

EXECUTIVE COMMITTEE MINUTES

FIFTH MEETING REGULAR, WEDNESDAY, MARCH 14, 2001

Present: Mayor Timothy H. Rigby
Councillor Judy Casselman
Councillor Ronna Katzman
Excused: Councillor Dawn Dodge
Councillor Brian Heit

Officials Present: Director of Financial Management Services, Mr. Colin Briggs
Director of Economic Development and Tourism Services, Mr. Brock Dickinson
Director of Planning Services, Mr. John Rodey
Assistant City Clerk, Mr. James Powell
Engineering Operations Manager, Mr. David Shantz
Assistant City Solicitor, Mr. Denis Squires
Manager of Recreation Services, Mr. Tracy Cotton
Committee Secretary, Ms. Diane Alexander

Mayor Timothy H. Rigby took the chair and called the meeting to order in Committee Room One, City Hall, at four thirty o'clock p.m.

ITEM NO. 73

**Submission by Mr. R. G. Macdonald,
Foxmoor Development Ltd.
Re: Request for Reduction of Taxes
for Property at 583 Welland Avenue
File: 16.7.20**

Mr. Macdonald advised Members of the Executive Committee that the property at 583 Welland Avenue was purchased by Foxmoor Development Ltd. in 1989 with the understanding that the property was deemed to have contamination which would require minor remediation work.

The speaker stated that the owners have spent in excess of one million dollars for the remediation of Part 1 of the property and it is now very close to being within a residential rating. Also, there is a prospective purchaser for Parts 2 and 3 of the property.

Mr. Macdonald requested the Executive Committee to waive the property taxes and accrued interest for 583 Welland Avenue, stating that while the property was contaminated it had no market value.

MOVED BY COUNCILLOR CASSELMAN:

That the submission by Mr. Macdonald of Foxmoor Development Ltd. be referred to Staff for a report to be considered at the Executive Committee Meeting of March 28, 2001.

CARRIED.

ITEM NO. 74

**Submission by Mr. Sid Catalano,
Pattison Outdoor Advertising**

**Re: Request for Variance to Sign
By-law - 241 Queenston Street
File: 60.35.1, Vol. 0**

Mr. Sid Catalano advised Members of the Executive Committee that he had received a letter from the City stating that the sign at 241 Queenston Street was structurally unsafe and that the company would need to obtain a sign permit and make the sign structurally sound.

The speaker stated that Pattison started to repair the existing sign without a sign permit and subsequent to that the City refused to give the company a permit. Mr. Catalano believes that the existing sign is a legal, non-conforming sign and should be allowed to remain at the site.

Mr. Catalano requested variances to the sign by-law to permit the sign to be located at the present site at 241 Queenston Street.

MOVED BY COUNCILLOR KATZMAN:

That the submission by Mr. Sid Catalano of Pattison Outdoor Advertising requesting variances to the sign by-law for a sign at 241 Queenston Street, be received.

CARRIED.

The Executive Committee then gave consideration to the following report from the Transportation and Environmental Services Department respecting the subject sign.

ITEM NO. 75

**Report from the Transportation and Environmental
Services Department, Dated February 20, 2001**

Re: Variance to Sign By-Law 99-39

**Replacement of Third Party Pole Sign - Pattison
241 Queenston Street**

File: 60.35.1, Vol. 0

Mark Klein, Leasing Representative, on behalf of Pattison Outdoor Advertising and Jim Pattison Industries Ltd., by letter of February 12, 2001, is seeking variances from Sections 5.5(a), 5.5(c) and 5.5(g) of Sign By-Law 99-39.

As the result of a complaint, an inspector inspected the sign and noted that the sign appeared to be structurally unsound and therefore ordered Pattison to obtain a sign permit and make the sign structurally sound. Pattison decided to remove the existing sign and construct a new sign in the same location without first obtaining a permit.

Section 5.5(a) of the Sign By-Law restricts the maximum area of a Third Party Sign to 240 square feet. The proposed new sign is 400 square feet in area.

Section 5.5(c) of the Sign By-Law requires that a Third Party Sign must be located at least 656.2 feet from any other Third Party Sign. The proposed new sign is only 410 feet from an existing Third Party Sign located at 221 Queenston Street and 606 feet from an existing Third Party Sign at 69 Eastchester Avenue.

Section 5.5(g) of the Sign By-Law requires that Third Party Signs must not be located within 65.6 feet of a single unit dwelling. The proposed new sign is approximately only 12 feet from the single dwelling unit at 239 Queenston Street.

Staff have reviewed this request and are not prepared to support these variances.

The applicant has been advised that Staff are not recommending approval of the requested variances.

RECOMMENDATION:

That the requested variances, to permit a new Third Party Pole Sign to be located less than 656.2 feet from two existing Third Party Pole Signs, less than 65.6 feet from an existing single dwelling unit and larger than the maximum area of 240 square feet, be denied;

and that Mr. Mark Klein, Leasing Representative, Pattison Outdoor Advertising, 2285 Wyecroft Road, Oakville, Ontario, L6L 5L7, be so advised.

MOVED BY COUNCILLOR KATZMAN:

Be It Resolved that this meeting of the Executive Committee be adjourned to "In Camera" session for the purpose of obtaining legal advice.

CARRIED.

The Executive Committee recessed from Open Session at five twenty o'clock p.m. and reconvened In Camera at five twenty-one o'clock p.m. for legal advice on the subject report. The Executive Committee recessed from In Camera at five twenty-nine o'clock p.m. and reconvened in Open Session at five thirty o'clock p.m.

It was then,

MOVED BY COUNCILLOR CASSELMAN:

That the recommendation contained in the report from the Transportation and Environmental Services Department, Item Number 75 of the Executive Committee Minutes, March 14, 2001, be approved.

CARRIED.

ITEM NO. 76

**Report from the Planning Services
Department, Dated February 19, 2001
Re: Site Plan Amendment Application
(Home Depot); Proposed Tool Rental
Centre and Equipment Storage Area
20 YMCA Drive
File: 60.51.673, Vol. 3**

Proposal

Home Depot Holding Inc. is proposing to construct a 1,940.4 square foot (180.2 m²) tool rental centre and to provide a 368.5 square foot (34.2 m²) outdoor equipment centre at the southeast corner of the existing Home Depot retail warehouse. The subject area is currently being used for lumber storage under an existing canopy.

