



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 September 2016 - 12:30pm

Present: Rt. Wor. Charles R. Gosling, JP, Chairman
Councillor John Harvey, MBE, JP
Councillor Dennis Tucker, JP
Councillor Nicholas Swan
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

Apologies: Councillor Carlton Johnson
The Deputy Treasurer - Siobhan Fubler
The Human Resource Manager - Lindell Foster
The Event Project Manager

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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 12:30pm.**
 - 4. Apologies** - the Secretary confirmed apologies from Councillor C. Johnson, the Human Resource Manager, the Deputy Treasurer and the Event Project Manager.

5. Public Participation:

There was no public participation/presentation.

6. Correspondence:

There was no correspondence

7. Minutes of the Corporation Board Meeting dated 6 July 2016

Councillor Harvey commented:

Page 4 of 13: Penultimate paragraph.....The Secretary met with Chief Superintendent Howes.....**should read** Superintendent Howard.

Page 5 of 13: 3rd paragraph, last sentence.....The Mayor said that he is hoping through his suggestion it would actually make the police say that they do to want to be seen.....**should read**...that they do not want to be seen...

Proposed: Councillor H. Ming

Seconded: Councillor J. Harvey

The Minutes were accepted as read with the amendments.

The Mayor commented that the CoH had its own Chief Superintendent Walter Howes who used to talk to every member of the Council and the Executive in their walking around the City. Unfortunately a couple of months ago he was found dead on the City streets and there will be a service held for him this Saturday 10 September 2016 at 2:00pm at the BIU Building. Although he could have been at times an exasperating person, he could also be an absolute goldmine in terms of suggestions in how the City should be run. He was almost like that Roman General who would come back after a victory and whisper in your ear: **"Thou art mortal."** The Mayor hoped that the Council members would avail themselves to attend the service.

8. Matters arising from Corporation Board Meeting dated 6 July 2016

(i) Follow-up re: monthly calendar of events held in the City from the Events

Project Manager - the Secretary said that he believes the Event Project Manager has been active in ensuring that members receive the calendar of events in the City. Councillor Tucker said they receive the calendar of meetings from the Recording Secretary but not a calendar of events. He commented on an event that took place last Saturday 3 September 2016 at City hall where there was a beehive of activity. He read something about the event in the newspaper but was not aware whether the CoH was hosting the event or not. The Secretary advised that the events are also on the website. Councillor Edwards said that the request for a calendar of events had been asked numerous times. The Mayor said that the Council is looking to receive on a monthly basis a PDF of events for the month. Can start with City events but should really be any event that the Council should be aware of.

The Treasurer spoke with the Event Project Manager who advised that she would provide a calendar commencing October. There was continued discussion suggesting that the court dates be added to the monthly meeting calendar.

It was noted that the court dates are 26th and 27th September 2016 commencing at 9:30am. Councillor Swan suggested receiving the calendar once a week (on a Friday) as opposed to monthly. Councillor L. Scott suggested placing the information in Outlook. Councillor Ming said receiving the monthly calendar should suffice as the information is constantly changing. He further commented that it is incumbent of the Council members to place dates such as the court case in their respective calendars.

Councillor Edwards added comments regarding banners being placed on the fence down at the Library. She further commented on the schedule of banners that had been previously requested but to date has not been received. This request was made to ensure that there are no conflicts with placing banners on that fence. The Mayor said this matter should be raised at committee level.

(ii) **Identify Action Items before the Minutes are produced to give ample time for action to be undertaken** - action item completed.

(iii) **Follow-up re: telephone call to Cox Hallett Wilkinson regarding the consideration of a reduction of their legal fees** - the Secretary followed up with two (2) telephone calls and finally an email. He concluded that this was a denial of the request due to the lack of response to the calls and email. He advised that the CoH received another set of invoices at the same rate that had been previously charged.

9. Committees and Recommendations for Review:

a. Residents Advisory Committee - 4 August 2016

There are no recommendations.

b. Infrastructure, Development & Future Committee - 10 August 2016

RECOMMENDATION: That the Board approve for the Infrastructure Committee to accept the proposal from IHOPE Global as presented by Ms. Rachael Bailey and for the technical officers to discuss the appropriate fees, etc. associated with the agreement, this being subject to amendments to the Advertisements Regulation Act 1911 which would allow, in particular, the display of billboard-type advertising.

IHOPE Global would like to partner with the CoH in their proposal for advertising at the Flag Pole on Front Street. Councillor Harvey said this proposal is subject to Legislation being amended and/or created to the Advertisements Regulation Act 1911 in order for this to be achieved. Ms. Bailey of IHOPE was of the view that either the Ministry of Works or the Environment or both was going to try and put this issue before Parliament in the Special Session in September. He was not sure whether this matter would be placed on Parliament's agenda and addressed before America's Cup 2017.

