



Joylin Nodwell for Ward 7 Councillor
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NEWS RELEASE

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Joylin Nodwell, Candidate for Councillor in Ward 7, is seeking a more responsible municipal government in Calgary through greater transparency and accountability. She is also pressing for better value for tax dollars including fiscal restraint and sustainable spending practices which are more in-line with inflationary rates. To demonstrate her commitment on the point, the Joylin Nodwell for Ward 7 campaign team has decided to issue a news release of its research into the procurement of recent City of Calgary construction projects.

“An effective way of ensuring tax dollars are being spent wisely is to periodically but randomly inspect functional areas or departments for compliance to policies and rules,” says Nodwell. “It is helpful to remember the adage: ‘*You can expect what you inspect.*’ Sometimes, simple spot checks is enough to expose problems.”

Many Calgarians will recall that prior to the last municipal election, in May 2010, the then city auditor Tracy McTaggart reported to council that there were systemic problems in the way that the City awarded contracts for projects and suppliers including when a city official unilaterally gave a design contract for the Peace Bridge to a Spanish architect. At that time, McTaggart found that there were too many single-source contracts and massive cost overruns on contracts that were awarded to the lowest bidders¹. A media firestorm ensued resulting in McTaggart being turfed — fired after an overdue review revealed serious problems within her office. Yet, the general public consensus was that city hall’s watchdog was disposed of before she could blow the whistle on her employers, causing lots of damage during an election year².

Three years later, Nodwell has been quoted as believing the single greatest issue facing Calgarians is mistrust.

“Young or old, rich or poor, there are deep grass-root concerns about all levels of government. The result is many people no longer want to vote or become engaged in the political process. If I am elected to represent Calgary Ward 7, I will work hard to restore trust at the municipal level.” Along the way, Nodwell promises she is not afraid to raise tough questions with her colleagues or with City administration.

In support of Nodwell’s promise her campaign team set out to independently assess concerns raised by McTaggart in 2010. Here’s what Nodwell’s team found:

¹ 2010-05-20 Fraud not ruled out in city audit - Calgary - CBC News

² 2011-05-12 FFWD - Calgary News & Views - News - Why Calgary’s auditor general got the boot

1. Shortly after McTaggart's concerns were first raised, City Administration claimed to have taken steps to change and strengthen the City's procurement governance framework and policies, including introducing amendments to City procurement policies to ensure that they abided by provincial and federal trade agreements.
2. Among the trade agreements which the City of Calgary must abide by is "the Agreement on Internal Trade" (AIT), which sets forth rules in respect of the procurement and awarding of construction contracts larger than \$100,000 for all Alberta municipalities. These rules include but are not limited to:
 - a. A municipal government shall estimate the procurement value at the time of a call for tenders, and that no municipal government shall structure a procurement, select a valuation method or divide procurement requirements in order to avoid the AIT obligations;
 - b. Pre-qualified source lists are allowed, but only if the registration on the source list is consistent with non-discriminatory practices listed in the AIT. For example, the biasing of technical specifications in favor of a particular supplier of services for the purpose of avoiding other procurement obligations is not in accordance with the AIT rules; and
 - c. In rare circumstances, municipalities can use procurement procedures different from the AIT rules, for example, when there is an unforeseeable situation of urgency and the procurement can not be obtained in time through normal open means. The June 2013 Calgary flood disaster is an excellent example of an unforeseeable situation of urgency.
3. Following McTaggart's 2010 dismissal, Council commissioned a new report to review high risk procurement.³
4. The new report was presented to Council around February 2011. It concluded that, notwithstanding recommendations where further improvements could be made to enhance procurement and internal control processes at the City, their investigation of the files audited by the former City Auditor uncovered no cases of fraud.⁴
5. Around that time, City Manager Owen Tobert stated: "Most, if not all, of the differences between the former City Auditor's and my perspective of statements of impropriety in procurement have been reconciled and Administration has been cleared of the shadow of wrongdoing cast over it." The City also published information indicating that taxpayers should be reassured that, among other things, it has been concluded that the taxpayers have received full value for the \$747 million in the contracts under review.
6. Chief among the changes made, City Administration claimed, was a more clearly defined set of sole and single sourcing procurement policies to better align the tendering of City of Calgary construction contracts with the AIT and other trade agreement rules. These change in City of Calgary policies were supposedly first spurred by the questionable sourcing and handling of aspects of the Peace Bridge contracts.
7. In a September 23, 2013 News Release, Joylin Nodwell cited the ENMAX Legacy Parks Fund Steering Committee projects as a recent example of poor optics and transparency. One ENMAX Legacy Parks Fund Steering Committee project is the (budgeted) \$31.5 million "Mayor's Legacy Project" first announced to the Calgary public around April 2008 and in very close proximity to the Peace Bridge.
8. In the researching of the Mayor's Legacy Project — including information obtained through a series of Freedom of Information (FOIP) requests to the City of Calgary and follow-ups requesting greater disclosure to the Alberta Office of the Information and Privacy Commissioner (OIPC) — Nodwell's team has learned that:
 - a. On June 16, 2008 the City Manager's Office sent an e-mail to all Council members inquiring whether