A minor variance application was filed with the Committee of Adjustment (Submission No. A-8/01) to reduce the number of parking spaces from 525 to 523 spaces to permit the above-noted development. The application was approved by the Committee on February 14, 2001. The last day for appeal is March 6, 2001. The owner has requested an amendment to the existing site plan agreement to permit this proposal.

Staff has reviewed the final plans and agreement for the proposed construction of the tool rental centre and equipment storage area on lands described as 20 YMCA Drive in the City of St. Catharines and found them to be acceptable. Planning Services is recommending the plan and agreement be approved by Council.

RECOMMENDATION:

That approval be granted to the amending site plan agreement between the Corporation of the City of St. Catharines and the owners for the proposed construction of the tool rental centre and equipment storage area on lands described as Parts of Lots 17 and 18, Concession 4 (formerly Township of Grantham) and Part of Lot 103, Plan 330, designated as Parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15 and 16, Plan 30R-8870, City of St. Catharines, Regional Municipality of Niagara;

and that the City Solicitor be directed to prepare the necessary by-law authorizing the execution and other related documents, and that the amended site plan agreement not be registered until after the appeal period for the Committee of Adjustment decision has lapsed without any appeals;

and further, that Mr. David McKay of MHBC Planning Ltd., 545 North Rivermede Road, Suite 105, Concord, Ontario, L4K 4H1, be so advised.

MOVED BY COUNCILLOR KATZMAN:

That the recommendation contained in the report from the Planning Services Department, Item Number 76 of the Executive Committee Minutes, March 14, 2001, be approved.

CARRIED.

ITEM NO. 77

Report from the Financial Management Services

Department, Dated February 20, 2001

Re: Municipal Capital Facilities Designation

St. Catharines Game and Fish Association

61 Lighthouse Road, Port Dalhousie Harbour

Files: 60.2.30, 10.57.4

The City leases to the St. Catharines Game and Fish Association (SCGFA), lands owned by the municipality, and subleases lands leased by the City from the Federal Government, until March 17, 2006. The subject property is located on the east side of Port Dalhousie Harbour and is operated as a boat launching ramp, parking lot and boat storage area. SCGFA has requested that the City designate the subject property as a municipal capital facility, for tax exemption purposes.

Council may exempt from taxation for municipal and school purposes lands on which municipal capital facilities are located provided that:

- a. the land is the subject of an agreement under Section 210.1(2) of the Municipal Act; and
- b. the land is owned or leased by a person who has entered into an agreement to provide facilities under Section 210.1(2); and
- c. the land is entirely occupied and used for a service and function that may be provided by a municipality including but not limited to cultural, recreational or tourist uses.

The City may enter into an agreement with respect to a municipal capital facility only if:

- i. the municipality or another municipality or a public sector entity owns or agrees to purchase or will own, on reversion of the property, the municipal capital facilities including the land where they are situate; and
- ii. Council has declared by resolution that the municipal capital facilities are for the purposes of the municipality and are for a public use.

In the 1980's, Council approved a proposal from SCGFA to develop the property in keeping with the Port Dalhousie Harbour Plan. The plan identified existing boat launching facilities as limiting expansion of public recreational opportunities in the harbour area. The tenant was responsible for the costs to develop the lands for this purpose; in exchange, the City leased the property to the organization at an annual rent of \$665.10. The not-for-profit organization organizes fishing derbies and provides services to fishermen which are not provided by the municipality in Port Dalhousie. The facilities also serve as a launch point for Fire Services and the Niagara Regional Police, for water rescue purposes.

SCGFA is prepared to enter into an agreement with the City to provide a reversionary interest in the property to the municipality in the event the Association declares bankruptcy, is dissolved, or ceases to use the property for recreation purposes. It is therefore recommended that Council designate St. Catharines Game and Fish Association premises as a municipal capital facility under the above-noted terms and conditions.

RECOMMENDATION:

That The Corporation of the City of St. Catharines designate lands and premises known municipally as 61 Lighthouse Road, as a municipal capital facility;

and that the City Solicitor be directed to prepare the necessary documents and by-laws.

MOVED BY COUNCILLOR CASSELMAN:

That the recommendation contained in the report from the Financial Management Services Department, Item Number 77 of the Executive Committee Minutes, March 14, 2001, be approved.

CARRIED.

ITEM NO. 78

**Report from the Financial Management Services
Department, Dated February 22, 2001
Re: Request from St. Catharines Golf and Country
Club Limited for Easement over City-owned Lands
Twelve Mile Creek Valley
Part 1 on Reference Plan 30R-10061
File: 16.19.99**

MAYOR RIGBY DECLARED A CONFLICT OF INTEREST (Pecuniary) to Item Number 78 of the Executive Committee Minutes, March 14, 2001.

COUNCILLOR CASSELMAN DECLARED A CONFLICT OF INTEREST (Pecuniary) to Item Number 78 of the Executive Committee Minutes, March 14, 2001.

COUNCILLOR KATZMAN DECLARED A CONFLICT OF INTEREST (Pecuniary) to Item Number 78 of the Executive Committee Minutes, March 14, 2001.

In 1999, the City acquired from The Regional Municipality of Niagara, lands located approximately 0.4 kilometers west of Glenridge Avenue and traversed by Twelve Mile Creek, as shown on a map attached

as Appendix "A", to protect its interest as owner of recreational trails located within such lands. The conveyance was subject to a blanket easement in favour of the Region to accommodate its existing sanitary sewer.

The St. Catharines Golf and Country Club Limited occupies a portion of the east side of the property with its pump house and waterline, which services the golf course property with water for irrigation purposes. The Club requested that the City convey to it, an easement over lands designated as Part 1 on Reference Plan 30R-10061, and shown on a plan attached as Appendix "B", for the purchase price of \$1,000.