Councillor Swan thought Ms. Bailey was going to do a presentation to the full Council because the committee was not unanimous in agreeing that these billboards are appropriate for the City.

Councillor Ming said that it would be a great idea to have a presentation from the person responsible first, prior to Legislation. He sits at another committee in St. George and signage is always an issue as it relates to historic sites and towns. There are issues with the sandwich boards on the sidewalk as it becomes a question of security and liability. When he first saw the proposal, there were no issues based on the fact that something has to be done with what is currently in place. He has an issue with a particular logo being advertised representing a particular organisation. Signage should also include the CoH branding. The Council could possibly assist with Legislation as opposed to being stuck with Legislation that might not be agreeable. If necessary the CoH could write to the Government based on the presentation and ensure that there is a consultative process going forward.

The Mayor advised Ms. Bailey has already given a couple of presentations and as the recommendation states that the approval of the proposal is subject to amendments to the Advertisements Regulation Act 1911. If they make the amendments for these changes, there is the opportunity for the CoH to receive some income to assist with the upkeep of that particular area of the City. The Act as it currently stands is not being properly policed. Councillor Ming continued by saying that he does agree with what is being proposed but his thought was not just of this one (1) particular item but a bigger picture, i.e. where the CoH stands with any type of Legislation regarding signage.

The City Engineer queried what amendments would have to be made to the Advertisements Regulation Act in order for the Council to give their approval. His understanding under the current Act is that it gives the CoH discretionary powers to approve. Further discussion ensued.

Councillor Harvey suggested that the Secretary write to the Permanent Secretary of the Ministry of the Environment asking for confirmation, quoting the relevant Section of the current Act whereby it states that the CoH has discretionary powers to approve. If this is confirmed then Ms. Bailey could be given permission to proceed and hopefully this would not offend or hinder Government's current intentions to amend Legislation. There was continued discussion.

Note: The AC Act 2015 supersedes stating that anything that is done by the America's Cup or any of the sponsors that are reliant to America's Cup are exempt from these particular sections of these particular Acts.

This is an advertising opportunity that Ms. Bailey has identified. Councillor Harvey would like to have sight of that particular section of the Act that gives the CoH discretionary powers.

MOTION: That the Board approve to defer the recommendation regarding the proposal from IHOPE Global back to the Infrastructure Committee for further review.

Proposed: Mayor, Charles Gosling
Unanimous

Seconded: Councillor D. Tucker

RESOLUTION: That the Board approve to accept Polaris' request for a CPI increase for 2016 as posted by the Government as of 1st January 2017.

Motion to amend the Recommendation:

Proposed: Mayor, Charles Gosling

Seconded: Councillor D. Tucker

Unanimous

AMENDED RESOLUTION: That the Board approve to accept Polaris' request for a CPI increase for 2016 as posted by the Government.

Proposed: Infrastructure Committee

Unanimous

RESOLUTION: That the Board approve to modify the Terminal Operators License with a report in one (1) week for an evaluation and a further week for the replacement or repair of the crane.

Proposed: Infrastructure Committee

Unanimous

RESOLUTION: That the Board approve for the Infrastructure Committee to move forward with the Memorandum of Understanding (MOU) to agree with the owners of the tent that the tent would be up for the 6-month period. In that agreement the City would have use of the tent for their events, rent the tent and the revenue generated will pay back the installation as well as the group's expenses.

AMENDED RESOLUTION: That the Board approve that the Event Project Manager be given the authority and leeway to assess the current events as it relates to the development of the construction of this tent ensuring that as many events for the forthcoming Fashion Festival be held in the City. Failing that the Event Project Manager should advise the Council accordingly. Subject to that an MOU should be designed, developed and signed as soon as possible. **(approved in Corporation Board meeting dated 6 July 2016).**

The Secretary advised that the MOU is still being worked on but has not been agreed upon. Councillor Harvey suggested bringing the matter back to the Infrastructure Committee for further review. An engineering report is being prepared to ascertain the logistics (pros, cons & costs, etc.) for installing a tent at either #1 Car Park or the City Hall Car Park. The issue with the installation of the tent at #1 Car Park for the Fashion Festival is that it was deemed unsafe. The installation was not signed off by the City Engineer, the Senior Engineer or the external Engineer, that is why it had to come down. The CoH will be initiating discussions regarding the MOU when a successful location is determined.

