



CITY COUNCIL MINUTES

Wednesday, March 28, 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, B. McHattie, S. Duvall and T. Whitehead

Mayor Bratina called the meeting to order and welcomed the Colour Guard of the 2865 Hamilton-Wentworth Artillery Cadet Battery, who performed a flag presentation ceremony prior to the playing of the National Anthem.

Mayor Bratina called upon Dr. Russ Moyer, president and founder of Eagle Worldwide Ministries, to lead Council in prayer.

APPROVAL OF THE AGENDA

The Clerk advised of the following changes to the agenda:

1. ADDED CORRESPONDENCE

- 5.8 Correspondence from Tony Elenis, CEO Ontario Restaurant Hotel & Motel Association, respecting the Food Truck pilot Program report scheduled to come forward June, 2012.

Recommendation: Be referred to the Planning Committee for Consideration.

2. MOTIONS

- 7.2 Funding Request for 2012 Supercrawl – WITHDRAWN

The funding request respecting the 2012 Supercrawl will be included as part of the General Issues Committee Budget Report, which is scheduled to be before Council on April 11, 2012.

3. NOTICES OF MOTION

8.1 Pan Am Games Second Site for Cultural Festival

8.2 City of Hamilton v Metcalfe & Mansfield

4. ADDED PRIVATE AND CONFIDENTIAL

10.2 Acquisition or Disposition of Land

(Pearson/Ferguson)

That the Agenda for the City Council meeting being held on March 7, 2012, be approved, as amended.

CARRIED

DECLARATIONS OF INTEREST

None

CEREMONIAL ACTIVITIES/ANNOUNCEMENTS
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On behalf of Council, Mayor Bratina extended condolences to General Manager, Gerry Davis, on the passing of his father, Gerald Davis.

3.1 2865 Hamilton-Wentworth Artillery Cadet Battery Colour Guard - Recognition of the 95th Anniversary of the Battle of Vimy Ridge

The Colour Guard, Cadet members and the Corp's Commanding Officer, Captain Josh Jenne, were in attendance to commemorate the 95th Anniversary of the Battle of Vimy Ridge. In commemoration of the event, the Mayor requested that the flags at City Hall fly at half-mast on April 9, 2012.

3.2 Tourism Awards for Culinary Experience and Life Time Achievement

Tourism awards were held earlier this month. Mayor Bratina and Council wanted to bring attention to two Tourism award winners. The winner of the People's Choice was Cake and Loaf Bakery. The winner of the Life Time Achievement Award was Murray Puddicombe from Puddicome Farms. The Mayor thanked both winners for their contribution to the City of Hamilton and wished them future success.

3.3 Mohawk Mountaineers, Canadian Collegiate Athletic Association

Mayor Bratina spoke of the history, and importance of sport within Hamilton. The Mayor commended the Mohawk College Mountaineers basketball team for their

2011-2012 Ontario Colleges Athletic Association Championship. Al Craig from Mohawk College addressed Council and thanked them for their support and introduced the team to the members of Council.

APPROVAL OF MINUTES

4.1 March 7, 2012

(Collins/Merulla)

That the Minutes of the March 7, 2012, meeting of Council be approved.

CARRIED

Councillor Ferguson indicated that he was not in attendance for the beginning of the March 7, 2012 Council meeting when Declarations of Interest were called for, nor when the Planning Committee report was considered by Council. The conflict of interest as per the Municipal Conflict of Interest Act was respecting Item 10, of Planning Committee Report 12-003, respecting the Proposed Settlement Rural Hamilton Official Plan Definitions Natural Heritage System - Aggregates (PL090114), as a family member is employed by one of the appellants.

COMMUNICATIONS

(Clark/Pearson)

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

- 5.1 Resolution from the City of Kingston requesting the Province increase the payment-in-lieu of taxes rate.

Recommendation: Be supported and copies forwarded to Hamilton's Members of Provincial Parliament.

- 5.2 Correspondence from Krista D'Aoust, Director of Family Services, Neighbour 2 Neighbour Centre, requesting extension of bus transfer time limits for Neighbour 2 Neighbour clients.

Recommendation: Be received and referred to the General Manager of Public Works for a report to the Public Works Committee.

- 5.3 Petition from Redeemer University College, requesting that the prevention of Human Trafficking and Slavery be made a top priority in the City of Hamilton. (171 signatures)

Recommendation: Be received and referred to the Hamilton Police Services Board for discussion.

