

AGENDA FOR THE "IN CAMERA" FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS, TO BE HELD IN THE BOARD ROOM, CITY HALL,
ON MONDAY, 2012-JAN-16, COMMENCING IMMEDIATELY FOLLOWING THE REGULAR
FINANCE / POLICY COMMITTEE OF THE WHOLE

1. INTRODUCTION OF LATE ITEMS:

2. ADOPTION OF AGENDA:

3. ADOPTION OF MINUTES:

- (a) Minutes of the "In Camera" Finance / Policy Committee of the Whole Meeting held Monday, 2011-DEC-12 at 6:40 p.m. in the Board Room, City Hall. *Pg. 3-5*

4. PRESENTATIONS:

NONE

5. DELEGATIONS PERTAINING TO AGENDA ITEMS:

NONE

6. COMMISSION REPORTS:

NONE

7. COMMITTEE REPORTS:

NONE

8. STAFF REPORTS:

COMMUNITY SERVICES:

- (a) The City's Future Water Source *Pg. 6-10*

9. **INFORMATION ONLY ITEMS:**

NONE

10. **CORRESPONDENCE:**

NONE

11. **OTHER BUSINESS:**

NONE

12. **ADJOURNMENT:**

MINUTES OF THE "IN CAMERA" FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE BOARD ROOM, CITY HALL,
ON MONDAY, 2012-JAN-16, COMMENCING AT 5:25 P.M.

PRESENT: Mayor J. R. Ruttan, Chair

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

Staff: A. C. Kenning, City Manager
D. W. Holmes, Assistant City Manager and General Manager of
Corporate Services
E. C. Swabey, General Manager of Community Safety and Development
T. M. Hickey, General Manager of Community Services
I. Howat, Director of Strategic Relationships
T. L. Hartley, Director of Human Resources and Organizational Planning
B. E. Clemens, Director of Finance
T. P. Seward, Director of Development
S. Clift, Director of Engineering and Public Works
Chief R. Lambert, Nanaimo Fire Rescue
A. J. Tucker, Director of Planning
B. Sims, Manager of Water Resources
J. E. Harrison, Manager of Legislative Services
T. Wilkinson, Recording Secretary

1. CALL THE "IN CAMERA" MEETING TO ORDER:

After a short recess, the "In Camera" Meeting was called to order at 5:25 p.m.

2. INTRODUCTION OF LATE ITEMS:

(a) Add Agenda Item 11 (a) – Other Business –

(b)

3. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

It was moved and seconded that the Minutes of the "In Camera" Finance / Policy Committee of the Whole Meeting held Monday, 2011-DEC-12 at 6:40 p.m. in the Board Room, City Hall be adopted as circulated. The motion carried unanimously.

5. STAFF REPORTS:

COMMUNITY SERVICES:

(a) The City's Future Water Source

Mr. T. M. Hickey, General Manager of Community Services, and Mr. B. Sims, Manager of Water Resources, provided a PowerPoint presentation regarding the City's Future Water Source.

6. OTHER BUSINESS:

(a)

(b)

7. ADJOURNMENT:

It was moved and seconded at 6:30 p.m. that the "In Camera" Meeting terminate.
The motion carried unanimously.



CHAIR

CERTIFIED CORRECT:



MANAGER,
LEGISLATIVE SERVICES

AGENDA FOR THE "IN CAMERA" FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS, TO BE HELD IN THE BOARD ROOM, CITY HALL,
ON MONDAY, 2012-FEB-06, COMMENCING IMMEDIATELY FOLLOWING THE REGULAR
FINANCE / POLICY COMMITTEE OF THE WHOLE

1. INTRODUCTION OF LATE ITEMS:

2. ADOPTION OF AGENDA:

3. ADOPTION OF MINUTES:

- (a) Minutes of the "In Camera" Finance / Policy Committee of the Whole Meeting held Monday, 2012-JAN-16 at 5:25 p.m. in the Board Room, City Hall. Pg. 3-5

4. PRESENTATIONS:

NONE

5. DELEGATIONS PERTAINING TO AGENDA ITEMS:

NONE

6. COMMISSION REPORTS:

NONE

7. COMMITTEE REPORTS:

NONE

8. STAFF REPORTS:

ADMINISTRATION:

- (a) Lantzville Water Pg. 6-8

Staff's Recommendation: That Council support continued development of a water supply agreement with Lantzville based on previously approved direction.

