



Committee of the Whole REPORT 08-016

**1:00 p.m.
March 25, 2008
Albion Rooms
Hamilton Convention Centre**

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

Also Present: G. Peace, City Manager
J. Rinaldo, General Manager, Finance and Corporate
Services
S. Stewart, General Manager, Public Works
T. McCabe, General Manager, Planning and
Economic Development
Dr. E. Richardson, Medical Officer of Health
M. Gallagher, Coordinator, COW

COMMITTEE OF THE WHOLE PRESENTS REPORT 08-016 AND RESPECTFULLY RECOMMENDS:

- 1. Lister Block Amending Conditional Grant Agreement
(PD05095a/FCS08030/CM05018a) (Item 6.2a)**
 - (a) That the revised Amending Agreement attached as Appendix "B" to report FCS08030, which amends the Conditional Grant Agreement dated September 7, 2007, between the City and the Province of Ontario, be approved;
 - (b) That By-Law 08-XXX attached as Appendix "C" to report FCS08030 be approved and enacted; and

- (c) That the Mayor and Clerk be authorized to execute the Amending Agreement dated March ____, 2008, attached as Appendix "B" to report FCS08030, between the City of Hamilton and Her Majesty the Queen in Right of Ontario (the Province of Ontario).

2. Request for Heritage Trust Report

That the Mayor forward correspondence to the Minister of Culture requesting that the City of Hamilton be provided with a copy of the Heritage Trust Report on Lister Block.

3. Appointment of new Citizen Members on the HECFI Board of Directors (Item 6.4)

That the appointment of Jim Bethune (re-appointment) and Richard Bagdonas (new appointment) to the HECFI Board of Directors for a three year term ending March 31, 2011 be approved.

4. City of Hamilton v Attorney General of Canada, et al, Ontario Superior Court Action No. C-383/04 (LS04021a) (City Wide) (10.2)

- a) That the Offer to Settle from the federal government in Ontario Superior Court Action No. C-383/04, dated January 30th, 2008, be declined;
- b) That the City's Offer to Settle in Ontario Superior Court Action No. C-383/04, be withdrawn;
- c) That the City Solicitor be directed to renew the City's invitation to the federal government, and other defendants, in Ontario Superior Court Action No. C-383/04 to engage in a mediation in an effort to settle the Action in a mutually acceptable fashion at the lowest possible legal cost to all parties;
- d) That the City Solicitor be directed to take all necessary steps to actively move Ontario Superior Court Action No. C-383/04 forward to Trial as early as possible;
- e) That the budget cap of \$450,000.00 for the cost of Ontario Superior Court Action No. C-383/04 be lifted;
- f) That the City rely upon its solicitor-client privilege with respect to the ongoing costs of Ontario Superior Court Action No. C-383/04, and cease all public reporting of the ongoing costs until such time as the Action has been completed; and

g) That Report LS04021a remain confidential.

5. HSR Pension Plan Class Action Suit (10.3)

That the staff presentation on the HSR Pension Plan Class Action suit be received.

**6. Lease Requirement for Consent (PED08096/LS08004) (City Wide)
(Item 10.4)**

- (a) That written consent be given as provided in Report PED08096/LS08004, pursuant to paragraph 18.01.04 of the lease agreement with Tradeport International Corporation, to be executed by the Director of Economic Development and Real Estate Division, Planning and Economic Development Department.
- (b) That the executed consent be made public on receipt of the consent of TradePort International Corporation, which consent is anticipated to be available in the immediate future.
- (c) That the balance of Report PED08096/LS08004 remain confidential as containing solicitor and client advice and communications necessary for the giving of such advice and third party information supplied in confidence.

FOR THE INFORMATION OF COUNCIL:

(a) CHANGES TO THE AGENDA

The Clerk noted the following changes to the agenda:

Added Item 6.2(a)

Lister Block Amending Conditional Grant Agreement. Mr. Mayor this will replace Item 6.2 which currently appears in today's agenda.

Added Delegation Request for your consideration by Mr. Mancinelli of LIUNA and Mr. Patrick Byrne of Kingsway Arms to address Lister Block. – if this request is approved the delegation will be considered as Item 6.3 following the staff presentation on the Conditional Grant Agreement.

Added Item 6.4 – Report from the HECFI Board respecting Appointment of new Citizen Members to the HECFI Board of Directors

Added Private and Confidential matter noted as 10.4 respecting Lease Requirement for Consent. This matter is in closed session as the solicitors wish to provide you legal advice.

The Agenda was adopted as amended.

(b) DECLARATIONS OF INTEREST

None

(c) ADOPTION OF MINUTES

3.1 February 26, 2008

The Minutes of February 26, 2008 were adopted as presented.

3.2 February 27, 2008

The Minutes of February 27, 2008 were adopted as presented.

10.1 Closed Session Minutes of February 11, 2008

The minutes were adopted as presented and will remain confidential.

(d) DELEGATIONS/PRESENTATIONS

(i) Presentation by Gord Miller, Environment Commissioner of Ontario (Item 6.1)

The Commissioner provided a power point presentation which highlighted the following:

- Watershed
- Transportation
- Wetlands
- Accommodation Plans
- Sustainable Transportation
- Protecting Wetlands
- Natural Areas and Aggregates
- Future Growth Scenarios
- Trends (Climate Change, Water shortages, increase in gas prices, increase demands for pits/quarries, demand for local food
- Hierarchy of Development Planning and Principles of Sustainable Development

Members of Council addressed the following with the Commissioner:

- St. Mary's Quarry

- Liberty Energy
- Water source supply
- Nuclear Energy

(ii) Lister Block Amending Agreement (Item 6.2)

Item 6.2 was received as a revised report noted as 6.2(a) was considered in lieu thereof.

(iii) Lister Block Amending Conditional Grant Agreement (PD05095a/FCS08030/CM05018a) (Item 6.2a)

Councillor Duvall Opposed.

(iv) Delegation by Mr. Joe Mancinelli of LIUNA and Mr. Patrick Byrne of Kingsway Arms (Item 6.3)

The delegation addressed Council and congratulated council on its negotiations with the Province.

Mr. Mancinelli highlighted the following:

- Economic Development spin offs with the Lister proposal including jobs creation, project construction
- assured City Council that LIUNA is serious about proceeding with the project and are willing to guarantee the building of the two towers condo/seniors complex.

Mr. Byrne addressed the following:

- 10 year old company
- 350 employees
- been in Hamilton since 1999
- looking at building two towers consisting of a retirement home and a seniors condominium

The presentation was received.

(e) PRIVATE AND CONFIDENTIAL

Committee moved into Closed Session on the following items and reconvened in Open Session:

10.1 Closed Session Minutes of February 11, 2008

- 10.2 City of Hamilton v Attorney General of Canada, et al, Ontario Superior Court Action No. C-383/04 (LS04021a) (City Wide)

CARRIED on a Standing Recorded Vote:

Yeas: Clark, Collins, Duvall, Ferguson, Jackson, Pasuta, Mitchell,
Pearson

Total: 8

Nays: Eisenberger, Bratina, McHattie, Merulla, Ppowers,
Whitehead

Total: 6

Committee moved into Closed Session on the following items and reconvened in Open Session:

- 10.3 HSR Pension Plan Class Action Suit (no copy)

- 10.4 Lease Requirement for Consent (PED08096/LS08004) (City Wide)

Committee reconvened in Open Session and reported on the items as noted in this report.

Respectfully submitted,

Mayor F. Eisenberger

M. Gallagher
Co-ordinator, Council, Committee of the Whole/
Budgets