

ITEM	4
MANAGER'S REPORT NO.	6
COUNCIL MEETING	92/01/27

TO : MUNICIPAL MANAGER
FROM : DIRECTOR RECREATION & CULTURAL SERVICES
RE : BURNABY MUNICIPAL SERVICES FOR BURNABY RESIDENTS FIRST - LETTER
FROM MR. R.W. RACINE
PURPOSE : To respond to concerns expressed by R.W. Racine regarding use of recreational facilities by non-Burnaby residents.

1992 JANUARY 23

RECOMMENDATION:

1. THAT a copy of this report be sent to Mr. R.W. Racine.

REPORT

At its meeting of 1992 January 22, the Parks & Recreation Commission received the attached staff report on the above subject and adopted the two recommendations contained therein.

H. Moore / For D.G.

DENNIS GAUNT
DIRECTOR RECREATION &
CULTURAL SERVICES

PAL:tc
Attach.

RE: BURNABY MUNICIPAL SERVICES FOR BURNABY RESIDENTS FIRST -
LETTER FROM MR. R.W. RACINE

ITEM	4
MANAGER'S REPORT NO.	6
COUNCIL MEETING	92/01/27

RECOMMENDATIONS:

1. THAT this report be forwarded to Council for information purposes.
2. THAT a copy of this report be sent to Mr. R.W. Racine, 2412 Duthie Avenue, Burnaby, B.C. V5A 2S3

115

REPORT

Municipal Council at its meetings of 1991 December 09 and 1992 January 06 received the attached letters from Mr. R. W. Racine, in which he raises some questions on Municipal services being used by non-Burnaby residents.

While the questions are general in nature, Mr. Racine does cite some specific examples.

1. "The Trout Lake Community Centre forbids granting ice to groups of non-Vancouver residents."
There are historical allocations for Minor Hockey and other ice sports which makes it unlikely a non-resident individual or group could gain an ice allocation, except a commercial rental late at night.
2. Burnaby Mountain Golf Course - Mr. Racine states "Burnaby seniors face a two-plus years waiting list for seniors' season passes, while many of those playing are non-Burnaby taxpayers".
There is not a two year waiting list for seniors' season passes. Mr. Racine is referring to the Men's Club which has 3 hours of tee times on Wednesdays at Burnaby Mountain. There is a lengthy waiting list to join this group. Seniors passes are available at any time.
3. Indoor tennis at Cameron Centre.
The policy at Cameron for tennis is as follows:
 - (a) A court booking card is purchased.
 - (b) The participant phones to book a court which is allocated on a first come first served basis.Everyone has equal access.
4. Mr. Racine also comments on tennis in Richmond and Delta. Staff have checked with both communities.

Richmond

All new members to the club must be Richmond residents. This policy, which was dictated by the Corporation of Richmond, was established when the club had full membership and a lengthy waiting list, which still exists.

The original membership was open to everyone--residents and non-residents.

ITEM 03
DIRECTOR'S REPORT NO. 02
COMMISSION MEETING 92/01/22

Delta

There are no public indoor tennis facilities in Delta. Three outdoor clubs exist:

- 1) Sunshine Hills Tennis Club
- 2) Ladner Tennis Club, and
- 3) Tsawassen Tennis Club (on B.C. Hydro land)

ITEM	4
MANAGER'S REPORT NO.	6
COUNCIL MEETING	92/01/27

Only Sunshine Hills has restricted its membership to Delta residents. This policy was implemented by the membership and is not a policy of the Corporation of Delta.

Attachment #3 shows the policies in place through the G.V.R.D.

It is interesting to note that Coquitlam has formally joined the Regional Library Association and now have full access to Cameron Library.

Staff requested the Municipal Solicitor to provide an opinion on Mr. Racine's letters and the following covers the points raised:

"Mr. Racine's letters ask that Burnaby residents be given priority in the use of recreational facilities.

In the 1979 case of Adams v. Cranbrook Chief Justice McEachern treated the question whether a municipality had the authority to discriminate against non-residents in the use of recreational facilities. This portion of his judgement was not necessary for deciding the case before him and is therefore persuasive but not binding.

