



**EMERGENCY
CITY COUNCIL MEETING MINUTES
January 28, 2020**

An emergency meeting of the Ontario City Council was called to order by Mayor Riley Hill at 6:35 p.m. on Tuesday, January 28, 2020, in the Council Chambers of City Hall. Council members present were Riley Hill, Dan Capron, Norm Crume, and Ramon Palomo. Marty Justus and Michael Braden were excused; Freddy Rodriguez was absent.

Members of staff present were Adam Brown, Tori Barnett, Terry Leighton, Kari Ott, Dan Cummings, Steven Romero, Peter Hall, Cliff Leeper, Betsy Roberts, and Dan Beaubien.

The meeting was recorded, and copies are available at City Hall.

OLD BUSINESS

SRCI Issue

Adam Brown, City Manager, presented.

Staff had been in ongoing discussion with Snake River Correctional Institute, or the Department of Justice on behalf of SRCI, all day, every day, for the past seven days. As of 5:30 p.m. that day, in an agreement on the main tenants of the contract and the price points, however, DOC didn't think they could get it executed before it expired in two days. DOC asked staff to get permission have an extension to February 14, 2020, with the intent that he would bring it back before the complete City Council next Thursday at the work session, wherein the Council could deliberate it and either approve or deny the agreement. That would give DOC another week to sign it on their end.

The alternative would be that DOC would be rushing around to create what they were calling a superciting order, which, according to them, would allow them to pay the city whatever they deemed reasonable until a contract was in place.

Staff was not worried about the superciting order as much as he believed they were close on something that probably neither side was happy about, which was usually the result of good mediation. It was an increase. At issue last week was discussing some of the past costs that the city incurred during the extensions. DOC budgeted a little and said they would cover the manholes, which were around the \$30K range, but not the electrical panel, which was around \$29K.

Mayor Hill stated his recollection was that the city spent around \$80K.

Cliff Leeper, Public Works Director, stated no, that was what was budgeted, but all the repairs were completed for \$29,700.

Mr. Brown stated it was a split. The city argued it was around \$120 a month if amortized out, but in DOC's view, they said they'd pay for the manholes, but not the electrical piece.

Mayor Hill stated this appeared to be an opportunity. The city had extended this three separate times already. DOC could supercite, they could hold the hammer, or a gun to the head all they wanted, but it seemed to him that they should extend the contract with the provision that DOC would live by the contract from the first extension, retroactively.

Mr. Brown stated he did not believe DOC would agree to that.

Mayor Hill stated it had been three years to get this completed.

Councilor Capron verified this would be done next Thursday.

Mr. Brown stated yes. It was expected to be completed by Friday so it could be included in the Tuesday night Council meeting packet, for action at the Thursday work session.

Mayor Hill stated he had read the contract, and asked why it was a 20-year contract instead of a 10-year one?

Mr. Brown stated it was debatable, but the negotiations were painful. It was nice to not go through them all the time. However, this contract was much more flexible than the last.

Mayor Hill stated this was different than what was discussed at the last meeting.

Mr. Brown stated there were a lot more "outs". DOC would allow the city to come back if there were any costs there were not budgeted that was over \$5K. Also, accumulation of separate fixes that came up to \$5K.

Mayor Hill stated he read that, but he had also read that the city would bill for 20% over the standard fee for residential, but at the end of the year, if he understood it correctly, the city would have to give DOC an accounting of all the city's expenses for servicing SRCI, both water and sewer. What did that mean – where did the 20% go? Was DOC going to ask for some of that back, or at the end of the 20-year period, if the city built up a fund, DOC would see that it hadn't cost that much and twenty years down the road, DOC would say the city owed them money.

Mr. Brown stated that had been discussed. DOC didn't want to have a reconciliation at the end of the end, where the city could owe DOC, or DOC could owe the city. DOC just wanted to be able to look at the numbers throughout the contract.

Mayor Hill stated he did not see where that was addressed. At the end of the 20-year contract, what happened to that money?

Mr. Brown stated there was no payment to the state if there was an overage. DOC specifically did not want to do that.

Mayor Hill stated he did not see that in the contract.

Mr. Brown stated staff would have that pointed out when it came before the Council for approval next Thursday.

Councilor Capron verified for anything over \$5K, the city could back DOC for, but DOC could still refuse, or did they have to pay?

Mr. Brown stated it was a contract opener.

Councilor Capron stated so DOC could say tough, they weren't going to pay.

Mr. Brown stated there were situations where it might be an emergency expenditure. The city would make the decision that something had to be done, and DOC could ask, but they did have to pay for it.

Mayor Hill stated had hadn't read it that way. He read it that yes, if it had to be done immediately, it could be taken care of by the city, but the city had to give DOC notice in writing. If there were certain circumstances, the city would have to let DOC know the cost and then DOC "might" pay it.

Mr. Brown stated the language in the agreement now was agreed upon by the lawyers with the intent that if it was an emergency that had to be done, DOC would be required to pay the city, regardless. The ones that were less firm were ones where it was noted that something needed to be fixed. Then they would need to talk with them.

Mayor Hill verified that was for the \$5K or over?

Mr. Brown stated it was. They had originally had it at \$20K, but staff was not comfortable with that number. DOC suggested the decrease to \$5K, and staff was in agreement for the \$5K level.

Mayor Hill stated if he understood it correctly, the second scenario, where things were not in emergency status, but did need to be fixed, then the city would have to provide paperwork to DOC, and if they didn't agree, too bad. Then it would advance to litigation. For the state, it cost nothing to litigate because they had staff attorneys, but for Ontario, they'd have to pay an attorney to litigate on our behalf, and he did not like that.

Mr. Brown stated Mr. Sullivan would be at the work session, so he'd be able to address any particulars. If Council granted him the authority to extend it under the same terms of the last extension, to February 14th, staff would be bringing it back next Thursday for deliberation.

CRUME moved, PALOMO seconded, **THAT THE CITY COUNCIL ALLOW THE CITY MANAGER TO EXTEND THE SRCI WATER AND SEWER CONTRACT THROUGH FEBRUARY 14, 2020, AT THE SAME RATE AS CURRENT.** Roll call vote: Crume-yes; Rodriguez-out; Palomo-yes; Justus-out; Capron-yes; Braden-out; Hill-no. Motion carried 3/1/3.

ADJOURN

CRUME moved, CAPRON seconded, **THAT THE MEETING BE ADJOURNED.** Roll call vote: Crume-yes; Rodriguez-out; Palomo-yes; Justus-out; Capron-yes; Braden-out; Hill-yes. Motion carried 4/0/3.

ACCEPTED:

Riley J. Hill, Mayor

ATTEST

Tori Barnett

Tori Barnett, MMC, City Recorder