Councillor Harvey commented that the CoH move on this matter rather quickly because there is the opportunity to earn some income. There was continued dialogue regarding the erection of the tent at #1 Car Park for the Fashion Festival. The issue with that project was with the instruction to keep the Fashion Festival in the City and by the time this matter came around, the CoH was given less than a month to install everything. There was no way to have permanent foundations in place which was what was desired. The hope was to secure the tent but unfortunately the concrete that was found on the site was not of the quality to be able to tie the tent to.

c. Finance Committee - 11 August 2016

There are no recommendations.

d. Staff, Legislative & Governance Committee - 16 August 2016

RESOLUTION: That the Board support the Secretary, Ed Benevides' candidacy for the IIMC Region XI Director Vacancy.

The Mayor requested that this recommendation be placed under the Restricted Session.

e. Property & Safety Committee - 18 August 2016

RESOLUTION: That the Property & Safety Committee defer the issues with the outstanding leases for the Fire Station and the Bus Terminal to the Council with a recommendation to hold firm with the issue that they should at least look for a dollar for dollar exchange in kind at the very least.

Proposed: Property & Safety Committee

The committee felt this is not just an issue for them to look closely at but it should be a holistic view from the entire Council and welcomed any feedback. It is more than just an issue of dollar for dollar. Councillor Harvey queried how this "peppercorn" rent came about to which Councillor Ming advised that there was an agreement between the CoH and the Government that they work hand in hand for the good of Bermuda. The Secretary said the Government started to assist the CoH in the cost of operating the Hamilton Fire Service which was being called on at that time more and more outside the City. The costs were escalating and the Government refused to increase the amount of contribution without having some say in how the monies were being spent. The Council figured out that the continued running of the Brigade was going to grow expeditiously due to pensions, benefits, etc. It consumed quite a bit of the Council's time dealing with staff issues and training of a service that was now providing a service to more than just the City. It was then agreed that the Government would take over all of the responsibilities of the Hamilton Fire Service to become the Bermuda Fire Service. It took over all of the equipment as was purchased, most of the funds spent was City funds although the Government contributed in the latter years.

To assist the Government at that time and to encourage as part of the discussions, a 25 year lease for the Fire Station was signed on a dollar per year on demand to encourage the Government as part of their contribution. In addition, there were discussions that the CoH would contribute a certain percentage of the Fire Service's budget. The issue is that there is no signed contract. In 2008, the contract was coming to a close and the Government had appointed a negotiating team who had put forward a price. The CoH had a re-evaluation of the property from a rental perspective which was considerably higher. When the Secretary took over the negotiations, the CoH ended up agreeing with the Government negotiating team to a sum of \$700K per year. The team took it back to the Minister, the Hon. Derrick Burgess at the time; the amount was higher than the budget that had been allocated and the Minister was not prepared to sign off on the agreement nor do a change in the budget. This has been the case for every year since except for during a time when Col. David Burch was the Minister responsible for the Fire Service and he had put in his budget rent for the Fire Service for two (2) years which the CoH never received payment. The CoH has tried with every Government and Financial Minister since 2008 to get an agreement signed. The CoH came very close in 2012 where the technical officers from Finance, Works and Municipalities along with the CoH team came to an agreement to move forward in-kind. At that time this was complicated with Government taking away the CoH's wharfage. The Council of the day had put forward that the Government lease the docks from the CoH for about \$6M. The CoH had an agreement on the Fire Service, it came back from the Council who determined that the process was moving too slow. They set a time limit in 2012 and the timeline came and went. The CoH then instructed Marshall Diel & Myers (MDM) to issue a discontinuance of discussions with the Government and the offer was removed from the table. Most recently the Secretary wrote to the Permanent Secretary of Works stating that the lease for the Bus Terminal was coming up for a renewal and would start negotiating for a rent. Currently on the CoH's books there is \$4.9M in arrears for rent from the Fire Service and the CoH is holding back from the Government about \$1.9M in tipping fees. The CoH will now have to determine what actions to do next including including any legal options. The CoH received a letter from the Government that stated the CoH should be giving them the use the property in national interest.

The Secretary pointed out that in 2014 the CoH was asked to do a re-valuation of the rental value of the Fire Station and it was valued at about \$350K. Currently 2014, 2015 and 2016 are at \$350K and the prior years are at \$700K.

Councillor Harvey suggested that the parties involved discuss the matter further and from a legal point of view keep the dialogue open. The Secretary advised that the CoH had made the offer for an in-kind swap, value for value. The CoH spent about \$600K a year in tipping fees. The rates charged to the CoH are the highest commercial rate there is. 20% of the garbage that is dumped is actually Government's so not only does the CoH collect it for free but pay an extra premium for the privilege. The Government charged 2% for collecting the CoH's wharfage and now charge 6% which is another \$350K on top of what they used to receive.

