



CITY COUNCIL MINUTES

Wednesday, February 8, 2012

5:00 p.m.

Council Chambers

Hamilton City Hall

71 Main Street West

Present: Mayor R. Bratina

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

Absent

with Regrets: Councillors B. McHattie and S. Duvall – FCM

Mayor Bratina called the meeting to order and called upon Reverend Ed Raddatz of Mission Services, Hamilton, to lead Council in prayer.

APPROVAL OF THE AGENDA

The Clerk advised of the following changes to the agenda:

1. ADDED COMMUNICATIONS

5.9 Petition against the new by-law limiting the number of household pets containing 511 signatures

Recommendation: Be received.

5.10 Correspondence against the new by-law limiting the number of household pets, received from the following parties:

- (i) Janice
- (ii) Timothy Gibbons
- (iii) Dr. Mathieu Morissette
- (iv) Eugenie Schuurmans
- (v) Mandy
- (vi) Doug Mortimer
- (vii) Donna Booth
- (viii) Jonathan

- (ix) Jaymz Kay
- (x) Elena Klazinga
- (xi) Nancy Ronalds
- (xii) Daniyelle Bratina
- (xiii) Alex Miller
- (xiv) Duane Dietz
- (xv) Dave Doherty
- (xvi) Chuck Rum
- (xvii) Lisa Shadforth
- (xviii) Mike Hishmeh
- (xix) Greg Jachna
- (xx) Joel Scadding
- (xxi) Nola Stewart
- (xxii) Peter Martin
- (xxiii) Lorraine Scholarchos
- (xxiv) Derek Bevan
- (xxv) Paula Dagbostino
- (xxvi) Stewart C. Klazinga

Recommendation: Be received.

2. ADDED MOTIONS:

- 7.7 City of Hamilton ats Bre-Ex Limited (LS10005(a)) (City Wide)
- 7.8 Draft Report from the Office of the Ombudsman

3. ADDED NOTICES OF MOTION

- 8.1 Amendment to 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 (Hamilton), Supported by the Planning and Economic Development Department, but Denied by the Committee of Adjustment (PED11148) (Ward 3)
- 8.2 Liquor Licence Application – Oceano Restaurant and Bar, 359 Barton Street East, Hamilton – Motion to Rescind

(Pearson/Johnson)

That the Agenda for the City Council meeting being held on February 8, 2012, be approved, as amended.

CARRIED

DECLARATIONS OF INTEREST

Councillor B. Johnson declared an interest to Item 10 of the Planning Committee Report 12-002, respecting a proposed Zoning By-law Amendment Affecting Lands located at 587 and 591 Garner Road East (Ancaster), as it relates to a family member's business. Councillor Johnson abstained from voting on this matter.

CEREMONIAL ACTIVITIES/ANNOUNCEMENTS

None.

APPROVAL OF MINUTES**4.1 January 25, 2012****(Pearson/Ferguson)**

That the Minutes of the January 25, 2012, meeting of Council be approved, as presented.

CARRIED

COMMUNICATIONS**(Whitehead/Jackson)**

That Council Communications 5.1 through 5.10 be approved, as amended, as follows:

5.1 Notice of Poll – 2012-13 Ontario Good Roads Association Board of Directors

Recommendation: Be received.

5.2 Correspondence from the Ministry of Finance respecting the Ontario Municipal Partnership Fund (OMPF) 2012 Upload Notice

Recommendation: Be received and that staff be directed provide an Information Report, to a future General Issues Committee, respecting the actual dollars uploaded by the Province from the City of Hamilton.

5.3 Correspondence from the Ministry of Community and Social Services respecting launch of the 2012-13 EnAbling Change Program

Recommendation: Be received.

5.4 Invitation from the Town of Huntsville to attend the 2012 Ontario Small Urban Municipalities (OSUM) Conference and Trade Show – May 2-4, 2012 at Deerhurst Resort, Huntsville

Recommendation: Be received.

5.5 Resolution from the Municipality of East Ferris respecting the Ministry of Municipal Affairs and Housing proposed change to Part 8 of the Ontario Building Code requiring the installation of tertiary treatment systems for new or replacement septic systems within vulnerable areas

Recommendation: Be referred to the General Manager of Planning and Economic Development for a report to the Planning Committee.

5.6 Protecting Greenbelt Wetlands Media Release and Summary

Recommendation: Be received.

5.7 Correspondence from the Honourable Charles Sousa, Minister of Citizenship and Immigration, respecting nominations for the Newcomer Champion Awards

Recommendation: Be received and referred to the Customer Service, Access and Equity Division for the appropriate action.

5.8 Correspondence from the Honourable Charles Sousa, Minister of Citizenship and Immigration, respecting the Lincoln M. Alexander Award 2012

Recommendation: Be received and referred to the Hamilton Youth Advisory Committee for the appropriate action.

