

Deputation to Council re Judicial Inquiry 1 Feb 2021

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We're going to hear from CAO Skinner today about plans for implementation of Justice Marrocco's recommendations. I do sincerely commend staff on this initiative. Indeed, what choice do we have? We have to try to extract some value out of this massive expenditure. However, we will NOT hear anything about the elephant in the room, that is the colossal over \$8.1 million cost of the J I. and it's time we should.

I want to know how it is possible that the original cost projection of \$1.4 to \$1.6 million laid before Council by CAO Amin in STAFF REPORT #T2018-06 30 April 2018, (2 months after the Resolution passed by the way,) could have been so outrageously and monstrously wrong.

<https://collingwood.civicweb.net/document/12682>

I ask you, if a Town project, for example a road paving, or water filtration plant expansion came in at 5 times the initial projection, wouldn't there be serious questions asked, and, one hopes, resignations requested and accepted?

I have asked for a detailed breakdown for the some of the biggest numbers in the actual cost, such as \$1,432K to Mr. McDowell's firm, Lenczner Slaght; \$1,612K to Crawley MacKewn Brush; \$750K to DMG Associates; etc. There is a lengthy list of large amounts paid out to various law firms and others. (Available here:) https://www.collingwood.ca/sites/default/files/docs/town-services/20201218-cji_cost_summary-detailed.pdf To date I have not received a reply. Apparently, Town staff believe this to be covered under "solicitor-client confidentiality". I do not agree. I believe the public is entitled to know exactly how many hours were billed, by whom, and at what rate. I also want to know if the Town had any prior contract or agreement to control these billings. Was there an upset limit? Was there any RFP process imposed before the start of the J I? If not, why not?

I now know that there were red flashing warning lights about the cost that council was aware of as early as March 2018.

1. Then Deputy Mayor Saunderson appeared on the Penny Skelton TV show with Councillor Madigan on 2nd March 2018, just days after the resolution passed, and said the J I would cost about \$1 million. But, in the next sentence, he says that Toronto's Domi inquiry cost \$17 million, Mississauga's McCallion inquiry was \$8 million and Waterloo's RIM Inquiry was \$3. So how could he possibly claim that would ours cost only one million? He goes on to explain that on advice from Solicitor William McDowell, through some mysterious process of bifurcation, that we could save money. BTW – this same Mr. McDowell's firm Lenczner Slaght has to date billed us \$1,432,687 – not including any of their billings in the period before the J I was called or since its delivery. (Watch here at the 33 minute mark:) <https://www.rogerstv.com/show?lid=12&rid=72&sid=5795&qid=290451>

2. On 30 April 2018 CAO Fared Amin presented council a cost projection ([STAFF REPORT #T2018-06](#)) of \$1.4 to \$1.6 million. However, the former CAO John Brown who had been involved in legal consultations with Mr. McDowell before the calling of the J I on 30 April 2018 warned Council that CAO Amin's projection looked very low. [Read here:](#)
https://collingwood.civicweb.net/document/12693/2018-04-30_J-Brown_QuestionsSR_T2018.pdf?handle=11213C2220D2483D869E32C7B506479D
3. The Chief Justice of Ontario, Hon. Heather Forster Smith, warned on 6 April 2018 that costs could be high. She attached to her letter a schedule of the Mississauga Inquiry \$8 million cost as a cautionary example, that apparently CAO Amin never shared with Council. [That letter here, without the Mississauga attachment:](#)
<https://collingwood.civicweb.net/document/12061/20180406%20Chief%20Justice%20Superior%20Court.pdf?handle=B638C7C708E441788D9770353544AEDD>

Note that these alarm bells were ringing *after* the resolution was passed on 26 Feb 2018. I have been unable to find any publicly available document to indicate that Council ever discussed the cost before passing the resolution. In fact, nor was ever an opportunity provided for public discussion or questions on the J I before the resolution passed! Supposedly Deputy Mayor Saunderson provided notice of the resolution on Feb 12, however this is not reflected in the Minutes of the Feb 12 Council meeting! (Minutes here: <https://collingwood.civicweb.net/Portal/MeetingInformation.aspx?Org=Cal&Id=100>)

Was there discussion of the potential for massive cost overrun in the in-camera meeting with Mr. McDowell before the 26 Feb Council meeting that passed the resolution? We might never know. But how is it possible that Council embarked on this \$8 million voyage with no apparent consideration of the cost?

I would like to know how Council could possibly have thought that our Inquiry could come in at one quarter of the cost of Mississauga's? If they were informed of the risk did they willfully ignore the warnings? Would that constitute dereliction of duty, or merely gross negligence? Either way it has resulted in a loss to the Town of six and a half million dollars of unbudgeted cost overrun.

Members of the 2014 Council, you should be really incensed. You passed the resolution, I guess in good faith, based on a cost projection of between one and two million (per W. McDowell). <https://www.rogerstv.com/show?lid=12&rid=72&sid=5786&gid=290199> at the 1.55 mark.

Full disclosure – I also supported Mayor Saunderson's election campaign and the J. I. that was the main issue in that campaign. I accepted that projection at face value. I did then feel it was a great deal of money, but I hoped that there would be some significant new revelation coming out of it that would justify that level of spending. (BTW – there wasn't any!) So now I feel like a chump, and I am simply irate that I was so badly fooled. You can't be happy either that your names are now forever linked to a \$6.5 million unplanned expenditure. If I were you, I would want to know how and why I was so grossly misled.

Those of you were elected for the first time in 2018 have a different issue. Most of that \$8 million was actually spent on your watch. So, you got stuck with ownership of an unplanned, unbudgeted, \$6.5 million cost overrun. You might, however, have had a chance to call a halt to this fiasco on 10th June 2019 when Treasurer Leonard came to you with the news that, whoops, the J I had already hit \$2.3 million, with a forecast that it could go to \$4 million! (And wow! That projection was only \$4 million low!) I wonder what might have happened if you'd said at that moment "that's all and not one penny more"? (T2019-12) <https://collingwood.civicweb.net/document/33555>

You must be frustrated that that six and a half million dollars of cost overrun is sunk -- gone forever -- that you had to fund out of current tax revenue. That is a lot of money that could have been put to more productive uses like debt reduction, affordable housing units, the Waterfront Master Plan, etc. Instead, it's six and a half million blown -- mostly on big fat lawyer bills. Doesn't that drive you crazy?

I therefore ask you to pass a motion to commission an in-depth investigation by the Town's Integrity Commissioner into the source of those lowball estimates, and an airing of how it came to be that Council ignored or was misled about the high risk of a massive cost overrun. I want to know the derivation of CAO Amin's cost projection, and whether Council and Collingwood residents were willfully, or deliberately, misled by this woefully lowball figure, and if so by whom.

Further I respectfully request that you order the Town's outside auditor, Baker Tilly SGP LLC, to return a public report on value for money. Is Justice Marrocco's report worth over \$8 million? (I think I know the answer!) Was there adequate cost control before and during the Inquiry? Was there any oversight? Or did staff merely rubber stamp these massive invoices and sign the payment cheques?

Failing resolutions from Council on these requests I will personally ask the Integrity Commissioner to investigate, and I will ask my fellow Collingwood residents to join me in pressing the Commissioner to do so. It is unfortunate that Municipalities have no equivalent to the Federal Parliamentary Budget Officer who would take the initiative on matters like this ----but perhaps our CAO could take that on as a challenge?

Thank you.

A transcript of this deputation will be sent to Councillors' and Press mailboxes immediately.