



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
17 January 2017
10:00am

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

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

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 had been received.

5. **Public Participation:**

The Secretary confirmed there was no public participation.

6. **Correspondence:**

There was no correspondence for review.

7. **Minutes of Previous Meeting dated 20 December 2016**

The Secretary commented:

Page 2 of 5 - Action Item - "The Secretary to insert wording regarding staff use of CoH emails into the Acceptable Use Policy, **should read:** "The City Engineer to insert wording..."

Proposed: Councillor H. Ming

Seconded: Councillor N. Swan

The Minutes were accepted as read with the amendment.

8. Matters arising from Previous Meeting dated 20 December 2016

(i) **Insert Wording re: Staff Use of CoH emails into the Acceptable Use Policy:** The matter to be discussed further on in the meeting under Item 10, Recommendations for Review.

(ii) **Provide the Committee with a correct version of the Acceptable Use Policy:** To be discussed in Item 10, Recommendations for Review.

(iii) **Finalise the Sponsorship Policy:** The Secretary said he has not had a chance to finalise the Policy. The matter is deferred to the next Staff, Legislative & Governance Committee meeting in February.

(iv) **Forward the List of Outstanding Resolutions to the Minister:** The Secretary confirmed that the list of outstanding Resolutions was forwarded to the Minister and he has approved them.

9. Status Update:

No status update.

10. Recommendations for Review:

RECOMMENDATION: That the Board approve the draft Policy on Unsolicited Proposals. (Approved in the Corporation Board meeting dated 4 January 2017 and consequently approved by the Minister)

RECOMMENDATION: That the Board approve the Acceptable Use Policy with the amendments.

The City Engineer commented on the **Telephone/Cell Phone/Electronic Device Policy** which is embedded in the draft Policy presented (existing Policy) and added the personal cell phone and electronic device section. The Mayor said this Policy has been before the Committee for the last three (3) months. He commented on Page 1, 2nd Paragraph - under **ADMINISTRATION** and suggested for the Policy document to read: **In the event of an emergency, that there is a document which all users would already have in terms of contact details.**

This information could be posted in a particular area or be placed on file.

The HR Manager said that when the service providers change, Z. Mulholland would update their contact information. The City Engineer said that the CoH no longer has a Dock Reporting System. The Mayor suggested changing the information on the last page under **FAXES/COPYING MACHINES** to a particular position within the Accounts Department as opposed to naming a particular individual. Page 2 - 2nd and 3rd line from the bottom as it relates to things that cannot be done without permission or authorization. He suggested that **"permission"** and **"authorization"** be defined. The City Engineer suggested that it should also be specified who will be giving that permission or authorization. The Secretary said there is a difference between permission and authorization: (i) a person is authorized to do something and (ii) a person would have to go to another individual who has authorization to obtain permission. The Secretary further commented that the entire Policy had not been reviewed; the City Engineer had only brought the change for the personal cell phone usage piece. There are a number of changes with a number of the CoH's policies that continually need to be updated. The Mayor recommended that this Policy be approved with the all of the changes noted together with the amendment piece given by the City Engineer. He also suggested that authorization is something which is given in the employment contract and then with permission, of who is able actually to provide that permission.

The Secretary commented on Page 2, the last sentence under **GENERAL COMPUTER AND NETWORK USE**: **"To distribute unauthorized software."** He stated that the Systems Administrator (the vendor) controls who adds what to the system. No staff member has that authority. He can authorize but does not have access to make any changes. Any requests have to be done in writing to the Systems Administrator so that it is documented.

The Mayor commented on Page 4, point #9 under Filing: **"Depending on the relevance, save it to the appropriate folder on the network, print off and file."** **"Delete e-mails after saving and printing."** He queried if this exercise is still current to which the City Engineer said that it is not practiced. The Secretary said that all e-mails, etc. that stay on the system for a day is backed up at night and he can get access to anybody's e-mail folder by requesting it from the Systems Administrator. The Mayor expressed his main concern as it relates to the last sentence: **"Delete e-mails after saving and printing."** The Secretary said e-mails are not deleted enough. Then there are those persons who delete emails and never clean out the delete folder. Dialogue continued.

The Mayor then commented on Page 5, 2nd bullet point: **"Posting, sending, or acquiring sexually explicit or sexually oriented material, hate-based material, hacker-related material, or any other inoffensive or derogatory material"**...change the word **"inoffensive"** to **"offensive"**. He further commented on Page 6, 1st sentence: **Staff receiving a new cell phone or other Device must first return the original to the Treasurer."** He suggested changing the word **"new"** to **"replacement"**. The last line of point #5: **"If workers need to place a call, they must first pull over in a safe spot."** The previous sentence says: **"Workers may not make outgoing calls while driving."** The Secretary suggested the wording: **"Workers may not place or receive outgoing calls while driving."** There was continued discussion on hands-free Devices which are not supplied by the CoH.