5.9 Petition against the new by-law limiting the number of household pets containing 511 signatures

Recommendation: Be received.

5.10 Correspondence against the new by-law limiting the number of household pets, received from the following parties:

- (i) Janice
- (ii) Timothy Gibbons
- (iii) Dr. Mathieu Morissette
- (iv) Eugenie Schuurmans
- (v) Mandy
- (vi) Doug Mortimer
- (vii) Donna Booth
- (viii) Jonathan
- (xi) Jaymz Kay
- (x) Elena Klazinga
- (ix) Nancy Ronalds
- (xii) Daniyelle Bratina
- (xiii) Alex Miller
- (xiv) Duane Dietz
- (xv) Dave Doherty
- (xvi) Chuck Rum
- (xvii) Lisa Shadforth
- (xviii) Mike Hishmeh
- (xix) Greg Jachna
- (xx) Joel Scadding
- (xxi) Nola Stewart
- (xxii) Peter Martin
- (xxiii) Lorraine Scholarchos

- (xxiv) Derek Bevan
- (xxv) Paula Dagbostino
- (xxvi) Stewart C. Klazinga

Recommendation: Be Received.

CARRIED

(Powers/Partridge)

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

CARRIED

PLANNING COMMITTEE REPORT 12-002

(i)(ii) Ontario Municipal Board Pre-hearing and Hearing for Appeals to Official Plan Amendment (H) 198 and Zoning By-law 05-073 (Setting Sail: Secondary Plan for the West Harbour) - PL050408

(Clark/Pearson)

That Section (i), Item (i) of the Planning Committee Report 12-002 be lifted from the information section and added as Item 13 to Planning Committee Report 12-002.

CARRIED

13. Ontario Municipal Board Pre-hearing and Hearing for Appeals to Official Plan Amendment (H) 198 and Zoning By-law 05-073 (Setting Sail: Secondary Plan for the West Harbour) - PL050408

(Clark/Pearson)

- (a) That the Confidential Memorandum "Ontario Municipal Board Pre Hearing and Hearing for Appeals to Official Plan Amendment (H) 198 and Zoning By-law 05-073 (Setting Sail: Secondary Plan for the West Harbour) – PL650408" as presented to Planning Committee on January 31, 2012, be received;
- (b) That the modifications to the said Secondary Plan for the Barton-Tiffany area, as previously modified by Council on November 30, 2011, set out in Appendix "A" to the said Confidential Memorandum, be approved;
- (c) That the amendment to Zoning By-law 05-200 respecting the Barton-Tiffany lands attached as Appendix "B" to the said Confidential Memorandum be approved;
- (d) That the "Proposed Site Specific Policy for White Star Lands" attached as Appendix "C" to the said Confidential Memorandum be approved;
- (e) That the site specific zoning by-law amendment to Schedule "C" of By-law 05-200 respecting the White Star lands attached as Appendix "D" to the said Confidential Memorandum be approved;

- (f) That the said Appendices "A", "B", "C" and "D", together with such minor revisions thereto as may be satisfactory to the Director of Planning and the City Solicitor, shall be advanced by the City Solicitor as the basis for a settlement with the other parties to the proceeding or as the City's position before the Ontario Municipal Board should a settlement on these terms not be achieved;
- (g) That the Mayor and Clerk and the City Solicitor, as the case may be, are hereby authorized to execute any documentation, including Minutes of Settlement, required, in the opinion of the City Solicitor, to give effect to the above resolutions;
- (h) That the said Confidential Memorandum dated January 31, 2012 and Appendix "E" remain confidential and withheld from public disclosure; and,
- (i) That the said Appendices "A", "B", "C" and "D", be released for public disclosure.

CARRIED

(Clark/Pearson)

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

CARRIED

GENERAL ISSUES COMMITTEE REPORT 12-003

(Powers/Partridge)

That the THIRD Report of the General Issues Committee be adopted, and the information section received.

CARRIED

PUBLIC WORKS COMMITTEE REPORT 12-002

(Powers/Pearson)

- (a) That Information Item(g)(ii) of the Public Works Committee Report 12-002, respecting the Waste Collection Procurement Process for 2013-2020 (PW11030(d) and PW11030(e) and the following motion, be lifted from the table and added as Item 9 to the Public Works Committee Report 12-002:

That Project 3 be approved as the Preferred Waste Collection System as follows:

- (a) That the City's Waste Collection System commencing April 1, 2013 consist of the following services:
 - (i) Weekly collection of Organic Waste;
 - (ii) Weekly collection of Garbage;
 - (iii) Weekly Leaf and Yard Waste collection;

