



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.

Corporation of Hamilton Board Meeting, City Hall, Hamilton - 8 June 2016 - 12:30pm

Present: Rt. Wor. Charles R. Gosling, JP, Chairman
Councillor John Harvey, MBE, JP
Councillor Dennis Tucker, JP
Councillor Lawrence Scott
Councillor RoseAnn Edwards
Councillor Henry Ming
Councillor George Scott, JP

Staff: The Secretary - Edward Benevides
The Treasurer - Tanya Iris
The City Engineer - Patrick Cooper
The Deputy Treasurer - Siobhan Fubler
The Human Resource Manager - Lindell Foster

In Attendance: Steve Woodward - KPMG
Felecia Govender - KPMG

Apologies: Councillor Carlton Johnson

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1. **Confirmation of Notice** - the Secretary confirmed that the appropriate notice of the meeting and agenda was posted according to the meeting guidelines.
 2. **Role of the Chairman** - the Mayor confirmed his role as Chairman.
 3. **The Mayor called the meeting to order at 12:35pm.**
 4. **Apologies** - the Secretary confirmed apologies from Councillor Carlton Johnson.
 5. **Public Participation:**
 - (i) **Audit Presentation - KPMG:**

Steve Woodward - advised that at a previous Finance Committee meeting KPMG presented their findings.

The draft financial statements were approved subject to a couple of issues, i.e. (i) the Government's Fire Service accrual which is pending confirmation and (ii) the update on the situation of the Mexico Infrastructure Finance (MIF) investment. Subsequent to that meeting the revised Financial Statements have been circulated. There is an updated note in the Financial Statements (Note 14) which covers the amount due to MIF. The only addition is to add a sentence to clarify that the CoH is continuing to pursue the loan and various legal options with its counsel and with the Bermuda Government. KPMG as the auditors is satisfied with that disclosure and that it reflects the current status. The other amendment that has been made is that KPMG did receive a confirmation back from the Bermuda Government on the Fire Service accrual and an adjustment has been put through to recognise the additional liability and is contingent on negotiations. The Financial Statements have to be adjusted to include the amount relating to 2014 which was not previously provided in the prior years' Financial Statements,

The previous auditors have been notified that 2014 will be changed to which they were not in agreement. The auditors consulted internally and believe that it is correct to record the adjustment as a prior period adjustment on the basis that a confirmation was not sent to Government last year. There was no update of the accrual.

The Treasurer - the CoH was still waiting on a confirmation from Marshall Diel & Myers (MDM). The Financial Statements cannot be signed off on until that is received.

Steve Woodward - their procedures are pending a review of that confirmation.

The Mayor - received a proposed letter from MDM which he had no issues with.

Steve Woodward - said the legal firms would normally write to them directly.

Councillor Harvey - commented on the penultimate paragraph on page 9 of the Auditors Report: "*The Corporation is in the process of seeking further legal advice on the circumstances surrounding the guarantee...*" which he assumes is talking about the ultra vires matter. He suggested that ultra vires should be stated as opposed to "the circumstances".

Steve Woodward - advised that this Report generally is not treated as a public document. At the time that this was drafted, there was some sensitivity around that issue. It is the disclosures in the Financial Statements on Page 23 of the Financials that the CoH should be focused on.

The Secretary - cautioned that this is a public session and the minutes will be published on the website and the Council should limit any privilege discussions to the Restricted Session.

Steve Woodward - another point that was pending when they met with the Finance Committee was the final Auditors Report which has been circulated.

They are expected to issue a clean Audit Opinion that would draw the readers' attention to the notes to the Financial Statements and would describe the uncertainty around the "Going Concern" attached to the \$18M liability and the need to obtain financing to pay that liability.

The auditors believe that the matter is adequately disclosed in the statements and based on the latest projections that management has prepared, that will support the "Going Concern" basis for the foreseeable future, a period of at least twelve (12) months from the date that the Financial Statements are approved. Dialogue continued regarding the previous auditors, Moore Stephens & Butterfield and the adjusted previous years' Financial Statements regarding the Fire Service accrual. An accrual had been made at the end of 2013 but was not updated in 2014. The Financial Statements have been adjusted to reflect that.

The Treasurer - the CoH is accruing for what the Bermuda Government is saying should be paid for the Fire Service. There is the argument as to why the CoH should be paying \$600K per year for the Fire Service.

