



CITY COUNCIL MINUTES

Wednesday, September 14, 2011

7:00 p.m.

Council Chambers

Hamilton City Hall

71 Main Street West

Present: Mayor R. Bratina

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

**Absent
with regrets:** Councillor T. Jackson, bereavement

Mayor Bratina called the meeting to order and called upon the Reverend Dallas Friesen from Mount Hamilton Baptist Church to lead Council in prayer.

The choir from Columbia International College sang the National Anthem directed by their music conductor, Neville Newman.

APPROVAL OF THE AGENDA

The Clerk advised of the following changes to the agenda:

1. ADDED COMMUNICATIONS

5.7 Correspondence from Mark Leach, Assistant Deputy Attorney General, responding to the Mayor's letter respecting the government's initiative to modernize Ontario's Liquor laws.

Recommendation: Be received.

5.8 Correspondence from Lisa Bell requesting that the third week of September of each year be declared Mitochondrial Disease Awareness Week

Recommendation: Be received.

2 NOTICES OF MOTION

- 8.1 Illegally Discarded Curb Side Bulk Items
- 8.2 Review of Ward and General Legislative Budgets
- 8.3 Amendment to Item 11 of Planning Committee Report 11-014 respecting Demolition Permit for 245 Catherine Street North

3. CORRECTION

The recorded vote on Page 7 of the General Issues Committee Report 11-026 has been corrected.

(Pearson/Johnson)

That the Agenda for the City Council meeting being held on September 14, 2011, be approved, as amended. **CARRIED**

DECLARATIONS OF INTEREST

Councillor Pearson declared a conflict of interest with respect to Item 8 of the Planning Committee Report 11-010 respecting the Project Compliance update as she is an owner of rental properties.

Councillor Johnson declared a conflict of interest respecting Item 10 of Planning Committee Report 11-015 and Item 11 of General Issues Committee Report 11-027 respecting City of Hamilton and Johnson ats Penady, Ontario Superior Court of Action No. 1234/11, as she is named in the pending litigation.

CEREMONIAL ACTIVITIES/ANNOUNCEMENTS
--

3.1 Recognition of Actions – Mr. Mark Fuciarelli

The Mayor invited Mr. Mark Fuciarelli to the podium. Councillor Scott Duvall and Chief Simonds joined him in presenting Mr. Fuciarelli with a letter and plaque in recognition of his quick and courageous response to a fire incident on his street on the morning hours of July 17, 2011. Mr. Fuciarelli was instrumental in allowing his neighbours to safely evacuate their homes prior to the arrival of Emergency Services personnel.

APPROVAL OF MINUTES

4.1 August 9, 2011**(Pasuta/Partridge)**

That the Minutes of the August 9, 2011, meeting of Council be approved, as presented. **CARRIED**

4.2 August 11, 2011**(Pasuta/Partridge)**

That the Minutes of the August 11, 2011, meeting of Council be approved, as presented. **CARRIED**

4.3 September 6, 2011 - Special**(Pasuta/Partridge)**

That the Minutes of the September 6, 2011, meeting of Council be approved, as presented. **CARRIED**

COMMUNICATIONS

(McHattie/Farr)

That Council Communications 5.1 to 5.8 be approved, as amended, as follows:

- 5.1 Correspondence from the Honourable Rick Bartolucci, Minister of Municipal Affairs and Housing, respecting the Province's relationship with municipalities
Recommendation: Be received.
- 5.2 Communication from AMO respecting AMO's 2011 Municipal Insurance Survey Results
Recommendation: Be received
- 5.3 Correspondence from D. Jeffrey Dea, Special Project Officer, EA Project Co-ordination Section, Ministry of the Environment, respecting Notice of Approval of Amendments to the Municipal Engineers Association Class Environmental Assessment
Recommendation: Be received.
- 5.4 Correspondence from Dr. Tom Nugent respecting LRT
Recommendation: Be received.
- 5.5 Resolution from the Township of Centre Wellington respecting the Racetrack Municipality Contribution Agreements between the OLG and Ontario Municipalities

Recommendation: Be endorsed.

- 5.6 Correspondence from Douglas Patton, President, Rockton Agricultural Society, Rockton’s World Fair, requesting the City’s assistance to provide transportation to the Rockton World’s Fair.