- (iv) Weekly call-in Bulk Waste collection for curbside collection and weekly call-in collection of Bulk Waste for multi-residential buildings;
 - (v) Weekly two-stream collection of Recyclable Materials;
 - (vi) Weekly two-stream Automated Recycling Cart collection;
 - (vii) Weekly front-end Bin Service for Garbage collection;
 - (viii) Supply of front-end Bin Containers for Recyclable Fibres and weekly front-end Bin Service for Recyclable Fibres collection;
 - (ix) Multi-day collection of Public Space Litter Containers and Public Space Recycling Containers;
- (b) That the waste collection system in (a) include the following refinements:
- (i) Collection of up to two (2) containers of garbage per residential unit on a weekly schedule; plus additional containers through a curb side tag system
 - (ii) Permit the use of alternative recycling containers to reduce escaped waste;
 - (iii) Supply of front-end garbage bin containers for garbage collection at municipal facilities;
 - (iv) Continue with Special Considerations for households with children, medical circumstances, home day cares and agricultural properties of up to three (3) containers weekly;
 - (v) Bulk waste reuse events as a pilot program;
 - (vi) Phase in of smaller green carts;
- (c) That a tag system for additional garbage for curbside collection be available for purchase at specified locations at a cost of \$2 per tag in blocks of five (5) tags;
- (d) That the Special Considerations provisions in the Solid Waste Management By-law 09-067 be amended to allow for families with two (2) children under the age of four (4) to be eligible for Special Consideration;
- (e) That appropriate amendments to Solid Waste Management By-law 09-067 be enacted to implement recommendations (a), (b), (c) and (d);
- (f) That GFL Environmental East Corporation, be selected as the Successful Proponent for:
- (i) Project 3 of Request for Proposals C11-30-11 which is comprised of:
 1. Weekly collection of Organic Waste in Zones B1, B2 and B3;
 2. Weekly collection of Garbage in Zones B1, B2 and B3;

3. Weekly Leaf and Yard Waste collection in Zones B1, B2 and B3;
 4. Weekly call-in Bulk Waste curbside collection and weekly collection of Bulk Waste for multi-residential buildings in Zones B1, B2 and B3;
 5. Weekly two-stream collection of Recyclable Materials City-wide;
 6. Weekly two-stream Automated Recycling Cart collection City-wide;
 7. Weekly front-end Bin Service for Garbage collection City-wide;
 8. Supply of front-end Bin Containers for Recyclable Fibres and weekly front-end Bin Service for Recyclable Fibres collection City-wide;
 9. Multi-day collection of Public Space Litter Containers and Public Space Recycling Containers in Zones B1, B2 and B3;
- (ii) Additional Work identified in Request for Proposals C11-30-11 including:
1. The collection of two (2) or more containers for bi-weekly collection of garbage;
 2. A garbage tag system to supplement the curbside program;
 3. Collection of blue boxes with lids and larger blue boxes;
 4. The supply of bin containers at municipal facilities;
 5. Bulk waste reuse events, at the discretion of the City.
- (g) That the contract period be seven (7) years commencing April 1, 2013 with the potential extension of one (1), one (1) year term;
- (h) That the General Manager of Public Works be authorized and directed to finalize the terms and conditions of the agreement with GFL Environmental East Corporation in accordance with the provisions of Request for Proposals C11-30-11;
- (i) That the Mayor and City Clerk be authorized and directed to execute the agreement with GFL Environmental East Corporation, together with any necessary documents, in a form satisfactory to the City Solicitor;
- (j) That Capital Project 5121294500 Recycling Program - Vehicle Acquisition and Facility Modification, which was parked during the 2012 Capital Budget process be withdrawn from further consideration and the 2012 Capital Financing Strategy be amended to reflect a lower reliance on Future Fund financing;

- (k) That the Outstanding Business Items referring to Waste Collection and Recycling Processing Procurement Processes for 2013-2020 as well as Activity Based Costing for Public Sector Waste Collection 2013-2020 be identified as completed and removed from the Public Works Committee Outstanding Business List;
 - (l) That the Outstanding Business Item referring to Illegal Dumping, Litter and Escaped Waste be identified as completed and removed from the General Issues Committee Outstanding Business List.
- (b) That Item 9 (Reports PW11030(d) and PW11030(e) as well the motion shown below), respecting the Waste Collection Procurement Process, be referred to the General Issues Committee for discussion, no later than March 21, 2012:

That Project 3 be approved as the Preferred Waste Collection System as follows:

