property be waived for those property owners with valid existing Agreements.
  - (iv) That steps be taken by Operations and Maintenance Division staff to enforce the removal of patios encroaching onto the City road allowance with respect to those property owners who fail to apply for or be granted an Encroachment Agreement.
  - (v) That the Encroachment Agreement process and precedent be amended to incorporate those concerns outlined in Report PED09127 for all new Agreements issued for patios.
  - (vi) That a requirement of approval of an Encroachment Agreement for a patio be that the applicant prepare and submit a patio layout plan to the satisfaction of the Manager of Development Planning.
- (d) That with respect to the Hess Village Pedestrian Mall Authority:
- (i) That the Hess Village Pedestrian Mall Authority By-law be amended to transfer responsibility for issuing encroachments on the City road allowance back to the City and that Legal Services Division staff prepare said By-law for enactment by City Council.
  - (ii) That the Hess Village Pedestrian Mall Authority be included as an external commenting body in the City's circulation process for Encroachment Agreement applications involving the geographic boundaries associated with the Hess Village Pedestrian Mall Authority.
  - (iii) That staff from the Downtown and Community Renewal Division be directed to review the continued existence and future role of the Hess Village Pedestrian Mall Authority (HVPMA), and the potential for a Hess Village Business Improvement Area, in consultation with HVPMA and other property/business owners in Hess Village.
- (e) That with respect to requests from Hamilton Police Services:

- (i) That Operations and Maintenance Division staff review the options available and expedite the installation of permanent lights in the Hess Village Entertainment District for the purpose of increasing the light output at closing time of the businesses in the area as additional lighting will encourage patrons to move out of the area.
  - (ii) That Operations and Maintenance Division staff review new methods of affixing the garbage receptacles to the street so that they cannot be rocked and pried loose.
- (f) That with respect to the Hess Village Entertainment District By-law and the licensing of businesses:
- (i) That the Hess Village Entertainment District By-law 06-234 be repealed and incorporated into the Licensing Code By-law 07-170 as Schedule 21.1.
  - (ii) That the Amending By-law to By-law No. 07-170, a By-law to License and Regulate Various Businesses, attached to Report PED09127 as Appendix 'A' as amended, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
  - (iii) That Parking and By-law Services Division staff be directed to report back to the Economic Development & Planning Committee on expanding the area defined as the Hess Village Entertainment District to include business properties benefiting directly from their proximity to the area, so they share in the cost of Hess Village Special Duty Police Officers.
  - (iv) That Parking and By-law Services Division staff be directed to review restaurants and public halls and consider an amendment to Licensing Code By-law 07-170 recognizing different classes of entertainment establishments for business licensing purposes and report on same to the Economic Development and Planning Committee.
  - (v) That the Issuer of Licences increase circulation of business licence applications that have been identified by the Alcohol and Gaming Commission of Ontario as being located in a Risk Based Licensing Area to include Hamilton Police Services, Public Works, Business Improvement Areas and

any other municipal or provincial agencies as relevant for specific licences.

- (vi) That when requested by the Issuer of Licences, or as prescribed in the Licensing Code By-law 07-170, applicants be required to provide confirmation of compliance with applicable regulatory requirements such as:
- Ontario Electrical Safety Code
  - City encroachment and/or boulevard agreements
  - Proof of Liability Insurance
  - Detailed Floor Plan
- (vii) That hours of operation of Hess Village establishments not be regulated through the Licensing Code By-law 07-170, as such regulations are not permitted.
- (g) That with respect to licensing of bouncers:
- (i) That since bouncers are regulated by Provincial legislation, bouncers not be licensed under the Licensing Code By-law 07-170.
- (ii) That Parking and By-law Services Division staff be directed to report to the Economic Development and Planning Committee on amending the Licensing Code By-law 07-170 to require that Schedule 17 and Schedule 21 business licence applicants who employ security guards including bouncers provide the Issuer of Licences, prior to the issuance or renewal of their licences, with confirmation that they are in good standing under the Private Security and Investigative Services Act, 2005.
- (h) That the Public Nuisance By-law attached as Appendix 'B' to Report PED09127, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
- (i) That no further action be taken at this time relative to the enactment of an Interim Control By-law for Hess Village.
- (j) That Parking and By-law Services Division staff in consultation with Public Works and Hamilton Police Services be directed to report on creating taxi lanes and targeted parking restriction in the area, along with reviewing refreshment vehicle hours and locations.

