

COUNCIL WORK SESSION MEETING MINUTES
Local Contract Review Board – Golf Course Management Agreement
February 14, 2013

The scheduled work session of the Ontario City Council was called to order by Mayor Joe Dominick at 12:00 p.m. on Thursday, February 14, 2013, in the Council Chambers of City Hall. Council members present were Norm Crume, Joe Dominick, Jackson Fox, Charlotte Fugate, Dan Jones, Larry Tuttle, and Ronald Verini.

Members of staff present were Jay Henry, Tori Barnett, Larry Sullivan, Al Higinbotham, Bob Walker, Mark Alexander, Alan Daniels, and Gary Gibbs. The meeting was recorded on tape, and the tapes are available at City Hall. Also present was Larry Meyer, Argus Observer.

LOCAL CONTRACTOR REVIEW BOARD ACTION

Proposed Golf Course Management Agreement

Larry Sullivan, City Attorney, stated at the Council work session on Thursday, January 31, 2013, Scott McKinney and Albert Phillips made a presentation to the Council to enter into a contract with the City to assume management of the Ontario Golf Course for the 2013 season and perhaps for future years. Councilors Dan Jones and Jackson Fox and staff met with these individuals to discuss the terms of a management agreement. Staff was later informed that the latest proposal was for Scott McKinney to manage the golf course as a sole proprietor, with no partners.

The proposed agreement was for 2013 only, with Scott McKinney acting as an independent contractor to manage the entire Club, including the restaurant and pro shop. All Club employees would be employees of Mr. McKinney. Mr. McKinney would be responsible for most Club expenses. The City would pay \$75,000 to Mr. McKinney in four installments as compensation, and Mr. McKinney would be entitled to all Club revenues to help defray Club expenses. If Club expenses exceeded Club revenues, it would be Mr. McKinney's responsibility to pay the difference.

The City would continue to be responsible for making repairs at the Club in excess of \$300 per repair, and for replacing equipment. The Agreement provided that the City Manager would be given a budget of \$25,000 to pay for the City's share of repair and equipment replacement costs without obtaining Council approval. If those costs exceeded the \$25,000 allocated, no further sums would be expended without Council approval.

Mayor Dominick asked if the Golf Course was using the solar panels.

Alan Daniels, interim Golf Course Manager, stated they were.

Mr. Sullivan stated another issue had to do with water rights. He was working to ensure that there would be enough water at the Course; however, the owner of the rights and Mr. McKinney might work it out without the city's involvement.

Councilor Fugate stated it was against policy for the City Manager to expend funds over \$5K without Council approval.

Mr. Sullivan stated it was proposed that would be lifted for this project only. He could add language that would indicate this was a unique exception to the Financial Policies.

Mayor Dominick stated he had been keeping notes over the past two years, and the City Manager had exceeded his spending authority on several occasions. He had a problem with continuing to allow that to happen. The auditors, and the City Council, wanted that policy kept in place.

Mr. Sullivan stated the reason behind this exception was so that Mr. McKinney didn't want to have to appear before the Council every time he needed to make a repair.

Mayor Dominick stated he wouldn't have to if the repair was below \$5K.

Councilor Fox stated it would be an exception in the contract. The previous City Manager had not handled it correctly.

Mayor Dominick stated it broke protocol. Councilor Fox and other City Councilors hadn't wanted the City Manager spending money before.

Councilor Crume stated he understood the need for the exception. However, if Mr. McKinney needed to make a repair, say over \$1,000, did he pay the first \$300?

Mr. Sullivan stated as drafted, there would be no deductible. That hadn't been discussed in the negotiations.

Councilor Jones stated they were splitting hairs. The proposed budget and contract were already tight. They didn't need to start adding to the contract now.

Mayor Dominick stated he supported the contract – it was great – he just wanted to point out they were breaking their own rules.

Councilor Verini stated \$25K wasn't too much of a problem, it was basically pre-approving. It wouldn't be spent willy-nilly. The city had a City Manager; it was his job, so give him the flexibility to do it.

Councilor Fox asked how this would be breaking the rules.

Mayor Dominick stated policy gave the City Manager the authority to only spend up to \$5K. The auditors were saying not to exceed that.

Councilor Fox stated he believed the Mayor meant they were breaking budget rules. If they put it into Mr. McKinney's contract, it locked it in place. They were already asking Mr. McKinney to take on old equipment – when would the city draw the line? There were just some things that needed to be addressed quickly.

Mayor Dominick stated the previous City Manager was attacked for doing the same thing.