- 5.4 Correspondence respecting requests for reconsideration of the Responsible Animal Ownership By-law:

- | | |
|----------------------|----------------------------|
| (a) Mark Robson | (b) Rosemary Nash |
| (c) Daniel Millen | (d) Sherri Leaver |
| (e) Joanne Daily | (f) Julie McCollum-Lippert |
| (g) Doug Heikamp | (h) Janice White |
| (i) Lynn Hampson | (j) Brittany Shilliday |
| (k) Patricia Glassco | (l) Mehdi Keramane |
| (m) Edward Duschl | (n) June Oraw |
| (o) Angela Torrie | (p) Josh Bakker |
| (q) Elissa Gilbey | |

Recommendation: Be received.

- 5.5 Correspondence from Matthew Gravina, Head of Public Relations, Invisible Children McMaster, requesting support for ending child soldier atrocities in South Central Africa.

Recommendation: That staff contact Mr. Gravina and request that he present before the General Issues Committee respecting Invisible Children McMaster, ending child soldier atrocities in South Central Africa.

- 5.6 Resignation by Daniel Rodrigues from the Property Standards Committee.

Recommendation: Be received and referred to the Selection Committee.

- 5.7 Correspondence from Victor Veri respecting the Licensing of Motels, Item 8 of Planning Committee Report 12-004.

Recommendation: Be received.

- 5.8 Correspondence from Tony Elenis, CEO Ontario Restaurant Hotel & Motel Association, respecting the Food Truck pilot Program report scheduled to come forward in June, 2012.

Recommendation: Be referred to the Planning Committee for Consideration.

Amendment CARRIED
Motion as Amended CARRIED

(Whitehead/Duvall)

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

AUDIT, FINANCE AND ADMINISTRATION COMMITTEE REPORT 12-003
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12. **Item 4 of the Governance Review Sub-Committee Report 12-001, respecting the Review of the City's Procedural By-law – Standing Committee Mandates as it Relates to Recent Department Reporting Structure Changes (City Wide) (CL12001) (Item 8.1)**

(Johnson/Pearson)

That Item 12 of the Audit, Finance & Administration Committee Report, respecting the Review of the City's Procedural By-law – Standing Committee Mandates as it relates to Recent Department Reporting Structure Changes, be amended by adding sub-section (g) to read as follows:

- (g) That the by-law to amend the City of Hamilton's Procedural By-law 10-053 to reflect the Standing Committee Mandates as it relates to recent Department reporting structure changes, be passed.

**Amendment CARRIED
Motion as Amended CARRIED**

(Johnson/Pearson)

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

EMERGENCY AND COMMUNITY SERVICES COMMITTEE REPORT 12-003

4. City of Hamilton's Submission to the Commission for the Review of Social Assistance in Ontario (CS11081(a)) (City Wide) (Item 7.1)

(Merulla/Morelli)

That Item 4 of the Emergency and Community Services Report 12-003 be amended by adding sub-section (f) as follows:

- (f) That the Mayor correspond with the Premier of Ontario, the Minister of Community and Social Services and the Commissioners of the Social Assistance Review; with copies to all local Members of Provincial Parliament, requesting that as part of the Social Assistance Review, the Ministry of Training, Colleges and Universities be requested to regulate and accredit "degree," "diploma," and "certificates" offered by Private Career Colleges to ensure that vulnerable low income citizens receive a quality education which is recognized by employers and that outcomes of referrals and payment for these programs be monitored for effectiveness.

**Amendment CARRIED
Motion as Amended CARRIED**

(Partridge/Powers)

That the THIRD Report of the Emergency and Community Services Committee be adopted, as amended, and the information section received. **CARRIED**

PLANNING COMMITTEE REPORT 12-004

15. Food Truck Exemption for James Street North ArtCrawl (Item 10.3)**(Collins/Merulla)**

That Item 15 of the Planning Committee Report 12-004, respecting Food Truck Exemption for James Street North ArtCrawl, be deleted and replaced with the following:

“Whereas City Council on March 7, 2012, in approving Planning Committee Report 12-003 (Feb. 28, 2012), directed staff to prepare a revised Food Truck By-law for consideration no later than June 2012 and to prepare parameters and criteria for a “Pilot Program” that would permit Food Trucks in Regional and/or Community Parks;

Whereas there is an opportunity for a Refreshment Vehicle Operator to partner with the Hamilton Public Library as a pilot during the James Street North ArtCrawl.