- (a) That the City's Waste Collection System commencing April 1, 2013 consist of the following services:
 - (i) Weekly collection of Organic Waste;
 - (ii) Weekly collection of Garbage;
 - (iii) Weekly Leaf and Yard Waste collection;
 - (iv) Weekly call-in Bulk Waste collection for curbside collection and weekly call-in collection of Bulk Waste for multi-residential buildings;
 - (v) Weekly two-stream collection of Recyclable Materials;
 - (vi) Weekly two-stream Automated Recycling Cart collection;
 - (vii) Weekly front-end Bin Service for Garbage collection;
 - (viii) Supply of front-end Bin Containers for Recyclable Fibres and weekly front-end Bin Service for Recyclable Fibres collection;
 - (ix) Multi-day collection of Public Space Litter Containers and Public Space Recycling Containers;
- (b) That the waste collection system in (a) include the following refinements:
 - (i) Collection of up to two (2) containers of garbage per residential unit on a weekly schedule; plus additional containers through a curb side tag system
 - (ii) Permit the use of alternative recycling containers to reduce escaped waste;
 - (iii) Supply of front-end garbage bin containers for garbage collection at municipal facilities;
 - (iv) Continue with Special Considerations for households with children, medical circumstances, home day cares and agricultural properties of up to three (3) containers weekly;
 - (v) Bulk waste reuse events as a pilot program;
 - (vi) Phase in of smaller green carts;

- (c) That a tag system for additional garbage for curbside collection be available for purchase at specified locations at a cost of \$2 per tag in blocks of five (5) tags;
- (d) That the Special Considerations provisions in the Solid Waste Management By-law 09-067 be amended to allow for families with two (2) children under the age of four (4) to be eligible for Special Consideration;
- (e) That appropriate amendments to Solid Waste Management By-law 09-067 be enacted to implement recommendations (a), (b), (c) and (d);
- (f) That GFL Environmental East Corporation, be selected as the Successful Proponent for:
 - (i) Project 3 of Request for Proposals C11-30-11 which is comprised of:
 1. Weekly collection of Organic Waste in Zones B1, B2 and B3;
 2. Weekly collection of Garbage in Zones B1, B2 and B3;
 3. Weekly Leaf and Yard Waste collection in Zones B1, B2 and B3;
 4. Weekly call-in Bulk Waste curbside collection and weekly collection of Bulk Waste for multi-residential buildings in Zones B1, B2 and B3;
 5. Weekly two-stream collection of Recyclable Materials City-wide;
 6. Weekly two-stream Automated Recycling Cart collection City-wide;
 7. Weekly front-end Bin Service for Garbage collection City-wide;
 8. Supply of front-end Bin Containers for Recyclable Fibres and weekly front-end Bin Service for Recyclable Fibres collection City-wide;
 9. Multi-day collection of Public Space Litter Containers and Public Space Recycling Containers in Zones B1, B2 and B3;
 - (ii) Additional Work identified in Request for Proposals C11-30-11 including:
 1. The collection of two (2) or more containers for bi-weekly collection of garbage;
 2. A garbage tag system to supplement the curbside program;

3. Collection of blue boxes with lids and larger blue boxes;
 4. The supply of bin containers at municipal facilities;
 5. Bulk waste reuse events, at the discretion of the City.
- (g) That the contract period be seven (7) years commencing April 1, 2013 with the potential extension of one (1), one (1) year term;
- (h) That the General Manager of Public Works be authorized and directed to finalize the terms and conditions of the agreement with GFL Environmental East Corporation in accordance with the provisions of Request for Proposals C11-30-11;
- (i) That the Mayor and City Clerk be authorized and directed to execute the agreement with GFL Environmental East Corporation, together with any necessary documents, in a form satisfactory to the City Solicitor;
- (j) That Capital Project 5121294500 Recycling Program - Vehicle Acquisition and Facility Modification, which was parked during the 2012 Capital Budget process be withdrawn from further consideration and the 2012 Capital Financing Strategy be amended to reflect a lower reliance on Future Fund financing;
- (k) That the Outstanding Business Items referring to Waste Collection and Recycling Processing Procurement Processes for 2013-2020 as well as Activity Based Costing for Public Sector Waste Collection 2013-2020 be identified as completed and removed from the Public Works Committee Outstanding Business List;
- (l) That the Outstanding Business Item referring to Illegal Dumping, Litter and Escaped Waste be identified as completed and removed from the General Issues Committee Outstanding Business List.

(Ferguson/Powers)

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

CARRIED

BOARD OF HEALTH REPORT 12-001

(Bratina/Partridge)

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

CARRIED

(Powers/Partridge)

That the Committee of the Whole Rise and Report.

