



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
14 February 2017
10:00am

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

In Attendance: Ed Benevides - The Secretary
Lindell Foster - Human Resources Manager

Apologies: Patrick Cooper - City Engineer

-
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 apologies had been received from the City Engineer.
 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 17 January 2017**

Proposed: Mayor, Charles Gosling

Seconded: Councillor N. Swan

The Minutes were accepted as read.

8. Matters arising from Previous Meeting dated 17 January 2017

(i) **Work on the changes to the Acceptable Use Policy:** The Recording Secretary advised that the changes were done and forwarded to the City Engineer for approval. **(Action Item deferred)**

The Secretary advised that the City Engineer made his amendments to the Policy and the additional changes were proposed by the Committee. The Mayor stated that the document has been on the agenda for a few months and when shared with the Committee it was incomplete. The faults of the document is not what he is concerned about. Councillor L. Scott asked that the Secretary address the matter to which he said that he did not think it would get done before he left the Island on Friday. The HR Manager reiterated that the changes had been done and that the City Engineer had not approved them and signed off on the document.

ACTION: The Secretary to follow-up with the City Engineer regarding the status of the Acceptable Use Policy and Procedure.

(ii) **Provide an undated Memo on current litigation and legal matters for the Committee Members. Also provide the Memo on a monthly basis as part of the package for the Council meetings:** The Secretary gave the Memo to the Council and the Committee had been given an updated Memo prior to this meeting.

The Secretary read out the updated Memorandum:

- **Constitutional Challenge** - there was no activity and the Council has not decided to move that anywhere.
- **The Corporation of Hamilton versus the Attorney General** - working with Mark Diel and Ronnie Myers after they finish the submissions on the CoH's other appeal and to work on appealing the Chief Justice's ruling in relationship with the parking.
- **J2 Chambers versus Ed Benevides and Graeme Outerbridge** - had advised Marshall Diel & Myers (MD&M) to file with the courts that there is no action to remove it from the docket. The Secretary stated he had not heard any updates from Ms. Donna Bailey (Assitant to Mark Diel) or anyone else on this matter. Councillor Swan asked if the previous matter was relating to J2 Chambers returning the CoH's documents. The Secretary explained that it was regarding J2 Chambers suing him and the previous Mayor for defamation. J2 Chambers had failed to file the defense with the courts, so they are moving forward with the Summary Judgment. This is for the CoH's files from when J2 Chambers was acting on behalf of the CoH. Councillor L. Scott explained that when a defense is not filed, the case will go to Summary Judgment and the order asked for, is given. The order for the invoices was received but the CoH asked for the files. There are no updates on the two defamations.

There is the assumption that J2 Chambers received a notice and it was queried if he is able to provide a defense between receiving notice and showing up for court. Councillor L. Scott said that if it is a reasonable defense, the courts will allow it but there is a cost for being late; this is called an "unless order".

- **Tucker's Trust versus the Corporation of Hamilton** - the Secretary stated that he was hoping to get some information from a member of the public who is also in a boundary dispute, naming Ms. Simmons. If she is successful, then the piece of property that the CoH is being sued for may not belong to Tucker's Trust. The Secretary indicated that he needs to find Ms. Simmons' paperwork so that the CoH's lawyers could review.
- **MIF versus the Corporation of Hamilton** - this is the appeal for the 22nd March, 2017.

The CoH has a number of other engagements with the lawyers but not litigation.

(iii) Provide the wording for the suggestion/recommendation made by the Mayor as it relates to appointed Members and ex-officios and the impact it would have on the quorum. This is to be forwarded to the Committee before the next Committee meeting in February for feedback: The Secretary sent out a Memo to the Committee. The challenge is two-fold: (i) there are no ex-officio members of the Committee under the rules. It was a tradition before and without a Meeting Guide it did not make any difference because the CoH did not have any bye-laws. Unfortunately, with the Good Governance documents they stipulate what the CoH has and does not have. The Meeting Guide states the following :

- The Council and the Finance Committee establish Committee meetings.
- Persons are appointed to the Committee by the Council and the Secretary. These would be the only voting members of that Committee. When the Council appoints Associate Members or Members, they can vote and are included in the quorum calculations.
- One half of the appointed persons are required for a quorum. Unless the Mayor is assigned, he is not counted. He is counted in the Finance Committee because he is the Chairman of the Council and all the Chairmen were appointed.

Councillor Swan asked who appoints Committee members. The Secretary responded that the Council plus himself appoints. He further commented that these are the new rules that he has not been pushing. The Mayor commented on an unelected member having such power. He understands an unelected member giving meeting practices in the past. Given the requirement not to be unreasonably withheld for the Secretary to be present or in his absence due to illness or vacation, his assistant would be duly appointed. The Secretary's presence is required to be a properly called, minuted meeting. The Secretary commented that the Meeting Guide is quite specific. Councillor L. Scott expressed his concern in that the Act would have to be amended.

The Secretary said an ex-officio member would have to be created and be established as a Committee Member. The ex-officio member would be able to attend, vote and would count towards the quorum requirement but would not be part of the calculation on numbers of members needed to meet the quorum requirement of that Committee. Dialogue continued.