Section 679 of the Municipal Act, which is relevant to the discussion reads in part:

'679 (1) The Council may by bylaw

- (a) acquire, accept and hold any property in the municipality for pleasure, recreation or community uses of the public, including public library, art gallery, museum, arena and exhibition buildings;
- (b) make rules and regulations governing the management, maintenance, improvement, operation, control and use of property mentioned in paragraph (a);

...

- (f) close to free use by the public all or part of any real property mentioned in paragraph (a) at the times and for the periods deemed advisable and fix and charge fees for admission to or for the use of any of the facilities so closed.'

In the view of the Chief Justice, section 621, which allows council to acquire property "for pleasure, recreation or community uses of the public ...", means that the property is held not just for residents but for the people as a whole. He found no power to deny non-residents use of recreational facilities saying "Unless such a power is expressly and distinctly conferred by the enabling legislation, a municipal bylaw discriminating against non-residents or non-ratepayers of the municipality would be ultra-vires In my respectful view, section 621 (now s. 679) does not permit any discrimination based upon residence."

ITEM 03
~~DIRECTOR'S REPORT NO. 02~~
~~COMMISSION MEETING 92/01/22~~

ITEM
MANAGER'S REPORT NO. 6
4
COUNCIL MEETING 92/01/27

I conclude that the Act does not allow council to discriminate against non-residents in the use of recreational facilities."

The Commission received a staff report in 1984, which addressed the question of access to Recreation Services by non-Burnaby residents. At that time it was indicated that we move towards developing fee structures that do not discriminate on the basis of residency. This was based on the fact that universal admission and reciprocity between Lower Mainland communities was the ideal and we should work towards that objective in preference to discrimination.

The arguments put forward by Mr. Racine cover a wide variety of activities which every community in the Lower Mainland has struggled with at some point. Communities such as Surrey and Delta, which have very high growth and a large youth population (as Burnaby had in the 1960's and 1970's), have restricted registration in swimming lessons to residents as Burnaby did many years ago. All other activities are open to anyone.

The situation in Burnaby is one that sees some activities overloaded (golf **117** is a good example).

Other activities such as swimming lessons at C.G. Brown Pool, out of 471 registrations in the 1992 January 06 set of lessons, 20 were non-Burnaby residents (4%) with no waiting lists. Skating lessons, out of 99 participants there is one non-Burnaby resident, with no waiting lists.

A detailed examination of all registrations was not done but staff indicate in the majority of cases Burnaby residents are not having difficulty accessing programs.

Generally speaking, Burnaby residents enjoy the access to recreation opportunities in other communities. If every community became parochial, as is being suggested, residents in every community would be the loser.

Staff have talked with Mr. Racine and have covered the points raised but he does feel Burnaby residents should receive priority in all cases.

FS:ps:seo
Attach.

CORRESPONDENCE AND PETITIONS
Regular Council Meeting
1991 DECEMBER 09

ITEM ~~03~~
DIRECTOR'S REPORT NO. 02
COMMISSION MEETING 92/01/22

ATTACHMENT #1

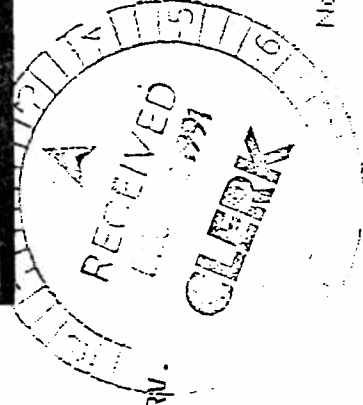
ITEM	4
MANAGER'S REPORT NO.	6
COUNCIL MEETING	92/01/27

INTERNAL DISTRIBUTION:
AGENDA - 1991 DECEMBER 09
COPY - MUNICIPAL MANAGER
- DIRECTOR FINANCE
- DIR. REC. & CULT. SERV.
(FOR REPORT)

RECEIVED

NOV 8 1991

MAYOR'S OFFICE



November 27, 1991

Mayor M.J. Copeland
Burnaby Municipal Hall
4949 Canada Way, Burnaby B. C.
V5G 1M2

Burnaby Municipal Services for Burnaby Residents First

An article in the November 17, 1991 Burnaby Now newspaper noted that the Trout Lake Community Centre forbids granting ice to groups of non-Vancouver residents. This is a fair reasonable democratic practice which Burnaby needs to implement to similarly protect Burnaby taxpayers in all areas of recreational services, possibly with appropriate variations as is increasingly utilized in other jurisdictions throughout North America.