Since the purchase price meets or exceeds the estimated value of the lands as determined by an independent appraiser, and the easement will not affect the use of the property for public recreational purposes, staff has no objection to the request. It is therefore recommended that Council approve the conveyance of such easement to the Club, subject to the present and future use of the municipal lands by the public for recreational purposes.

RECOMMENDATION:

That the City convey to St. Catharines Golf and Country Club Limited, an easement over lands designated as Part 1 on Reference Plan 30R-10061, for the purchase price of \$1,000, subject to the present and future use of the subject lands by the public for recreational purposes;

and that the City Solicitor be directed to prepare the necessary documents and by-laws.

MOVED BY COUNCILLOR KATZMAN:

That the report from the Financial Management Services Department, Item Number 78 of the Executive Committee Minutes, March 14, 2001, be referred to the General Committee for consideration at the meeting of March 19, 2001.

MOTION TO REFER CARRIED.

ITEM NO. 79

Report from the Transportation and Environmental Services Department, Dated February 21, 2001

Re: Request to Operate an Outdoor Sidewalk Patio - 107 St. Paul Street

File: 60.2.43

Staff are in receipt of a request from Kaz's Pub, 107 St. Paul Street, to install an outdoor sidewalk patio in front of their establishment at this location. The owner wishes to enter into a long term (5 year) license agreement with the City of St. Catharines.

The proposed sidewalk patio is approximately 2.0 by 5.0 metres in dimension, located immediately in front of the pub. City Council on Monday, July 24, 2000, approved this request and location for a one year period. Due to unforeseen problems last year, the applicant did not enter into an agreement with the City.

Staff have reviewed the request and proposed patio sidewalk located in front of 107 St. Paul Street and have no objection to the proposal. Adjacent property owners were contacted for comment and there was no objection for the proposed patio sidewalk. The applicant will comply with all of the design guidelines for an outdoor patio as previously approved by City Council.

The implementation process requires the applicant to enter into an agreement which will reflect the conditions contained within the design guidelines, any fees based upon market value for the use of the

lands, liability insurance, maintenance of the premises, seasonal portability of the operation, and any other matters which upon failure may result in a forfeit in the rights to carry on the outdoor patio use. Legal Services recommend that long term license agreements contain a thirty day escape clause so that the municipality is protected and not unduly restricted in utilizing the public road allowance for its intended purposes. The operation of sidewalk patios are seasonal in nature and are limited to a maximum of six months (April 15 to October 15).

RECOMMENDATION:

That approval be granted to Mr. Rick Kasowski, Owner of Kaz's Pub, 107 St. Paul Street, St. Catharines, Ontario to operate an outdoor sidewalk patio in front of the business, of approximately 10.0 square metres in size, for a term not exceeding five years, which may be terminated by the City as licensor upon 30 days written notice to the licensee;

and that the applicant enter into a licensing agreement detailing the conditions of such license in accordance with Council's previous direction, and the design guidelines for outdoor sidewalk patios;

and that an initial application fee of \$300.00 (+G.S.T.) to offset the cost of processing the application and preparing the necessary licensing agreement be paid by the applicant;

and that the Annual Rental Fee of \$25.00 per square metre be paid by the applicant;

and further, that the City Solicitor be directed to prepare the necessary by-law and agreement.

MOVED BY COUNCILLOR KATZMAN:

That the recommendation contained in the report from the Transportation and Environmental Services Department, Item Number 79 of the Executive Committee Minutes, March 14, 2001, be approved.

CARRIED.

ITEM NO. 80
Report from the Corporate Support Services
Department, dated March 6, 2001
Re: St. Catharines Jaycees 14th Annual
Easter Egg Hunt, Jaycee Park
File: 10.57.11

By communication dated February 13, 2001, Mr. Rob Belchior, Event Chair, advised that the 14th Annual Easter Egg Hunt at Jaycee Park will be held on Saturday, April 14, 2001. He has requested that the City:

1. waive the rental fee for the showmobile;
2. waive the sign permit fee;
3. waive the permit for use of facilities at Jaycee Park
4. provide support from Recreation and Community Services for park set-up, electrical power, and use the of garage.

The 2001 fees for the requests are as follows:

1. Rental fee for Showmobile - \$860.46
2. Sign permit fee - \$ 40.00
3. Permit for Use of Facilities at Jaycee Park - \$145.00
4. Park set-up, electrical power, and use of Garage - \$778.47

The City's grants policy states that grants are not available as donations (including the waiving of fees and charges) to groups raising funds for charitable causes.

In prior years Council has approved similar requests from the St. Catharines Jaycees.

RECOMMENDATION:

For consideration of the Executive Committee.

MOVED BY COUNCILLOR CASSELMAN:

That the request from the St. Catharines Jaycees for the City to waive the rental fee for the showmobile, waive the sign permit fee, waive the permit for use of facilities at Jaycee Park, and provide support from the Recreation and Community Services Department for park set-up, electrical power, and use of the garage, for the 14th Annual Easter Egg Hunt at Jaycee Park to be held Saturday, April 14, 2001, be approved;

and that Mr. Rob Belchior, Event Chair, St. Catharines Jaycees, be so advised.

CARRIED.

ITEM NO. 81

**Report from the Corporate Support Services
Department, Dated March 6, 2001,**

**Re: Request from Niagara Artists' Company
for Grant for Arts @ the Centre**

File: 10.57.5

By communication dated February 9, 2001, Mr. Joel Konik, Project and Fundraising Co-ordinator, advised that last year the City provided a grant in the amount of \$4,800.00 to assist with the Vagabond Theatre project. The monies were used to incorporate a non-profit theatre group that presented a full season of theatre and performance . He has requested that funds be provided for a new outreach and facility upgrading project entitled "Arts @ the Centre".

The Niagara Artists' Company has received funding from the Ontario Trillium Foundation, the Hudson's Bay Company and various local businesses. To successfully complete the objectives of the Arts @ at the Centre, the Company has requested a donation from the City of \$4,000 to be used for the purchase of supplies and services as outlined below:

Salary and services of construction contractors	\$2,000
Dry wall, plywood, building materials, small tools, large sinks and other equipment	\$ 500
Carpeting for office and resource areas	<u>\$1,500</u>
Total	\$4,000

RECOMMENDATION:

For consideration of the Executive Committee.