The Meeting Guide is a legislative document. The Municipalities Act states that the Meeting Guide will exist and that it is a document that the CoH has to follow. The Mayor said that a suggestion could be made to the Minister that the changes to the Meeting Guide could be done by a negative Resolution and tabled up at the House.

The Mayor commented that the CoH should revert back to the Mayor having veto which could be added to the Meeting Guide and could be overridden by a super majority of the Council at the next Council meeting.

RECOMMENDATION: That the Board approve the four (4) changes to the Meeting Guide as presented:

(i) **Paragraph 1.5 of the Meeting Guide:** to replace COO with Mayor; (ii) to establish the Mayor as ex-officio of all Committees; (iii) ex-officios will have only a positive impact on quorum requirements of the Committee; and (iv) the Mayor has the right of veto of any Resolution of the Council but can be overridden by a super majority and the motion can be re-tabled no earlier than three (3) months. The changes to be presented to the Minister to approve and change the Meeting Guide.

Proposed: Infrastructure Committee
Unanimous

The Secretary reminded the Committee that any individual Councillor can raise a motion as long as the topic is on the agenda for it to be seconded at Council level.

Councillor Swan left the meeting at 10:35am.

(iv) Arrange a meeting with Ms. Aideen Ratteray Pryse as her role as Acting Permanent Secretary for the CoH:

The Secretary stated that he has recently tried a few times to get in touch with Acting PS Ratteray Pryse and tried to contact PS Randy Rochester as well. He tried to follow up again this morning. He also attempted to get an update on the number of outstanding Ordinances as well as the Minister's email where the directive was given to Acting PS Ratteray Pryse to arrange a meeting to discuss the vagrants. She was given some available dates for the Mayor and the Secretary. The Secretary has received no response to date. The issue is that she is still the Director of Planning and is only Acting PS for the Ministry of Tourism, Transport and Municipalities.

Councillor L. Scott asked if a meeting could be sought with Minister Fahy. The Secretary responded that he could ask the Minister directly but knew that he is involved with the Airport Bills in the Senate at the moment.

9. Status Update:

No status update.

10. Recommendations for Review:

RECOMMENDATION: That the Board approve the Acceptable Use Policy with the amendments. **(Recommendation deferred)**

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

11. Any Other Business:

(i) **Discussion regarding the appointment of Committee Members/Quorums:** Discussion took place in Item 8 (iii).

(ii) **Draft Hamilton Traffic and Parking Ordinance 2017:** The Secretary stated that this is 90 percent the same as the 2013 and 2016 Ordinance that was approved by Council. It has been tidied up with an appeal process to ensure that the language is not contradictory. The Ordinance also adds barrier car parks as an item. A number of parks have also been added, e.g. Fort Hamilton and Barr's Park are being added as fee paying car parks. All the CoH's car parks and streets will be payable. It continues to include the motor cycle charging.

Barrier systems are referenced on Page 13 and clamping on Page 17. The matter that was discussed with the Minister was the fitting of an immobilization device to vehicles, i.e. a clamper may fit an immobilization device to any vehicle which is parked in a fee car park, handicap, residential, doctor or commercial parking spaces and shall leave a parking enforcement notice posted on the vehicle in such a manner that it is clearly visible. The Minister agreed that these could be considered leased, therefore, they could be added and that would give the CoH the ability to be able to clamp.

The Mayor said that otherwise that issue would be move from the car parks to the residential places. The Secretary commented that there is an appeal process on Page 18, Paragraph 24: the CoH would answer an appeal and if they did not like that one, it could then go to arbitration. Councillor L. Scott asked if there is any consultation with the AG regarding this. The Mayor said that the meeting that was had with the Minister where he stated that he had enough of the AG's Chambers trying to re-write policy and was also fed-up with the whole issue of whether it was unconstitutional or not.

The Minister also said this is an Ordinance of the CoH, let them put the Ordinance forward and allow the CoH to defend the Ordinance in court if it should so arise. Hopefully, this would minimize the interference from the AG's Chambers. This would be enlightening and helpful in terms of the CoH being able to proceed quickly with this Ordinance.

The Secretary said this Ordinance can be gazetted 14 days ahead and any changes can be made up to that maximum.

The Mayor referenced where it was noted that commercial vehicles were defined and queried whether handicap, residential and doctors' vehicles have been defined in some other legislation or if is required.

ACTION: The Secretary to check into whether there is reference to handicap, residential and doctors' vehicles being defined in any other legislation. The Secretary will check with Ronnie Myers of MD&M to confirm whether the definitions are needed and if so, to have them inserted from whatever primary Act.

There was continued dialogue.

RECOMMENDATION: That the Board approve the Hamilton Traffic and Parking Ordinance 2017 or in lieu of a final document with the amendments as highlighted.

Proposed: Mayor, Charles Gosling
Unanimous

Seconded: Councillor L. Scott

12. Motion to Move to a Restricted Session

Proposed: Mayor, Charles Gosling

Seconded: Councillor L. Scott

There was no further business to be discussed.

The public session was adjourned at 10.50am.