

SPECIAL MEETING OF COUNCIL AT 5:30 P.M.

011-2007 Moved by: Councillor Williams
 Seconded by: Councillor Noble

THAT Council resolve itself into the Committee of the Whole, In Camera,
closed to the public to consider:

- i. Property Matters

CARRIED

REGULAR MEETING OF COUNCIL AT 7:00 P.M.

ROLL CALL

COUNCIL MEMBERS:

Mayor D. Henderson
Councillor J. Baker
Councillor G. Beach
Councillor J. Earle
Councillor J. Fullarton
Councillor L. Journal
Councillor M. Kalivas
Councillor H. Noble
Councillor L. Severson
Councillor S. Williams

STAFF:

Ms. J. Amini, Administrative Coordinator (Recording Secretary)
Mr. J. Baker, Director of Human Resources
Mr. B. Casselman, City Manager
Mr. C. Cosgrove, Director of Operations
Ms. D. Cyr, Director of Finance
Mr. H. Jones, Fire Chief
Mr. D. Morgan, Director of Parks and Recreation
Ms. M. Pascoe Merkley, Director of Planning
Ms. S. Seale, City Clerk

OTHERS:

Mr. Ron Zajac, Recorder & Times

Mr. Andrew Cowan, Hometown Radio

012-2007 Moved by: Councillor Noble
 Seconded by: Councillor Journal

THAT Council rise from Committee of the Whole, In Camera, and the Chairman report that all recommendations adopted in Committee of the Whole, be adopted.

CARRIED

MAYOR'S REMARKS

Mayor Henderson stated for the record, that with respect to editorials in the Recorder and Times Newspaper concerning Councillor Nobles declared Conflict of Interest that Ms. Seale, City Clerk, did advise the involved parties appropriately and carried out her job with professionalism and there should be no illusions to that.

Mayor Henderson reminded citizens that Winterfest is fast approaching and noted that Friday will mark the opening of the new facilities on Court House Avenue which will be 20 days from the actual event.

Mayor Henderson noted that this Sunday at 3:00 p.m. at the Brockville Arts Centre the historic re-enactment will take place and on Thursday, February 1st, the TeKamp roast will take place.

Lastly, Mayor Henderson noted that the City's Annual Budget has been released to the public and discussions will commence next week.

DISCLOSURE OF INTEREST

With respect to the Conflict of Interest declared by Councillor Noble at the meeting of January 9th, 2007, Councillor Noble stated the nature of the Conflict was because he had stated during his election campaign that should the ward system be dissolved, he would not seek re-election and as such, would lose the \$13,586 Councillor compensation (a copy of Councillor Noble's statement is attached to the minutes). With respect to comments made by the reporter in the Recorder and Times Newspaper regarding Ms. Seale, he did note that Ms. Seale had advised him appropriately and he chose to disregard her advice.

ADOPTION OF COUNCIL MINUTES

013-2007 Moved by: Councillor Journal

THAT the minutes of the Council meeting of December 19th, 2006 and January 9th, 2007, be adopted as circulated and read.

CARRIED

COMMITTEE OF THE WHOLE COUNCIL

014-2007 Moved by: Councillor Journal

THAT we adjourn and meet as Committee of the Whole Council, with the Mayor in the Chair.

CARRIED

CORRESPONDENCE, COMMUNICATIONS AND PETITIONS

REQUEST FOR PROCLAMATIONS

Moved by: Councillor Severson

THAT Council make the following proclamation[s]:

- Heart and Stroke Month – February 2007; and
- THAT in recognition of Heart Month, that the Heart and Stroke flag be flown at Tunnel Bay for the month of February 2007.
(Heart and Stroke Foundation of Ontario)

CARRIED

Moved by: Councillor Kalivas

- Kinsmen and Kinettes Day – February 20, 2007
- Kinsmen and Kinettes Week – February 18 to 24, 2007
(Kinsmen Club of Brockville Inc.)

CARRIED

**EXPRESSION OF APPRECIATION FROM
MAYOR HENDERSON TO MR. HUGH CAMPBELL
FOR THE DONATION OF TWO BICYCLE STANDS**

Mayor Henderson thanked Mr. Hugh Campbell for the monetary donation to the City of Brockville for the purchase of two bicycle stands.