- (k) That the principle of a Hess Village Community Liaison Committee (CLC) be endorsed and that Downtown and Community Renewal staff be directed to report back to the Economic Development and Planning Committee on:
- i) implementation strategy;
  - ii) associated cost;
  - iii) required manpower;
  - iv) timing;
  - v) area of responsibility.
- (l) That the Province of Ontario be requested to provide funding for the cost of additional policing for the Hess Village Entertainment District in the interests of promoting tourism and the safety and security of the area and Downtown.
- (m) That the Alcohol and Gaming Commission of Ontario (AGCO) be requested to notify the City of Hamilton of liquor licence transfers in order for the municipality to confirm zoning conformity prior to liquor licence transfers being approved by the Alcohol and Gaming Commission of Ontario.
- (n) That the document prepared by Hamilton Police Services titled "2009 Policing Strategies at Hess Village" attached as Appendix "F" to Report PED09127 be received.
- (o) That staff be directed to report back to the Economic Development and Planning Committee monthly on the implementation measures of the review.
- ~~(p) That the Public Health Services Staff report to the Economic Development and Planning Committee on what the monitoring program, as it relates to bar density and alcohol related issues, will consist of and how they anticipate addressing this issue.~~

#### FOR THE INFORMATION OF COUNCIL:

##### (a) CHANGES TO THE AGENDA

The Clerk noted the following additional speaker to the agenda:

6.2 Dean Collett, Owner, Sizzle and Koi, Hess Village

The agenda was adopted as amended.

**(b) DECLARATIONS OF INTEREST**

None

**(c) ADOPTION OF MINUTES**

None

**(d) PRESENTATIONS****(i) Hess Village Review Power Point Presentation (Item 5.1)**

Staff provided a power point presentation highlighting the following:

1. **Ron Marini**  
Introduction and background
2. **Shannon Hamilton**  
Zoning  
Capacities  
Interim Control By-law
3. **Angela Storey**  
Encroachment Agreements
4. **Marty Hazell**  
Regulation of Hours  
Hess Village Entertainment District (including Nuisance By-law)  
Regulations of Bouncers
5. **Superintendent William Stewart**  
Hamilton Police Services Strategy
6. **Ron Marini**  
Consultation  
- Community Liaison Committee  
- Provincial Funding

**(e) DELEGATIONS****(i) Marion Tucker, Challe Design Consultants (Item 6.1)**

Ms. Tucker is a property owner of 110 George Street. She is a member of the Hess Village Pedestrian Mall. Ms. Tucker thanked

staff and was delighted by the staff report. She looks forward to bringing her experience and dedication in working with the city.

**(ii) Dean Collett, Owner, Sizzle and Koi (Item 6.2)**

Mr. Collett address many issues including the following:

For the past nine years, Mr. Collett has owned and operated establishments in Hess Village.

He and his partners have invested millions and worked tirelessly to make business succeed.

He noted that Hess Village is a vibrant section of Hamilton which provides an identity for Hamilton. It is essential to any urban city. There is a large economic factor associated with Hess Village and Mr. Collett and partners have a capital investment of 5 million dollars invested in Hess Village. They pay high insurance and under constant threat of legal liabilities. They have worked closely with police and by-law enforcement. He would like to continue to work together to foster a cooperative environment and face challenges including a plan to address the growth of Hess Village.

Mr. Collett expressed concern with the number of patrons at Hess Village in relation to future growth and expressed concern with the recommendation regarding encroachment agreements.

The presentations were received.

Members of Council provided comments which not limited to the following:

- thanked all persons involved with the preparation of the report. It was a comprehensive and collaborative effort
- Hess Village is a wonderful entertainment district
- We need to make it a safe environment and this will supply measures for control
- Flood lighting issue – good to move forward now with this initiative.
- Policing issue – Fairness of Restaurant/Bar owners paying in addition for extra policing at time and a half.
- Look at scheduling officers to police Hess Village Area and incorporate that into the budget.
- Report presents innovative ways to address issues/problems.

The following amendments were approved to the staff recommendation:

1. Insert the words “and expedite” following the word “available” and delete the word “for”
2. Adding the following as subsection (o) and (p):
  - (o) That staff be directed to report back to the Economic Development and Planning Committee monthly on the implementation measures of the review.
  - (p) That the Public Health Services Staff report to the Economic Development and Planning Committee on what the monitoring program, as it relates to bar density and alcohol related issues, will consist of and how they anticipate addressing this issue.

It was agreed by friendly amendment that the Ward Councillor be included in the Liaison Committee membership.

There being no further business, the meeting adjourned at 11:28 a.m.

Respectfully submitted,

Mayor F. Eisenberger,

M. Gallagher, Co-ordinator  
Council, Committee of the Whole  
Budgets  
May 21, 2009