MOVED BY COUNCILLOR KATZMAN:

That the request from the Niagara Artists' Company for a donation by the City of \$4,000.00 to be used for the purchase of supplies and services for a new outreach and facility upgrading project entitled, "Arts @ the Centre", be referred to the Finance Ad Hoc Committee for consideration;

and that Mr. Joel Konik, Project and Fundraising Co-ordinator, Niagara Artists' Company, 2 Bond Street, St. Catharines, Ontario, L2R 4Y9, be so advised.

MOTION TO REFER CARRIED.

ITEM NO. 82

Report from Financial Management Services

Department, Dated February 26, 2001

Re: Declaration of Surplus Lands

between Haynes Avenue and Vine Street

File: 16.7.99

The City recently acquired a portion of Canadian National Railway (CNR) lands between Haynes Avenue and Vine Street to accommodate an existing 12 inch diameter sanitary sewer and a 78 inch storm sewer which were constructed on the parcel in the early 1900's, for the purchase price of \$20,900. A plan outlining the parcel is attached as Appendix "C". The adjacent lands are developed for residential use.

Having established the extent of the lands upon which the services are located, staff has determined that a portion of the property is not required for municipal purposes and may therefore be declared surplus and marketed for sale in accordance with existing City policy. The remnant parcel is shown outlined on a plan attached as Appendix "D".

The subject lands are zoned Industrial (M2), and are designated Neighborhood Residential in the City's Official Plan. It is proposed that the City initiate the process to rezone the lands to permit residential uses such as single detached, semi-detached and duplex dwellings. The lands fronting on Haynes Avenue measure approximately 62 feet x 154 feet; the lands fronting on Vine Street measure approximately 56 feet x 154 feet. Accordingly, the lands may be developed as 2 semi-detached dwelling lots. The lands fronting on Vine Street will require a minor variance for frontage to accommodate a semi-detached dwelling; however, staff proposes to defer this matter until a purchaser has submitted building design plans for approval.

An environmental assessment completed at the time of acquisition of the lands indicates that concentrations of copper and lead found in the soils sampling marginally exceed Ministry of Environment Guideline criteria for residential use. It is recommended that the contaminated material be removed from the property as a whole before the remnant parcel is marketed for sale. It is estimated that the cost of additional soil sampling and analysis to determine the extent of such contamination and subsequent removal of the contaminated material is \$15,000.

RECOMMENDATION:

That lands described as part of Part 1 on Reference Plan 30R-10013 and shown outlined on a plan attached as Appendix "D" be declared surplus;

and that staff be directed to initiate the rezoning process to permit residential development on the subject lands;

and further, that additional soil sampling, analysis and subsequent removal of any contaminated material be completed at an approximate cost of \$15,000.

MOVED BY COUNCILLOR CASSELMAN:

That the recommendation contained in the report from the Financial Management Services Department, Item Number 82 of the Executive Committee Minutes, March 14, 2001, be approved.

CARRIED.

ITEM NO. 83

Report from the Financial Management Services

Department, Dated February 28, 2001

Re: Lease to Glendon H. Wells and Marguerite Wells

Laneway Abutting Rear of 2 Northglen Avenue

File: 16.19.99

The City leases to Glendon H. Wells and Marguerite Wells, lands abutting 2 Northglen Avenue. The lands measure approximately 10 feet x 60 feet and form part of a lane in the Port Weller area. The lease is for a term to be at the pleasure of Council commencing September 1, 1967, at an annual rent of \$1.00.

Notwithstanding the terms of the agreement, the tenants have requested that the lease be terminated effective March 1, 2001. Staff has no objection to this request.

RECOMMENDATION:

That the lease between The Corporation of the City of St. Catharines and Glendon H. Wells and Marguerite Wells dated September 13, 1967, for a portion of a former public lane abutting 2 Northglen Avenue, be terminated effective March 1, 2001.

MOVED BY COUNCILLOR KATZMAN:

That the recommendation contained in the report from the Financial Management Services Department, Item Number 83 of the Executive Committee Minutes, March 14, 2001, be approved.

CARRIED.

ITEM NO. 84

**Report from the Transportation and Environmental
Services Department, Dated February 19, 2001**

**Re: Release of Substantial Performance and
Holdback Payments, Project Number P00-106**

Cherie/ Nickel Watermain Replacement

File: 18.2.10

This contract was substantially performed by Volsci Construction Co. Inc.. The contractor has published a notice of substantial performance in accordance with the Construction Lien Act. The first date of this publication was February 21, 2001.

The amount of work completed to February 9, 2001 is \$108,696.14. The estimated final cost of this contract is \$157,000.00 which is within the tender amount of \$157,099.27. The remaining works are scheduled to be completed in May 2001.

The Corporate Support Services Department has confirmed that there are no claims against the holdback.

In accordance with The Construction Lien Act, the 10% holdback for work completed to date can be released on April 6, 2001, after expiration of the statutory 45 days. The completion and release of holdback payments total \$29,663.20.

All of the above amounts include the 7% Goods and Services Tax (G.S.T.).

RECOMMENDATION:

That approval be granted to the release of the substantial performance and holdback payments in the total amount of \$29,663.20 to Volsci Construction Co. Inc. with respect to Project Number P00-106 - Cherie/Nickel Watermain Replacement on April 6, 2001.

MOVED BY COUNCILLOR CASSELMAN:

That the recommendation contained in the report from the Transportation and Environmental Services Department, Item Number 84 of the Executive Committee Minutes, March 14, 2001, be approved.

CARRIED.

ITEM NO. 85

Report from the Transportation and Environmental Services Department, Dated February 26, 2001
Re: Release of Substantial Performance and Holdback Payments, Project Number P00-103
Chetwood/Galbraith/McKay Watermain Replacement
File: 18.2.10

This contract was substantially performed by DeRose Bros General Contracting Ltd. The Contractor has published a notice of substantial performance in accordance with The Construction Lien Act. The first date of this publication was February 13, 2001.