Mr. Campbell explained the types of racks were donated. He noted that over the years that he has been a resident of Brockville, he had noted the two gaps in the City, specifically, the Museum and the Tourism Office that are without bicycle racks. He hoped that Council would be cognizant of global warming and encourage citizens to use alternate methods of transportation such as bicycles by ensuring that bicycle racks are readily available and accessible.

DELEGATIONS

Ms. Lee Palmer, President, Heart & Stroke Foundation, Lanark, Leeds and Grenville Counties, presented Mayor Henderson with a Heart and Stroke Flag promoting the Foundations new logo.

Mr. Gord Brown, M.P. expressed congratulations to the new Council for its election successes and noted that he is currently doing a tour of Municipal Councils to help advocate their interests in Ottawa.

CONSIDERATION OF STAFF REPORTS

**2007-013-01
2006 UNSPENT BUDGET ITEMS
ADDITIONAL REQUEST
FILE: F05-38; F05-43**

Moved by: Councillor Williams

THAT Council transfer to the "Reserve for Outstanding Budget Items" account (GL210-367X-L907) an additional amount of \$16,779.90 for 2006.

CARRIED

REPORTS FROM BOARDS AND COMMITTEES

**FINANCE AND ADMINISTRATION
COMMITTEE MEETING
HELD JANUARY 16, 2007**

**COUNCILLOR S. WILLIAMS
COUNCILLOR J. FULLARTON
COUNCILLOR L. SEVERSON**

**2007-004-01
EMPLOYEE ASSISTANCE PROGRAM
CERIDIAN FREEDOM**

Moved by: Councillor Fullarton

THAT Council authorize the Mayor and Clerk to execute a contract with Ceridian Freedom to provide an Employee Assistance Program for the period April 1, 2007 to March 31, 2008.

CARRIED

**ECONOMIC DEVELOPMENT AND
PLANNING COMMITTEE MEETING
JANUARY 16, 2007**

**COUNCILLOR M. KALIVAS
COUNCILLOR J. BAKER
COUNCILLOR G. BEACH**

**2007-012-01
CASS DEV LTD. APPLICATIONS FOR ZONING
BY-LAW AMENDMENT AND PROPOSED
PLAN OF SUBDIVISION,
PART OF LOT 11, CONCESSION 2,
CITY OF BROCKVILLE
OWNER: JOHN CASSELL, O/A CASS DEV LTD.
AGENT: EASTERN ENGINEERING GROUP INC.
FILES: D14-107 AND 08T-06501**

Moved by: Councillor Baker

1. THAT Report 2007-012-01 be received as information, and
2. THAT, should revised applications for approval of a plan of subdivision and amendments to Zoning By-law 194-94 respecting lands described as Part of Lot 11, Concession 2, City of Brockville, County of Leeds be received, a further public meeting be held.

CARRIED

**OPERATIONS COMMITTEE
MEETING
JANUARY 17, 2007**

**COUNCILLOR L. JOURNAL
COUNCILLOR J. EARLE
COUNCILLOR H. NOBLE**

CONSENT AGENDA

Moved by: Councillor Noble

THAT the following items listed 2, 3 and 4 on the Operations Agenda of January 17, 2007 as recommended by the Committee be passed by Consent Agenda;

CARRIED

1) **2007-003-01
WINTERFEST 2007**

THAT Council recognize the month of February 2007 as Winterfest 2007 month in support of the Ontario Senior Games Winterfest 2007; and

THAT Council grant the use of the Brockville Memorial Civic Centre ice surface and community hall and the Centennial Youth Arena, ice surface and community hall to stage the hockey event February 15 - 16, 2007 from 7:30 a.m. to 4:30 p.m. and waive all associated rental fees; and

THAT Winterfest 2007 be permitted to fly the OSGA flag on the flag pole at the tunnel from February 1 - 19, 2007; and

THAT Winterfest 2007 be granted use of the Brockville Arts Centre on February 15, 2007 and that all rental fees be waived; and