Therefore be it resolved:

That Gorilla Cheese and the Cupcake Diner be exempt from the Licensing By-law requirement stating that Refreshment Vehicle Operators obtain written approval or permission from any eating establishment within 100m of where the refreshment vehicle is to be located, while in the lay by on the south side of York Boulevard in front of the Hamilton Public Library, during the James Street North ArtCrawls until such time as the Planning Committee receives a staff report respecting the Food Truck by-law.”

**Amendment CARRIED
Motion as Amended CARRIED**

17. 1125-1143 Wilson Street West, Ancaster - OMB Hearing Status Update and Consideration of Settlement (Item 12.3)**(Farr/Feruson)**

That Item 17 of Planning Committee Report 12-004 be deleted in its entirety and replaced with the following in lieu thereof:

Whereas Council for the City of Hamilton approved Regional Official Plan Amendment No.43, (“ROPA 43”), Ancaster Official Plan Amendment No. 137 (“OPA 137”), Zoning By-law 11-191 and a Draft Plan of Subdivision (City File: 25T-201005) in respect of the development by Trinity Development Group Inc. (“Trinity”) of the lands municipally known as 1125-1143 Wilson Street in the former municipality of Ancaster;

And Whereas Canadian Tire Real Estate Limited (“CT”) and Calloway Real Estate Investment Trust Inc. appealed Council’s approvals of ROPA 43, OPA 137, By-law 11-191 and the Plan of Subdivision;

And Whereas the City and Trinity brought a motion to dismiss CT's appeal;

And Whereas the City staff, Trinity and CT have negotiated a settlement of CT's appeal as set out in Minutes of Settlement provided to Council on March 28, 2012;

And Whereas City Legal and Planning staff recommend that Council approve the settlement of CT's appeal as set out in the Minutes of Settlement.

NOW THEREFORE BE IT RESOLVED THAT:

- (a) That the City accepts the terms of the settlement as set out in Minutes of Settlement;
- (b) That the City Solicitor or his designate are 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 confidential memorandum remain confidential and restricted from public disclosure.

Amendment CARRIED
Motion as Amended CARRIED

(Farr/McHattie)

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

GENERAL ISSUES COMMITTEE REPORT 12-007

9. Business Appreciation Program (PED12042) (City Wide) (Item 5.10)

(Powers/Partridge)

That Sub-section (b) of Item 9 of the General Issues Committee Report 12-007 respecting Business Appreciation Program (PED12042), be deleted in its entirety and replaced with the following in lieu thereof:

- (b) That the Proposed Business Appreciation Program, attached hereto as Appendix "C", be approved.

Amendment CARRIED
Motion as Amended CARRIED

14. Implementation of the Hybrid Auditor General Model (AUD11028) (City Wide) (Item 8.1(b))

The Motion **CARRIED** on the following vote:

Yeas:	B. Bratina, C. Collins, B. Clark, T. Jackson, J. Farr, S. Merulla, B. Morelli, J. Partridge, R. Pasuta, M. Pearson, R. Powers, B. McHattie, S. Duvall, and T. Whitehead
Total:	14

Nays: B. Johnson, and L. Ferguson
 Total: 2

20. Establishment of a Greater Bay Area Sub-Committee

(Whitehead/McHattie)

That Item 20 of the General Issues Committee Report 12-007, respecting the Establishment of a Greater Bay Area Sub-Committee be amended through the addition of a sub-section (i) to read as follows:

- (i) That Councillors C. Collins and B. McHattie be appointed to the Greater Bay Area Sub-Committee.

Amendment CARRIED
Motion as Amended CARRIED

(Bratina/Partridge)

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

(Whitehead/Duval)

That the Committee of the Whole Rise and Report. **CARRIED**

MOTIONS

7.1 NHL Proposal Sub-Committee – Amendment to Name

(Whitehead/Duval)

That the name of the NHL Proposal Sub-Committee, established by Council on September 29, 2010 in approving Item 9(f) of Audit and Administration Committee Report 10-010, be amended to the National Hockey League (NHL), American Hockey League (AHL), Ontario Hockey League (OHL) Proposal Sub-Committee. **CARRIED**

7.2 Motion to Rescind Council decision of September 14, 2011, respecting Liquor Licence Application – Allusion's Hair Studio and Spa for Men, 180 Highway No. 8, Unit 102, Stoney Creek

(Pearson/Johnson)

That the City's objection, approved by Council at its meeting of September 14, 2011 to a Liquor License Application by the **Allusion's Hair Studio and Spa for Men, 180 Highway No. 8, Unit 102, Stoney Creek**, noted as Motion 7.2, 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.

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.