CARRIED

MOTIONS

7.1 Review of Process for Private and Confidential Reports**(Merulla/Collins)**

That the Governance Review Sub-Committee be requested to review the following and report to the Audit, Finance and Administration Committee:

- (a) The format in which confidential reports are prepared for Committee/Council;
- (b) The process in which Private and Confidential items are distributed to Committee/ Council;
- (c) The role of the Clerk as outlined in the City's Procedural By-law subsection 9.6, which reads as follows:

"9.6. The Clerk shall advise the Mayor or Chair, if in his or her opinion, a matter or portion of a matter being discussed in a meeting that is closed to the public is not procedurally appropriate in accordance with section 239 of the Act and section 8 of this By-law."

CARRIED

7.2 Use of City Hall Tower 2 as Downtown Site for Hamilton Wentworth District School Board (HWDSB) Offices

Councillor Farr deleted the original motion in its entirety, which read as follows:

Whereas, McMaster University's Family Medicine Department is poised to construct an exciting multi-level facility on the Hamilton Wentworth District School Board site at the corner of Main and Bay Streets; and,

Whereas, the Hamilton Wentworth District School Board has stated an interest in moving their downtown offices to their Mountain location; and,

Whereas, when designed and constructed in 1960, Stanley Roscoe's vision for City Hall included a second tower, situated immediately south of the current building; and,

Whereas, retaining the Hamilton Wentworth District School Board as a keynote employer in downtown Hamilton is of paramount importance to Hamilton;

Therefore be it Resolved:

That City staff be directed to formally propose the City Hall second tower site to the Hamilton Wentworth District School Board for a nominal long-term land lease fee, and undertake discussions with the Board on their requirements,

and replaced it with the following in lieu thereof:

(Farr/Collins)

Whereas, McMaster University's Family Medicine Department is poised to construct an exciting multi-level facility on the Hamilton Wentworth District School Board site at the corner of Main and Bay Streets; and,

Whereas, the Hamilton Wentworth District School Board has stated an interest in moving their downtown offices to their Mountain location; and,

Whereas, when designed and constructed in 1960, Stanley Roscoe's vision for City Hall included a second tower, situated immediately south of the current building; and,

Whereas, notwithstanding that in May 2005 City Council requested that the City Hall Second Tower site be reserved for future City office expansion needs, in principle, and subject to a capital financing plan; and,

Whereas, retaining the Hamilton Wentworth District School Board as a keynote employer in downtown Hamilton is of paramount importance to Hamilton; and,

THEREFORE BE IT RESOLVED:

- (a) That staff be directed to enter into preliminary discussions to investigate potential occupancy of the Hamilton Wentworth District School Board Education Centre in a City Hall second tower, for a nominal long-term land lease fee with the City of Hamilton.
- (b) That, should the discussions above generate interest on the part of the Hamilton Wentworth District School Board, staff be directed to report back to General Issues Committee respecting possible options, including commentary on ramifications for the previous Council position on the second City Hall Tower.

(Powers/Ferguson)

That the question be called.

CARRIED

Item 7.2 was CARRIED on the following Standing Recorded Vote:

Yeas:	Collins, Farr, Jackson, Merulla, Morelli, Pasuta, Powers, Whitehead
Total:	8
Nays:	Bratina, Clark, Ferguson, Johnson, Partridge, Pearson
Total:	6
Absent:	Councillors S. Duvall, B. McHattie
Total:	2

7.3 Status of Community Correction Centre located at 94 York Blvd., Ward 2**(Farr/Morelli)**

That staff be requested to provide Council with an update on the status of the Community Correction Centre located at 94 York Blvd., Ward 2.

Item 7.2 was unanimously CARRIED on the following Standing Recorded Vote, as follows:

Yeas: Bratina, Collins, Clark, Farr, Ferguson, Jackson, Johnson, Merulla, Morelli, Partridge, Pasuta, Pearson, Powers, Whitehead
Total: 14
Absent: Councillors S. Duvall, B. McHattie
Total: 2

7.4 Closed Session Minutes of the General Issues Committee Meeting - June 27, 2011**(Clark/Pearson)**

That the June 27, 2011 Closed Session Minutes of the General Issues Committee be publicly released, in a redacted format.

CARRIED

7.5 Centennial Parkway Regional Shopping Complex Transit Service (PW12009) (Ward 5)**(Collins/Merulla)**

- (a) That the General Manager of Public Works be directed to implement transit service to the new regional shopping complex under development on Centennial Parkway. This service will be funded in 2012 from the Tax Stabilization Reserve (\$150,000) and Walmart (OMB Decision Contribution \$50,000) and will require that the Transit complement be increased by two (2.0) to allow for the hiring of two (2.0) temporary Bus Operators;
- (b) That the routing and service level as illustrated in Appendix "A" of Report PW12009 be implemented as of March 25, 2012;
- (c) That this service be implemented on a pilot basis and will be reviewed in the course of the 2013 annual budget process;
- (d) That the item "Centennial Parkway Regional Shopping Complex Transit Service" be identified as completed and removed from the Public Works Committee's Outstanding Business List.