Municipal services for non-Burnaby residents can be acceptable where there is sufficient extra capacity to also service them. However because of Burnaby's central easily accessible location, Burnaby's unique recreational facilities and policy of accepting anyone regardless of where they pay municipal taxes, Burnaby taxpayers often find themselves "waiting and watching" while non-Burnaby taxpayers participate at "our" expense and frustration.

Examples I've experienced as a longtime Burnaby taxpayer in the last few years include the Burnaby Golf Course where Burnaby Seniors face a two-plus years waiting list for Seniors season passes while many of those playing are non-Burnaby taxpayers; the indoor tennis at the Cameron Centre where more than half the Burnaby subsidized users are non-Burnaby taxpayers; and others I prefer not to mention.

The situation is awful if it similarly causes or makes it difficult for Burnaby mothers and youngsters to use our Burnaby tax dependent facilities (not to be confused with special facilities such as the Canada Games pool etc.) and programs.

The situation will worsen every year as the need for municipal services increases, and some municipalities economize by not providing the services their taxpayers need and taking advantage of the benevolence available in Burnaby.

CORRESPONDENCE AND PETITIONS
Regular Council Meeting
1991 DECEMBER 09

~~ITEM 03
DIRECTOR'S REPORT NO. 02
COMMISSION MEETING 92/01/22~~

ITEM 4
MANAGER'S REPORT NO. 6
COUNCIL MEETING 92/01/27

119

Council is the only group which can protect "our" interest in this regard. Council needs to soon implement an overall policy before the public becomes more widely aware of these abuses, possibly along the following lines:

"Burnaby residents are given democratic first priority for participation in Burnaby Parks and Recreation municipal tax supported programs where the programs or facilities are "overbooked".

Democratic first priority involves first a "draw" of Burnaby resident applicatns who have not participated in "the" program in the last 12 months; second a draw from the balance of the Burnaby-resident applicants; and then a draw from the balance of the applicants as permitted by "space" in the program. Draws are not required where the program is not oversubscribed."

I've experienced promotion for maintaining availability of our municipal tax supported recreational services for anyone. Not surprisingly most often these are from non-Burnaby residents who are looking after their self interest and who too often are in conflict-of-interest in violation of basic ethics. Wherever possible these energies need to be redirected to solving the problem as it is developing for Burnaby taxpayers.

As a Burnaby resident I feel that the last thing we need is to lose Burnaby taxpayer support for good modern recreational facilities and programs - unnecessarily high parks and recreation taxes caused by subsidized services for non-taxpayers also, and "waiting and watching" while non-taxpayers participate will soon lose us this support as soon as the oversight becomes knowledge, as is happening.

It might be timely to add the motto to the new Burnaby flag

"Burnaby Municipal Services for Burnaby taxpayers first"

I hope this will help Council maintain fair democratic application of our taxes in providing the much needed progressive recreational facilities for Burnaby residents first.

R. W. Racine

R.W. Racine
2412 Duthie Avenue
Burnaby, B.C.
V5A 2S8

ATTACHMENT #2

ITEM	
MANAGER'S REPORT NO.	4
COUNCIL MEETING	6
	92/01/27

~~December 20, 1991~~

Mr. Fred Smith
Parks and Recreation
Corporation of Burnaby
4949 Canada Way,
Burnaby, B. C. V5G 1M2

Re: Burnaby Municipal Services for
Burnaby Residents First

Thanks for your call today. As mentioned enclosed is a list of some more Burnaby Seniors who wish to add their "plea" to those in my November 29, 1991 letter to Mr. Copeland.

More concerned Burnaby residents are involved: Some are away, some have given up trying and most are not yet aware of the situation because no publicity or public information is provided on the extent of Burnaby Municipal tax-supported subsidized recreational services provided for non-residents. This should at least be included in the tax notices and in Parks and Recreation activity reports - if its so good let's bragg about it.