CORPORATE SERVICES:

- (b) **Expiry of Appointments of City Representatives on the Nanaimo Port Authority Board and the Nanaimo Airport Commission** Pg. 9-11

Staff's Recommendation: That Council direct Staff to advertise for citizens interested in serving as the City of Nanaimo representative on the Nanaimo Port Authority Board and/or the Nanaimo Airport Commission to submit an application for Council's consideration.

9. **INFORMATION ONLY ITEMS:**

NONE

10. **CORRESPONDENCE:**

NONE

11. **OTHER BUSINESS:**

NONE

12. **ADJOURNMENT:**

“IN CAMERA” STAFF REPORT

REPORT TO: D. W. HOLMES, ASSISTANT CITY MANAGER /
GENERAL MANAGER, CORPORATE SERVICES

FROM: J.E. HARRISON, MANAGER OF LEGISLATIVE SERVICES

RE: EXPIRY OF APPOINTMENTS OF CITY REPRESENTATIVES ON THE NANAIMO PORT
AUTHORITY BOARD AND THE NANAIMO AIRPORT COMMISSION

STAFF'S RECOMMENDATION:


That Council direct Staff to advertise for citizens interested in serving as the City of Nanaimo representative on the Nanaimo Port Authority Board and/or the Nanaimo Airport Commission to submit an application for Council's consideration.

EXECUTIVE SUMMARY:

The appointment of Mr. Ross Fraser as the City representative to the Nanaimo Port Authority Board expires on 2012-JUN-30. As Mr. Fraser will have served two terms as the City representative, he is not eligible for reappointment.

The appointment of Mr. Jerry Pink as the City representative to the Nanaimo Airport Commission expires in April 2012, on the date of the Commission's Annual General Meeting. Mr. Pink has indicated that he does not wish to seek reappointment. Attached is a letter from Mr. Pink regarding the appointment.

Respectfully submitted,



J. E. Harrison, Manager
Legislative Services

for



D. W. Holmes, Assistant City Manager /
General Manager, Corporate Services

/kk

FPCOW: 2012-FEB-06

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- Council
- Committee *FPCOW*
- Open Meeting
- In-Camera Meeting
- Meeting Date: *2012-FEB-06*



Nanaimo Airport
P.O. Box 149 3350 Spitfire Rd
Cassidy, BC Canada V0R 1H0
Ph (250) 245-2157 Fax (250) 245-4308

January 25, 2012

Information to Nominating Entities re: Nanaimo Airport Commission Director Nominees

Directorships normally expire on the 3 year anniversary at the AGM which is usually held annually in the spring of each year.

NAC will conduct the usual interview process before a nominee is presented to the Board for appointment.

A Director must meet the following bylaw requirements:

- The nominee is not a political leader or a similar person who is excluded by Bylaw 2.2 (c) which states that s/he is NOT a person holding Federal, Provincial or Municipally elected office;
- The nominee is not excluded by Bylaw 2.2(d) which states that s/he shall not be employed by or providing full time services to any Federal, Provincial or Municipal department, agency or any corporation owned by the same governments;
- The nominee is not excluded by the remaining sections of 2.2. (e), (f) or (g) (currently bankrupt, criminal conviction related to employment, etc.);
- The nominee must be a resident within a 50 mile radius of the Nanaimo Airport;
- The nominee must be a Canadian citizen.

The ideal nominee will have the following qualifications:

- Extensive professional experience with executive leadership accomplishments in business, community organizations and/or government;
- Understanding our community and the role of the Nanaimo Airport;
- Personal qualities of integrity, credibility, ability to build consensus among diverse individuals, someone who listens well and is thoughtful in considering issues;
- Willingness to commit time for Board meetings, committee meetings, planning sessions, special events.