Mr. Sullivan stated the Financial Policies adopted by the Council years ago, stated a \$5K limit. It was within the Council's discretion to state any exceptions – it would be a majority ruling.

Mayor Dominick asked if previous managers had received an increase when dealing with Golf Course issues.

Jay Henry, City Manager, stated yes, they had.

Councilor Fugate stated she wanted to see a Performance Bond for this project. She also wanted a report from Mr. McKinney in December.

Mr. Sullivan stated on page 4 of the contract, it obligated Mr. McKinney and his staff to be available for that.

Councilor Fugate asked if the contract addressed that Mr. McKinney could not hire an employee who had previously been fired by the city.

Mr. Sullivan stated that language was in there because of an earlier contract (Copley), and he had left it in the new contract. Mr. McKinney had to comply with the rules of the contract. He could, however, appear before the Council to ask permission to hire a fired employee. They could also add language regarding a surety bond in later.

Mr. McKinney stated he would like to meet with Mr. Sullivan on the subject of a bond.

Councilor Crume asked Mr. McKinney about his position on the restaurant.

Mr. McKinney stated he was in the process of setting up and figuring out the Pro Shop. He needed that area to function with only one person on duty. They were currently looking to obtain an off-premises liquor license. The restaurant was its own area, and one person couldn't run the whole thing. He didn't want a body in the restaurant when there might be no golfers. He might be able to set specific days and times for that. Otherwise, it would be snacks and beverages purchased through the clubhouse, to satisfy golfers when the restaurant wasn't open. He could also rent out the kitchen and dining area for special functions, banquets, parties, tournaments, etc. It would be difficult to find a full-time restaurant business to go in there. The big thing right now was to get the course open – he had golfers wanting to golf!

Councilor Fugate asked where the money was going that was being made off the passes now.

Mr. Daniels stated it was going into a city account, to be paid out to Mr. McKinney if the contract was signed.

Councilor Jones asked if the issue of a surety bond would hold up the contract.

Mr. Sullivan stated he could discuss it with Mr. McKinney as soon as possible.

Councilor Jones asked why they would need one.

Mr. Sullivan stated a surety bond was for employees who handled large sums of money.

Mr. McKinney stated by contract, they wouldn't be handling money. It came in in quarterly payments, following inspection of the premises and an inventory. His budget would have to be reviewed, because a surety bond might not be worth it.

Mayor Dominick stated, in a worst-case scenario – if it was paid out in four equal installments, the city would only be out about \$18K?

Mr. Sullivan stated it would be more, because Mr. McKinney would also be collecting money from the greens fees, and the passes, etc. But, he was also earning all the money, too, and would be responsible for all the bills. The city needed to appoint a staff member to handle the oversight on this project, and it should be the City Manager.

Councilor Fox stated he would like to hear reports from the Golf Committee, too.

Councilor Verini stated if the city insisted on a surety bond, then the city should pay for it.

Councilor Jones stated they didn't need one. He asked for a consensus from the Council on what direction they wanted to go.

Councilor consensus to move forward on the project, as presented.

(Couldn't hear who asked) Could this issue be voted on at the current meeting?

Mr. Sullivan stated he could have a resolution regarding the \$25K spending authority for the City Manager ready by Tuesday.

Councilor Crume stated it was okay to take action at the current meeting, as they were in a properly noticed public meeting. However, in the past, there had been some Councilors who didn't want to take action on any agenda items at their Thursday work sessions.

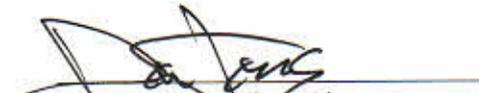
Councilor Fox stated normally he wanted to vote on items on Monday, to allow input from anyone for or against an item, but he felt this was an emergency situation.

Ron Verini moved, seconded by Norm Crume, that the Mayor and City Council, sitting as a Local Contract Review Board, declare that a contract between the City and Scott McKinney to act as manager of the Ontario Golf Course is a personal services contract under Section 7.1 of the Ontario Financial Policies Manual. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Ron Verini moved, seconded by Norm Crume, that the Mayor and City Council, sitting as a Local Contract Review Board, approve a personal services contract with Scott McKinney to act as Manager of the Ontario Golf Course for the year 2013, and authorize the City Manager to sign said contract. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

No further action taken on any other items. Discussion held on other agenda items.

APPROVED:



Dan Jones, Council President

ATTEST:



Tori Barnett, MMC, City Recorder