



The City of Saint John

MINUTES – REGULAR MEETING
COMMON COUNCIL OF THE CITY OF SAINT JOHN
MAY 13, 2019 AT 5:00 PM
IN THE COUNCIL CHAMBER

Present: Mayor Don Darling
Deputy Mayor Shirley McAlary
Councillor-at-Large Gary Sullivan
Councillor Ward 1 Blake Armstrong
Councillor Ward 1 Greg Norton
Councillor Ward 2 Sean Casey
Councillor Ward 2 John MacKenzie
Councillor Ward 3 Donna Reardon
Councillor Ward 4 David Merrithew

Absent: Councillor Ward 4 Ray Strowbridge
City Manager J. Collin

Also Present: Deputy City Manager N. Jacobsen
Commissioner Saint John Water B. McGovern
Solicitor and Contract Manager SCDWP M. Tompkins
Commissioner Finance K. Fudge
Comptroller C. Graham
Solicitor S. Brittain
Deputy Common Clerk P. Anglin

1. Call to Order

17. Committee of the Whole

17.1 Safe Clean Drinking Water Project – Global Settlement

Commissioner McGovern advised Council of the SCDWP Global Settlement:

We are approaching Substantial Completion on the largest municipal infrastructure project in the history of the Province of NB, the Safe Clean Drinking Water Project (SCDWP) with a cost of \$217M (Net Present Value).

Citizens and all visitors to Saint John now have Safe, Clean Drinking Water that is among the best in the world and the drinking water meets all National and Provincial Drinking Water Standards.

As a member of the Steering Committee for the SCDWP I can say that this project has been managed very tightly from the start of construction in 2016 up to today.

On any project of this magnitude there are naturally disagreements and disputes and the SCDWP team have worked collaboratively with our Partner - Port City Water Partners (PCWP) to address these matters.

Through a lengthy negotiation, the City has been able to come to an agreement with PCWP on a **Global Settlement**.

As part of the Global Settlement the City was able to secure a ***Comprehensive Full and Final Release and Indemnity*** on the SCDWP up to Final Completion (when all deficiencies have been dealt with).

The Global Settlement deals with the outstanding risks. Claims were valued in excess of \$22M and included:

1. The cumulative effect of 25 Relief Events (many for which the City clearly retained the risk under the Project Agreement. For ex. delays incurred by the contractors in dealing with contaminated soil in a public right of way (of which there was a significant amount of on this project);
2. Numerous active Disputes; and
3. Other risks (including Legal and Dispute Resolution Board and unknown future risks, etc.)

The ***Comprehensive Full and Final Release and Indemnity*** on the Project extinguishes the risks and disputes between the City and our Partner while at the same time keeping the total cost of the SCDWP on budget.

Anyone who works or has worked in the construction industry will appreciate the significant positive achievement this is for the City of Saint John and its ratepayers.

The main terms of the Global Settlement are:

1. That Substantial Completion will be declared with a small amount of work being deferred (weather dependent work and a small stream pipe crossing (at John T. McMillan). (Note – with respect to warranty on the deferred work the City remains whole as warranty does not commence until completion of the deferred work);
2. The City will make an additional payment of just over \$1.64M (plus HST) to PCWP for delay costs.
3. PCWP will provide a ***Comprehensive Full and Final Release and Indemnity*** of ALL claims whatsoever on the Project up to Final Completion.

The City will begin paying the capital portion of the debt associated with the water treatment facility once Substantial Completion is declared. Since PCWP was slightly delayed, the City has avoided spending approximately \$1.4M, which was used as a means to settle all of the outstanding disputes.

Through tight management of the SCDWP, the City's SCDWP team has been able to make changes throughout the project that have resulted in cost reductions to the Project of nearly \$500k.

The City of Saint John is fortunate to have a very dedicated SCDWP team and I can say in being a member of the SCDWP Steering Committee we have developed a true in house expertise on how to successfully manage large P3 Projects.

The SCDWP has been run very safely by our Partner since the start of construction. We now have well over 1-million labour hours and only 1 minor lost time incident on the Project.

Moved by Deputy Mayor McAlary, seconded by Councillor Sullivan:

RESOLVED that as recommended by the Committee of the Whole having met on May 13, 2019, Common Council approve that the Common Council Resolution pertaining to the Global Settlement on the Safe Clean Drinking Water Project adopted at the March 25th, 2019 meeting of Common Council be amended as follows:

1. The second paragraph of the resolution which authorizes the Mayor and Clerk to execute the Minutes of Settlement effecting the Global Settlement is deleted and replaced with the following:

“2. That the Mayor and Clerk be authorized to execute the Minutes of Settlement effecting the Global Settlement and the appended Escrow Agreement in the form as attached to M&C No. 2019-114 and presented to Committee of the Whole at its May 13, 2019 meeting; and”.

MOTION CARRIED.

18. Adjournment

Moved by Councillor Sullivan, seconded by Councillor Armstrong:
RESOLVED that the meeting of Common Council held on May 13, 2019, be adjourned.

MOTION CARRIED.

The Mayor declared the meeting adjourned at 5:25 p.m.