

ITEM 18
MANAGER'S REPORT NO. 17
COUNCIL MEETING Mar. 7/77

Re: KASK BROS. READY MIX CONCRETE LIMITED
REQUEST FOR CONTINUED USE OF KAPOOR SITE AFTER MARCH 31/77

Following is a report from the Parks and Recreation Administrator regarding use of the Kapoor site by Kask Bros. Ready Mix Concrete Ltd.

RECOMMENDATION:

1. THAT the request from Kask Bros. to continue to occupy the former Kapoor site for short-term aggregate storage, beyond the presently agreed date of March 31st, 1977, be denied.

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TO: MUNICIPAL MANAGER March 3, 1977
FROM: PARKS AND RECREATION ADMINISTRATOR
RE: KASK BROS. READY MIX CONCRETE LIMITED
REQUEST FOR CONTINUED USE OF KAPOOR SITE AFTER MARCH 31/77

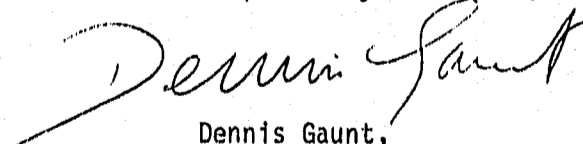
Council, at its meeting of February 14, 1977, referred to the Parks and Recreation Commission a request from Kask Bros. for continued use of a small parcel of the former Kapoor site. This request was detailed in Item 2, Page 6 of a letter from Mr. Arnold F. C. Hean, Solicitor for Kask Bros. The Commission requested a report from staff relating the development plans of the Eastern Burrard Inlet Marine Park core area to Kask Bros. proposal and weighing the compatible use and safety of the area by the public.

At its meeting of March 2, 1977, the Commission received the attached staff report and adopted the recommendation contained therein.

RECOMMENDATION:

THAT Council deny the request from Kask Bros. to continue to occupy a portion of the former Kapoor site for short-term aggregate storage beyond the presently agreed date of March 31, 1977.

Respectfully submitted,


Dennis Gaunt,
ADMINISTRATOR.

AG:g1

ITEM 5

ADMINISTRATOR'S REPORT NO. 5

COMMISSION MEETING MAR. 2/77

RE: KASK BROS. READY MIXED CONCRETE LIMITED
 PROPOSED LEASE RATE FOR CONVEYOR SYSTEM AND
 PROPOSAL TO ASSIST IN PARK DEVELOPMENT

At its meeting of February 16, 1977, the Commission received a copy of a presentation by Mr. Arnold F.C. Hean, Q.C., which in part requested permission for Kask Bros. to continue to occupy that portion of the former Kapoor site which is used for short term aggregate storage, such occupancy to continue until the proposed underground conveyor was ready for use which was anticipated to be January 1978. Council had referred the request for continued use of the short-term storage site to the Commission for consideration and approval. The Commission tabled the matter until staff had an opportunity to relate the development plans of the Eastern Burrard Inlet Marine Park core area to the Kask Bros. proposal, and to weigh the compatible use and safety of the area by the public.

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SCOPE OF DEVELOPMENT

The major portion of funds to be expended in 1977 will be on large projects which will not affect the use of the foreshore; for example, the installation of the signalized crossing at the former Kapoor site and the foreshore filling operation west of the Texaco properties. The scope of the development along the foreshore will be such that the retention of the short term aggregate storage would not adversely affect it. The development will be limited to the clean-up of a lot of debris, grading of areas which are difficult for pedestrian access, some underbrushing and grass seeding of open areas, installation of picnic tables and provision of hog fuel paths where circumstances dictate. This work will be carried out between the head land upon which the historic burner sits to the west and the wooded point immediately west of the Kask aggregate storage location. This should provide unrestricted access to the foreshore, including the opportunity for park users to walk the full length of the designated area and take advantage of the vistas that open up to both the west and east of the limits noted.

The area which is occupied by the aggregate will, at some future time, be developed into large scale picnicking areas including covered picnic shelters which will accommodate large family-type picnics. It will include grass, pathways, barbecues and some tree planting normally associated with such facilities. This work will not be carried out in 1977.