CARRIED

7.6 Official Plan Drive-Through Policies

(Clark/Pearson)

WHEREAS the Town of Oakville ("Oakville") adopted a new official plan, which includes policies that in certain situations prohibit drive-through related uses;
AND WHEREAS appeals have been brought against Oakville's new official plan, including the drive-through policies;

AND WHEREAS the appeals pertaining to Oakville's drive-through policies have been made by a group of drive-through operators who identified themselves as Quick Service Restaurants;

AND WHEREAS counsel for the Quick Service Restaurants has advised counsel for Oakville that a motion will be brought before the Ontario Municipal Board challenging the authority of municipalities to enact policies within official plans, which prohibit uses, on the grounds that no such statutory jurisdiction exists, and that such motion will be argued as a question of law in order to seek a definitive ruling from the Board for future direction;

AND WHEREAS the City of Hamilton's ("Hamilton") new Urban Official Plan also contains policies, which prohibit drive-through uses in certain situations, and the TDL Group as an appellant to Hamilton's new Urban Official Plan and three other quick service restaurant operators and one industry trade organization as parties are challenging Hamilton's drive-through policies in the new Urban Official Plan, on the grounds, among other reasons, that official plan provisions are not to be used to prohibit specific uses such as drive-through facilities;

AND WHEREAS the legal issue being raised in the Oakville proceedings is identical to that forming part of the grounds for appeals against Hamilton's drive-through policies in its new Urban Official Plan, and a ruling by the Ontario Municipal Board on this issue in Oakville will directly relate to and impact upon Hamilton's interests and the scope of its jurisdiction when developing official plan policies;

AND WHEREAS it is in the public interest for Hamilton to seek party status in the Oakville proceeding with a view to inviting the Ontario Municipal Board to address the drive-through policy issue on a consolidated basis, which will have Province-wide implications;

NOW THEREFORE BE IT RESOLVED:

- (a) That City Legal and Planning staff be authorized to seek party status in the motion in OMB proceedings pertaining to the Town of Oakville's new official plan, with file number PL100637 and in said motion to support the position that municipalities do possess the authority to prohibit uses in Official Plans.

- (b) That the Association of Municipalities of Ontario (AMO) be advised of the City of Hamilton's position.

**AMENDMENT CARRIED
MOTION AS AMENDED CARRIED**

7.7 City of Hamilton ats Bre-Ex Limited (LS10005(a)) (City Wide)

(Powers/Partridge)

- (a) That the City Solicitor be directed to agree to set the Pre-Judgment interest in Ontario Superior Court File No. 47804 (Bre-Ex Limited v City of Hamilton) at \$210,000;
- (b) That the City Solicitor be directed to preserve the City's right in Ontario Superior Court File No. 47804 (Bre-Ex Limited v City of Hamilton) by filing an Appeal within the time frame permitted by the Rules of Civil Procedure;
- (c) That the City Solicitor report back as soon as possible with a full legal opinion, from independent outside counsel, regarding the prospects for success on an Appeal;
- (d) That the contents of Report LS10005(a) remain confidential, except for Appendix "C" attached to Report LS10005(a), and attached hereto as Appendix "A", which is a public document.

**AMENDMENT CARRIED
MOTION AS AMENDED CARRIED**

7.8 Draft Report from the Office of the Ombudsman

(Jackson/Collins)

- (a) That a sub-committee be established, composed of Councillors L. Ferguson, R. Pasuta, T. Whitehead and J. Farr, to be referred to as the Subcommittee to Review the Ombudsman's Draft Report;
- (b) That Council hereby delegates to the Subcommittee the authority to review a draft report to be received from the Ombudsman pursuant to Section 18(3) of the Ombudsman Act, and to instruct the City Solicitor regarding the City's response to the draft Report;
- (c) That the Sub-Committee be dissolved immediately after the City's response has been transmitted to the Ombudsman;
- (d) That to comply with the Ombudsman's process which requires that his draft report be kept confidential, the City Solicitor be directed to write to the Office of the Ombudsman and request a letter from them which states that:

- (i) In the opinion of the Ombudsman's Office the draft report being issued to the City pursuant to Section 18(3) of the Ombudsman Act qualifies pursuant to Section 239 of the Municipal Act to be discussed by the Subcommittee in closed session for the purposes of reviewing the report and formulating a response to the report to be communicated to the Ombudsman by the City Solicitor as contemplated by Section 18(3) of the Ombudsman Act; and
 - (ii) Sets out the appropriate subject matter and Subsection of Section 239 under which the draft report qualifies to be the subject of a closed meeting; and
 - (iii) Is appropriate for inclusion upon the public agenda at the meeting at which the Subcommittee will go into closed session to discuss the Ombudsman's draft report; and,
- (e) That staff be directed that copies of the draft report are to be returned to the Office of the Ombudsman in accordance with the required Undertaking.

