

2001 DECEMBER 13

TO: CITY MANAGER

FROM: DIRECTOR PARKS, RECREATION AND CULTURAL SERVICES

SUBJECT: BURNABY FRASER FORESHORE PARK - RENEWAL OF WATER LOT LEASE NO. 07015 FOR THE COMMONWEALTH PIER

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 a further one year term.

RECOMMENDATION:

1. THAT authorization be given for the renewal of Port North Fraser Water Lot Lease No. 07015 (Fraser River North Arm) for public recreation purposes for a further one year term, commencing 2002 January 01, as outlined in the attached report.

REPORT

At its meeting of 2001 December 12, 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

tc

Attachment

c:\data\council\PK-BURNABY FRASER FORESHORE PARK - RENEWAL OF WATER LOT

cc: City Solicitor
City Risk Manager
Director Planning and Building

**SUBJECT: BURNABY FRASER FORESHORE PARK - RENEWAL OF WATER LOT
LEASE NO. 07015 FOR THE COMMONWEALTH PIER**

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 a further one year term, commencing 2002 January 01, as outlined in this report .

REPORT

Introduction

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 Guy F. Atkinson Holdings' (Commonwealth Construction) property located off of Tillicum Street. Along with the transfer of Lot 44 for inclusion in Burnaby Fraser Foreshore Park, the Commission approved the transfer of an existing loading pier facility for conversion to public use as a viewing and fishing pier. The pier's location within the park is indicated on the attached Big Bend Development Plan (Attachment #1). The pier is located in North Fraser Port Authority (NFPA) Water Lot 5679 on the North Arm of the Fraser River. Commencing 1999, January 01 the City has leased this water lot from the NFPA on an annual basis for public recreation purposes at a reduced rate of \$2,625.00 per annum (plus GST). The purpose of this report is to seek authorization to renew the water lot lease for a further one year term.

Background

Under the NFPA lease the City accepts and occupies the Land "as is". The NFPA lease contains a number of standard 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 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, commencing 1999 January 01, 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 Province 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.

In April 2000 a preliminary response was received from the B.C. Assets and Land Corporation (BCAL), the agency responsible for provincial land and water assets. BCAL indicated that it appreciated the City's concerns with the terms and agreed 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 advised 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 General's Office. In addition, BCAL indicated that it has initiated a process for reviewing the terms

and conditions of its head lease with the Port and through that process will also review the terms and conditions of their lease documents. Once the new head lease is in place BCAL would be contacting Burnaby to discuss the issue of alternative options for legal access, including the possibility of a direct lease with BCAL. In the interim, BCAL has asked that the City continue to work with its agent on the North Arm, the NFPA, to replace the expired lease on an annual basis until such a time as it has concluded its process.

Status of BCAL Review

BCAL advises that it is in the final stages of its process of drafting the new head lease and Management Agreement for review by the Fraser River Port Authority and the North Fraser Port Authority(NFPA) early in the new year. Given that this process will not reach a conclusion before year end, a renewal of the City's lease with the NFPA for a further one year term is recommended. With respect to the possible option of a direct lease with the Province, BCAL advises that leases are now standardized across the Province and therefore, the terms of specific concern to the City would likely still be an issue wether or not the lease was with the Province or the NFPA.

Conclusion

Given the above noted response from BCAL, the capital investment the City has made to renovate and enhance the pier, and the public use of the pier, 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 one year, commencing 2002 January 01 at the reduced rate of \$2,625.00 (plus GST) per annum. Staff will continue to pursue discussions for alternative legal access with BCAL and the Port when their process has been completed.

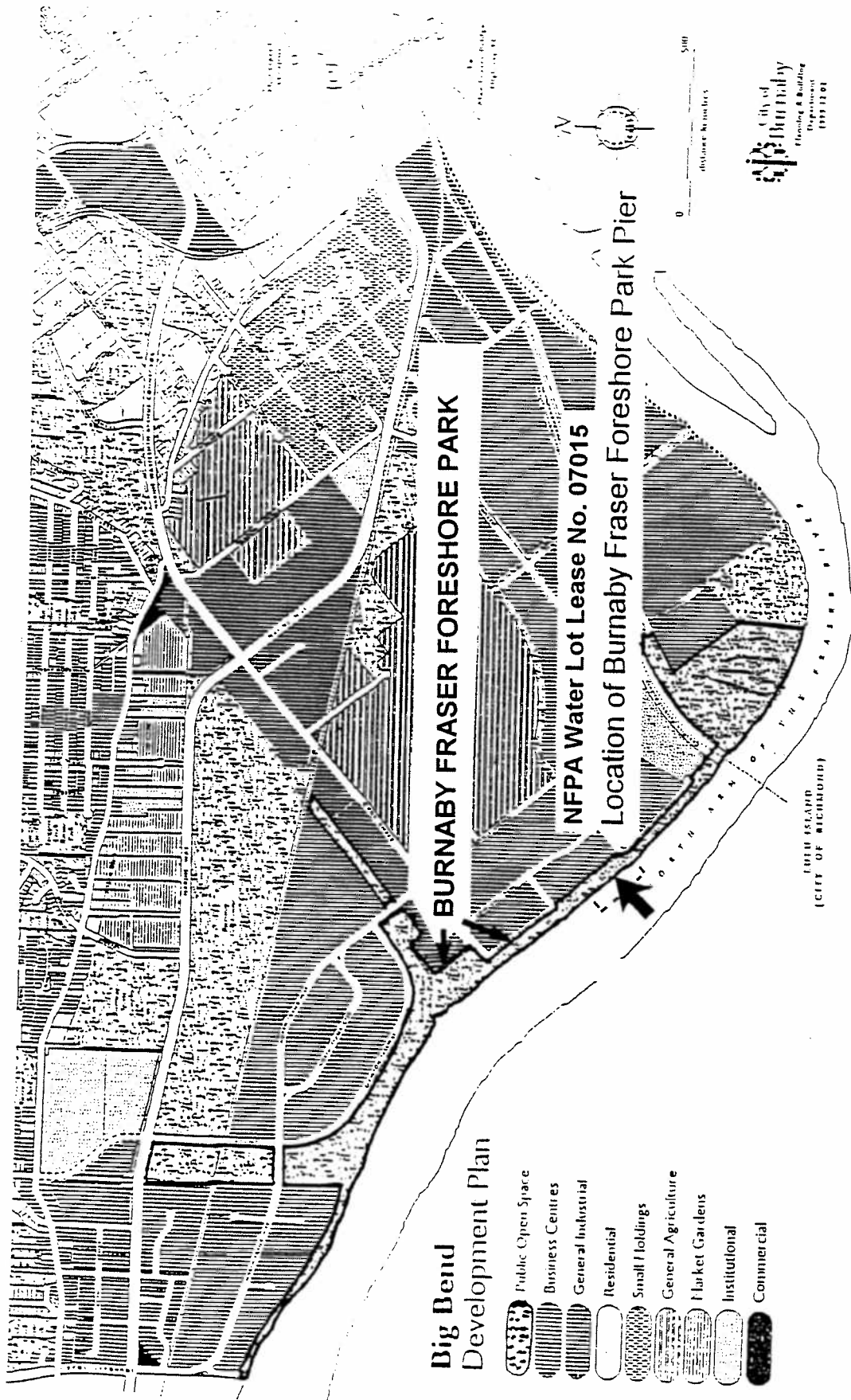
JK.

ATS:tc

Attachment

p:\admin\shared\sarter\reports\07015renew3.rep

cc: City Solicitor
City Risk Manager
Director Planning and Building



----- NFPA Water Lot Lease No. 07015