The City Engineer queried if the **DECLARATION** is still needed and if each employee is still required to sign it. The HR Manager said that she would like for all New Hires to sign. The City Engineer said there could be a separate form saying that "**I have read all of the policies, etc.**" and it could be signed once and the employee would state that they would keep current with the documents. The Mayor said in that there is the piece on the personal cell phone; he thinks it would be worthwhile getting everybody to sign because it is a significant issue with the current Policy. The HR Manager said that the BIU workers are not going to sign the document. She further said that the document is reviewed with those workers and they are advised that the policies are in place and they are required to adhere to them. They will only sign that they actually attended the meeting and made aware of the policies.

The Secretary said that this change could be placed on the notice board advising that the Acceptable Use Policy has been changed and for the employees to check the Hand Book for the full details. The City Engineer said that it could also be mentioned and run through in the staff meetings.

Proposed: Mayor, Charles Gosling
Unanimous

Seconded: Councillor N. Swan

This recommendation will be placed on the agenda of the next full Council meeting dated 1st February 2017.

ACTION: The Recording Secretary and the City Engineer to work on the changes to the Acceptable Use Policy.

11. Any Other Business:

(i) **Status of Current Litigation:** The Secretary noted that the Chair of the Committee had asked for a Memo relating to the status of the CoH's current litigation to be discussed at this meeting. There are a few matters that have to be added to the Memo since the Chair's request.

- **J2 Chambers** - the Mayor said that a meeting was held with Marshall Diel & Myers (MD&M) on the issue of J2 Chambers vs Ed Benevides and Graeme Outerbridge Defamation and has asked that they actually either proceed with the case or drop it.
- **CoH vs J2 Chambers** - this matter relates to trying to have CoH documents returned. The Secretary said the Bar Council is having another hearing and his understanding is that the CoH has asked M. Diel to proceed with court action. The Mayor said that the CoH wanted to make the approach to the Bar Council that there may be documents within those files that may relate to the appeal which is coming up in March. The Bar Council had an issue with J2 Chambers contesting one of the members of the Tribunal, apparently some distant relation to a Minister. The Disciplinary Committee accepted that challenge and would be assigning another person.

- **Conference of Black Mayors** - the Secretary said the advice from MD&M was that pursuing the young lady in the American courts would prove to be very expensive. The \$100K host fee that the CoH would be pursuing would easily be spent on any court proceedings. The remainder of the funds (over \$180K) was separate from the host fee. The whole debacle cost the CoH about a \$1/3M. The CoH and the Southampton Princess resolved the issue and came to a settlement and the CoH received a cheque for about \$60K.
- **17 Ewing Street** - the Secretary said the issue is ongoing. He did receive some new information from a neighbour. Apparently the boundary which the plaintiff is contesting to is actually being contested between three (3) parties: (i) Ms. Sherma Simmons, (ii) the Bermuda Housing Corporation and (iii) the Trust. Ms. Simmons has agreed to provide information regarding her litigation.

The Secretary said that he has tried without success to get any response from Ascendant. He has made about three (3) attempts to get the Chief Operating Officer to meet with the CoH to discuss a number of topics one of which was, as a statutory undertaking, they have certain authorities and rights. The fact that they chose to put this down at the edge of the boundary so that it would not impact the development is basically their standard operating procedure so that it has the least negative impact on the properties. This individual is trying to use this to negotiate something else. It is dragging on and costing the CoH money.

- **Carla Basden vs CoH** - the Secretary said this matter is not a cost of the CoH but of the insurers. The City Engineer advised that Ms. Basden has dropped the case against the CoH. The Secretary said there was a big issue between her statement and her witness' statement. Her initial statement was that she tripped on a manhole but her witness said that she tripped on an uneven sidewalk. The Senior Engineer's report stated that there was no uneven sidewalk but there was a BTC manhole cover which can get slippery and believed this caused the accident. The City Engineer said that one thing that came out of this, when talking to a lawyer, was that they were of the opinion that if a utility puts a manhole on CoH property, then the CoH is responsible for the condition of that cover, etc. The Secretary commented that the CoH needs to get the Wayleave agreements in place for the other utilities; Belco has it in place already. A Wayleave would give the CoH more control and provide a means with dealing with situations such as this. A Wayleave is a non-proprietary lease so that the CoH could have utilities lease the same property from different aspects. The City Engineer said that the Wayleave also sets out the rules and parameters for how the CoH interacts and how the utilities get permissions.
- **MIF vs CoH** - the Secretary advised that this was more to do with the property side of CHW. There is an outstanding invoice in that regard. This was for finishing the paperwork for #1 and #5 car parks that do not have deeds because the land was created. It has to be declared that the land is real and belongs to the CoH. There was continued discussion on how the City was formed.

The City was gifted and it was a piecemeal of lots that were joined together to create this "Square". Then there was one document that showed that the CoH owned the "Square", then that was divided up into lots and sold off in bits and what remained belonged to the City. There are no deeds for Front Street or for any of the roads in the City.

The Secretary said that in the Municipalities Act, it basically states that "if you cannot prove that you own the property then the CoH owns it." Anything within the boundary belongs to the City unless proven otherwise. This is fine except for when lawyers are sorting out sales and loan documents, etc.