THAT Winterfest 2007 be granted use of Blockhouse Island on February 16, 2007 for a firework display subject to the Fire Departments approval; and

THAT the following closures be authorized:

THAT William Street South of James Street be closed to all traffic, excluding service and emergency vehicles on February 14, 2007 and February 16, 2007 from 5:30 p.m. to 9:30 p.m. for Opening and Closing Ceremonies to be

conducted at Courthouse Green and Wall Street United Church; and

THAT Church Street East of Buell Street be closed to all traffic, excluding local traffic, service and emergency vehicles on February 14, 2007 and February 16, 2007 from 5:30 p.m. to 9:30 p.m. for Opening and Closing Ceremonies to be conducted at Courthouse Green and Wall Street United Church; and

THAT George Street East of Buell Street be closed to all traffic, excluding service and emergency vehicles on February 14, 2007 and February 16, 2007 from 5:30 p.m. to 9:30 p.m. for Opening and Closing Ceremonies to be conducted at Courthouse Green and Wall Street United Church; and

THAT Courthouse Avenue North of King Street be closed to all traffic, excluding service and emergency vehicles on February 14, 2007 and February 16, 2007 from 5:30 p.m. to 9:30 p.m. for Opening and Closing Ceremonies to be conducted at Courthouse Green and Wall Street United Church; and

THAT Wall Street South of James Street be closed to all traffic, excluding service and emergency vehicles on February 14, 2007 and February 16, 2007 from 5:30 p.m. to 9:30 p.m. for Opening and Closing Ceremonies to be conducted at Courthouse Green and Wall Street United Church; and

THAT Pine Street West of Victoria Avenue be closed to all traffic, excluding local traffic, service and emergency vehicles on February 14, 2007 and February 16, 2007 from 5:30 p.m. to 9:30 p.m. for Opening and Closing Ceremonies to be conducted at Courthouse Green and Wall Street United Church; and

THAT Blockhouse Island be closed to all traffic excluding service and emergency vehicles on Friday February 16, 2007 from 1:00 p.m. to 12:00 midnight for the fireworks set up and display. This time frame could change based upon the Fire Department's review of the fireworks plan.

THAT City staff will do initial placement and removal of required barricades. Winterfest 2007 be granted permission to provide their own personnel to administer and control access at the above-noted street closures and restrictions; and

THAT all available City street parking spots on Courthouse Avenue, George Street from Buell Street to Court House Terrace, on Wall Street to James Street, William Street south of James Street and Pine Street from Wall Street to Victoria Avenue be reserved for games participants buses beginning at 12 noon to 9:30 p.m.; and

THAT the Water Street parking lot at Blockhouse be reserved for games participants (excluding municipal permitted vehicles) beginning at 5:00 p.m. on February 14 and February 16, 2007 to accommodate parking overflow issues. A message will be posted at the parking meter February 13, 2007 informing all users. Winterfest personnel will control access to the lot beginning at 4:00 p.m. of said dates.

2) **2007-005-01
REQUEST FOR NON RESIDENT
USER FEE WAIVER - ST. LAWRENCE
SPEED SKATING CLUB (SLSSC)**

THAT Council decline the request from the St. Lawrence Speed Skating Club (SLSSC) to waive the Non Resident User Fee Waiver for the 2006/07 Ice season; and

THAT staff be directed to complete a comprehensive review of non resident user fees for incorporation into the 2007/08 budget program.

3) **2007-007-01
REQUEST FOR STOP AND YIELD SIGNS
VARIOUS LOCATIONS**

THAT a stop sign be placed on Flanders Road in the northbound direction at the north leg of Hillcrest Drive; and

THAT the existing yield sign on Flanders Road in the northbound direction at the north leg of Hillcrest Drive be removed; and

THAT a stop sign be placed on Flanders Road in the southbound direction at Duke Street/Hillcrest Drive; and

THAT a yield sign be placed on north leg of Bisley Crescent at Sevenoaks Avenue; and

THAT a yield sign be placed on the south leg of Bisley Crescent at Sevenoaks Avenue; and

THAT a yield sign be placed on Dewick Drive at Maple Avenue; and

THAT a yield sign be placed on Dewick Drive at Elm Avenue; and

THAT By-law 21-93 is amended accordingly.