Recommendation: Be referred to the General Manager of Public Works for appropriate action.

- 5.7 Correspondence from Mark Leach, Assistant Deputy Attorney General, responding to the Mayor’s letter respecting the government’s initiative to modernize Ontario’s Liquor laws.

Recommendation: Be received.

- 5.8 Correspondence from Lisa Bell requesting that the third week of September of each year be declared Mitochondrial Disease Awareness Week

Recommendation: Be received.

CARRIED

(Merulla/Collins)

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

GENERAL ISSUES COMMITTEE REPORT 11-026

Staff corrected the recorded vote on Page 7 of the General Issues Committee Report 11-026.

(Bratina/Partridge)

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

PUBLIC WORKS COMMITTEE REPORT 11-010

Item 12 Backyard Slope Failure – 2 Cherry Road (Item 10.2)

(Collins/Merulla)

That subsection (a) of Item 12 of Public Works Report 11-010 respecting Backyard Slope Failure, 2 Cherry Road be amended by inserting the words “plus HST” after the sum of “\$24,186” to read as follows:

- (a) That \$24,186 *plus HST*, being the lowest of three quotes, be granted to the owners of 2 Cherry Road to repair the portion of their rear

yard damaged by a City tree and subsequent slope failure along Red Hill Creek on July 26, 2009

**Amendment CARRIED
Motion as amended CARRIED**

(Ferguson/Powers)

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

AUDIT, FINANCE & ADMINISTRATION COMMITTEE REPORT 11-010

Item 11 Amended Water Leak Adjustment Policy (FCS11071) (City Wide) (Item 8.3)

(Pearson/Powers)

That Item 11 of Audit and Administration Committee Report 11-010 respecting the Water Leak Adjustment Policy, approved by Council on December 12, 2007 be referred back to the Audit, Finance and Administration Committee for further discussion.

CARRIED

(Clark/Johnson)

That the TENTH Report of the Audit, Finance and Administration Committee be adopted, as amended and the information section received. **CARRIED**

EMERGENCY & COMMUNITY SERVICES COMMITTEE REPORT 11-010

Item 3 City of Hamilton Domiciliary Hostel Program Review (CS10036(a)) (City Wide) (Item 7.1)

(Collins/Duvall)

That Item 3 of Emergency and Community Services Committee Report 11-010 respecting the City of Hamilton Domiciliary Hostel Program Review Report CS10036(a) be amended by adding subsection (b) as follows:

- (b) That Councillor Whitehead be appointed as the Council representative to the Domiciliary Hostel Working Group.

**Amendment CARRIED
Motion as amended CARRIED**

Information Item (g)(i) Status and Next Steps St. Mark's Church, and Auchmar Estate (CS11076) (Wards 2 and 8) (Item 5.3)

(Powers/Ferguson)

- (a) That Information Item (g)(i) of Emergency and Community Services Report 11-010 respecting Status and Next Steps St. Mark's Church, and Auchmar Estate be lifted from the Information Section.

- (b) That Report CS11076 respecting Status and Next Steps St. Mark's Church and Auchmar Estate be TABLED to the General Issues Committee.

CARRIED

(Merulla/Morelli)

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

CARRIED

PLANNING COMMITTEE REPORT 11-015

- Item 1 Addendum to the Trinity East (Eramosa Karst) Environmental Study Report Completed by Infrastructure Ontario (PED07236(e)) (Ward 9) (Item 5.1)**

(Clark/Johnson)

That Item 1 of Planning Committee Report 11-015 respecting Addendum to the Trinity East (Eramosa Karst) Environmental Study Report Completed by Infrastructure Ontario be amended by adding a subsection (b) as follows:

- (b) That the City of Hamilton reaffirm its request that the Province of Ontario transfer the Eramosa Karst feeder lands to the Hamilton Conservation Authority for \$2 (two dollars) and confirm the Hamilton Conservation Authority's commitment to assume operating costs at no additional cost or requests for funding to the Province.