³ Source: City of Calgary website

⁴ Source: City of Calgary website

any Council member objected to the sole sourcing consulting appointment of Stantec Consulting for the provision of design and construction document services as well as construction administration for a portion of that project for \$417,972.00. Among the reasons cited for the recommended appointment of Stantec was their familiarity with the site, the project team, and their understanding of project issues/timing deadlines and future strategies.⁵

- b. On July 2, 2008 all Council members were advised by e-mail from the City Manager's Office that there were no objections amongst any of Council members with the City to proceeding with the Stantec sole source consulting appointment.⁶
- c. However, FOIP records suggest that instead of solely engaging Stantec Consulting, a second unrelated company, called Marc Boutin Architectural Collaborative, was also engaged by the City to participate as Stantec's partner during contract and construction administration. A senior associate with Stantec was also made responsible for coordinating a communication meeting for representatives of Alderman Druh Farrell and Mayor Bronconnier's offices in advance of the 2009 construction.⁷
- d. On or about March 2009, a further request for the "re-appointment" of Stantec for provision of new design and construction document services as well as construction administration services for the Mayor's Legacy project along Memorial Drive was sent to the Purchasing Agent of Strategic Procurement and Consulting at the City. The City Manager, Owen Tobert, among others was cc'd on the correspondence.⁸
- e. It is at this time that Administration cites that the Mayor as having requested that a new "Phase Two Plaza" be substantially completed by the of the spring 2010 in order to celebrate certain important centennials occurring that year. A tight deadline, and, Stantec's previous experience was also cited as the reasons for requesting that Stantec's sole proposal and existing contract be amended by an additional \$658,800.00. There was no mention of Stantec's partner, MBAC, in this correspondence.
- f. On or about January 15, 2010, a "third" project was thrown into the project mix. At this time all three projects were now loosely referred to as the "Memorial Drive - Landscape of Memory" project.⁹
- g. According to the e-mails obtained by Nodwell's team through FOIP, the Purchasing Agent of Strategic Procurement and Consulting raised a concern by e-mail that there are now three (3) requisitions for the same project totalling over \$100,000, and sought reassurance from the Project Manager that the project had been sent out for a proper request for proposal in accordance with the proper trade agreement rules.
- h. In reply, the Project Manager stated that this third project, called "the Calgary Soldiers' Memorial" was part of the complete Memorial Drive Landscape of Memory ENMAX Legacy Project, and that the original intent was to keep the design team intact for all phases of development. The Purchasing Agent was told that the design team "...have gone to great lengths to structure existing contracts to allow for extensions to complete subsequent phases. The current arrangement is with [Stantec] and [MBAC]."
- i. The Purchasing Agent was also told by the Project Manager that the project has/had the approval and support of the Office and the Mayor and the Aldermanic Offices and is under a tight deadline for

⁵ FOIP 2012-G-0174 page 00160

⁶ FOIP 2012-G-0174 page 00160

⁷ FOIP 2012-G-0174 page 00104

⁸ FOIP 2012-G-0174 pages 00127 to 00130

⁹ FOIP 2012-G-0177 pages 00018 to 00022

centennial celebrations near the end of 2010. However, because a high price tag of a combined proposal from Stantec and MBAC (initially \$207,144.00 then further reduced to \$159,624), Parks could not justify this new \$159,625 joint Stantec and MBAC proposal. Faced with an already approved design, and construction crews ready to commence, and MBAC having done 100% of the work on the third Memorial so far, the Project Manager explained he chose to approach MBAC directly and received a \$99,360.00 proposal from them which was \$107,784 less than the combined Stantec + MBAC proposal for the identical work. The reasons cited for Parks not sending the RFP out was because no one could complete the scope of work within the required tight schedule other than MBAC. In the proposal MBAC was ambiguously identified in places as a provider of prime consulting services in their proposal when their real expertise appears to be architectural services.