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*****END OF CONSENT*****

**2007-008-01
PURCHASE OF A LOW FLOOR
ACCESSIBLE TRANSIT BUS**

Moved by: Councillor Journal

THAT the quotation from Leeds Transit Inc. in the amount of two hundred and eight thousand and ninety nine dollars and 45 cents (\$208,099.45), including GST, for the purchase of one low floor accessible Conventional Transit Bus as per tender E2006-04 be accepted; and

THAT the funds for this purchase be transferred from the City Transit Gas Tax Subsidy Capital Account C3140-TRNS-9160 which has been fully subsidized by Federal and Provincial transit grants; and

THAT the purchase be financed through the 2007 proposed Capital Program, Item 6.1 Fleet/Equipment Purchase & Replacement Program and be funded by the Fleet Equipment Reserve Fund; and

THAT the expenditure be charged to account # C1010-FPRP-FP33.

CARRIED

NEW BUSINESS - REPORTS FROM MEMBERS OF COUNCIL

Nil

MOTION TO RETURN TO COUNCIL

015-2007 Moved by: Councillor Journal

 THAT we revert from Committee of the Whole Council to Council.

CARRIED

ADOPTION OF REPORT OF THE COMMITTEE OF THE WHOLE COUNCIL

016-2007 Moved by: Councillor Journal
 Seconded by: Councillor Noble

 THAT the report of the Committee of the Whole Council be adopted and that the necessary actions or by-laws be enacted.

CARRIED

EMERGENCY BUSINESS

 Nil

**BY-LAW
NUMBERS**

003-2007 By-law to authorize the Appointment of Municipal Law Enforcement Officers and Peace Officers as it applies to the Private Property of 65 King Street West, Brockville.

004-2007 By-law to provide for an interim tax levy and the payment of interim taxes for the year 2007.

ADOPTION OF BY-LAWS

017-2007 Moved by: Councillor Beach
 Seconded by: Councillor

 THAT By-laws Numbered 003-2007 to 004-2007 be introduced and the same be now read a first and second time.

CARRIED

018-2007 Moved by: Councillor Beach
 Seconded by: Councillor Earle

THAT By-laws Numbered 003-2007 to 004-2007 be now read a third time, signed by the Mayor and Clerk, sealed with the Seal of the Corporation and be recorded.

CARRIED

CONFIRMATORY BY-LAW

019-2007 Moved by: Councillor Beach
 Seconded by: Councillor Earle

THAT By-law Number 005-2007 to Confirm the Proceedings of Council at its meeting held on January 23, 2007 be read a first and second time.

CARRIED

020-2007 Moved by: Councillor Beach
 Seconded by: Councillor Earle

THAT By-law Number 005-2007 to Confirm the Proceedings of Council at its meeting held on January 23, 2007 be now read a third time, signed by the Mayor and Clerk, sealed with the Seal of the Corporation and be recorded.

CARRIED

MAYOR'S ANNOUNCEMENTS

Councillor Severson announced that this coming Sunday, the local YMCA is hosting the local Walk for Alzheimer's. She noted that currently, she is 5th in pledges across Ontario, behind participants from the Toronto area.

The next regular Council meeting will take place on Tuesday, February 13th, 2007.

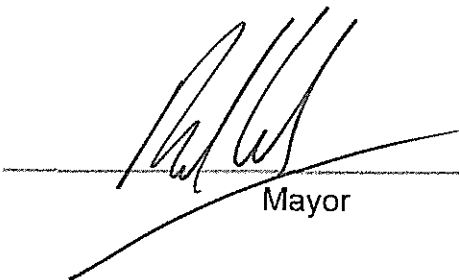
ADJOURNMENT

021-2007 Moved by: Councillor Beach
 Seconded by: Councillor Earle

THAT Council adjourn its proceedings until the next regular meeting
scheduled for February 13th, 2007.

CARRIED

The meeting adjourned at 7:42 p.m.