- **HSBC - Front Street/Albuoy's Point** - the Secretary said there needs to be some boundary adjustments. When Front Street went in, the CoH actually owns part of the HSBC building and HSBC owns part of Front Street.
- **Security on the Loan with Clarien Bank** - the Secretary said the Chair of Finance wanted to be advised of the legal fees, the cost to finish up the work with Clarien. This is on hold and settled the \$80K+.

ACTION: The Secretary to provide an updated Memo on current litigation and legal matters for the Committee. Also provide the Memo on a monthly basis as part of the package for the Council meetings.

The Secretary said that the CoH has engaged Trott & Duncan to do some of the property leases. The City Engineer said Trott & Duncan is looking at the lease for the Bus Terminal now and the lease for the Chamber of Commerce would be dependent on how they handle the Bus Terminal's lease. Dialogue continued.

(ii) **Committee Sizes** - the Secretary said that recently two (2) committees were amalgamated (Property & Infrastructure). Committees still struggle a little with quorums versus voting, etc. The Meeting Guide clearly states that those Members assigned/approved by the Council are the voting Members. Even though any Member can attend any committee meeting, they are not allowed to vote if they have not been assigned by the Council. This also affects quorum, e.g. the Residents Committee, there are four (4) Council Members and four (4) Associate Members and would have to at least four (4) out of the eight (8) members to hold a meeting. The newly created Infrastructure Committee now has five (5) Members and would have to have a minimum of three (3) Members to hold the meeting. The Mayor has always been an ex-officio but under the Meeting Guide there is no recognition of this so he cannot vote. The Secretary suggested that the Chair of the committees and the Council think about the sizes of the committees and/or quorum. He further suggested this Committee make a recommendation that a request be made to the Minister to amend the Meeting Guide to accept that the Mayor is Ex-Officio and therefore is considered a member. This will change the quorum and it will mean that the Mayor will be a member of all committees.

Councillor Swan suggested possibly requesting that all members be Ex-Officio and being able to attend any meeting and be able to vote. The Secretary said that the Meeting Guide is quite specific and that only those persons appointed by the Council can vote so the Guide would have to be completely changed. There was further discussion on the structure of the Meeting Guide, etc.

Councillor L. Scott suggested to alleviate the challenge of having a quorum to have the Associate Members attend the meetings and be able to be involved in the discussions but do not affect the quorum. The Mayor said that he wants accountability and rather than the Members just attending the meetings, they can be involved in seeking solutions. He said one (1) huge challenge is that if the Secretary leaves the meeting for any reason, the meeting stops until his return. He suggested that a quorum should be based on the number of appointed Committee Members and Ex-Officios that are in attendance. But if the Ex-Officios are not present that would not have an impact on the quorum.

ACTION: The Secretary to provide the wording for the suggestion/recommendation made by the Mayor as it relates to appointed Committee Members and Ex-Officios and the impact that it would have on a quorum and for it to be forwarded to the Committee before the next Committee meeting in February for feedback.

Councillor Ming said with regards to numbers, not so much for Council Members that are appointed but queried if there is a maximum number for Associate Members. The Secretary said that is determined by the Council and has not been determined as yet. There is one (1) restriction as it relates to Associate Members, i.e. they cannot outnumber the Council Members on the committee. He said that there should be a ceiling in that regard. He had received a request from Ms. Sherma Simmons to become a member on the Residents Advisory Committee which he will formally put forward at the next Residents Advisory Committee in February. He suggested that the committee look at maximum numbers in the first instance.

(iii) **FYI** - the Secretary advised that Permanent Secretary (PS), Randy Rochester will no longer be the PS for the CoH. He is moving to the Ministry of Economic Development under Minister, Dr. the Hon. E. Grant Gibbons, JP, MP. The CoH will now share the Director of Planning, Aideen Ratteray Pryse as the Acting PS. He confirmed that she is not leaving her post as Director and will be holding both posts. The Mayor suggested that Ms. Ratteray Pryse should be invited very quickly to come in for an informal meeting and be advised of some of the outstanding matters. The Secretary advised that PS Rochester will not be moving until 20 February 2017. There was further dialogue regarding Ms. Pryse Ratteray and her role as Acting PS.

ACTION: The Secretary to arrange a meeting with Ms. Aideen Pryse Ratteray as her role as Acting PS for the CoH.

Councillor L. Scott said that he was at a social gathering and had a chat with the Minister on some issues of the CoH.

He shared that the Minister was not amenable to doing any form of amending to the principal Municipalities Act any time soon. Members have suggested getting on with a new Municipalities Act altogether. The Minister was encouraging this in the early stages. The Mayor said he does not want any amendments to the current Act but that does not mean that he does not necessarily object to an Act replacing the current Act. The Secretary said that is what the Minister had suggested in a Local Government Act. Dialogue continued.

The Secretary stated that this current Government has more control over this organization than any previous Government.

12. Motion to Move to a Restricted Session

Proposed: Councillor N. Swan

Seconded: Councillor H. Ming

The public session was adjourned at 11.00am.