You mentioned that recreational services are now considered as Regional Services - well and good if and when they are in fact Regionally funded and administered based on the required democratic votes, which I understand is "far off" as governments are being forced to control overall mounting taxation.

Concrete proof that our recreational services are still a Burnaby Municipal responsibility and that continuing Municipal tax subsidies are required exists in the Commission's Budget and in the Tax Summaries which show that they require the biggest piece of the tax pie Year-in and Year-out. Most Burnaby taxpayers support this, but only on the assumption that their "representatives" protect their right to first fair equitable usage for those who pay the taxes in Burnaby - this does not now occur in Burnaby, where service and accessibility for Burnaby residents and the amount of tax costs are sacrificed to service non-Burnaby taxpayers, even where "overcrowding" results in poor or non-service for those who pay the taxes, and eventually in the need for more expanded tax-subsidized facilities, staffing, etc.

The current amounts of the real subsidies for various activities can be quickly established by comparing the Municipal cost to that in commercial alternatives. For example the cost per hour for Indoor Tennis at the Cameron Centre versus that at the Olympic Club etc. I'm sure you will find its half to one third - and that's why Burnaby taxpayers support their Municipal Recreation Services. All they want now is a first fair chance at participating. The

ITEM	4
MANAGER'S REPORT NO.	6
COUNCIL MEETING	92/01/27

same applies to other activities such as pool, carpet bowling, table tennis, weight lifting, golf, child care, etc

The situation is frustrating when you consider that other municipalities, such as Richmond and Delta, protect their taxpayers interests by requiring that Indoor Tennis Clubs in their municipality (presumably on Municipal property) limit membership to residents of the Municipality. Such requirements in Burnaby would help. Surely there must be something our administrative experts can initiate to similarly protect Burnaby Taxpayers. **121**

Even considering the large numbers and sometimes percentages; the incremental costs for supplies, processing, maintenance, etc. and the real subsidies required for services to non-residents, I can see that we have to extend our recreational services to non-residents where there is "extra room" - and that its not discriminatory (in relation to the legal definition) for the Municipality to take some initiative to protect it's taxpayers by at least giving Burnaby residents a first fair chance at participating where there is "overload".

A simple administrative procedure could practically cover the situation, for example by setting aside the first week for registration by Burnaby residents where "overload" situations are anticipated, the first day of the week for indoor court bookings etc. as appropriate. This would not reduce participation by non-taxpayers wherever there is capacity to serve them also. Can you imagine a Coquitlam taxpayer suing Burnaby for setting up organized procedures for properly handling applications for participation in Burnaby's Municipal Recreational Services? Would this not in effect aim at discrimination against Burnaby taxpayers by trying to force Burnaby taxpayers to also subsidize the participation of often-numerous non-taxpayers, as now exists due to lack of concern for the rights of Burnaby taxpayers.

The legal case you quote applied some years ago, to a much different situation and would not apply with proper administration of fair equitable registration procedures as outlined above.

I appreciate your call and can only hope that the expertise available will come up with a good solution to the conundrum of first protecting the interests of Burnaby taxpayers. Would it be unreasonable to aim for at least one possible

4-

ITEM	4
MANAGER'S REPORT NO.	6
COUNCIL MEETING	92/01/27

solution, which I'm sure would please everyone involved in Burnaby?

R. W. Racine

R. W. Racine
2412 Duthie Avenue
Burnaby, B. C.
V5A 2S3

Encl.1

cc. Mayor W.J. Copeland

Attn: Mrs. D. R. Comis

"Thanks for your reply of Dec.11, 1991.
The action taken is appreciated and could
benefit many Burnaby residents."

ITEM 4
MANAGER'S REPORT NO. 6
COUNCIL MEETING 92/01/27

PLEA TO BURNABY COUNCIL

December 1991 123

Burnaby residents are finding it increasingly difficult, mostly impossible, to participate in the Municipality's Cameron Centre indoor tennis courts.

A major cause of this unfair situation is the involvement of practices which already result in usage by a large majority of non-Burnaby taxpayers.

