



VISION: We will be a vibrant, dependable and clean city where services are delivered innovatively and effectively.

MISSION: To provide effective operations of the city through collaboration of members, management and staff.

City Hall, Hamilton
Staff, Legislative & Governance Committee
15 November 2016
10:00am

Present: Councillor Lawrence Scott (Chair)
Rt. Wor. Charles Gosling, JP
Councillor Henry Ming

In Attendance: Ed Benevides - the Secretary
Patrick Cooper - Senior Engineer
Lindell Foster - Human Resources Manager

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1. **Confirmation of Notice:** the Secretary confirmed that the notice periods were met in accordance with the new meeting guidelines.
 2. **Role of the Chairman** - Councillor L. Scott was acknowledged as the Chair.
 3. **Open Meeting** - Councillor L. Scott opened the meeting at 10:00am.
 4. **Apologies** - the Secretary confirmed that no apologies were received.
 5. **Public Participation** - the Secretary confirmed there was no public participation.
 6. **Correspondence:**
 - (i) **Personal Information Protection Act 2016** - this is a "Take Note" and there is a 2-year implementation timeframe.
 7. **Minutes of Previous Meeting dated 18 October 2016**

Proposed: Mayor, Charles Gosling

Seconded: Councillor H. Ming

The Minutes were accepted as read.

8. Matters arising from Previous Meeting dated 18 October 2016

(i) **Contact the Minister to further discuss a couple of matters from their meeting that need to be addressed, i.e. Parking Ordinance** - the Mayor did not have a follow-up meeting. The lunch that he was scheduled to attend on Thursday was cancelled because the Premier and the Minister had to go to New York to meet with the Chairman or President of British Airways. This matter would be further discussed in the Restricted Session.

(ii) **Recommendations re: Changes to the Sponsorship Policy** - the Secretary has not received any recommendations from the Council.

(iii) **Investors in People** - the HR Manager has not received the relevant documentation as yet and once received she will provide the Committee with the feedback. The Mayor queried if this information should be received with staff present. The HR Manager said a meeting will be held with the staff as well.

(iv) **Amendment to the Acceptable Use Policy** - the City Engineer confirmed he had emailed out to the Committee members a copy of the amendment to the Acceptable Use Policy and Procedure as it relates to technology/communication/data. The amendments are highlighted in yellow. The CoH is looking to implement a bit more regulation around the use of phones and cellphones/personal devices for staff at work because of issues with staff taking for granted the use of cell phones when they are out working on the street. There is a safety issue associated particularly when working out in public areas and around people with earphones on, etc. This needs to be balanced with the fact that people do need to be connected these days because of family commitments, etc. Councillor L. Scott suggested that the committee read through the proposed policy and then consider it at the next committee meeting.

ACTION: The Recording Secretary to add the Acceptable Use Policy to the next meeting agenda with a view to making a recommendation to the Council.

ACTION: The Recording Secretary to forward an electronic copy of the policy to the Mayor.

9. Status Update:

(i) **Changes to the Sponsorship Policy** - the Secretary reiterated that he had received no further comments. The last change that was made by the Council was that the sponsorship approval would be 50% or \$2,000 or whichever was smaller. The reason this came about was due to the timing of the CoH's sponsorship change and the scheduling of a week long event at Barr's Bay Park.

ACTION: The Secretary to finalise the Sponsorship Policy and then bring it back to the Staff, Legislative & Governance Committee for approval.

(ii) **Draft Policy on Unsolicited Proposals** - the Secretary has not received any further comments from Council or the auditors. The Mayor said that one of the things that concerns him is the opportunity for the CoH to now suddenly make opaque the things which they have been trying to make transparent in terms of now enabling friends, associates, etc. to make proposals which look or might be unsolicited. He asked what the CoH could do to ensure that the public is aware of the process. When the proposal is presented to the Council for their consideration maybe there should be a notice placed in the newspaper stating that this proposal is being considered and give a time period for the public to object. Or perhaps this should happen after the Council has considered and given their proposal. The Secretary said he could not see how this could be done because there is a confidentiality issue. The proposal is coming into the CoH who is under no obligation to accept an unsolicited proposal. The Secretary then gave a brief background on unsolicited proposals. Councillor L. Scott said he is still not certain of the mischief the CoH is trying to avoid.

