



**CITY COUNCIL
MINUTES 12-018**

5:00 p.m.

Wednesday, September 26, 2012

Council Chambers

Hamilton City Hall

71 Main Street West

Present: Mayor R. Bratina

Councillors C. Collins, B. Clark, S. Duvall, J. Farr, L. Ferguson, T. Jackson, B. Johnson, B. McHattie, S. Merulla, B. Morelli, J. Partridge, R. Pasuta, M. Pearson, R. Powers, and T. Whitehead

Mayor Bratina called the meeting to order and called upon Pastor David Roberts, to lead Council in prayer.

Mayor Bratina welcomed the Cadet Group of the Argyll & Sutherland Highlanders of Canada along with their Training Officer Mr. McGlashen to the meeting.

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| <p>APPROVAL OF THE AGENDA</p> |
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The Clerk advised of the following re-ordering of the agenda:

6.2 Planning Committee Report

6.3 Board of Health Report

(Ferguson/Pasuta)

That the agenda for the September 26, 2012 meeting of Council be approved, as amended.

CARRIED

DECLARATIONS OF INTEREST

Councillor Ferguson declared an interest in Item 5, Accessible Taxicab Licensing (PED10063(e)) (City Wide), of the Planning Committee Report 12-014 as his family is involved in the taxicab industry.

Councillor Ferguson declared an interest in Item 4, Food Safety Inspection Standards (BOH12019) (City Wide), of the Board of Health Report 12-007 as his family is involved in the restaurant business.

Councillor Farr declared an interest in Item 2, Rothsay Avenue District Flood Remediation Class Environmental Assessment (PW12066) (Ward 3), of the Public Works Committee Report 12-10 as he lives on the subject street.

CEREMONIAL ACTIVITIES/ANNOUNCEMENTS

APPROVAL OF MINUTES

4.1 September 12, 2012

(Pearson/Johnson)

That the Minutes of the September 12, 2012, meeting of Council be approved, as presented.

CARRIED

COMMUNICATIONS

(Partridge/Pasuta)

That Council Communications 5.1 through 5.5 be approved, as follows:

- 5.1 Correspondence from Robert G. McConkey, Executive Director Habitat for Humanity Hamilton, respecting World Habitat Day, October 1, 2012.

Recommendation: Be received. (Pearson/Johnson)

- 5.2 Correspondence from Doug Stone, Vice-Chair of Canadian Association of Retired Persons, Hamilton Chapter 34, respecting National Seniors Day, October 1, 2012.

Recommendation: Be received referred. (Jackson/Collins)

- 5.3 Correspondence from Don Head, Commissioner Correctional Services Canada respecting Restorative Justice Week 2012, November 18th – 25th.

Recommendation: Be received. (Jackson/Collins)

- 5.4 Correspondence from Fred Hahn, President of CUPE Ontario and Sheila Olan-MacLean, President of OCBCC, respecting Child Care Worker and Early Childhood Educator Appreciation Day, October 24, 2012.

Recommendation: Be received. (Ferguson/Pearson)

- 5.5 Correspondence from Larry Flynn, Senior Vice-President Gaming, Ontario Lottery and Gaming Corporation, respecting a referendum.

Recommendation: Be received. (Powers/Pasuta)

(Jackson/Collins)

That Council move into Committee of the Whole for consideration of the Committee Reports.

CARRIED

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| PUBLIC WORKS COMMITTEE REPORT 12-010 |
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- 1. Halton Hills Resolution Respecting Paving of (Provincial) Highway Shoulders (PW12067) (City Wide) (Item 8.1)**

The motion CARRIED on the following vote:

Yeas: Bratina, Collins, Farr, Duvall, Jackson, Johnson, Merulla, Morelli, Ferguson, Partridge, Pasuta, Pearson, McHattie, Powers and Whitehead

Total: 15

Nays: Clark

Total: 1

- 3. Council Resolution for Feed In Tariff Projects in the City of Hamilton (PW12069) (City Wide) (Item 8.3)**

The motion CARRIED on the following vote:

Yeas: Bratina, Collins, Farr, Duvall, Jackson, Johnson, Merulla, Morelli, Ferguson, Partridge, Pasuta, Pearson, McHattie, Powers and Whitehead

Total: 15

Nays: Clark

Total: 1

(McHattie/Farr)

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

CARRIED

PLANNING COMMITTEE REPORT 12-014

2. **Request to Designate 437 Wilson Street East (Ancaster) Under Part IV of the Ontario Heritage Act (PED12166) (Ward 12) (Item 5.1)**

(Ferguson/Collins)

That item 2 respecting, Request to Designate 437 Wilson Street East (Ancaster) Under Part IV of the Ontario Heritage Act (PED12166), be referred back to the Planning Committee to allow the Ward Councillor to meet with Heritage staff and the leadership of Mount Mary.