**Amendment CARRIED
Motion as amended CARRIED**

- Item 4 Committee of Adjustment Minor Variance Application HM/A-11:58, for the Property Located at 53 Gibson Avenue (Hamilton), Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (PED11148) (Ward 3) (Item 5.4)**

(Collins/Merulla)

That Item 4 of the Planning Committee Report 11-015 respecting Committee of Adjustment Minor Variance Application HM/A-11:58, for the Property Located at 53 Gibson Avenue be deleted in its entirety and replaced with the following in lieu thereof:

That Legal Services be instructed to attend the OMB Hearing in support of the Committee of Adjustment's decision to deny this application, and to retain outside professionals.

**Amendment CARRIED
Motion as amended CARRIED**

Item 7 Repeal Store Hours By-Law R79-202 (PED11011(a)) (City Wide) (Outstanding Business List Item) (Item 8.3)

This Item CARRIED on the following standing recorded vote:

- Yeas: Whitehead, Collins, Morelli, Farr, Pearson, Johnson, Ferguson, Powers, Pasuta, Bratina and Partridge
- Total 11
- Nays: Clark, Duvall, Merulla, McHattie
- Total: 4
- Absent: Jackson
- Total: 1

Information Item (h) (ii) of Planning Report 11-015 respecting pilot Project – Ward 1 – 12 Hour Parking By-law (PED11079(a) (Ward 1) (Item 8.2)

(Whitehead/Duvall)

- (a) That Information Item (h) (ii) of Planning Report 11-015 respecting Pilot Project – Ward 1 – 12 Hour Parking By-law be lifted from the Information Section;
- (b) That Information Item (h) (ii) of Planning Report 11-015 respecting Pilot Project – Ward 1 – 12 Hour Parking By-law be referred back to the Planning Committee for further discussion.

CARRIED

(Pasuta/Farr)

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

CARRIED

GENERAL ISSUES COMMITTEE REPORT 11-027

(Bratina/Partridge)

That the TWENTY-SEVENTH Report of the General Issues Committee be adopted and the information section received.

CARRIED

GENERAL ISSUES COMMITTEE REPORT 11-028

(Partridge/Pearson)

That the 48-hour rule be waived to allow for the introduction and consideration of the following Report:

- (a) General Issues Committee Report 11-028 – September 13, 2011

CARRIED

(Bratina/Partridge)

That the TWENTY-EIGHTH Report of the General Issues Committee be adopted and the information section received.

CARRIED

(Merulla/Morelli)

That the Committee of the Whole Rise and Report.

CARRIED

MOTIONS

7.1 Political Staff Employment Policies**(Clark/Pasuta)**

That the Non-Union Compensation Sub-committee be requested to review political staff employment policies and report to the General Issues Committee by November 30, 2011.

CARRIED

7.2 Liquor License Application – Allusion’s Hair Studio and Spa for Men, 180 Highway No. 8, Unit 102, Stoney Creek**(Pearson/Clark)**

Whereas, Allusion’s Hair Study and Spa for Men has applied for an indoor liquor license;

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 the construction of this building does not meet sound barrier and security requirements.

And Whereas, due to existing concerns from surrounding businesses that this property and the commercial users are creating parking problems on adjoining property, this facility would only increase these problems;

Therefore, be it resolved:

That the Alcohol and Gaming Commission of Ontario (AGCO) be advised that the City of Hamilton objects to the said application on the grounds that it will have a negative impact on the surrounding community.

CARRIED

7.3 Amendments to Item 11 of Planning Committee Report 11-014 respecting Demolition Permit - 245 Catherine Street North, Hamilton (PED11136)

(Farr/McHattie)

That Item 11 of Planning Committee Report 11-014 respecting a Demolition Permit for 245 Catherine Street North, Hamilton (PED11136) be amended as follows:

- (a) By adding the following phrase after the word “approved” in subsection (a):

“and staff be authorized to waive Policy 5.3 "Policy for Request for Tenders (\$50,000 and greater) of the City's Purchasing Policy By-law 09-230" to award the lowest quote for the demolition, received from "Power Property Services of Hamilton"”

- (b) By adding the following after the word recommendation in the last line of subsection (c):

“of August 11, 2011”

The entire amended Item 11 to now read as follows:

11. Demolition Permit – 245 Catherine Street North, Hamilton (PED11136) (Ward 2) (Item 8.4)

- (a) That an expenditure of no more than \$135,000.00 to demolish the commercial building at 245 Catherine Street North, Hamilton, including the safe removal of vats containing high-phosphorus rain-water; be approved *and staff be authorized to waive Policy 5.3 "Policy for Request for Tenders (\$50,000 and greater) of the City's Purchasing Policy By-law 09-230" to award the lowest quote for the demolition, received from "Power Property Services of Hamilton";*
- (b) That the Senior Director of Parking and By-law Services be authorized and directed to apply for a Demolition Permit for 245 Catherine Street North, Hamilton, in accordance with a final and binding Order to Comply under the Property Standards By-law No. 10-221 and subsection 30(4) of that By-law;
- (c) That subsections (a), (b) become effective should the owner of 245 Catherine Street North, Hamilton not apply for and carry out a demolition permit of the commercial property, of his own volition, including the safe removal of vats containing high phosphorus rain-water within 60 days of Council's approval of this recommendation of August 11, 2011.
- (d) That Municipal Law Enforcement staff use their inspection powers under the Property Standards By-law to continue to monitor the

property and to require the property owner to provide a schedule, as soon as possible, with respect to the completion of the work;

- (e) That Municipal Law Enforcement staff keep all interested enforcement agencies, in particular the Ministry of the Environment apprised of this matter and give verbal progress reports, to the Planning Committee.

CARRIED

NOTICES OF MOTION

Councillor B. Morelli introduced the following Notice of Motion:

8.1 Illegally Discarded Curb Side Bulk Items

- (a) That Waste Management and Municipal Law Enforcement staff jointly report back to the Public Works Committee on a method to address illegally discarded curb side bulk items in front of residential and multi-residential properties;
- (b) That, as part of the review, staff investigate a "fee for service" charge or "fine" as part of their enforcement procedures.

Councillor Russ Powers introduced the following Notice of Motion:

8.2 Review of Ward and General Legislative Budgets

That a review of the overall Ward and General Legislative Budgets be referred to the Governance Review Sub-committee with a report to be included in the 2012 budget deliberations.

Councillor Jason Farr introduced the following Notice of Motion:

8.3 Amendment to Item 11 of Planning Committee Report 11-014 respecting Demolition Permit - 245 Catherine Street North, Hamilton (PED11136)

That Item 11 of Planning Committee Report 11-014 respecting a Demolition Permit for 245 Catherine Street North, Hamilton (PED11136) be amended as follows:

- (a) By adding the following phrase after the word "approved" in subsection (a):

"and staff be authorized to waive Policy 5.3 "Policy for Request for Tenders (\$50,000 and greater) of the City's Purchasing Policy By-law 09-230" to award the lowest quote for the demolition, received from "Power Property Services of Hamilton""

- (b) By adding the following after the word recommendation in the last line of subsection (c):

“of August 11, 2011”

The entire amended Item 11 to now read as follows:

**11. Demolition Permit – 245 Catherine Street North, Hamilton (PED11136)
(Ward 2) (Item 8.4)**

- (a) That an expenditure of no more than \$135,000.00 to demolish the commercial building at 245 Catherine Street North, Hamilton, including the safe removal of vats containing high-phosphorus rain-water; be approved *and staff be authorized to waive Policy 5.3 "Policy for Request for Tenders (\$50,000 and greater) of the City's Purchasing Policy By-law 09-230" to award the lowest quote for the demolition, received from "Power Property Services of Hamilton";*
- (b) That the Senior Director of Parking and By-law Services be authorized and directed to apply for a Demolition Permit for 245 Catherine Street North, Hamilton, in accordance with a final and binding Order to Comply under the Property Standards By-law No. 10-221 and subsection 30(4) of that By-law;
- (c) That subsections (a), (b) become effective should the owner of 245 Catherine Street North, Hamilton not apply for and carry out a demolition permit of the commercial property, of his own volition, including the safe removal of vats containing high phosphorus rain-water within 60 days of Council's approval of this recommendation of August 11, 2011.
- (d) That Municipal Law Enforcement staff use their inspection powers under the Property Standards By-law to continue to monitor the property and to require the property owner to provide a schedule, as soon as possible, with respect to the completion of the work;
- (e) That Municipal Law Enforcement staff keep all interested enforcement agencies, in particular the Ministry of the Environment apprised of this matter and give verbal progress reports, to the Planning Committee.