The Secretary said every governmental organisation has the same problem because someone comes up with an idea and Government is supposed to have strict rules on how it engages in a proposal and transparent rules on how it accepts a proposal. When looking at Section 4.2 - **Probity**- it states that **"If the CoH acts on these proposals without openly testing the market, it will be unfair to other proposers of similar products or services."** Dialogue continued regarding unique proposals.

Councillor L. Scott said that perhaps the CoH needs to define 'unique' in the policy. The Secretary said he believes this is already covered in Section 7.3 of the policy: **"Is the proposal truly unique, e.g. it is not an advance proposal for a need that is known, identified or for goods and services readily available in the marketplace? To be unique, something must be the only one of a kind; unlike anything else. While it may be very difficult to demonstrate that something is "one of a kind", the proposer must be able to give some evidence that their idea is original. Uniqueness is a concept that is hard to define precisely. An example could be a new use for a concept that already exists, e.g. using helicopter technology to improve industrial air conditioning. It's important to consider very carefully why the proposal is sufficiently unique that a direct sourcing approach is justified. Are you aware of any other products or concepts in the market that meet the need? If you believe that there are no other concepts that meet the need, how can you be sure, even after adequate research (given that you didn't know about this one until you received the unsolicited proposal)? How innovative is the proposal? Is it one that any other person could reasonably have developed? What research can you do to try to find other concepts that meet the need? Basic market research examples could include: Talking to other organisations that may have more knowledge of the subject matter. Talking to proposers of similar products, services or works about what they are aware of - without disclosing the proposer's intellectual property, off course.**

When in doubt: It's easy to be persuaded by the proposer that their idea is one of a kind, especially when you haven't thought of it. If you have doubt about the uniqueness of the proposal, but you believe that addressing the need is important, you should issue a Request for Information or Request for Proposal from the market."

The Mayor said that instead of saying 'when in doubt' the CoH should have an automatic Request for Information or a Request for Interest.

The Secretary said that at the moment the rules are that the CoH cannot accept a proposal if it requires signing for any services or goods over a certain amount. There is no option other than to go to RFP. The City Engineer queried who would make the decision on whether the proposal is original. The Secretary said that could be placed in the policy whereas a sub-committee could be assigned to do the research, etc.

Councillor L. Scott asked how many unsolicited proposals are received. The City Engineer said there have not been many with this current Council but received quite a bit with the previous Council and they were pushed through. The Mayor said his main concern is that the CoH is not providing something which would enable them to take proposals and hide them because it is an unrequested proposal. He is not fully satisfied that this policy as it stands does that. The Mayor also said that the last paragraph on Page 3 '**This restriction does not limit the Corporation's right**'... He felt this should be placed before the paragraph that precedes that which reads '**However if a contract**'... The City Engineer said that there should be a group of at least three (3) people deciding whether a proposal is original or not. It was also agreed that these meetings should be recorded and minuted and one (1) of the three (3) people attending should be the Treasurer (as she is the arbitrator of the Financial Instructions and protector of the CoH purse).

ACTION: The Staff, Legislative & Governance Committee to further review the draft Policy on Unsolicited Proposals.

(iii) **Residential Parking Permit Policy Review** - this policy has been completed and now has to be forwarded by the City Engineer.

(iv) **Consolidation of Infrastructure and Property & Safety Committees** - the Chairs of both committees are in agreement to consolidate. A recommendation is now required from this committee to merge the two (2) committees and the Council can determine the make-up. The City Engineer said that he is not convinced that the consolidation will be a savings of time but if this goes ahead then the members really need to concentrate on what the CoH should be doing at committee level and concentrate on policy instead of day to day matters. If not the committees can consume themselves in day to day matters and end up with a 4-5 hour meeting every time. If the work is researched ahead of time and Members come to the meetings prepared with the pertinent information, there could be a savings of time. The Secretary said that if there are certain projects that may require a lot of discussion then there is the opportunity to hold a special meeting. Councillor Ming commented that the amalgamation be a set committee and a Property sub-committee could meet whenever necessary. Having a sub-committee diminishes the need to have a quorum to hold a meeting,

Councillor L. Scott asked whether other committees have ever been consolidated and the Secretary explained that over the years some committees have merged or been given a different remit. There used to be a committee for each section as it is laid out in the budget.