Motion to Rescind Council decision of September 14, 2011 respecting Liquor Licence Application – Allusion's Hair Studio and Spa for Men, 180 Highway No. 8, Unit 102, Stoney Creek

(Pearson/Johnson)

That the motion to rescind the City's objection to Liquor Licence Application by Allusions Hair Studio & Spa be amended by adding the following sentence prior to the words "That the City's objection":

Provided that the conditions set out in the signed Memorandum of Agreement between Ljiljana Fuduric / Allusions Hair Studio & Spa for Men and Councillor Maria Pearson attached to the Liquor Licence granted under the *Liquor Licence Act* to Allusions Hair Studio & Spa for Men,

to now read as follows:

Provided that the conditions set out in the signed Memorandum of Agreement between Ljiljana Fuduric / Allusions Hair Studio & Spa for Men and Councillor Maria Pearson attached to the Liquor Licence granted under the *Liquor Licence Act* to Allusions Hair Studio & Spa for Men, that the City's objection, approved by Council at its meeting of September 14, 2011, to a Liquor Licence Application by Allusions Hair Studio & Spa for Men at 180 Highway 8, Hamilton noted as Motion 7.2 be rescinded, as an agreement has been reached with respect to the conditions to attach to the Liquor Licence, as outlined in the attached Memorandum of Agreement.

**Amendment CARRIED
Motion as Amended CARRIED**

As Item 7.3 pertained to the Mayor, he relinquished the Chair to Deputy Mayor B. Clark.

7.3 Motion to Censure

(Merulla/Collins)

Whereas, notwithstanding the Mayor's public apology to H.R. staff in December 2011, he has recently stated that the matter of monetary compensation to a member of his staff, was left to the outcome of a review by H.R.; and

Whereas, the Mayor attempted to direct that an investigation regarding the release of information to the media pertaining to a staff member in his office included on the "Sunshine List" be conducted, including a demand that staff provide signed affidavits, without any consultation with, or authorization by Council; and

Whereas, this Council believes these actions fall below the standards of conduct which are expected of a Member of Council.

Therefore Be It Resolved:

That Council formally expresses its censure of Mayor Bratina for his conduct in this matter.

The Motion **CARRIED** on the following vote:

Yeas:	C. Collins, B. Clark, T. Jackson, B. Johnson, J. Farr, L. Ferguson, S. Merulla, B. Morelli, J. Partridge, R. Pasuta, M. Pearson, R. Powers, B. McHattie, S. Duvall and T. Whitehead
Total:	15
Nays:	B. Bratina
Total:	1

7.4 Pan Am Games Second Site for Cultural Festival

(Morelli/Merulla)

Whereas the City of Hamilton seeks to participate and provide support for the cultural objectives of the 2015 Pan Am Games; and

Whereas in 2008 the City of Hamilton was considered as a location by TO 2015 for a Second Site Cultural Festival; and

Whereas TO 2015 is expected to make announcements on site locations after March 31, 2012;

Therefore, be it resolved:

That Hamilton City Council request TO 2015's endorsement as the location for the Second Site Cultural Festival.

The Motion **CARRIED** on the following vote:

Yeas: B. Bratina, C. Collins, T. Jackson, B. Johnson, J. Farr,
L. Ferguson, S. Merulla, B. Morelli, J. Partridge, R. Pasuta,
M. Pearson, R. Powers, B. McHattie, S. Duvall and T. Whitehead
Total: 15
Nays: B. Clark
Total: 1

7.5 City of Hamilton v Metcalfe & Mansfield

(Whitehead/Duvall)

- (a) That the retainer of Juroviesky & Ricci LLP, pursuant to the terms set out in Report FCS09066(a)/LS09006(a), approved by City Council on May 26, 2010 as Item 15 of Report 10-006 of the Audit and Administration Committee, be, and the same is hereby, terminated;
- (b) That the City solicitor be directed to so advise Juroviesky & Ricci LLP.

CARRIED

NOTICES OF MOTION

Councillor Morelli introduced the following Notice of Motion:

8.1 Pan Am Games Second Site for Cultural Festival

Whereas the City of Hamilton seeks to participate and provide support for the cultural objectives of the 2015 Pan Am Games; and

Whereas in 2008 the City of Hamilton was considered as a location by TO 2015 for a Second Site Cultural Festival; and

Whereas TO 2015 is expected to make announcements on site locations after March 31, 2012;

Therefore, be it resolved:

Hamilton City Council request TO 2015's endorsement as the location for the Second Site Cultural Festival.