(Farr/McHattie)

That the Rules of Order be waived to dispense with notice for a motion regarding an amendment to Item 11 of Planning Committee Report 11-014 respecting Demolition Permit - 245 Catherine Street North, Hamilton

CARRIED

See Motion 7.3 for the disposition of this item.

Councillor Clark introduced the following notice of motion:

8.4 Request for Confirmation of LRT Commitment from the Province

Whereas on June 15, 2007, the Liberal Government announced “Move Ontario 2020” would develop \$17.5 billion in 52 rapid transit projects;

And Whereas the Province promised that GTA municipalities would not contribute to Capital;

And Whereas Hamilton was included in “Move Ontario 2020” with two LRT projects;

And Whereas on September 12, 2007, Premier McGuinty and local Liberal candidates promised Hamilton two LRT lines and said that the Conservatives would cancel the projects;

And Whereas on April 1, 2009, the MTO announced \$3 million in grant to establish two LRT lines, EA, plans, etc.;

And Whereas on May 17, 2010, Metrolinx presented to the Metro Board of Trade that the Sheppard LRT, Eglinton LRT, York VIVA, Scarborough LRT and Finch LRT worth \$9.5 billion would proceed at no cost to the TTC or Toronto;

And Whereas Hamilton, like Toronto, does not have the capacity to contribute to LRT.

Therefore Be It Resolved:

That the City of Hamilton request confirmation on LRT commitment from the Province to fully fund Capital for two LRT lines and use of Gas Tax for operating costs.

STATEMENT BY MEMBERS

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

PRIVATE AND CONFIDENTIAL

10.1 Closed Session Minutes – September 6, 2011

(Whitehead/Collins)

- (a) That the Closed Session Minutes of the September 6, 2011 Special meeting of Council be approved, as presented.

- (b) That the September 6, 2011 Minutes 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

(McHattie/Farr)

That Bills No. 011-216 to 011-228 attached hereto, be passed, that the Corporate seal be affixed thereto, and that the By-law be signed by the Mayor and the City Clerk and read as follows:

By-law No.	Bill No.	
11-216	216	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
11-217	217	To Amend By-law No. 01-215, To Regulate Traffic: Schedule 5 – Stop Control
11-218	218	To Amend By-law No. 01-215, To Regulate Traffic: Schedule 5 – Stop Control
11-219	219	To Incorporate City Land Designated as Block 113 on Plan 62M-932 into Blackburn Lane
11-220	220	To Incorporate City Land Designated as Block 21 on Plan 52M-927 into Blackburn Lane
11-221	221	To Incorporate City Land Designated as Block 18 on Plan 62M-927 into Bellstone Lane
11-222	222	To Incorporate City Land Designated as Block 80 on Plan 62M-1143 into Pelech Crescent
11-223	223	To Incorporate City Land Designated as Block 114 on Plan 62M-932 into Grassyplain Drive
11-224	224	To Authorize Tax Exemptions for Land Leased by the City of Hamilton for the Purposes of the Provision of Municipal Capital Facilities as permitted pursuant to Subsection 110(6) of the Municipal Act, 2001 and Ontario Regulation 603/06 and to Repeal By-law No. 05-106
11-225	225	To Adopt Official Plan Amendment No. 125 to the former Town of Flamborough Official Plan, Respecting 834 Brock Road, Part of Lots 9 & 10, Concession 4
11-226	226	To Adopt Official Plan Amendment No. 3 to the Rural Hamilton Official Plan, Respecting 834 Brock Road, Part of Lots 9 & 10, Concession 4

By-law No.	Bill No.	
11-227	227	To Amend Zoning By-law No. 90-145-Z (Flamborough), Respecting Lands Located on Part of Lots 9 and 10, Concession 4, Geographic Township of Flamborough (834 Brock Road), in the former Town of Flamborough, now in the City of Hamilton
11-228	228	To Confirm the Proceedings of City of Hamilton

CARRIED

(Partridge/Pearson)

There being no further business, the City Council meeting adjourned at 9:00 p.m.

CARRIED

Respectfully submitted,

Mayor B. Bratina

R. Caterini
Clerk
September 14, 2011