Mayor

Clerk

To: Mayor and Council

From: H. Noble

Subject: My Declared Conflict of Interest on The Ward System Elimination

Date: Jan 22, 2007

This matter is becoming sideshow which has the potential to deflect attention from the work of Council and the important City matters. Issues that come before Council are normally voted on once and the matter is resolved. Had that been the case on this issue I would have subsequently declared my conflict reason this matter at the end of the meeting and I suspect folks would have understood and the subject would have left the stage.

However this matter will be the subject of a public meeting and a further council vote, both of which I feel it would be improper for me to attend. Worse still is it puts the Mayor in an untenable position if I continue to declare a conflict of interest and refuse to indicate the reason. And it will be back in the paper and deflecting attention from the great work of all of you.

This matter is hence doubly unusual. Firstly that there will be at least two subsequent discussions and secondly that unfortunately it is an odd situation that those who framed the Act could never have anticipated in that the very nature of my reason for withdrawing, if verbalized, can be seen as trying to influence the vote. In essence the reason is the conflict.

I have promised that once this matter is resolved I will explain my rationale and the reason fully. Once the reason is public I suspect many will say I am being over vigilant and why did I bother declaring a conflict in the circumstances. I anticipate some further criticism of that sort. My answer is that we live in an age in which the ethics of elected officials have been widely criticized. For democracy to work it requires the public to have sufficient faith in the system that they pay their taxes and don't revolt. I prefer to be criticized for being over vigilant than under. Indeed the censure expressed over my actions to refrain from a vote without saying why pales by comparison to the torrent if folks felt I had a pecuniary interest and had not declared it.

Despite wanting very much to participate in this debate (as I have very strong views on the topic) I am guided by my principle to refrain as I have a pecuniary interest..

This matter has appeared several times in the press including an article and a lead editorial chastising me. I responded with a letter to the editor (attached as published). I also communicated to Mr. Zajac that I am prepared to reveal in an off the record manner the reason in

the hope that might assuage their concern. The press does have an important watch dog role which they are properly exercising (but not when they attacked the Mayor and Ms. Seale to try to smoke me out). The paper has so far not taken me up on my offer.

As this is returning to council I could understand it if I am told I must declare the reason or resign from Council. While whether it is I or someone else on Council doesn't matter (I'm just one of 20,000 citizens of Brockville) it would be taking the matter totally beyond anything the reasons justify and become an even greater sideshow detracting from the work of council. Yet I know my behaviour is totally in keeping with the intent and spirit of the act. It is simply a odd happenstance which, in my opinion, makes it improper to participate and to state the reason as the reason is the conflict and, once stated, can be construed as trying to influence the vote.

I believe my approach to be a principled one and the right thing to do in the peculiar circumstances. However I suspect that for the good of all concerned I should be less of a purist on this matter and just reveal the reason and participate in the debate. There are times when standing on principle can become counterproductive and I am beginning to think this is one of them.

Originally I decided to consult with the City Solicitor and abide by his advice but as he is on vacation and as this is an odd situation I decided to consult the Mayor in his ropls as head of Council.

I advised him by quoting the letter I had planned to send to the city solicitor
viz:

I know my behaviour is totally in keeping with the intent and spirit of the act. It is simply an odd happenstance which, in my opinion, makes it improper to participate and to state the reason as the reason is the conflict and, once stated, can be construed as trying to influence the vote.

Here is my dilemma. I publicly declared prior to the election that I would not be a candidate for election for a subsequent term if the ward system is abolished and indicated a number of reasons for my stance. Hence if the Ward system is abolished and I choose not to run I will lose the \$13,586 Councillor stipend. If I declare that as the reason it could be construed by some as being manipulative and trying to influence a vote by saying some folks won't run in a city wide contest that otherwise would.

In an era of distrust and cynicism with respect to elected officials ethics I choose to err on the side of extra vigilance. However I fear that in this case it is beginning to have the opposite result. There are times when standing on principle can become counterproductive and I am beginning to think this is rapidly becoming one of them.

I would appreciate your opinion (based upon the above information) as to

A) Do I have a conflict within the meaning of the Act ?