The amount of work completed to February 8, 2001 is \$106,137.69. The estimated amount to complete the contract is \$33,000.00. The estimated final construction cost is \$140,000.00, which is within the tender amount of \$148,218.86. The main reasons for this underrun are less granular was used than anticipated and a portion of the allowance was not used. The remaining works are scheduled to be completed in May, 2001.

The Corporate Support Services Department has confirmed that there are no claims against the holdback.

In accordance with The Construction Lien Act, the 10% holdback for work completed to date, can be released on March 31, 2001 after expiration of the statutory 45 days. The substantial performance and release of holdback payments total \$10,613.74.

All of the above amounts include the 7% Goods and Services Tax (G.S.T.).

RECOMMENDATION:

That approval be granted to the release of the substantial performance and holdback payments in the total amount of \$10,613.74 to DeRose Bros General Contracting Ltd. with respect to Project Number P00-103 - Chetwood/Galbraith/McKay Watermain Replacement.

MOVED BY COUNCILLOR CASSELMAN:

That the recommendation contained in the report from the Transportation and Environmental Services Department, Item Number 85 of the Executive Committee Minutes, March 14, 2001, be approved.

CARRIED.

ITEM NO. 86

Report from the Financial Management Services Department, Dated March 5, 2001
Re: Lease to 1149895 Ontario Inc.

Downtown Transit Terminal
70 Carlisle Street
Files: 35.60.7, 16.19.99

The City leases from Ontario Realty Corporation premises known municipally as 70 Carlisle Street, for the purpose of operating a transit terminal in the downtown core. The agreement is for a term of 25 years commencing August 1, 1996, at a total rent equivalent to the cost to construct the facility.

By authority of By-law No. 96-368, the City subleases to 1149895 Ontario Inc., a portion of the transit terminal, for a 5 year term commencing November 1, 1996, at an annual rent of \$50,000, for the purpose of operating an inter-city bus terminal. If not in default, the tenant has an option to renew the agreement for 3 further 5 year periods, under the same terms and conditions, save and except for a further right of renewal in the last renewal period, and the rental rate, which shall be negotiated. The tenant has indicated that it wishes to renew the agreement for a further 5 year term.

The tenant is prepared to enter into a renewal agreement for a 5 year period commencing November 1, 2001, under the same terms and conditions, save and except for the annual rental, which shall be \$52,500. As staff is of the opinion that the rent reflects fair market value, it is recommended that Council authorize a renewal agreement to permit the continued use of the leased premises.

RECOMMENDATION:

That Council authorize a renewal agreement with 1149895 Ontario Inc. for the sublease of space within the downtown transit terminal located at 70 Carlisle Street, for a 5 year period commencing November 1, 2001, at an annual rent of \$52,500, upon the same terms and conditions set forth in an agreement dated May 6, 1997;

and that the City Solicitor be directed to prepare the necessary documents and by-laws.

MOVED BY COUNCILLOR KATZMAN:

That the recommendation contained in the report from the Financial Management Services Department, Item Number 86 of the Executive Committee Minutes, March 14, 2001, be approved.

CARRIED.

ITEM NO. 87

**Report from the Financial Management Services
Department, Dated March 2, 2001**
**Re: License Agreement with 1405312 Ontario Inc.
on City-owned Lands being Part of Canal Street
Outdoor Patio Abutting 5 Lock Street**
File: 60.2.43

At its meeting on September 20, 2000, Executive Committee referred to staff, a presentation from the owner and tenant of property known municipally as 5 Lock Street, regarding an existing outdoor patio on City lands, with a request for additional information affecting this operation.

BACKGROUND

The subject site is divided by a sidewalk and comprises two small parcels of land measuring approximately 1,176 square feet in total. The lands are shown on a plan attached as Appendix "E".

The lands have been leased by the owner/operator of property located at 5 Lock Street, for the purposes

of operating a licensed outdoor patio since 1981. Until 1995, the City leased the subject lands in increments of 5 year periods. Since that time, Council considered all subsequent requests to license the subject lands on an annual basis.

In 2000, 1405312 Ontario Inc. purchased the restaurant property and requested an agreement to permit a patio operation during the 2000 summer season. Staff advised the owner that it was prepared to recommend that Council authorize a license agreement for a six month period commencing May 15, 2000, at a monthly fee of \$300.00, upon the following terms:

1. The license may be terminated by The Corporation of the City of St. Catharines upon the giving of 30 days written notice to the licensee.
2. The licensee will not interfere with the use of the municipal sidewalk by the public.
3. All objects, structures etc. placed upon the said lands by the licensee shall be subject to the approval of the Director of Transportation and Environmental Services and the Fire Chief for the City of St. Catharines.
4. The licensee shall agree to obtain and maintain comprehensive insurance for property damage, personal injury and public liability on the said lands in the amount of \$2,000,000 naming The Corporation of the City of St. Catharines as an additional insured.
5. The licensee shall maintain the lands in good order, and agrees to store and maintain garbage collection on lands owned by the licensee.
6. The licensee shall permit the City to enter onto the lands for the purpose of installing or maintaining any utility or municipal service.

During its consideration of this matter on June 7, 2000, Executive Committee varied the terms recommended by staff to stipulate that no amplified music or bands be allowed on the patio. The property owners were verbally notified as to the committee's decision; a license agreement with 1405312 Ontario Inc. for the use of the lands for a term of six months, was duly executed on July 18, 2000. The use of the patio is ancillary to the operation of the restaurant known as Harley's Tap and Eatery. The property owner subleased to Curt Harley the municipal lands without first obtaining the consent of the City to do so.

EXISTING OUTDOOR PATIOS ON ROAD ALLOWANCES

At its meeting of April 28, 1997, Council revised an established implementation process regarding the use of any part of the sidewalk portion of a highway for outdoor sidewalk patio purposes. The use shall be formalized by license agreement for a term not exceeding 5 years, and may be terminated by the City upon 30 days written notice. A copy of the minutes is attached as Appendix "F".

At the present time, the City has entered into agreements with 3 other restauranters for the purpose of operating an outdoor patio, the details of which are outlined below.

- A. 1142159 Ontario Limited c.o.b. as Pow Wow Limited
165 St. Paul Street
5 year term commencing May 13, 1997
Area: 104 square feet
Fee: \$241.50 per season
30 day termination provision
No renewal provision
All remaining terms set forth in the agreement for the subject lands, except for music/band

restriction.