CARRIED

4. **Application for an Amendment to Stoney Creek Zoning By-law No. 3692-92 for the Property Located at 455 Jones Road (Stoney Creek) (PED12169) (Ward 11) (Item 6.1)**

(Johnson/Ferguson)

That item 4 respecting, Application for an Amendment to Stoney Creek Zoning By-law No. 3692-92 for the Property Located at 455 Jones Road (Stoney Creek) (PED12169), be referred back to the Planning Committee.

CARRIED

5. **Accessible Taxicab Licensing (PED10063(e)) (City Wide) (Item 8.2)**

(Clark/Collins)

(a) That Council endorses the release of three new accessible taxicab licenses for 2012 in accordance with Schedule 25 of the By-law 07-170;

(b) That item 5 respecting, Accessible Taxicab Licensing (PED10063(e)), be referred back to the Planning Committee.

CARRIED

(Farr/Collins)

That Item (f) (ii) be lifted from the Information Section and added as Item 7 to Planning Committee Report 12-014.

CARRIED

7. **Review of Denied Application ZAR-11-034 for Lands Known as 121 Augusta Street (Hamilton) (PED12002(a)) (Ward 2) (Item 8.3)**

(Farr/Collins)

(a) That Report PED12002(a) be presented to the Ontario Municipal Board as the City's written recommendations further supporting the Denial of ZAR-11-034 for 121 Augusta Street (Hamilton) given the proposal, as intended, would entrench an undesirable institutional use in an area of Hamilton intended for residential development and, as such, the proposal does not

conform to the Hamilton Official Plan and Urban Hamilton Official Plan, and does not represent good planning.

- (b) That the information contained in Report PED12002(a) be endorsed and the City of Hamilton's position on the denied Application ZAR-11-034 for 121 Augusta Street be reaffirmed with respect to its previous decision.

The motion CARRIED on the following vote:

Yeas: Bratina, Collins, Farr, Duvall, Jackson, Johnson, Merulla, Morelli, Ferguson, Partridge, McHattie, Powers
Total: 12
Nays: Clark, Whitehead, Pearson, Pasuta
Total: 4

(Clark/Johnson)

That the FOURTEENTH Report of the Planning Committee be adopted, as amended, and the information section received.

CARRIED

BOARD OF HEALTH REPORT 12-007

(Bratina/Partridge)

That the SEVENTH Report of the Board of Health be adopted, and the information section received.

CARRIED

GENERAL ISSUES COMMITTEE REPORT 12-025

8. Establishment of a Sub-Committee – Request for Proposal for the Establishment of a Gaming Facility (New Business)

(Bratina/Partridge)

That Item 8 of General Issues Committee Report 12-025 be amended through the addition of a sub-section (b) to read as follows.

- (b) That the following Members of Council be appointed to the Gaming Facility Proposal Sub-Committee:
 - (i) Mayor R. Bratina
 - (ii) Councillor R. Pasuta
 - (iii) Councillor S. Merulla
 - (iv) Councillor J. Partridge
 - (v) Councillor T. Whitehead

CARRIED

(Ferguson/Farr)

That Item 8 of the General Issues Committee Report 12-025 be amended by adding the following as sub-section (c):

- (c) That staff be directed to bring a report back to the first meeting of the Gaming Facility Proposal Sub-Committee outlining cost implications for gauging public input including, but not limited to:
 - (i) Telephone Polls;
 - (ii) Web Surveys;
 - (iii) Mail Outs;
 - (iv) Question Ballot;
 - (v) Independent Referendum;
 - (vi) Public Meeting.

CARRIED

(Bratina/Partridge)

That the TWENTY-FIFTH Report of the General Issues Committee be adopted, as amended, and the information section received.