MINUTES OF THE "IN CAMERA" FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS, HELD IN THE BOARD ROOM, CITY HALL,
ON MONDAY, 2012-FEB-06, COMMENCING AT 7:00 P.M.

PRESENT: Mayor J. R. Ruttan, Chair (Departed 7:02 p.m.)

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

Absent: Councillor M. D. Brennan

Staff: A. C. Kenning, City Manager
E. C. Swabey, General Manager of Community Safety and Development
T. M. Hickey, General Manager of Community Services
I. Howat, Director of Strategic Relationships
T. L. Hartley, Director of Human Resources and Organizational
Planning
T. P. Seward, Director of Development
A. J. Tucker, Director of Planning
S. Graham, Manager of Financial Planning and Payroll
B. Sims, Manager of Water Resources
J. E. Harrison, Manager of Legislative Services
T. Wilkinson, Recording Secretary

1. CALL THE "IN CAMERA" MEETING TO ORDER:

The "In Camera" Meeting was called to order at 7:00 p.m.

2. INTRODUCTION OF LATE ITEMS:

(a) Move Agenda Item 8 (a) – Staff Reports – Administration – Lantzville Water to the end of the Agenda.

3. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

It was moved and seconded that the Minutes of the "In Camera" Finance / Policy Committee of the Whole Meeting held Monday, 2012-JAN-16 at 5:25 p.m. in the Board Room, City Hall be adopted as circulated. The motion carried unanimously.

5. STAFF REPORTS:

CORPORATE SERVICES:

- (a) Expiry of Appointments of City Representatives on the Nanaimo Port Authority Board and the Nanaimo Airport Commission

It was moved and seconded that Council direct Staff to advertise for citizens interested in serving as the City of Nanaimo representative on the Nanaimo Port Authority Board and/or the Nanaimo Airport Commission to submit an application for Council's consideration. The motion carried unanimously.

Mayor Ruttan vacated the Board Room at 7:02 p.m. on a perceived conflict of interest as he is a resident of Lantzville.

Mayor Ruttan vacated the Chair.

Councillor Johnstone assumed the Chair.

ADMINISTRATION:

- (b)

6. ADJOURNMENT:

It was moved and seconded at 7:30 p.m. that the "In Camera" Meeting terminate. The motion carried unanimously.

CHAIR

CERTIFIED CORRECT:

MANAGER,
LEGISLATIVE SERVICES

AGENDA FOR THE "IN CAMERA" FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS, TO BE HELD IN THE BOARD ROOM, CITY HALL,
ON MONDAY, 2012-FEB-20, COMMENCING IMMEDIATELY FOLLOWING THE REGULAR
FINANCE / POLICY COMMITTEE OF THE WHOLE

1. INTRODUCTION OF LATE ITEMS:

2. ADOPTION OF AGENDA:

3. ADOPTION OF MINUTES:

- (a) Minutes of the "In Camera" Finance / Policy Committee of the Whole Meeting held Monday, 2012-FEB-06 at 7:00 p.m. in the Board Room, City Hall. *Pg. 3-4*

4. PRESENTATIONS:

NONE

5. DELEGATIONS PERTAINING TO AGENDA ITEMS:

NONE

6. COMMISSION REPORTS:

NONE

7. COMMITTEE REPORTS:

NONE

8. STAFF REPORTS:

COMMUNITY SERVICES:

- (a) **Acquisition of Linley Valley West** *Pg. 5-6*

Staff's Recommendation: That Council direct Staff to include this report at the next Open Meeting of Council as an information report.