The Mayor queried the loss of revenue in terms of the Bus Depot. The Secretary said that it is definitely over \$100K. The Mayor then commented on the preparation of the Budget for 2017 and the lack of capital projects.

The Infrastructure Committee is being asked where the CoH's standard of service should drop to in order for them to come up with a sustainable budget for next year. The CoH is fiduciary responsible for what is done in the City. If the CoH allows someone to squat on their land and if this behaviour is accepted then it demonstrates irresponsible behaviour by the CoH. He suggested approaching the Minister and state very clearly that regardless of where it stands in terms of the CoH's civic duty, at least it should be in proportion to the size of the CoH as a piece of Government. They should at least be comparable to the civic duty that the Government would be doing by actually paying rent. There was continued dialogue regarding the Fire Service building, i.e. sell or develop, etc.

The Mayor said the Minister has spoken about the CoH selling property. He has had a conversation with a number of members of Government regarding selling property. This should not be looked at in isolation, this has to be a part of the whole picture. He continued commenting on the loss of revenue that the CoH is experiencing. When someone starts to say that the CoH is being challenged in terms of their revenue and not being able to make ends meet, the Mayor's response is that the Government is taking away the CoH's ability to properly police parking. They are doing whatever they can to stop the CoH from re-instituting programmes that are already in place, they are not willing to pay rent for property that belongs to the CoH and want the CoH to dump property at fire sale pricing in today's real estate market. That is the height of fiduciary irresponsibility. Councillor Ming said that it is an insult for the CoH to be treated this way and the sale of CoH property should be a last resort. Councillor Swan said that that the CoH has very little redress except in the courts because the Minister has the last say on approving the CoH's Resolutions.

The Secretary said W&E takes care of all the maintenance of the Fire Station. He had received some legal advise in this regard and was told that if the CoH issues an eviction notice, that would get their attention. Councillor Harvey said the Council's view is to try and get some settlement one way or the other in a timely fashion. Dialogue continued.

AMENDED RESOLUTION: That the Property & Safety Committee defer the issues with the outstanding leases for the Fire Station and the Bus Terminal to the Council with a recommendation to hold firm with the issue.

Proposed: Councillor H. Ming
Unanimous

Seconded: Councillor L. Scott

10. Any Other Business:

(i) **Setting up a walkabout for the Residents Advisory Committee (RAC)** - Councillor Edwards advised that this walkabout would involve the Residents Advisory Committee going out to meet the residents within the City. She also invited the Council Members to join the walkabout.

ACTION: Councillor Edwards to advise the Council of a date for them to join the Residents Advisory Committee on a walkabout of the City.

(ii) **Invite to Mrs. Erica Smith** - Councillor Edwards requested that an invite be sent to Mrs. Smith to join the Residents Advisory Committee. The Secretary suggested that this request be put forward by the Chair at the next Residents Advisory Committee meeting in October for a recommendation to the Council. If approved Mrs. Smith would then become an Associate Member.

ACTION: The Recording Secretary to place the request for Mrs. Erica Smith to join the Residents Advisory Committee as an Associate Member on the agenda of the next Residents Advisory Committee meeting in October.

(iii) **Joint Committee re: Review of Residents Parking Permit Policy** - Councillor Harvey was informed that Ms. Tracy Marshall would be the additional member from the Residents Advisory Committee (RAC) to join the sub-committee. Councillor Edwards queried if any of the Council Members that sit on the RAC would be interested in joining the sub-committee. Councillor Harvey confirmed Councillors Henry Ming, Nicholas Swan, George Scott, RoseAnn Edwards and himself as Chair of the sub-committee to review the Residents Parking Permit Policy. Ms. Tracy Marshall was also confirmed. It was suggested to have a meeting within two (2) weeks.

ACTION: The City Engineer to forward a copy of the current Residential Parking Permit Policy to the members of the sub-committee.

ACTION: Councilor Harvey to send out an invite of a proposed date for the sub-committee to review the Residential Parking Permit Policy.

The Mayor commented that it has to be very clear when the meeting does take place that those persons that are participating in the meeting are speaking on behalf of groups rather than of themselves. It is particularly difficult as a resident as well as a participant in the Residents Advisory Committee. Members are elected in the position to do the best for the City.

Motion to Move to Restricted Session

Proposed: Councillor N. Swan

Seconded: Councillor L. Scott

The Public Session adjourned at 1:40pm.

Date

Mayor

Secretary