SAFETY OF AREA FOR USE BY PUBLIC

It is our understanding that Kask Bros. would not be hauling aggregate on Saturdays, Sundays and holidays, which are the days that this foreshore will be open to the public in 1977.

OPTIMUM USE OF THE FORESHORE AREA BY THE PUBLIC

Throughout the development of the concept and the plans for the Burrard Inlet foreshore park, the so-called "core area" has always been identified as the hub of the park. Certainly for full enjoyment of those areas east of Texaco, the location occupied by the aggregate plays an unparalleled part. It is the logical access to any foreshore walks and foreshore activity, whether the user wishes to move east or west along the water. It is absolutely essential if the park user is to be able to take advantage of the vistas that open up to the east.

Continued ...

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Re: Kask Bros. Ready Mixed Concrete Limited - Cont'd.

Optimum Use of the Foreshore Area by the Public - Cont'd.

Once the park is completely developed, access from a number of different points will be more feasible; but during the earlier periods of the park's development with temporary parking allocated adjacent the aggregate storage site, it is essential that this site be made available to park users in order to guarantee optimum use. On this basis, staff are not in favour of the continued use of this site for short-term aggregate storage.

It is acknowledged that an argument could be made that, on a temporary basis, park users can make-do with less than optimum use and share this portion of the park with an industrial use. However, in view of the history of the acquisition of this site, the cost in public funds, the opportunity in terms of time provided to Kask Bros. to relocate, and the proposed expenditure of public funds in 1977 to permit use of this site by the public, it is not desirable that less than optimum use for park users should be our objective and the users should not have to share the use of the park with an industrial use.

LEGAL POSITION

In a conversation with the Municipal Solicitor on the 25th of February, 1977, the Administrator was advised that, in the Solicitor's opinion (see attached memo dated February 25, 1977 from the Municipal Solicitor to the Municipal Manager on this subject), in view of the fact that the park has now been dedicated, the Corporation does not have the authority to extend a lease within the park for industrial purposes beyond whatever extension would be required to permit orderly withdrawal. In view of the length of time that this has been a matter for discussion between Council and Kask Bros., and in view of the notice which has previously been issued to Kask Bros. that the site must be vacated by March 31st; in our opinion, the date of March 31st is a suitable date to request that Kask Bros. vacate the site.

RECOMMENDATION:

THAT the request from Kask Bros. to continue to occupy the former Kapoor site for short-term aggregate storage, beyond the presently agreed date of March 31st, 1977, be denied.

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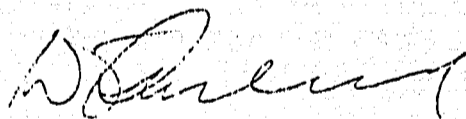
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COMMISSION MEETING MAR.	2/77

THE CORPORATION OF THE DISTRICT OF BURNABY

INTER-OFFICE COMMUNICATION

TO: MANAGER	DEPARTMENT:	DATE: Feb. 25, 1977
FROM: SOLICITOR	DEPARTMENT:	OUR FILE #
SUBJECT: Kask Bros. Ready Mix Ltd. and By-Law No. 6931, being "Burnaby Eastern Burrard Inlet Foreshore Park Dedication By-Law 1976".		YOUR FILE #

This by-law, which received the assent of the electors on November 20, 1976 and subsequently was adopted by Council on November 29, 1976, dedicated certain lands now occupied by Kask for park, pleasure, recreation, or community uses of the public. The effect of the adoption of the Dedication By-Law is that these lands may now only be used for the stated purposes and the present use by Kask is not one of these. Since Kask was in occupation before the Dedication By-Law was passed, it presumably should have a reasonable time to vacate these lands occupied by it. In that connection, it has already been served with Notice to Quit on or before the 31st of March, 1977, and in addition has entered into an agreement with Burnaby dated December 28, 1976 in which it was agreed it could continue to use and occupy the said lands up to March 31, 1977 and has posted a cash bond of \$10,000.00. The agreement provides that if it does not vacate the said lands by the due date, the said sum of \$10,000.00 shall be forfeited as liquidated damages. Since Council has already taken this action, it seems to me that if Council now extends the time beyond March 31, 1977, it will be inviting legal action.



W. L. Stirling,
MUNICIPAL SOLICITOR

WLS:mc

CC: ADMINISTRATOR, PARKS & RECREATION