The Secretary - the Bermuda Government was informed in December 2012 that the CoH would not be paying for the Fire Service and they had no contract. The CoH would not be paying going forward.

Councillor Tucker - commented on the Schedule of Audit Misstatements, Page 17 of the Audit Report.

Steve Woodward - the 2nd box shows the adjustments that were put through the Financial Statements during the course of the year and are reflected in the Financial Statements. The two (2) most significant ones are #'s 3, 6 and 7 which relate to prior periods. #'s 6 and 7 are the Fire Service accruals. #3 was the other prior year adjustment recognising the pension service account that had previously been shown as an asset of the CoH. There was continued dialogue relating to prior period adjustments.

Councillor Tucker - commented on the CoH's accruals of bad debt and the adjustment to record possible under provision for doubtful accounts receivable balances.

Steve Woodward - in setting the provision for doubtful accounts, there is a degree of judgment made as to the collectability of these accounts. This was based on amounts that had been received or collected and the situation could have been improved a bit since the testing. Dialogue continued.

The Mayor - the billing process has changed and the CoH is being more aggressive in terms of getting people to pay while they are still capable of paying the debt off rather than letting it reach to a point where, if challenged, would be putting them out business or out of their homes.

Steve Woodward - KPMG is now in a position to release their Opinion once they have the legal confirmation and then there is also the Management Representative Letter which was circulated.

RESOLUTION: That the Board accept the 2015 Financial Statements and the 2015 Audit Findings Report as presented by KPMG.

Proposed: Councillor D. Tucker

Seconded: Councillor L. Scott

Unanimous

ACTION: The Secretary to follow-up with Marshall Diel & Myers (MDM) as it relates to the legal confirmation to the auditors.

Councillor Tucker said the auditing process has gone well and thanked the City Treasurer, the City Deputy Treasurer and their Finance team as well as the support and assistance from KPMG.

Steve Woodward and Felecia Govender from KPMG left the meeting at 12:59pm.

6. Correspondence:

The Secretary confirmed that there is no correspondence.

7. Minutes of the Corporation Board Meeting dated 4 May 2016

Proposed: Councillor J. Harvey

Seconded: Councillor H. Ming

The Minutes were accepted as read with the amendments.

8. Matters arising from Corporation Board Meeting dated 4 May 2016

(i) **Follow-up on the approach to Cox Hallett Wilkinson (CHW) regarding the consideration of a reduction in their legal fees** - the Secretary has only been in conversation with CHW in terms of securing an intern for the summer. CHW is no longer being engaged by the CoH. The matter of approaching CHW is still outstanding.

ACTION: the Secretary to continue the follow-up with CHW's consideration of a possible reduction in their legal fees and forward a report to the Mayor before the next Council meeting scheduled for 6 July 2016.

(ii) **Follow-up on the suggestion that CITV conduct a 10-15 minute PR information session on the new barrier system in the City Hall Car Park** - the Treasurer advised that she spoke to the CoH's Communications Coordinator, V. Abraham who will make contact with CITV to see what could be done in this regard. The car park will be opened by the middle of August.

ACTION: The Treasurer to follow-up with V. Abraham and have an update for the next Council meeting scheduled for 6 July 2016.

The City Engineer advised that the PR programme should be put together this month (June) to start rolling out at the start of July giving six (6) weeks to advert and build up to the opening.

(iii) **Write to Mr. Marc Telemaque re: financial sponsorship for a Lunch and learn event at St. Paul's Centennial Hall, 5th May 2016** - action item completed.

(iv) **Forward a copy of the survey showing the encroachments on CoH properties, Ewing Street down to Union Street** - the survey was shown in the last Property & Safety Committee meeting. Councillor Ming had suggested that the Board be made aware because of the potential ramifications. This emanated from a request from Mr. Irwin Hendrickson to lease/purchase some property adjacent to him. As a result it was required that a proper survey be done. The City Engineer decided that the survey should include all of the properties at the upper end of Ewing Street going down through to Union Street.

Councillor Edwards joined the meeting at 1:05pm.

Councillor Ming continued by advising that there are so many encroachments on the southern boundary of Ewing Street. Now the CoH would have to proceed to communicate the concerns to the various residents that are affected by these encroachments as well as how it has affected the CoH. Councillor Ming is looking for direction from the Council on the next approach.