B. 410109 Ontario Limited c.o.b. as Murphy's Restaurant

38 Lakeport Road

5 year term commencing May 13, 1997

Area: 188 square feet

Fee: \$437.00 per season

30 day termination provision

No renewal provision

All remaining terms set forth in the agreement for the subject lands, except for music/band restriction.

C. Richard Kasowski o/a Kaz's St. Paul Street Pub

107 St. Paul Street

4 month term commencing July 2000

Area: 108 square feet

Fee: \$250.00 per season

30 day termination provision

No renewal provision

All remaining terms set forth in the agreement for the subject lands, except for music/band restriction.

The owner of property known municipally as 15 Lock Street (Lion Tavern) leases from The Regional Municipality of Niagara, part of the unopened portion of Lock Street comprising approximately 434 square feet, for the purpose of operating an outdoor patio area. The tenant pays an annual rent of \$649.00; the term is at the pleasure of Regional Council. The agreement may be terminated by either party upon the giving of 6 month's written notice. There are no restrictions regarding amplified music or bands on the patio.

HARLEY'S TAP AND EATERY

The tenant has requested an agreement to permit the continued use of the subject lands as a licenced outdoor patio, for 5-consecutive six month terms commencing May 15, 2001, and ending November 14, 2005. The monthly rent for the year 2001 shall be \$300.00; the monthly rent for each subsequent year shall be \$300.00 plus the rise in the Consumer Price Index over the previous year. The tenant has also requested that it be permitted to have amplified music or bands on the patio provided it complies with the City's noise by-law. All other terms and conditions set forth in the existing agreement will remain the same.

Given that no other agreement regarding the use of municipal property as an outdoor patio prohibits amplified music or bands, and that the agreement may be terminated upon the giving of 30 days written notice, it is recommended that Council authorize a license agreement to permit the operation of an outdoor patio on the subject lands. Since the property owner has leased the building to a restaurateur, it is proposed that both parties be identified as licensees for the duration of the agreement.

RECOMMENDATION:

That the report from Financial Management Services Department dated March 2, 2001, regarding an outdoor patio license on City lands abutting 5 Lock Street, be received;

and that Council authorize a license agreement with 1405312 Ontario Inc. and Curt Harley for lands comprising Part 6 and part of Part 7 on Reference Plan 30R-3371, for 5 consecutive 6 month periods commencing May 15, 2001, and ending on November 14, 2005, upon terms outlined in a report from Financial Management Services Department dated October 12, 2000, for the purposes of operating a licensed outdoor patio, be authorized;

and that the monthly rent for the first 6 month term be set at \$300.00, and that the monthly rent for each

consecutive year be \$300.00 plus the rise in the Consumer Price Index over the previous year;

and that the licensees be permitted to have amplified music and bands on the patio;

and further, that the City Solicitor be directed to prepare the necessary documents and by-laws.

MOVED BY COUNCILLOR CASSELMAN:

That the report from the Financial Management Services Department, Item Number 87 of the Executive Committee Minutes, March 14, 2001, be referred to the General Committee for consideration at the meeting of March 19, 2001.

MOTION TO REFER CARRIED.

ITEM NO. 88

Report from the Corporate Support Services

Department, Dated March 6, 2001

Re: Request from the May Court Club of

St. Catharines for the City to Sponsor a

"Christmas to Remember" Project

File: 10.57.11

MAYOR RIGBY DECLARED A CONFLICT OF INTEREST (Pecuniary) to Item Number 88 of the Executive Committee Minutes, March 14, 2001.

COUNCILLOR CASSELMAN DECLARED A CONFLICT OF INTEREST (Pecuniary) to Item Number 88 of the Executive Committee Minutes, March 14, 2001.

COUNCILLOR KATZMAN DECLARED A CONFLICT OF INTEREST (Pecuniary) to Item Number 88 of the Executive Committee Minutes, March 14, 2001.

Mrs. Ann Hicks, Convenor, has requested the City to participate as a sponsor for the "A Christmas to Remember" project as it has in the past by sponsoring a decorated tree. She has advised that the proceeds will benefit local community organizations and programs.

Mrs. Hicks has also advised that the display in the Fairview Mall provides many people of the Niagara Region with the opportunity of enjoying the decorated items, participating in the raffle and gaining awareness of the community-minded sponsors.

The cost for the sponsorship of a Christmas Tree (5 ft. or 6 ft.) is \$100.00 per foot. The City has sponsored a five-foot tree for the past several years.

The City's grants policy states that grants are not available as donations (including the waiving of fees and charges) to groups raising funds for charitable causes.

RECOMMENDATION:

For consideration of the Executive Committee.

MOVED BY COUNCILLOR KATZMAN:

That the report from the Corporate Support Services Department respecting a request from the May Court Club of St. Catharines for the City to sponsor a 5 ft. tree for the "Christmas to Remember" project, be deferred for consideration at the Executive Committee Meeting of March 28, 2001.

MOTION TO DEFER CARRIED.

ITEM NO. 89
Report from the Corporate Support Services
Department, Dated March 6, 2001
Re: Property Database
File: 68.41.4

The interfacing or linking of numerous address data bases presents a problem for many municipalities. Systems such as taxes, assessment, water billing, property (AMANDA), public works, internal filing systems etc. all have their own identifiers or numbers such as roll number or address ID but there is no common link to all systems. To further complicate addressing, some properties include "from" and "to" addresses while others have more than one address associated to them, for example corner lots where the municipal address differs from the postal or "access" address. Many of these addresses relate to the same property, or person, but are not connected in such a way that information can easily be extracted.

Staff have held a number of discussions with Canadian Micro Software (CMS), our software supplier for our work order system, the City of Niagara Falls, and the Regional Municipality of Niagara to develop a software package to provide a link between our property based systems so that information could be extracted accurately and in a timely fashion.

