

THE CORPORATION OF THE TOWNSHIP OF HORTON

Special Council Meeting

June 13, 2012

There was a Special Meeting of Council held in the Municipal Council Chambers on Wednesday June 13, 2012. Present was Mayor Don Eady and Councillors Glen Campbell, Bob Kingsbury, Jamey Larone and Margaret Whyte. Staff present was Mackie J. McLaren, CAO/Clerk.

1. CALL TO ORDER

Mayor Eady called the meeting to order at 6:05 p.m.

2. DECLARATION OF PECUNIARY INTEREST

There was no declaration of pecuniary interest by Council Members or staff.

3. TENDER PW 2012-04 – GRANULAR M GRAVEL

- Request to extend completion date

Mayor Eady informed Council that R. G. T. Clouthier Construction has run out of a supply of crushed granular “M” gravel in their Onanski pit. Approximately 4,000 tonnes of the 6,500 tonnes contract has been placed. Eady Road is almost completed, which leaves McBride Road and part of Johnston Road to be completed. Clouthier Construction has provided a written request to extend to the June 15, 2012 completion date to July 6th.

Council Members reviewed a written report from Jeff Schruder, Municipal Infrastructure Manager which recommended the extension be granted without penalty.

Council Members reviewed a copy of the Clouthier tender document.

Mayor Eady asked for Council Members comments. Councillor Campbell reviewed his discussions with Jeff Schruder when he was informed of the shortage and the plan offered by Clouthier was to purchase gravel from Crozier Excavating. This material turned out not to be Granular M but a size between M and A which wouldn't meet the specs set out in the tender contract.

Councillor Campbell said he has read the contract which states *“If the time limit is not sufficient to permit completion by the Contractor working a normal number of hours, the contractor may seek an amended date of completion from the Municipality’s representative”* not because the pile of crushed gravel did not contain sufficient material to complete the contract. He said that the company should have known the supply was low. They should have named Crozier pit as an alternate source in the tender. He said the extension request to July 6th adds 21 days to the contract. There is a \$300 penalty clause already in the contract which would total \$6,300 in penalties. He suggests that the contractor be given an opportunity to be paid up for what is done if they want to leave the contract now.

Councillor Kingsbury asked when Mr. Schruder became aware of the low supply. Councillor Campbell said he received a call from him late Monday morning about the problem. He said he discussed with him the need for a test of the Crozier material and the weigh scales.

Mayor Eady reviewed the timelines. Gravel started to be delivered on Thursday June 7. No gravel was spread on June 8. The supply ran out on Monday June 11. Councillor Kingsbury said that if Clouthier only drew for one full day they must have known the volume was short. Councillor Campbell said he asked Jeff Schruder to check the supply with Clouthier's before they started. He did and the answer he received was yes they have sufficient supply.

Councillor Kingsbury asked who made the decision not to accept the Crozier material. Councillor Campbell said he spoke the Infrastructure Manager and pointed out his concerns. The Infrastructure Manager made the call.

Councillor Larone asked if there was a start time in the contract. Councillor Campbell said no, there was only a completion date of June 15th.

Councillor Kingsbury said he has a problem with the request for extension. The contract permits an extension for normal working hours. There is nothing in the contract about an extension for extraordinary measures like the supply not being sufficient. Councillor Kingsbury also expressed concern that the salt that is mixed with the winter sand was not waiting in the public works yard early this spring. In his report, the Infrastructure Manager pointed out that Clouthier's assisted in locating a supply of salt needed to mix with the sand being placed in the sand dome last week. He couldn't locate a supplier to deliver the salt.

Mayor Eady said that he was aware that the Infrastructure Manager did try to order salt from different suppliers and none was delivering this time of year.

Councillor Larone said that he was upset right away when he learned that Clouthier's did not have enough in the stock pile to meet our contract when they bid. He is aware that there have been occasions when the company did donate several loads of gravel to the Community Centre, but Council has to come up with a solution. If the contractor can't complete the tender, he expects another contractor will charge us a premium.

Councillor Whyte suggested it may be difficult to get another contractor to finish the contract, noting that the largest volume has already been applied. She noted though that we will not be getting the contract completed by the contract date by another contractor.

Mayor Eady said the penalty clause should automatically be invoked after June 15th. He suggested Council has two choices – require Clouthier to find more gravel and complete the tender after the completion date OR get a second contractor to complete the tender. Councillor Kingsbury asked if the remainder of the contract could not be completed this year, could the balance of the budget be put into reserves for next year. Mayor Eady said yes.

Councillor Campbell said he was in favour of awarding the tender to Clouthier's, the lowest tenderer after some concerns about the way they would spread the gravel and weigh the gravel were expressed by another bidder. Until something changed, he supports the low tender. But on Monday something changed. The supply ran out. You then go back to the contract for wording on what to do. He notes the tender contract provides for an extension based on normal working hours but the request for an extension of time is based on another problem. People in the gravel business must know what supply they have on hand. He estimates the balance to fill the contract is approximately \$20,000. He said a letter was sent to the second lowest bidder who had set out concerns informing them their concerns had been examined and resolved. Now with this hiccup, he would like to see the second lowest bidder complete the contract.

Mayor Eady said he believes we have to give Clouthier the opportunity to fulfill the contract. Councillor Larone suggested that next year's tender include a statement that requires the successful tenderer to verify that enough product is on site to meet the contract. Council agreed to discuss this suggestion for the next tender.

The following resolution was brought forward:

Moved by Jamey Larone

Resolution No. 2012-203

Seconded by Glen Campbell

Pursuant to the Completion Date clause in the Tendering Requirement Section of Tender PW 2012-04 – supply and placement of Granular “M” gravel -, Horton Council agrees to extend the completion date for the R.G.T. Clouthier Construction tender contact from June 15, 2012 to their requested completion date of July 6, 2012 subject to:

- \$300.00 per calendar day for each days delay in completion of the work as liquidated damages, as stipulated in the tender contract.

Alternatively, R.G.T. Clouthier is given the option to “walk away” from the contract at this point in time on condition that costs to complete the above tender over and above their tendered amount are deducted from their invoice for the approximately 4,000 tonnes already supplied when payment is made by the Township.

Council requests acknowledgement of the contractor's decision by June 15, 2012 4:00 p.m.

Carried on Division

Opposed Councillor Campbell.

OTHER BUSINESS

Councillor Campbell requested an opportunity to raise a time sensitive matter. Council Members agreed.

Councillor Campbell said that Public Works Committee had requested the Municipal Infrastructure Manager gather prices to sweep the streets in Cotieville. This has been done, with the lowest quote being Crozier at a maximum of \$750.00. He said that residents are calling for sweeping which hasn't been done in a number of years.

Moved by Glen Campbell

Resolution No. 2012-204

Seconded by Bob Kingsbury

That Council approves the quote of Crozier Excavating to sweep the streets of Cotieville for a maximum cost of \$750.00.

Carried

4. CONFIRMING BY-LAW 2012-31

Moved by Margaret Whyte

Resolution No. 2012-205

Seconded by Bob Kingsbury

THAT Council enacts By-law 2012-31, a by-law to confirm proceedings of the Council of the Township of Horton at the Special Council Meeting held on June 13th, 2012.

Carried

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5. ADJOURNMENT

Moved by Glen Campbell
Seconded by Margaret Whyte

Resolution No. 2012-206

That Council adjourns this Special Council Meeting at 6:56 p.m.
Carried

MAYOR

CAO/Clerk