RECOMMENDATION: That the Board approve the consolidation of the Infrastructure Committee and Property & Safety Committee.

Proposed: Mayor, Charles Gosling
Unanimous

Seconded: Councillor H. Ming

The Mayor suggested that when the recommendation is taken to the Board that the Secretary explain that the meetings will be to discuss policy only in order to use staff and Members' time efficiently.

10. Recommendations for Review:

RECOMMENDATION: That the Board accept the draft Policy on Unsolicited Proposals.
(Deferred for further discussion)

RECOMMENDATION: That the Board approve the Acceptable Use Policy with the amendment.
(Deferred for further discussion)

11. Any Other Business

(i) **Resolutions** - the Secretary said that one of his jobs is to work with the Recording Secretary to record all the Resolutions made by the Board. There are currently quite a few that have not been determined and are in limbo. The Secretary distributed a list outlining the Resolutions which have been put on hold and not implemented. The Secretary is asking the Committee to review the list and maybe at the next meeting make a recommendation to rescind them or direct as to how to move ahead with them. He commented on a Resolution not listed where the CoH was to clamp all vehicles that were being washed by the unauthorised car washers. The Secretary said that in particular he needs direction with the last item on the list. The Secretary then said that on February 14th management had been instructed to pursue the creation of a part-time employee category. Management did pursue it but it was never implemented. The City Engineer said it is not something that had been discussed with the Union partners or taken far enough that it would be ready to roll out. The Secretary requested that the Committee decide whether the Council should withdraw from making a decision on this matter and allow management to move forward with it.

ACTION: The Staff, Legislative & Governance Committee to consider how the management team should proceed with the creation of a part-time employee category.

The Secretary commented on another Resolution approved by the Board to rescind a recommendation to accept a proposal and then issue an RFP. It was clear that after the Resolution was passed that there was some confusion between CDD and the CoH regarding information received and that it would be inappropriate for the CoH to cancel the contract. CDD has been reformed through the restructuring of Government so CDD no longer exists. The principle that is driving the programme still wished to have the space and was prepared to honour the original proposal. CDD had also requested a reduction in the amount of monies that they wanted to pay which was declined.

The CoH was then under the impression that they wanted to walk away from the project if the CoH did not accept their request, which was not the case. The information that was provided to the Council at that time was not accurate.

The Mayor believes what normally happens with unresolved Resolutions is that if they have not been passed during a particular meeting then they are null and void. They would have to be presented to the Board again at a future date.

The Secretary said the Resolutions in question have not been confirmed because the minutes were never confirmed. Very often the previous Council would hold special meetings on a Friday afternoon without staff present and they were effectively unofficial meetings where Resolutions were passed without the Secretary's knowledge and without being minuted. He went on to say that he is on the record as saying at the time that these decisions could be challenged in Court because there is no documentation to back up the decisions and to show who attended the meetings and whether a quorum was present.

ACTION: The Staff, Legislative & Governance Committee to review the list of outstanding Resolutions.

It was agreed that the Secretary should bring the last Resolution on the list to the attention of the Council at their next meeting under AOB in the hope that they decide to rescind the resolution.

ACTION: The Secretary to ask the Board to rescind the Resolution worded as follows:

RECOMMENDATION: That the Board rescind the previous recommendation to accept the proposal from Community Driven Development (CDD) as the tenant at 11 Dundonald Street (Old Works Depot). That the Board approve for an RFP to be re-issued.

12. Motion to Move to a Restricted Session

Proposed: Mayor, Charles Gosling

There was no further business to be discussed.

The public session was adjourned at 11.00am.