And

B) If so, is it appropriate, given the circumstances, for me to state the reason.

The clauses of the Municipal Conflict of Interest Act R.S.O. 1990, CHAPTER M50 that apply are section 4 paras b, i, j and possibly k. In the interests of saving your time and legal costs to the city (or perhaps it will be to me)

I suggest your answer can be brief and simply indicate your opinion and the section or sections of the Act upon which it is based. The act is pretty clearly worded and probably doesn't need amplification. Let's see if we can establish a Guinness Record for the briefest legal opinion on record. I suppose "No Conflict Sections (i) and (j) of the Act" or "You have a Conflict

but it is appropriate to state the reason" or "You publicly declared your position prior to being elected but were nonetheless elected so it is not a conflict" would qualify<smile>.

Yours Truly

H. Noble

His Worship's response to my message was as follows:

Henry,

I appreciate your efforts with regards to being more protective of the public interest rather than less so. The more heads-up on these issues in the future the better.

I believe that while you have a conflict-of-interest on your conscience your situation would not fall under a conflict-of-interest for money reasons within the context of the municipal act. You stated your position during the election and you were elected. The issue falls in the general interest area and affects all equally.

This being said, the act is not generally used for or intended for conflicts-of-interest related to conscience as such is generally left for the debating floor. Because of this the public discussion is not well served by declaring without indicating the nature. If this situation comes up again my approach, barring any other information beforehand, will be to ask the councilor the nature of the conflict. If the nature is not forthcoming I will ask the councilor to leave the chamber until such time as he or she is willing to indicate the nature of the conflict

Given that I have the greatest of respect for his Worship and his values and wisdom I have decided to release this information now in the hopes we can get on with the important business of the City without my ethical concerns becoming a counterproductive side show.

The remaining question is whether I should continue to take myself out of the debate for the reason stated or not. I would appreciate any feedback from my fellow Councillors as to their view on the ethical thing for me to do in the circumstances.

FYI My Letter to The Editor of the Recorder and Times as Published

On the matter of my conflict of interest on the Ward system elimination; I endeavour to live my Council life and make my decisions based on my guiding ethical principles and personal creed and choose to take the heat for it; whatever the form and whatever the source.

Unfortunately your editorial of Saturday brought three of my principles into conflict and, as I suspect you may have planned, forces me to comment in this forum; much against my will. I had planned to address this matter where it properly belongs, at Council.

Among my principles is not to make my decisions based upon the press. I feel too many elected representatives across North America fear the press and care more about looking good than doing good.

I try to give power to the peoples interests, not those of the journalists.

The free press is an absolutely essential component of democracy and provides for disparate views to be aired and can shape public opinion. However, at their core, journalists are a handful of educated folks working for commercial organizations trying to survive and make a profit for their shareholders by producing communications and controversy designed to boost circulation so as to sell advertising. Hence I feel no obligation to respond to journalistic speculation.

The press is not the people nor does it represent them. The elected officials have that role by virtue of the electoral process. The ethical press (fortunately not a total oxymoron) is, however, an essential watchdog.

Another principle of mine is not to reward behaviour that is outside of my particular code of ethics. Yet another principle is to never have an innocent bystander suffer or be maligned as a result of my behaviour. Your editorial has put three of my principles in conflict and protecting the innocent must trump not rewarding behaviour I find distasteful. Hence this communication.

By questioning the competence of the City Clerk and criticizing His Worship, the Mayor I feel you are using them as pawns to smoke me out, having failed to do so by your criticism.

On that aspect you win.

Ms. Seale knows the Act and procedures and advised me competently and appropriately. Her behaviour in this matter is exemplary. Short of the Mayor handcuffing me to stay in my seat or arresting me for refusing to say why I chose to not give the reason for taking myself out of the debate there is scant they could do.

You are correct when you say I am in violation of the words (but absolutely and categorically not the intent) of the Municipal Act.

I would very much like to participate in this ongoing debate as I have strong views on the topic but it would, in my opinion, be improper so to do.

I will be addressing the peculiar circumstance that ethically prevents me from releasing the reason for my conflict