

2000 May 18

TO : CITY MANAGER

FROM : DIRECTOR PARKS, RECREATION AND CULTURAL SERVICES

SUBJECT : **BURNABY FRASER FORESHORE PARK – WATER LOT LEASE
NO. 07015 RENEWAL**

PURPOSE : To request Council's authorization for the renewal of Port North Fraser Water Lot Lease No. 07015 (Fraser River North Arm) for public recreation purposes for the term of one year, commencing 2000 January 01, as outlined in this report.

RECOMMENDATION:

1. THAT authorization be given for renewal of Port North Fraser Water Lot Lease No. 07015 (Fraser River North Arm) for public recreation purposes for the term of one year, commencing 2000 January 01, as outlined in this report.

REPORT

At its meeting of 2000 May 17, the Parks, Recreation and Culture Commission received the above noted report and adopted the recommendation contained therein.



Kate Friars
DIRECTOR PARKS, RECREATION
AND CULTURAL SERVICES

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Attachment
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cc: City Solicitor
City Risk Manager
Director Planning & Building
Manager Environmental Services

**SUBJECT: BURNABY FRASER FORESHORE PARK – WATER LOT
LEASE NO. 07015 RENEWAL**

RECOMMENDATION:

1. THAT Council be requested to authorize the renewal of Port North Fraser Water Lot Lease No. 07015 (Fraser River North Arm) for public recreation purposes for the term of one year, commencing 2000 January 01, as outlined in this report

REPORT

INTRODUCTION

The recently renovated Burnaby Fraser Foreshore Park Pier is located in Port of North Fraser Water Lot 5679 on the North Arm of the Fraser River. The City leased this water lot for public recreation purposes at a reduced rate of \$2,625.00 (+ GST) from the North Fraser Port Authority (NFPA) for a one year term commencing 1999, January 01. The Lease term has now expired and renewal for another one year term at the same rate is proposed as outlined in this report.

NORTH FRASER PORT AUTHORITY LEASE NO. 07015 HISTORY

In January of 1999, a water front property on the Fraser River (Lot 44) was transferred to the City as part of the re-zoning and subdivision of Commonwealth Construction Company's property located off of Tillicum Street. Along with the transfer of Lot 44, the Commission approved the transfer of an existing loading pier facility for conversion to public use as a viewing and fishing pier. Transfer of the pier required the City to enter into a lease with the NFPA for the use of the water lot area in which the pier is located. Recognizing the potential benefits of retaining the pier, the Commission approved the transfer and authorized the execution of the water lot lease for public recreation purposes.

Under the NFPA lease the City accepts and occupies the Land "as is". The NFPA lease contains a number of clauses related to tenant responsibility for environmental contamination, including contamination resulting from activities upstream, which would expose the City to an unpredictable and immeasurable financial risk. In a preliminary effort to identify the existence, nature or extent of any hazardous substances on or from the water lot, the services of an Environmental Consultant were used. Findings from the two test samples taken from the river bed identified levels of Antimony, Arsenic, Lead and Zinc which exceed Contaminated Sites Regulation (CSR) standards in the gravel layer underlying the first 40 centimetres of silt. A review of current CSR standards by Environmental Services staff indicated that there is no present need to take remedial action in relation to the hazardous substances which have been identified at the site providing the City does not undertake any work which would disturb this gravel layer. The NFPA was advised of these findings.

In an effort to address the City's concerns regarding the lease form, the City and the NFPA entered into the lease for a term of one year with the understanding that during the one year term the potential for alternate forms of legal access to the pier would be explored with the Province, the holder of the head lease. To this end, staff contacted the Water Management Branch of the Ministry of Environment, Land and Parks to outline the City's concerns regarding the environmental provisions of the lease and to request an opportunity to meet to discuss options which might be available to address these concerns.

The City's request coincided with a transfer of responsibility for Provincial land and water assets to a new corporate body, the B.C. Assets and Land Corporation (BCAL). The City's request was passed on to this new Provincial corporation for review and response. Late in 1999, staff were informed by BCAL that a response could be expected shortly and were advised to hold off on the renewal of the lease in anticipation of this response.

BC ASSETS AND LAND CORPORATION RESPONSE

A preliminary response has now been received. BCAL indicates that it appreciates the City's concerns with the terms and agrees that some of the clauses deemed inapplicable can be revised. The environmental indemnity clauses however mirror standard clauses which the Attorney General has begun to advise BCAL to use in its documentation. Many of these clauses have arisen from recent changes to Provincial waste management and contaminated sites regulations. BCAL advises that through discussions with its clients, questions similar to the City's concerning these terms and conditions have arisen and it is seeking clarification from the Attorney Generals Office. In addition, BCAL indicates that it has initiated a process for reviewing the terms and conditions of its head lease with the Port and through that process also review with them the terms and conditions of their lease documents.

BCAL anticipates that the completion of these processes will take it into the next year and in light of this time frame, BCAL would appreciate it if the City would continue to work with its agent on the North Arm, the North Fraser Port Authority and replace the expired lease for at least an additional year.

CONCLUSION

Given the above noted response from BCAL, the capital investment the City has made to renovate and enhance the pier, and the opening of the pier to public use, staff recommend that Council be requested to authorize the renewal of Water Lot Lease No. 07015 for public recreation purposes for a further term of at least one year, commencing 2000 January 01. Staff will continue to pursue discussions for alternative legal access with BCAL and the Port when their processes have been completed.

JK.

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cc: City Solicitor
City Risk Manager
Director Planning and Building
Manager Environmental Services