(Morelli/Merulla)

That the Rules of Order be waived to allow the introduction of a motion respecting the Pan Am Games Second Site for Cultural Festival. **CARRIED**

For disposition on this item please refer to Item 7.4

Councillor Whitehead introduced the following Notice of Motion:

8.2 City of Hamilton v Metcalfe & Mansfield

- (a) That the retainer of Juroviesky & Ricci LLP, pursuant to the terms set out in Report FCS09066(a)/LS09006(a), approved by City Council on May 26, 2010 as Item 15 of Report 10-006 of the Audit and Administration Committee, be, and the same is hereby, terminated;
- (b) That the City solicitor be directed to so advise Juroviesky & Ricci LLP.

(Whitehead/Duval)

That the Rules of Order be waived to allow the introduction of a motion respecting the City of Hamilton v Metcalfe & Mansfield **CARRIED**

For disposition on this item please refer to Item 7.5

STATEMENT BY MEMBERS

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

PRIVATE AND CONFIDENTIAL

10.1 Closed Session Minutes – January 11, 2012

(Whitehead/Partridge)

That the closed session minutes of January 11, 2012, be approved, as presented. **CARRIED**

10.2 Acquisition or Disposition of Land

(Jackson/Merulla)

That Council move into Closed Session at 7:05 p.m. to consider Item 10.2 respecting the Acquisition or Disposition of Land for City Purposes, pursuant to Section 8.1, Sub-section (c) of the City's Procedural By-law and Section 239 (c) of the Ontario Municipal Act, 2001, as amended, as the subject matter pertains to a proposed or pending acquisition or disposition of land for municipal or local Board purposes **CARRIED**

The Committee reconvened in open session at 7:17 p.m.

Council gave direction to staff in closed session regarding a real estate matter.

BY-LAWS

(Clark/Pearson)

That Bill No. 12-060 to 12-074 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 to read as follows:

Bill No. By-law No.

- | | | |
|------------|---------------|---|
| 060 | 12-060 | To Authorize the Signing of a Governance Agreement for the Joint Procurement of Specialized Transit Buses for Fiscal Year 2012 – Fiscal Year 2013 |
| 061 | 12-061 | To Amend By-law No. 01-215, To Regulate Traffic:
Schedule 5 – Stop Control |
| 062 | 12-062 | To Amend By-law No. 01-215, To Regulate Traffic:
Schedule 5 – Stop Control |
| 063 | 12-063 | To Incorporate City Land Designated as Block 31 on Plan 62M-1112 into Chambers Drive |
| 064 | 12-064 | To Adopt Official Plan Amendment No. 166 to the former City of Stoney Creek Official Plan;
Respecting:
1365 and 1367 Baseline Road |
| 065 | 12-065 | To Amend Zoning By-law No. 3692-92 (Stoney Creek), Respecting Lands Located at 1365 and 1367 Baseline Road, Stoney Creek |
| 066 | 12-066 | To Amend Zoning By-law No. 90-145-Z (Flamborough), Respecting Lands Located at 17 Howard Boulevard (Flamborough) |
| 067 | 12-067 | To Amend Zoning By-law No. 6593 (Hamilton), as amended by By-law No. 67-27, Respecting Lands Located at 235 Main Street West (Hamilton) |
| 068 | 12-068 | To Amend Zoning By-law No. 6593 (Hamilton), Respecting Lands Located at 848 Upper Wentworth Street (Hamilton) |
| 069 | 12-069 | To Amend By-law No. 07-170, A By-law To License and Regulate Various Businesses |
| 070 | 12-070 | To Amend By-law No. 10-118, A By-law To Regulate Exterior Property Maintenance |
| 071 | 12-071 | To Amend By-law No. 01-218, as amended, To Regulate On-Street Parking
Schedule 5 – Parking Meters
Schedule 6 – Time Limit Parking
Schedule 8 – No Parking Zones
Schedule 10 – Alternate Side Parking
Schedule 12 – Permit Parking Zones
Schedule 13 – No Stopping Zones
Schedule 14 – Wheelchair Loading Zones |
| 072 | 12-072 | To Amend By-law No. 10-053, Governing the Proceeding of Council and Committees of Council |

073 **12-073** To Appoint the Director of Audit Services as an Auditor General under Section 223.19 of the Municipal Act, 2001

074 **12-074** To Confirm the Proceedings of City Council

CARRIED

(Pearson/Johnson)

That there being no further business, the City Council meeting be adjourned at 7:20 p.m.

CARRIED

Respectfully submitted,

Mayor B. Bratina

R. Caterini
City Clerk
March 28, 2012