CMS has agreed to develop such a system and is now looking for a commitment from the City of St. Catharines. The cost to St. Catharines is as follows:

1. Server license	\$12,500
2. Set up and installation	\$2,400
3. Consulting	\$4,500
4. User Training	\$1,500
5. Annual support (after 90 days)	\$2,500

In return for this initial investment, CMS is offering a cost recovery proposal. Under this proposal, St. Catharines would receive a 3% credit of the license portion of every sale made by CMS to a maximum of \$20,900. This credit would be applied against the annual maintenance fee for either the address database or the work order system.

The City of Niagara Falls and the Regional Municipality of Niagara have already agreed to proceed.

RECOMMENDATION:

That the Corporation of the City of St. Catharines enter into an agreement with Canadian Micro Software (CMS) for the development of the Property Address Database system (PAD) at costs outlined in the report from the Corporate Support Services Department, dated March 6, 2001 (plus appropriate taxes).

MOVED BY COUNCILLOR KATZMAN:

That the recommendation contained in the report from the Corporate Support Services Department, Item Number 89 of the Executive Committee Minutes, March 14, 2001, be approved.

CARRIED.

ITEM NO. 90
Report from the Financial Management
Services Department, Re: Payment of Accounts
File: 10.57.99

MAYOR RIGBY DECLARED A CONFLICT OF INTEREST (Pecuniary) to Cheque Numbers 101407 and 101308 of the Executive Committee Minutes, March 14, 2001.

COUNCILLOR KATZMAN DECLARED A CONFLICT OF INTEREST (Pecuniary) to Cheque Numbers 101407 and 101308 of the Executive Committee Minutes, March 14, 2001.

The Executive Committee examined the accounts submitted for payment as listed on Schedule of Accounts Number Four.

MOVED BY COUNCILLOR CASSELMAN:

That the accounts listed on Schedule of Accounts Number Four in the total amount of \$7,093,563.14, be approved.

CARRIED.

ITEM NO. 91

**Report from the Financial Management Services
Department, Dated March 9, 2001,
Re: Summaries of Tenders and Quotations
File: 68.44.3**

The summaries of tenders and quotations (copies attached) have been prepared for the consideration of the Executive Committee.

C.R.L. Campbell Construction & Drainage Ltd., 11575 Burnaby Road, Wainfleet, Ontario, L0S 1V0 for Project No. P00-146, Happy Rolph Bird Sanctuary - First Pond Cleanout, 650 Read Road, for the Transportation and Environmental Services Department, at \$14,263.10;

Greenaway Security Service Limited, 1219 Main Street East, Hamilton, Ontario, L8K 1A5, for Security Services for a five (5) year period, for the Transportation and Environmental Services Department, and the Recreation and Community Services Department, at \$103,477.56 annually;

Peninsula Ready-Mix, 5980 Don Murie Street, Niagara Falls, Ontario, L2E 6X8, for the Niagara Public Purchasing Committee Group Co-operative for Regional Municipalities, for the Supply and Delivery of Ready-Mix Concrete for all Municipal Departments, at \$129,051.27;

Walker Brothers Asphalt, P. O. Box 100, Thorold, Ontario, L2V 3Y8, for the Niagara Public Purchasing Committee Group Co-operative for Regional Municipalities, for the Supply and Delivery of Asphaltic Concrete, for the Transportation and Environmental Services Department, at \$144,137.05 (Taxes Extra).

MOVED BY COUNCILLOR CASSELMAN:

That the tender submitted by C.R.L. Campbell Construction & Drainage Ltd., 11575 Burnaby Road, Wainfleet, Ontario, L0S 1V0 for Project No. P00-146, Happy Rolph Bird Sanctuary - First Pond Cleanout, 650 Read Road, for the Transportation and Environmental Services Department, at \$14,263.10, be approved.

CARRIED.

It was then,

MOVED BY COUNCILLOR KATZMAN:

That the tender submitted by Greenaway Security Service Limited, 1219 Main Street East, Hamilton, Ontario, L8K 1A5, for Security Services for a five (5) year period, for the Transportation and

Environmental Services Department, and the Recreation and Community Services Department, at \$103,477.56 annually, be approved.

CARRIED.

It was then,

MOVED BY COUNCILLOR CASSELMAN:

That the tender submitted by Peninsula Ready-Mix, 5980 Don Murie Street, Niagara Falls, Ontario, L2E 6X8, for the Niagara Public Purchasing Committee Group Co-operative for Regional Municipalities, for the Supply and Delivery of Ready-Mix Concrete for all Municipal Departments, at \$129,051.27, be approved.

CARRIED.

It was then,

MOVED BY COUNCILLOR KATZMAN:

That the tender submitted by Walker Brothers Asphalt, P. O. Box 100, Thorold, Ontario, L2V 3Y8, for the Niagara Public Purchasing Committee Group Co-operative for Regional Municipalities, for the Supply and Delivery of Asphaltic Concrete, for the Transportation and Environmental Services Department, at \$144,137.05 (Taxes Extra), be approved.

CARRIED.

ITEM NO. 92

Report from the Transportation and Environmental Services Department, Dated March 8, 2001

Re: Release of Substantial Performance and Holdback Payments, Project Numbers P00-100 and P00-112

McCalla Drive and Westchester/Willowdale

Watermain Replacement

File: 18.2.10

This contract was substantially performed by DeRose Bros. General Contracting Ltd. The Contractor has published a notice of substantial performance in accordance with The Construction Lien Act. The first date of this publication was January 24, 2001.

The cost of the work completed to January 18, 2001 is \$222,172.67. The estimated final construction cost of this contract is \$240,000.00 which is within the tender amount of \$253,921.53. This underrun is mainly due to less reinstatement than expected being required.

The remaining work (concrete, asphalt and sodding) is scheduled to be completed in May 2001.

The Corporate Support Services Department has confirmed that there are no claims against the holdback.

In accordance with The Construction Lien Act, the 10% holdback for work completed to date, can be released on March 10, 2001. The substantial performance and release of holdback payments total \$24,520.19.

All of the above amounts include the 7% Goods and Services Tax (G.S.T.).

RECOMMENDATION:

That approval be granted to the release of the substantial performance and holdback payments in the amount of \$24,520.19 to DeRose Bros. General Contracting Ltd. with respect to Project Numbers P00-100 and P00-112, McCalla Drive and Westchester/Willowdale Watermain Replacement.