CARRIED

(Jackson/Collins)

That the Committee of the Whole Rise and Report.

CARRIED

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| MOTIONS |
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7.1 Amendment to Item 12 of General Issues Committee Report 12-022

(Farr/McHattie)

That Item 12 of General Issues Committee Report 12-022 be amended through the addition of a sub-section (g) to read as follows:

12. Amendment to Area Rating Capital Re-Investment Reserves – 2012 Projects

- (g) That an appropriate by-law to amend By-law 01-169 be passed to include the East end of Strachan Open Space as a free run leash free location.

CARRIED

7.2 Objection to Application for Changes or Additions to Existing Liquor Licensed Area - 1704343 Ontario Limited o/a Aout 'n About, 21 Augusta Street, Hamilton, Ontario, L8N 1P6

(Farr/McHattie)

Whereas, Aout 'n About at 21 Augusta Street, Hamilton has applied for an increase to the Occupancy of their existing liquor licensed area within their establishment;

And Whereas, under Section 7.1 (1) of the Alcohol and Gaming Commission of Ontario's legislation, they shall consider a resolution of Council of the municipality, in which are located the premises for which a person makes an application to sell liquor or holds a license to sell liquor, as proof of the needs and wishes of the residents of the municipality for the purposes of clause 6 (2) (h) of the Act;

And Whereas, due to concerns from Hamilton Police Services and comments submitted by the City's Building Department attached hereto;

Therefore, be it resolved:

That the Alcohol and Gaming Commission of Ontario (AGCO) be advised that based on the concerns noted by Hamilton Police Services and the comments by the Hamilton Building Department, the City of Hamilton objects to the said application for a change to the Existing Liquor Licensed area which would increase the Occupancy of the existing liquor licensed area of this establishment.

CARRIED

7.3(a) Item 8 – Planning Committee Report 12-013 respecting Proposed Settlement of OMB appeal regarding Zoning By-law Amendment Application ZAC-11-019 by 1340791 Ontario Ltd., affecting lands municipally known as 121 Fiddlers Green Road in the former municipality of Ancaster (LS12027) (Item 12.1) (Tabled from Council September 26, 2012)

(Clark/Pearson)

That Report LS12027 referred to in Item 8 of Planning Committee Report 12-013, respecting the Proposed Settlement of OMB appeal regarding Zoning By-law Amendment Application ZAC-11-019 by 1340791 Ontario Ltd., affecting lands municipally known as 121 Fiddlers Green Road in the former municipality of Ancaster, be lifted from the table.

CARRIED

(Clark/Ferguson)

That the following recommendations from Report LS12027 referred to in Item 8 of Planning Committee Report 12-013 be **withdrawn** as an alternate outside professional Planner has been hired to represent the City at the Ontario Municipal Board in support of Council's original recommendation to deny the application:

7.3(b) Proposed Settlement of OMB appeal regarding Zoning By-law Amendment Application ZAC-11-019 by 1340791 Ontario Ltd., affecting lands municipally known as 121 Fiddlers Green Road in the former municipality of Ancaster (LS12027)

- (a) That the modified development proposal and associated Minutes of Settlement submitted as a basis for settlement of the appeal of zoning by-law amendment application ZAC-11-019 by 1340791 Ontario Ltd., affecting lands municipally know as 121 Fiddlers Green Road in the former municipality of Ancaster, attached as Appendix A to report LS12027, be approved;
- (b) That the City Solicitor or his designate be authorized to execute the Minutes of Settlement on behalf of the City with such minor revisions thereto as the City Solicitor or his designate deem necessary;
- (c) That the Minutes of Settlement on page 3 be amended to include two additional conditions as 3. (h) and 3. (i), and that upon Council approval of the proposed settlement between the City of Hamilton and 1340791 Ontario Ltd. respecting their appeal of zoning by-law amendment application ZAC-11-019 in the former municipality of Ancaster, the Minutes of Settlement, attached as Appendix "A", as amended, to Report LS12027, be released as a public document;
- (d) That Report LS12027 and the memorandum from the external planning consultant, attached as Appendix B to Report LS12027 remain confidential and be released as a public document at the conclusion of the OMB proceeding.

CARRIED

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| NOTICES OF MOTION |
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| STATEMENT BY MEMBERS |
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Members of Council used this opportunity to discuss matters of general interest.