9. **INFORMATION ONLY ITEMS:**

- (a) Report from Mr. D. W. Holmes, Assistant City Manager and General Manager of Corporate Services, re: The Naming of the Annex Replacement Building. *Pg. 7*
- (b) Report from Mr. I. Howat, Director of Strategic Relationships, re: Water Supply Consulting Team Assembly. *Pg. 8-9*
- (c) Report from Mr. R. J. Harding, Director of Parks, Recreation and Culture and Mr. B. Anderson, Manager of Community Planning, re: Tillicum Lelum Land Purchase Request. *Pg. 10-16*

10. **CORRESPONDENCE:**

- (a) Letter dated 2012-FEB-16 from Mayor Jack de Jong, District of Lantzville, requesting that Council meet with the District of Lantzville's Council to discuss their water supply concerns. *Pg. 17*

11. **OTHER BUSINESS:**

12. **ADJOURNMENT:**

"IN CAMERA"**STAFF REPORT**

REPORT TO: A. KENNING, CITY MANAGER

FROM: T. HICKEY, GENERAL MANAGER, COMMUNITY SERVICES
and
E. SWABEY, GENERAL MANAGER, COMMUNITY SAFETY & DEVELOPMENT

RE: ACQUISITION OF LINLEY VALLEY WEST

STAFF'S RECOMMENDATION:

That Council direct Staff to include this report at the next Open Meeting of Council as an information report.

EXECUTIVE SUMMARY:

At its Monday, 2012-FEB-13 meeting, Council received a delegation from Mr. Ben Arsenault and Ms. Jennifer O'Rourke requesting that Council protect or purchase the land in Linley Valley West.

At the 2011-AUG-08 meeting of Council, staff presented a report regarding park acquisition priorities that was based on a growing community interest in the acquisition of park property in the west Linley Valley area. Council passed a resolution directing staff not to pursue the purchase of the Linley Valley lands at this time.

BACKGROUND:

The delegation asked that Council consider the protection and/or purchase of four large lots in Linley Valley West. These lots have an area of 116.2 hectares and an assessed value of \$5.67 million. Note: there is no appraisal and that the actual acquisition costs could be higher. Council is faced with a difficult task of prioritizing acquisition opportunities with the limited financial resources available. Parkland acquisition priorities were developed in the 2005 Parks, Recreation and Culture Master Plan and are as follows:

"Focus of the following features in future acquisition of lands for public open space in order of priority:

- *waterfront and shoreline areas*
- *lakes, streams and river courses*
- *woodlands with extensive natural areas and consolidate future acquisitions and dedications to achieve areas larger than totlots"*

Over the last few years Council has been able to achieve these acquisition priorities with key parkland acquisitions such as:

- Neck Point Park addition of 3.2 acres of waterfront property
- Joan Point park acquisition of over 20 acres at Dodd Narrows
- East Wellington property of 30 acres along the Millstone River
- Linley Valley (Cottle Lake) Park
- Westwood Lake park acquisitions at two key locations

Council
 Committee Flow
 Open Meeting
 In-Camera Meeting
 Meeting Date: 2012-FEB-20

- Third Street property with Jingle Pot Marsh and the Catstream
- Via development approval process, acquisition of natural areas, shorelines, lakes, streams and marshes in excess of what was required. A few examples are Northfield Marsh, Mollies Marsh, Richards Marsh, Chase River Estuary, and many sections of lakes, rivers and streams along the Millstone, Chase, Wally Creek, Diver Lake, Long Lake, etc.

Co-management of Newcastle Island Provincial Park with B.C. Parks, SFN and the City of Nanaimo is another way Council has met the goals of parkland and open space goals within the Master Plan.

Lands Currently Under Discussion:

The Parks, Recreation and Culture Master Plan includes a list of Parks and Open Space Management and Acquisition Priorities. In addition there are a number of properties under discussion and of interest at this time:

- Currently Council has made an offer for 60+ acres of the West Marsh that would also include a long section of the Millstone River.
- Council has also authorized that the City take an active role in the management of public trails within DL56 and an application for a licence of use with the Province.
- Environmentally sensitive lands in the Harewood Plains in conjunction with Senior Government funding partners.
- Lands adjacent to Departure Bay Creek off Deerborne Street.
- Further additions to Westwood Lake Park.

Staff believes the City will be able to negotiate extensive trails throughout the Linley Valley as development proceeds. Also, any developer can be expected to either dedicate environmentally sensitive areas to the City or provide it as an ecological gift for tax purposes where it meets federal income tax criteria.