The City Engineer said that some of the encroachments are as little as eight (8) years ago and others are longer. There is some aerial photography dated from the '60's, '70's and '80's so it could be determined which decade the encroachment was done. Adverse possession rules and the residents would have had to have maintained sixty (60) years of the encroachment. The CoH's property lawyer is drafting a letter just to advise the landowners that there is an encroachment issue. That would be the first step while the CoH decides what they wish to do in this regard. Some of the encroachments are quite severe, i.e. buildings, fences, yards, etc. These were unauthorised, without building permits and without anyone's knowledge.

ACTION: The Secretary to provide a copy of the survey of the encroachments on CoH's properties - Ewing Street down to Union Street for the Council members to view in the Mayor's Parlour.

The Mayor asked if the City Engineer could determine what would be essential property for the CoH, i.e. property that the CoH would want to keep for a land bank. Also would the CoH have any area to play with or will all of the properties have to go back to a particular line.

The City Engineer said it all stems around one (1) issue, i.e. would the CoH wish to turn Ewing Street into a thru road to Union Street and whether it will happen in the future. Councillor Ming said access could be had through to Union Street but not necessarily vehicular access.

The City Engineer said there is latitude to regularise some of those boundaries and sell off bits of property to get everyone into conformity.

9. Committees and Recommendations for Review:

a. Residents Advisory Committee - 5 May 2016

There was no meeting held in May.

b. Residents Advisory Committee - 2 June 2016

RESOLUTION: That the Board agree for the Secretary to write an official letter to the Bermuda Police Service (BPS) as it relates to the dumping of household garbage on the streets within the City of Hamilton (tipping). Also when a request is made to ascertain what cameras are operational, the Corporation of Hamilton should receive a more courteous response from the BPS.

Councillor Ming expressed the concern not just of the tipping at the top of Till's Hill but also the concern of which cameras are in operation and why the CoH could not get feedback from the BPS. The response was always that they were not at liberty to say. It was Councillor Ming's hope for the CoH and the BPS to work together. The information does not have to be disseminated but the CoH would like to know whether the cameras are operational and whether the CoH would receive assistance from the BPS in this regard. There was continued discussion.

Councillor Harvey suggested that the CoH consider having a public relations exercise done that would give a reward of some amount to anyone who could provide the information of those who do this illegal tipping on Till's Hill. Councillor Edwards commented that this happens in several places the City, not just on Till's Hill.

AMENDED RESOLUTION: That the Board agree for the Secretary to write an official letter to the Bermuda Police Service (BPS) as it relates to the dumping of household garbage on the streets within the City of Hamilton (tipping). Also when a request is made to ascertain what cameras are operational, the Corporation of Hamilton would be seeking cooperation from the BPS.

Proposed: Mayor, Charles Gosling
Unanimous

Seconded: Councillor H. Ming

The Mayor suggested that the reward system campaign for illegal tipping in the City be passed on to the Residents Advisory Committee for their next meeting in August to ascertain the costs of doing a programme such as this.

Councillor Tucker queried whether there is signage there to indicate illegal dumping. The Secretary advised that tipping is illegal throughout the entire Island.

Discussion continued regarding the information on handouts for the residents in terms of fines or service charges for dumping and the legal aspect involved. The City Engineer said the issue is that garbage is not easily identifiable to a particular resident.

The Secretary advised that the changes to the Garbage Ordinance have been approved by this Council. It was sent to the Government for approval and it came back with some other changes that the Secretary and the City Engineer are working on. Also in that Ordinance is a list of service charges and/or penalties. It will not make this Parliamentary Session and hopefully will be ready for the next Session.

c. Infrastructure, Development & Future Committee - 11 May 2016

RESOLUTION: That the Board agree in principle to allow ACBDA to install the necessary infrastructure and utilities for the safe moorings of the Super Yachts on Front Street. Final approval will not be unreasonably withheld. The removal of the infrastructure and utilities will be agreed upon by a Memorandum of Understanding (MOU) between both organisations. **(approved in Corporation Board meeting dated 4 May 2016)**

d. Staff, Legislative & Governance Committee - 17 May 2016

RESOLUTION: That the Board decline the request from Councillor Johnson to change the meeting time for the General Council meetings. **(declined in Corporation Board meeting dated 6 April 2016)**

e. Property & Safety Committee - 26 May 2016

RESOLUTION: That the Board decline the proposal from Emmanuel Baptist Church to rent the property adjacent to the church located on the corner of Court and Dundonald Streets for 99 years at a "peppercorn" rate. That the Board approve to lease the property on an "as needed" basis.