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| PRIVATE AND CONFIDENTIAL |
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10.1 Closed Session Minutes –September 12, 2012

(Ferguson/Whitehead)

- (a) That the Closed Session Minutes of the September 12, 2012 meeting of Council be approved, as presented;

- (b) That the Closed Session Minutes of the September 12, 2012 meeting of Council, remain confidential and restricted from public disclosure.

CARRIED

10.2 Aeropark Industrial Lands – Waiver of Commencement and Completion of Construction Dates (PED05136(b)) (Ward 11 & City Wide) (Tabled from September 12, 2012 meeting of Council) (Note: this item was not considered in closed session)

(Partridge/Pearson)

- (a) That the Offer to Purchase the lands known as Part of Lot 5, Concession 3, Township of Glanford designated as Part 1, Plan 62R-12209 and Parts 7, 13, 19, 20, 25, 26 and 27, Plan 62R-12459, municipally known as 2530 Highway No. 6, formerly in the Township of Glanbrook, now in the City of Hamilton, duly executed by the Purchaser, Orlick Industries Limited, on April 12, 2000 and approved by Regional Council on December 21, 1999, Item 1 of Report 8-99 of the Economic Development and Tourism Committee, be amended as follows:
 - (i) That clause 8.7 dealing with the commencement of construction date of May 2, 2006 be deleted;
 - (ii) That Clause 8.8 dealing with the completion of construction date by November 30, 2007 be deleted;
- (b) That the City Solicitor take all necessary steps to remove the Restrictive Covenants, which are registered as Instrument No. LT606655, from title to the subject lands;
- (c) That recommendations (a) and (b) above not be processed until the proponent executes the required Aeropark Industrial Lands Development Agreement, including payment of securities to service the property;
- (d) That Report PED05136(b), except for recommendations (a), (b) and (c), remain a confidential document.

CARRIED

(Pearson/Ferguson)

That Council move into Closed Session at 8:34 p.m. to consider Agenda Items 10.3, 10.3.1 and 10.4 respecting litigation or potential litigation, including matters before administrative tribunals, affecting the City, and advice that is subject to solicitor-client privilege, including communications necessary for that purpose. Pursuant to Sections 239 (c), (e) and (f) of the Municipal Act 2001 and Sections 8.1 (c), (e) and (f) of the Procedural By-law.

CARRIED

10.3 Urban Hamilton Official Plan Proposed Settlements and Legal Direction (LS12024) (referred from Planning Committee, September 18, 2012)

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10.3.1 Urban Hamilton Official Plan Proposed Settlements and Legal Direction (LS12024(a))

(Ferguson/Johnson)

That reports 10.3 and 10.3.1 respecting Urban Hamilton Official Plan Proposed Settlements and Legal Direction, be referred back to planning.

CARRIED

10.4 OMB Decision 1125-1143 Wilson Street - Authorization to file a motion for leave to appeal to the Divisional Court and file a request for review to the OMB (no copy)

(Johnson/Ferguson)

That legal counsel for the City be authorized to serve and file a motion for leave to appeal to Divisional Court and be authorized to file with the Ontario Municipal Board a request for review pursuant to s.43 of the Ontario Municipal Board Act and report back to Planning Committee with applicable further recommendations.

CARRIED

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| BY-LAWS |
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(Pasuta/Ferguson)

That Bills No. 213 to 216 attached hereto, be passed, that the Corporate Seal be affixed thereto, and that the By-laws be numbered and signed by the Mayor and the City Clerk and read as follows:

Bill No.

- 213** To Incorporate City Land Designated as Block 56 on Plan 62M-1074 into Fletcher Road
- 214** To Incorporate City Land Designated as Block 55 on Plan 62M-1074 into Fletcher Road
- 215** To Amend Zoning By-law No. 3692-92 (Stoney Creek), Respecting the Property Located at 341 Regional Road 20
- 216** To Confirm the Proceedings of City Council

CARRIED

(Pearson/Ferguson)

That, there being no further business, the City Council meeting be adjourned at 9:14 p.m.

CARRIED

Respectfully submitted,

Mayor B. Bratina

R. Caterini, B. Comm., AMCT
City Clerk
Office of the City Clerk