MOVED BY COUNCILLOR KATZMAN:

That the recommendation contained in the report from the Transportation and Environmental Services Department, Item Number 92 of the Executive Committee Minutes, March 14, 2001, be approved.

CARRIED.

ITEM NO. 93

Report from the Transportation and Environmental Services Department, Dated March 8, 2001

Re: Spatial Separation Agreement

Bird, Rockwell - 35 Canal Street

File: 56.49.99

Mr. V. F. Muratori of Sullivan Mahoney, Barristers and Solicitors, on behalf of Rockwell Development Corporation and G. M. Bird Developments Limited the owners of 35 Canal Street, has requested by letter, dated February 14, 2001, that the City enter into a spatial separation agreement to permit windows in excess of the maximum permitted in the Building Code.

The proposal is to reconstruct the existing Muir drydock building, located at 35 Canal Street, to create three free-hold townhouses. The units will be three stories in height, however, only the first floors will be attached and there will be a 20 ft. space between the second and third floors of each unit. The property lines for the middle unit and the easterly unit are located 16 ft. to the west of each unit. (See Appendix "G")

The Building Code permits a specific percentage of unprotected openings when the distance from the face of the unit to the property line is 16 ft. The applicant wishes to exceed this percentage and increase the percentage of unprotected openings to the percentage that would be permitted as if the distance from the wall of the unit to property line was 20 ft.

The Building Code states that a covenant registered on title to lands in which there is located a building with unprotected openings which do not conform with the Building Code can be considered to constitute compliance with the requirements of the Building Code.

The purpose of the agreement is to ensure that the percentage of unprotected openings (windows) permitted in the west walls of the middle and easterly units is as if the distance to the property line was 20 ft.

RECOMMENDATION:

That the City of St. Catharines enter into a spatial separation agreement with the owners of the three townhouse units at 35 Canal Street to ensure that the percentage of unprotected openings (windows) permitted on the west walls of the middle and easterly units is as if the distance to the property line was 20 ft.;

and that the City Solicitor be directed to prepare the necessary agreement and by-law and register the agreement against the property known as 35 Canal Street;

and further, that Mr. V. F. Muratori, Sullivan and Mahoney, Barristers and Solicitors, 40 Queen Street, P.O. Box 1360, St. Catharines, Ontario, L2R 6Z2, be so advised.

MOVED BY COUNCILLOR CASSELMAN:

That the recommendation contained in the report from the Transportation and Environmental Services Department, Item Number 93 of the Executive Committee Minutes, March 14, 2001, be approved.

CARRIED.

ITEM NO. 94

**Report from the Planning Services Department
Dated March 9, 2001, Re: Site Plan Control Drawings
Proposed Addition to Lakeport Secondary School
535 Lake Street, District School Board of Niagara
File: 60.52.330**

COUNCILLOR KATZMAN DECLARED A CONFLICT OF INTEREST (Pecuniary) to Item Number 94 of the Executive Committee Minutes, March 14, 2001.

The Proposal

The School Board is proposing to construct a 5,226 square foot (485.5 metres²) addition to the school cafeteria. This will result in some minor changes to the parking layout but the total number of existing parking spaces (294) will not be reduced.

The amount of landscaping will generally remain the same. However, the Board intends to undertake additional landscaping (trees and shrubs) in front of the proposed addition as a school project once the addition has been constructed.

In accordance with By-law No. 85-534 the above-noted proposal is subject to Site Plan Control. Subsection 41(4) of the Planning Act R.S.O. 1990, c.P. 13, as amended requires Council approval of the drawings of any development under Site Plan Control prior to the issuance of a building permit.

Staff has reviewed the final drawings for the proposed addition to the school on lands described as Part of Lot 19, Concession 2, former Township of Grantham and found them to be acceptable without the necessity of a Site Plan Agreement. The Planning Services Department is recommending the approval of the drawings by Council.

RECOMMENDATION:

That approval be granted to the drawings for the proposed addition to Lakeport Secondary School described as 535 Lake Street, in the City of St. Catharines, Regional Municipality of Niagara;

and that Mr. D. W. Durant, District School Board of Niagara, 191 Carlton Street, St. Catharines, Ontario, L2R 7P4 be so advised.

MOVED BY COUNCILLOR CASSELMAN:

That the recommendation contained in the report from the Planning Services Department, Item Number 94 of the Executive Committee Minutes, March 14, 2001, be approved.

CARRIED.

ITEM NO. 95

Report from the Transportation and Environmental Services Department, Dated March 12, 2001

Re: Project Number P00-18, Niagara/Scott

Sanitary Diversion Sewer, Approval to Proceed with the Construction of the Scott Street Section

File: 18.20.187

At its meeting of July 24, 2000, City Council awarded a contract to V. Gibbons Contracting Ltd. in the amount of \$2,182,648.46 for the Niagara Street section of the project. The Scott Street section was included in the tender but was deleted due to budget constraints. The Niagara Street section is now under construction and should be completed by May, 2001.

The final approved 2000 Capital Budget included an allocation of \$380,000 for Phase II of the Niagara/Scott Sanitary Diversion Sewer. V. Gibbons Contracting Ltd. submitted the lowest prices for the Scott Street section as well as the Niagara Street section as detailed in the attached Appendix "H". This company is willing to complete the Scott Street section at their 2000 tender price which was below the Engineer's estimate for this work. Therefore, it would be cost effective to award the Scott Street section to this contractor rather than retender the work.

RECOMMENDATION:

That approval be granted to award the Scott Street section of Niagara/Scott Sanitary Diversion Sewer in the amount of \$378,503.92 to V. Gibbons Contracting Ltd.;

and further, that Mr. V. Gibbons, V. Gibbons Contracting Ltd., P.O. Box 40, Ridgeway, Ontario L0S 1N0, be so advised.

MOVED BY COUNCILLOR KATZMAN:

That the recommendation contained in the report from the Transportation and Environmental Services Department, Item Number 95 of the Executive Committee Minutes, March 14, 2001, be approved.

CARRIED.

There being no further business, the meeting adjourned at five forty-one o'clock p.m.