The following sample of adversely affected Burnaby residents wish to draw this undemocratic situation to Council and request that management be provided to ensure that Burnaby residents at least get a first fair chance to participate in Burnaby tax-supported Municipal facilities, programs, and clubs using such facilities, at the first opportunity, and in time for the 1992 Programs made possible by past and present Municipal taxes.

Burnaby Resident's Signature	Bby Address	Phone No
<i>Denny Lew</i>	4213 Prairie Cr	4338787
<i>Mary Lew</i>	4213 Prairie Cr	4338787
<i>Alan Dumbach</i>	302-5127 IRVING ST.	438-3867
<i>Bill Racine</i>	2412 Tuthe	490-4165
<i>J Campbell</i>	4449 Burke St.	435-8037
<i>Luan Young</i>	115-6031 Wilton Ave	434-7824 430-8881
<i>HOWE KWANG</i>	#2206-6240 MCKAY AVE,	
<i>R. Lee</i>	7056 JUBILEE AVE.	434-6909
<i>M. Dumbach</i>	302-5127 IRVING ST.	Bby 438-3867
<i>M.A. SARGENT</i>	1001 4221 MAYBERRY Bby	435-4059
<i>Denny Lew</i>	5887 BERWICK ST.	Bby 437-7097

ITEM 03

ITEM	4	ORI NO.	02
MANAGER'S REPORT NO.	6	TING	92/01/22
COUNCIL MEETING	92/01/27	ATTACHMENT #3	

SURVEY RE: MUNICIPALITIES' REGISTRATION PROCEDURES

COQUITLAM

- Program registration - no priority for Coquitlam residents
- Arena - allotted on a historical basis
- Field allocations - group must be 60% "Tri City" residents (Coquitlam, Port Coquitlam, Port Moody) to apply for use of fields.

PORT COQUITLAM

- Program registration - no priority for Port Coquitlam residents
- Arena - allotted on a historical basis
- Field allocations - group must be 60% Port Coquitlam residents to apply for use of fields

WEST VANCOUVER

- Program registration - no priority for West Vancouver residents
- Arena - allotted on a historical basis. If time is free, the group submitting an application should be 75% North Shore residents
- Field allocations - group must be 75% North Shore residents to apply for use of fields

RICHMOND

- Program registration - no priority for Richmond residents
- Arena - allotted on a historical basis. If time were ever free, the groups applying for use should be 60% Richmond residents

NORTH VANCOUVER

- Program registration - no priority for North Vancouver residents
- Field allocations - groups must be 75% North Shore residents to apply for use of fields.

NEW WESTMINSTER

- Program registration - no priority for New Westminster residents.
- Field allocations - groups must be 50% New Westminster residents to apply for use of fields

PORT MOODY

- Program registration - priority given to Port Moody residents. Two lineups at time of registration are established - one for Port Moody residents; one for those living outside the City. Once the Port Moody lineup has been taken care of, then the other individuals may register for Port Moody services.
- Field allocations - groups must be 50% Port Moody residents to apply for use of fields

DELTA

- Program registration - no priority given to Delta residents for community programs or skating lessons. Priority given to Delta residents for swimming lesson registrations only.
- Field allocations - fields allocated to Delta community groups first. Any spaces available afterward allocated on a first come, first served basis.

SURREY

- Program registration - no priority given to Surrey residents for Community Recreation programs. Priority given to Surrey residents for skating and swimming lessons only.

VANCOUVER

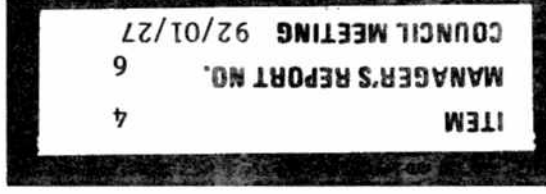
- Program resigration - no priority for Vancouver residents
- Arenas - allocated on a historical basis

BURNABY

- Program registration - no priority for Burnaby residents
- Field allocations - groups must be 50% Burnaby residents

NOTE:

In relation to field, arena allotments, etc. most bookings are completed on a historical basis due to the limited number of facilities available in each area. If there is space available, then each area's guidelines specific to that service are implemented.



BC/seo
1992 January 15