- j. Ultimately, on or around January 21, 2010 MBAC was engaged for this third phase of the Mayor's Legacy project after a City architectural discipline champion raises no objections to MBAC's appointment as the overseer of all services for the construction of the Calgary Soldiers' Memorial.
- k. On or about March 2010, a fourth "Mayor's Legacy Project" phase proposal is made, this time with both Stantec + MBAC and which is intended to couple the Peace Bridge with the nearby Phase 2 project which by this time has been renamed "Poppy Plaza".¹⁰
- l. Readers should recall that at this time the Peace Bridge contract was facing enormous public scrutiny not only because of McTaggart's allegations but also because of the bridge's \$25 million price tag. What is not well known is that Stantec at that time was also a subconsultant to the sole sourced Spanish Peace Bridge architect.
- m. The resultant pathway "improvement" between the Peace Bridge and Poppy Plaza was designated by Transportation and Infrastructure and Parks Management as a construction priority and was to be completed in conjunction with the Peace Bridge opening (at that time scheduled for June 2011).¹¹
- n. From March 2009 and February 9, 2011, when the sole source contract was first tacitly approved by Council members for \$417,972.00, the resultant Stantec + MBAC contract appears to have been increased by nearly \$1 million without ever going out to public tender.¹²
- o. On or about February 16, 2011, faced with this information, and yet another request for price amendments to the Stantec contract (cited as was originally only to be a \$79,000 contract) a buyer's assistant in the City Supply Management department asked if there was to be any more increases because "...if the work is significant [the City] may need to look at going out to RFP for the remainder." The reply to her e-mail is "There are no more expected extensions... All future phases will go through the rfp process."
- p. Yet despite these reassurances, on or about May 28, 2012, a further proposal was presented to the City by Stantec for \$165,000, and, it was explained that MBAC will no longer operate a related capacity with Stantec in respect of site observations and document coordination for the Poppy Plaza project. This Stantec May 28, 2012 extension and other related Poppy Plaza contract award extensions were sought "...so that the project can be completed as expeditiously as possible..." with the project's tight schedule, once again, allegedly being set by the Office of the Mayor. Again, Stantec is cited as the only option to do this work, and, that all future phases of the project will go through the City RFP process.

¹⁰ 2012-G-0174 FOIP pages 00020 to 00021

¹¹ 2012-G-0174 FOIP page 00027

¹² 2012-G-0174 FOIP pages 00023 to 00025

- q. The Calgary Soldiers' Memorial opened to the public on April 9, 2011 — four months late.
 - r. The Peace Bridge, originally supposed to be opened in the fall of 2010, opened for public use on March 24, 2012. Completion of the pathways between the Peace Bridge followed several months thereafter.
 - s. Poppy Plaza, also originally supposed to be opened in the fall of 2010, opened to the public on or around June 8, 2013. Dignitaries present at the the Poppy Plaza unveiling included Druh Farrell, Dave Bronconnier and Mayor Naheed Nenshi. When pressed by the media or a final cost tally, Mayor Nenshi was quoted as follows: "There are some legal issues that are still being settled out so we don't have a final number yet, when we do, we will of course let people know."¹³
 - t. Between 2008 and 2013, Nodwell's team has been unable to uncover any unforeseeable situations of urgency where construction services could not have been obtained in time by open procurement procedures. On the contrary, any sense urgency appears to originate from initial unrealistic completion dates, which, in many cases seemed to be set by the Office of the Mayor.
9. Based upon all of the above and more, Nodwell's team suggests that the sole and single-sourcing of large contracts and massive cost overruns appears to still exist — supporting the concerns first raised by McTaggart.
10. By extension, despite the reassuring statements made in 2010 by the City Manager Owen Tobert and by using sample information from of the ENMAX Legacy Parks Fund, it appears, based upon information obtained through FOIP, taxpayers might have legitimate concern they not have received full value for all recently completed ity construction contracts. A summary copy of the supporting FOIP documents can be downloaded from <http://joylin.ca/news-releases/> by following the links.

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¹³ 2013-06-08 "Long-awaited Poppy Plaza opens 2 years late"; CBC News