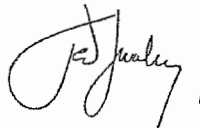
The delegation suggested that the City could down zone the property to agricultural to protect the land from development. Because the City just completed an Official Community Plan (OCP) and Zoning Bylaw which identify these properties for future urban development, this change to the OCP and zoning will cause the City to compensate the property owners(s) for lost value. Therefore, this is not a recommended action.

If Council would like to proceed with a land purchase of \$6M+, a referendum for debt is expected to be necessary to fund the acquisition.

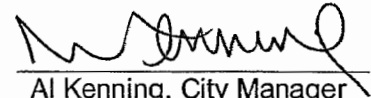
Respectfully submitted,



Tom Hickey, General Manager
Community Services



E.C. Swabey, General Manager,
Community Safety & Development



Al Kenning, City Manager

FPCOW: 2012-Feb-20

TH/fg/hp

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“IN CAMERA”
INFORMATION ONLY

TO: A.C. KENNING, CITY MANAGER

FROM: D.W. HOLMES, ASSISTANT CITY MANAGER/
GENERAL MANAGER, CORPORATE SERVICES

RE: THE NAMING OF THE ANNEX REPLACEMENT BUILDING

STAFF'S RECOMMENDATION:

Council receive the report for information.

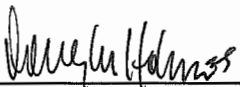
EXECUTIVE SUMMARY:

The building under construction at 411 Dunsmuir Street that will replace the existing City Hall annex will open near the end of 2012.

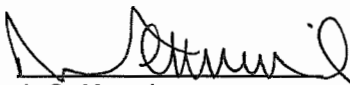
In anticipation of this building being open and available to serve the public, staff have been collecting name suggestions from City staff members for a number of months. We will continue to do so until the end of February at which time we will strike a staff committee to make a recommendation to Council of a short-list of four names for the building. Submissions to date include numerous creative options ranging from reference to the function of the building to naming the building after people such as Mark Bate and Frank Ney.

Staff will provide that recommendation to Council at an “In Camera” Finance/Policy Committee of the Whole meeting likely toward the end of March.

Respectfully submitted,



D.W. Holmes,
Assistant City Manager/
General Manager, Corporate Services



A.C. Kenning,
City Manager

DWH/jdk

2012-FEB-20

Council
 Committee *FIP/COW*
 Open Meeting
 In-Camera Meeting
Meeting Date: *2012-FEB-20*

Feb 14, 2012

“IN CAMERA”

INFORMATION ONLY REPORT

TO: A.C. KENNING, CITY MANAGER

FROM: I. HOWAT, DIRECTOR OF STRATEGIC RELATIONSHIPS

RE: WATER SUPPLY CONSULTING TEAM ASSEMBLY

STAFF RECOMMENDATION:

That Council receive this report for information.

EXECUTIVE SUMMARY:

Council directed staff to proceed with seeking expert advice in managing the relationship with the Snuneymuxw and the community related to the water supply issue and to assist with developing a communications strategy. The City has now hired Gary Ley Public Affairs Ltd. and commenced the development of a strategy.

BACKGROUND:

Council has had many discussions regarding the current situation with the City's need to source a new water supply.

Gary Ley was hired for his abilities in public relations and crisis management particularly in the field of natural resources. He is also an effective senior government lobbyist and is well connected in senior government.

The second phase is yet to commence but it will be a long term strategy to assist Council in successfully seeing this project to completion. Mr. Ley has recommended that the public relations plan

Council
 Committee *F/PCow*
 Open Meeting
 In-Camera Meeting
Meeting Date: *2012-FEB-20*

Gary Ley Public Affairs (GLBA) fee is \$300/hour or \$6,000 per month. Staff will evaluate the effectiveness of GLBA on an hourly basis and if effective will consider the \$6,000 per month fee to reduce costs.