CARRIED

7.9 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)

(Clark/Pearson)

That Item 4 of the Planning Report 11-015, as approved by Council on September 14, 2011, be amended by adding recommendation (b), as follows:

- (b) That the amount required to retain outside professional(s) to support the City's position before the Ontario Municipal Board be funded firstly, through the 2012 Budget, secondly, through year-end Corporate surpluses, and lastly, through the Tax Stabilization Reserve.

To read as follows:

- (a) 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;
- (b) That the amount required to retain outside professional(s) to support the City's position before the Ontario Municipal Board be funded firstly, through the 2012 Budget, secondly, through year-end Corporate surpluses, and lastly, through the Tax Stabilization Reserve.

CARRIED

7.10 Liquor Licence Application – Oceano Restaurant and Bar, 359 Barton Street East, Hamilton**(Morelli/Merulla)**

That the City's objection, approved by Council at its meeting of August 11, 2011, to a Liquor License Application by Oceano Restaurant and Bar, 359 Barton Street East, Hamilton, noted as Motion 7.3, be rescinded as an agreement has been reached with respect to the conditions of the Liquor Licence, as outlined in the attached Memorandum of Agreement.

CARRIED**7.11 Status of Randle Reef File****(Collins/Whitehead)**

That staff be directed to report back to the Public Works Committee as soon as possible respecting that status of Randle Reef.

CARRIED**7.12 Request to the CRTC for Continuance of Local Programming Improvement Funding for CHCH-TV****(Whitehead/Merulla)**

WHEREAS the City of Hamilton recognizes and values CHCH TV's contribution to the community, in providing from news and information to culture and recreation, and that the television station is at the centre of public discourse in the community;

AND WHEREAS CHCH is recognized for its ongoing commitment to local broadcasting, which is far more (80 plus hours) than any other conventional T.V. station in North America;

THEREFORE BE IT RESOLVED

- (a) That the Mayor correspond, on behalf of the City of Hamilton, to the CRTC to support the continuum of the Local Programming Improvement Fund (LPIF).
- (b) That, in light of the time sensitivity respecting this matter, the correspondence be sent, on behalf of City Council, to the CRTC no later than February 14, 2012.

CARRIED

NOTICES OF MOTION

Councillor Clark introduced the following Notice of Motion:

8.1 Amendment to 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 (Hamilton), Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (PED11148) (Ward 3)

That Item 4 of the Planning Report 11-015, as approved by Council on September 14, 2011, be amended by adding recommendation (b), as follows:

- (b) That the amount required to retain outside professional(s) to support the City's position before the Ontario Municipal Board be funded firstly, through the 2012 Budget, secondly, through year-end Corporate surpluses, and lastly, through the Tax Stabilization Reserve.

To read as follows:

- (a) 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;
- (b) That the amount required to retain outside professional(s) to support the City's position before the Ontario Municipal Board be funded firstly, through the 2012 Budget, secondly, through year-end Corporate surpluses, and lastly, through the Tax Stabilization Reserve.

(Clark/Pearson)

That the rules of order be waived in order to introduce an amending motion respecting, 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).

CARRIED

Refer to Item 7.9 for Council's disposition respecting this matter.

Councillor Morelli introduced the following Notice of Motion:

8.2 Liquor Licence Application – Oceano Restaurant and Bar, 359 Barton Street East, Hamilton, and Mendonca Café, 457 Barton Street East, Hamilton

That the City's objection, approved by Council at its meeting of August 11, 2011, to a Liquor License Application by **Restaurant and Bar, 359 Barton Street East, Hamilton**, noted as Motion 7.3 (as shown below), be **rescinded** as an agreement has been reached with respect to the conditions of the Liquor Licence, as outlined in the attached Memorandum of Agreement:

7.3 Liquor Licence Application – Oceano Restaurant and Bar, 359 Barton Street East, Hamilton, and Mendonca Café, 457 Barton Street East, Hamilton

WHEREAS, Oceano Restaurant and Bar (359 Barton Street East, Hamilton) and Mendonca Café (457 Barton Street East, Hamilton) have applied for indoor liquor licences;

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 licence 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 existing community concerns about noise, after-hours activities, etc., these facilities 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 applications on the grounds that it will be negative to an already fragile neighbourhood.

(Morelli/Merulla)

That the Rules of Order be waived to allow for the introduction of a motion to Rescind a motion respecting the Liquor Licence Application for Oceano Restaurant and Bar, 359 Barton Street East, Hamilton

CARRIED

Refer to Item 7.10 for Council's disposition respecting this matter.