AMENDED RESOLUTION: That the Board decline the proposal from Emmanuel Baptist Church to rent the property adjacent to the church located on the corner of Court and Dundonald Streets for 99 years at a "peppercorn" rate. That the Board approve to rent the property on an "as needed" basis.

Proposed: Councillor D. Tucker

Seconded: Councillor H. Ming

Unanimous

RESOLUTION: 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.

Councillor Ming said this is a time-sensitive situation in that the initial approval was given a while ago and there is also continuing issues with the quality of the structure.

It was suggested to put this out again to tender with the understanding of the condition of the building as is. The Secretary said the successful applicant from the previous approval came back with a proposal to reduce the application, that things had changed in their model and they could not afford what they had promised to do. The recommendation was that the CoH could not accept the change in the proposal and it would go back out to RFP. There were no agreements signed previously.

The City Engineer said that the CoH had worked with lawyers for two (2) years drafting leases. CDD spent a fair bit of money as well with planning documents, etc. but nothing was ever finalised.

Proposed: The Property & Safety Committee
Unanimous

f. Finance Committee - 27 May 2016

RESOLUTION: That the Board agree to a fee of \$1000.00 per event held by RBYC in Barr's Bay Park with the City of Hamilton recognised as a major sponsor.

The City Engineer said the RBYC has been planning two (2) major sailing events and they had already requested the use of Barr's Bay Park. During this time the CoH has changed the sponsorship regulations in that the CoH does not discount park rentals. These are long-term park rentals, 5/6 day events and with the change in sponsorship, it would mean that they would not be able to have the events. These events are high profile international events and they were looking for some sort of relief since the rules were changed during their planning period. The agreement for this fee would be for the two (2) events only that are noted in the recommendation and any other ongoing events would be charged at the policy fee.

Councillor G. Scott joined the meeting at 1:30pm.

Councillor Harvey commented that the CoH has to be very careful when implementing policies and increases in rates. Councillor Tucker said that is very difficult to set a policy and that it is set in stone. The policy should give guidelines and not be set up so that it will cause events to go to other areas or not happen at all.

The Mayor commented on an event where a gym is doing a contest and it is a programme where they are charging persons to be involved in the exercise classes. They have been using Victoria Park for the last couple of years.

The CoH has been generous in the past in terms of waiving the fees and they would now be looking at a possible charge of \$500 or something similar per day. They are looking at using the park for an entire month. The impact on the park is minimal but the activity and the liveliness that is brought to the park is advantageous to the City. He expressed his concern of the ramifications relating to the setting of policies and whether they are being looked at closely enough or being clearly presented to the Council. He suggested identifying these events by name in the recommendation.

AMENDED RESOLUTION: That the Board agree to a fee of \$1000.00 per event held by the RBYC: (i)Viper International Championship and North American Championship, November 16 - 19, 2016; and (ii) MS Amlin International Moth Regatta, December 3 - 9, 2016 to be held in Barr's Bay Park and with the City of Hamilton recognised as a major sponsor.

Further dialogue continued.

The Mayor suggested that the CoH Sponsorship Policy be passed on to the Staff, Legislative & Governance Committee to look at further broadening the policy. The Secretary commented that the current policy would handle one (1) day events very well. The issue would arise if there is a multi-day event/multi-week event. He suggested making an amendment to the policy in that regard. The City Engineer said that another thing to be factored into the policy other than the fee reductions, etc. would be whether it is a money-making event for them or whether it is a run-at-cost event for the benefit of the event. For example, running a triathlon you would not look to be making money for the Triathlon Association but would be looking at covering the costs of running the event versus running a concert which is being promoted and tickets sold. These are two (2) different types of events and the question would be whether they should be charged the same rates.

ACTION: Further review of the Sponsorship Policy to be placed on the agenda of the next Staff, Legislative & Governance Committee meeting.