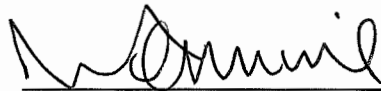
Billy Garton's fee is \$550/hour and at this time the amount of hours required are unknown, however staff will provide updates to Council.

Staff's opinion is that this is a file of significant importance facing the community and the results of this situation may be precedent setting in the rest of the Province relating to municipal access to water supplies around the Province and possibly Canada.

Respectfully submitted,



I. Howat
Director of Strategic Relationships



A. Kenning
City Manager

Finance/Policy Committee of the Whole
2012-FEB-20

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MINUTES OF THE "IN CAMERA" FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE BOARD ROOM, CITY HALL,
ON MONDAY, 2012-FEB-20, COMMENCING AT 6:05 P.M.

PRESENT: Mayor J. R. Ruttan, Chair

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

Staff: A. C. Kenning, City Manager
E. C. Swabey, General Manager of Community Safety and Development
T. M. Hickey, General Manager of Community Services
T. L. Hartley, Director of Human Resources and Organizational Planning
B. E. Clemens, Director of Finance
T. P. Seward, Director of Development
A. J. Tucker, Director of Planning
R. J. Harding, Director of Parks, Recreation and Culture
S. Clift, Director of Engineering and Public Works
J. Ritchie, Senior Manager of Parks and Civic Facilities
J. E. Harrison, Manager of Legislative Services
T. Wilkinson, Recording Secretary

1. CALL THE "IN CAMERA" MEETING TO ORDER:

The "In Camera" Meeting was called to order at 6:05 p.m.

2. INTRODUCTION OF LATE ITEMS:

- (a) Councillor Kipp advised that he had an item regarding Enhanced Customer Service to present under Agenda Item 11 – Other Business.
- (b) Councillor Anderson advised that he had an item regarding Rise and Report for "In Camera" items to present under Agenda Item 11 – Other Business.

3. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

It was moved and seconded that the Minutes of the "In Camera" Finance / Policy Committee of the Whole Meeting held Monday, 2012-FEB-20 at 7:00 p.m. in the Board Room, City Hall be adopted as circulated. The motion carried unanimously.

5. STAFF REPORTS:

COMMUNITY SERVICES:

(a) Acquisition of Linley Valley West

It was moved and seconded that Council direct Staff to include this report at the next Open Meeting of Council as an information report. The motion carried unanimously.

6. INFORMATION ONLY ITEMS:

- (a) Report from Mr. D. W. Holmes, Assistant City Manager and General Manager of Corporate Services, re: The Naming of the Annex Replacement Building.
- (b) Report from Mr. I. Howat, Director of Strategic Relationships, re: Water Supply Consulting Team Assembly.
- (c) Report from Mr. R. J. Harding, Director of Parks, Recreation and Culture and Mr. B. Anderson, Manager of Community Planning,

It was moved and seconded that Council move Other Business forward before Correspondence items. The motion carried unanimously.

7. OTHER BUSINESS:

- Councillor Kipp – Enhanced Customer Service.
- Councillor Anderson – Rise and Report for "In Camera" items.

Mayor Ruttan vacated the Board Room at 7:06 p.m. on a perceived conflict of interest as he is a resident of Lantzville.

Mayor Ruttan vacated the Chair.

Councillor Johnstone assumed the Chair.

8. CORRESPONDENCE:

(a)

9. ADJOURNMENT:

It was moved and seconded at 7:24 p.m. that the "In Camera" Meeting terminate.
The motion carried unanimously.

C H A I R

CERTIFIED CORRECT:

MANAGER,
LEGISLATIVE SERVICES

MINUTES OF THE "IN CAMERA" FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE DOUGLAS RISPIN ROOM, 80 COMMERCIAL STREET, NANAIMO, BC,
ON MONDAY, 2012-MAR-05, COMMENCING AT 6:17 P.M.