Councillor Merulla introduced the following Notice of Motion:

8.3 U.S. Steel's Intentions respecting Hamilton's Hilton Works

WHEREAS the *Investment Canada Act* has led to the purchase and operation of the former Steel Company of Canada to the U.S. Steel Corporation;

AND WHEREAS the *Investment Canada Act* has been breached, as a direct result of the conditions placed on the sale by the *Investment Canada Act*, and litigation followed by the Federal Government, which was settled prematurely;

AND WHEREAS U.S. Steel has stated publicly that they are operating all U.S. Plants to maximum capacity excluding Hamilton Canada's Hilton Works from steel production;

Therefore be it resolved:

That Prime Minister Harper intervene on this crisis and that U.S. Steel Executives provide details surrounding their intentions of Hamilton Canada's Hilton Works to the City of Hamilton.

Councillor Merulla introduced the following Notice of Motion:

8.4 Caterpillar Corporation's Breach of the *Investment Canada Act*

Whereas the Caterpillar Corporation has breached the *Investment Canada Act*, and has been subsidized by Canadian taxpayers who have been betrayed by the closure of its Caterpillar Plant in London, Ontario.

Therefore be it resolved:

That the City of Hamilton review its policy related to any business relationship with the Caterpillar Corporation and boycott Caterpillar and encourage all Hamilton, Ontario and Canadian businesses from doing business with the Caterpillar Corporation.

Councillor Collins introduced the following Notice of Motion:

8.5 Status of Randle Reef File

That staff be directed to report to the Public Works Committee as soon as possible respecting that status of the Randle Reef file.

(Collins/Whitehead)

That the Rules of Order be waived to allow for the introduction a motion respecting the status of Randle's Reef.

CARRIED

Refer to Item 7.11 for Council's disposition respecting this matter.

Councillor Whitehead introduced the following Notice of Motion:

8.6 Request to the CRTC for Continuance of Local Programming Improvement Funding for CHCH-TV

WHEREAS the City of Hamilton recognizes and values CHCH TV's contribution to the community from news and information, to culture and recreation, and that the television station is at the centre of public discourse in the community;

AND WHEREAS CHCH is recognized for its ongoing commitment to local broadcasting, which is far more (80 plus hours) than any other conventional T.V. station in North America;

THEREFORE BE IT RESOLVED

- (a) That the Mayor correspond, on behalf of the City of Hamilton, to the CRTC to support the continuum of the Local Programming Improvement Fund (LPIF).
- (b) That, in light of the time sensitivity respecting this matter, the correspondence be sent to the CRTC no later than February 14, 2012.

(Whitehead/Merulla)

That the Rules of Order be waived to introduce a motion respecting support for CHCH T.V.

CARRIED

Refer to Item 7.12 for Council's disposition respecting this matter.

STATEMENT BY MEMBERS

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

PRIVATE AND CONFIDENTIAL**BY-LAWS****(Whitehead/Jackson)**

That Bills No. 025 to 034 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:

By-law No.

- | | |
|---------------|--|
| 12-025 | To Amend By-law No. 01-215, To Regulate Traffic:
Schedule 5 – Stop Control
Schedule 2 – Speed Limits
Schedule 13 – Designated Traffic Lanes |
| 12-026 | To Amend By-law No. 01-218, as amended, To Regulate On-Street 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 |
| 12-027 | To Adopt Official Plan Amendment No. 45 to the former Region of Hamilton-Wentworth Official Plan;
Respecting:
Par of Lots 12 and 13, Concession 3 (East Flamborough)
(Southeast Corner of Highway No. 6 and Highway No. 5) |
| 12-028 | To Amend By-law No. 05-200 – Housekeeping Amendments |
| 12-029 | To Amend Zoning By-law No. 90-145-Z (Flamborough), Respecting Lands Located at 111 Parkside Drive (Flamborough) |

By-law No.

- 12-030** To Amend Zoning By-law No. 87-57 (Ancaster), Respecting Lands Located at 587 and 591 Garner Road East, in the former Town of Ancaster, now in the City of Hamilton
- 12-031** For Responsible Animal Ownership in the City of Hamilton
- 12-032** To Amend By-law No. 01-215, To Regulate Traffic:
Schedule 2 – Speed Limits
Schedule 3 – Flashing School Zones – Reduced Speed Limit
- 12-033** To Amend By-law No. 01-215, To Regulate Traffic:
Schedule 5 – Stop Control
- 12-034** To Confirm the Proceedings of City Council

(Pearson/Ferguson)

That, there being no further business, the City Council meeting adjourned at 7:23 p.m.

CARRIED

Respectfully submitted,

Mayor B. Bratina

R. Caterini
City Clerk
February 8, 2012