

ITEM	7
MANAGER'S REPORT NO.	71
COUNCIL MEETING	Nov. 8/76

Re: FIRE PREVENTION BY-LAW AMENDMENT

Appearing on the Agenda for the November 8, 1976 Council meeting is a letter dated November 1, 1976 received from the Burnaby Firefighters Association which was placed on the Aldermans' desks at the request of the Union just prior to the Council meeting of November 1, 1976. Included also is a copy of a letter dated October 15, 1976 from the Union to the Labour Relations Board requesting a ruling on the exempt status of the Deputy Chief position. The letter from the Association closes by suggesting a delay in final reading of the Fire Prevention By-Law Amendment.

The letter from the Association raises a number of points which require comments:

- "(1) The Union's position is that there may be a basis for settlement of the differences between the members of Fire Department and the Corporation in the establishment of a new position for Mr. Nairn. The Union believes very strongly, however, that if Mr. Buckley is to carry out the operational duties of the Fire Chief, he must be given independent authority. In the scheme proposed by the Corporation, the Chief - Fire Operations does not have this independence and remains answerable to the Director - Fire Services. If Mr. Buckley is installed in the new position of Chief - Fire Operations he will take over many of the responsibilities of the Fire Chief without any corresponding increase in his authority."

It is your Manager's opinion that there is no basis for settlement of any differences along these lines and the Union has been advised of this a number of times. They use the terms "new position" for Mr. Nairn and "independent authority" for Mr. Buckley which clearly implies that Mr. Nairn would not be the Department Head. In other words, the Corporation should negotiate away something which has been clearly confirmed by the Labour Relations Board.

The last sentence of the above paragraph is simply not true. Firstly, the Chief - Fire Operations does not have all the responsibilities of the old Fire Chief position, and at no time was it intended that it should have. For those responsibilities which the new position does have, full and proper authority has and will be delegated as well. But it will be delegated authority, from the Director - Fire Services, not independent authority.

- "(2) Although it does not appear from the job descriptions, it is clear that the Corporation intends to do away with the position of Deputy Fire Chief. In other words, the proposed changes involve little more than a change in name of the Fire Chief and Deputy Fire Chief."

These statements are, to a certain extent, true. However, they fail to recognize the essential change in emphasis of the positions and the increase in responsibility of the Chief - Fire Operations. They also fail to recognize the increased delegation of authority and responsibility to the other senior officers of the department. This paragraph seems to be in direct contradiction to the last sentence in paragraph (1).

- "(3) The Union has recently applied to the Labour Relations Board for determination by the Board as to whether the Deputy Fire Chief is in the Union bargaining unit. If the Board finds that the Deputy Fire Chief is a member of the bargaining unit, the Union will insist that the position of Deputy Fire Chief be maintained and that the position be filled."

The position of "Deputy Fire Chief" is no longer in existence nor is the position of Fire Chief. At its meeting of October 18 (In Camera) confirmed at the meeting of October 25, Council approved the change in job titles and if Report Item No. 19, Report No. 67, October 25, 1976 did not make it clear that both the position of Fire Chief and Deputy were to be abolished, we so state now for the record. We would expect that the Labour Relations Board will examine the successor position, Chief - Fire Operations, to determine its status.

"(4) Sections 641 and 642 of the Municipal Act provide for a scheme of fire protection, where the municipality has a Fire Department, based on the existence of a Fire Chief. Similarly, Section 6(1) of the Fire Marshal Act makes "Chief of the Fire Department" a Local Assistant of the Fire Marshal. It is then unclear how the two new positions of Director - Fire Services and Chief - Fire Operations fit into this statutory scheme of fire protection. For example, under Section 642(g) of the Municipal Act, the Fire Chief can require the removal of anything from a building which in his opinion is a fire hazard. Does this statutory power come within the new jurisdiction of Mr. Buckley or Mr. Nairn?"

The Municipal Solicitor states that "...I do not believe that there is any uncertainty about the duties of the Director - Fire Services and the Chief - Fire Operations." His only other comment is that as an abundance of caution we could include a clause in the bylaw to the effect that the Director - Fire Services has all the powers and duties of Fire Chief and Chief of the Fire Department under the Municipal Act and the Fire Marshal Act, or any other statutory authority. We do not feel this step is necessary.

The B. C. Fire Marshal advises that the Director clearly assumes all statutory authority and may, in turn, delegate where appropriate, and he has forwarded for Mr. Nairn the necessary identification documents and badge of office as Local Assistant to the Fire Marshal.

In summary, the statutory powers as spelled out in the Municipal Act and in the Fire Marshal's Act will be the responsibility of Mr. Nairn in his position as Director of the Department. Mr. Nairn will be formally delegating his authority under the Fire Marshal's Act to the appropriate staff as has been customary in the past.

From the above, it is clear that no purpose would be served by further delaying final reading of the Fire Prevention By-Law Amendment. In fact, to delay until the Board decides on the Union application (a process which could take some time) would leave us in the middle of reorganization. The Board's role does not involve it in the reorganization process, which is a management right. It will simply determine after positions have been established, whether or not such positions are within the scope of the Bargaining Unit.

RECOMMENDATION:

1. THAT Council bring forward the Fire Prevention By-Law Amendment for reconsideration and final adoption.