Proposed: Mayor, Charles Gosling

Seconded: Councillor D. Tucker

Unanimous

Take Note: The Finance Committee accepted the Treasurer's recommendation to write-off \$40,900.00 so it comes off the books but the CoH will continue to pursue collection.

This was a bill for the rental of a crane that was in position for over a year. There was a bill for the initial crane permit for six (6) days and after it was discovered that the crane had been left on the property, a bill was forwarded for the additional days.

Councillor Harvey queried whether dividends were being paid from one company to the subsidiary company. The Treasurer advised that the query was posed to the Registrar of Companies but no response has been received to date.

Councillor Edwards commented on a crane in that area that has been there for over two (2) weeks. She queried how the cranes are identified.

The City Engineer said if it is in operation, the operator would have to come in to the CoH and get a permit to operate in the City but if it is just parked there, it should not be.

ACTION: Councillor Edwards to provide a photograph of the crane possibly illegally parked on Angle Street.

It was clarified that it is a hi-lift and not a crane.

10. Any Other Business

(i) Review of suggested change in meeting schedule for Council meetings -

RESOLUTION: That the Board approve that the Council meeting will be held in July 2016, no committee meetings will be held in July 2016 and no Council meeting in August 2016. The committee meetings will commence in August 2016 and the next Council meeting will be held in September 2016.

Proposed: Mayor, Charles Gosling

Seconded: Councillor J. Harvey

Unanimous

(ii) Bermuda - Sailing to Success - Publication from the Times Group -

The request was received from the Financial Times with whom the CoH has partnered with before. There is a preferred rate offered to the CoH and a page preference within the publication. This book will be focusing on the 35th America's Cup 2017 and the request shows the outline of editorial structure on who is doing various contributions.

The Mayor said this is an informational book on Bermuda business, etc. He further commented that with the publication of the 200th Anniversary of the City, there was no letter from the Mayor and absolutely nothing from the Corporation of Hamilton.

The Secretary read the proposal: *"I would like to confirm my special offer to the Corporation of Hamilton for the opportunity to advertise within this unique and prestigious publication, with a full page colour advert to be placed on a right hand page within the first 20 pages at the standard page rate of \$5,062 (as opposed to the special position rate of \$6,412)".*

There was continued dialogue.

RESOLUTION: That the Board agree to a counter offer of the publication proposal from the Times Group, Bermuda - Sailing to Success, with a full page advertisement and a full page letter from the Mayor and the Council of the Corporation of Hamilton.

Proposed: Mayor, Charles Gosling
Unanimous

Seconded: Councillor J. Harvey

(iii) **Bathrooms on Victoria Street** - one of the bathrooms had been defaced with a number of comments (graffiti). The Secretary was very grateful that the media was responsible in not printing either what was written or showed any photographs.

The BPS is looking at CCTV and it has been narrowed down to when this might have occurred. Bermuda Cleaning is contracted to clean the bathrooms and they had cleaned it at a certain time. The graffiti was not there when they had finished but when they returned, the graffiti was there. The cleaning services are responsible for locking up the facilities in the evening.

(iv) **Monthly Calendar for Events** - Councillor Ming commented on the monthly calendar for meetings and suggested that a similar monthly calendar be provided with the events happening in the City. It was noted that the information is on the CoH website. The Mayor said that this has been discussed before and the website is not as easily accessible. As a convenience for the Council members it would be helpful if they could have a printed copy of the monthly events.

ACTION: The Event Project Manager to provide a monthly calendar of events being held in the City for the Council members.

(v) **Training for the Tablets** - Councillor Harvey queried the status of the training. Councillor Ming said that he is using his personal tablet because he has had no success with his tablet. It has been with IT more than once and he still cannot get on. The Secretary said they are working to boost the wireless activities. He has tried to contact the previous trainer to no avail. There was continued discussion on the tablets just not working.

The Treasurer advised that Decisions (IT group) will be upgrading the Wi-Fi tomorrow or by Friday at the latest.

ACTION: The Secretary to provide in writing what is required as it relates to the training for the tablets and maybe some of the Council members may have some sources out there, people that might be willing to do a training session.

11. Motion to Move to Restricted Session

Proposed: Councillor L. Scott

Seconded: Councillor J. Harvey

The Public Session adjourned at 2:26pm.

Date

Mayor

Secretary