PRESENT: Mayor J. R. Ruttan, Chair

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

Staff: A. C. Kenning, City Manager
D. W. Holmes, Assistant City Manager and General Manager of
Corporate Services
E. C. Swabey, General Manager of Community Safety and Development
T. M. Hickey, General Manager of Community Services
T. L. Hartley, Director of Human Resources and Organizational Planning
B. E. Clemens, Director of Finance
T. P. Seward, Director of Development
S. Clift, Director of Engineering and Public Works
P. Kristensen, Director of Information Technology
B. Anderson, Manager of Community Planning
J. E. Harrison, Manager of Legislative Services
T. Wilkinson, Recording Secretary
L. Dennis, Recording Secretary

1. CALL THE "IN CAMERA" MEETING TO ORDER:

The "In Camera" Meeting was called to order at 6:17 p.m.

2. INTRODUCTION OF LATE ITEMS:

- (a) Councillor Bestwick advised that he would be bringing forward a late item regarding a letter

3. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

4. OTHER BUSINESS:

- (a) Letter dated 2012-MAR-02 from

5. ADJOURNMENT:

It was moved and seconded at 7:05 p.m. that the "In Camera" Meeting terminate.
The motion carried unanimously.

C H A I R

CERTIFIED CORRECT:

MANAGER,
LEGISLATIVE SERVICES

AMENDED

AGENDA FOR THE "IN CAMERA" FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS, TO BE HELD IN
THE DOUGLAS RISPIN ROOM, 80 COMMERCIAL STREET, NANAIMO, BC
ON MONDAY, 2012-APR-02, COMMENCING IMMEDIATELY FOLLOWING THE REGULAR
FINANCE / POLICY COMMITTEE OF THE WHOLE

1. **INTRODUCTION OF LATE ITEMS:**

- Replace Pages 8/9 – Item 8 (a) – Staff Reports – Expression of Interest for Sale of City Hall Annex.
- Add Item 10 (a) – Correspondence – Letter from Mr. G. E. Pink, Board Chair, Nanaimo Airport Commission regarding City Nominees to Nanaimo Airport Commission.
- Add Item 11 (a) – Other Business – Verbal update regarding Lantzville Water.
- Add Item 11 (b) – Other Business – Verbal update regarding Nanaimo Economic Development Corporation (NEDC).

2. **ADOPTION OF AGENDA:**

3. **ADOPTION OF MINUTES:**

- (a) Minutes of the "In Camera" Finance / Policy Committee of the Whole Meeting held Monday, 2012-FEB-20 at 6:05 p.m. in the Board Room, City Hall. *Pg. 3-5*
- (b) Minutes of the "In Camera" Finance / Policy Committee of the Whole Meeting held Monday, 2012-MAR-05 at 6:17 p.m. in the Douglas Rispin Room, 80 Commercial Street, Nanaimo, BC. *Pg. 6-7*

4. **PRESENTATIONS:**

NONE

5. **DELEGATIONS PERTAINING TO AGENDA ITEMS:**

NONE

6. **COMMISSION REPORTS:**

NONE

7. **COMMITTEE REPORTS:**

NONE

8. **STAFF REPORTS:**

COMMUNITY SAFETY AND DEVELOPMENT:

(a) **Expression of Interest for Sale of City Hall Annex**

Pg. 8-35

Staff's Recommendations: That Council:

1. *direct Staff to advertise the attached Expression of Interest for the sale of the City Hall Annex;*
2. *direct Staff to bring this report forward to the Open Council meeting of 2012-APR-16; and,*
3. *direct Staff to report back to a future "In Camera" Meeting with an evaluation and summary report for Council's consideration.*

9. **INFORMATION ONLY ITEMS:**

NONE

10. **CORRESPONDENCE:**

- (a) Letter dated 2012-MAR-28 from Mr. G. E. Pink, Board Chair, Nanaimo Airport Commission, regarding City Nominees to Nanaimo Airport Commission.

Pg. 36

11. **OTHER BUSINESS:**

- (a) Verbal update regarding Lantzville Water.
- (b) Verbal update regarding Nanaimo Economic Development Corporation (NEDC).

12. **ADJOURNMENT:**

“IN CAMERA” STAFF REPORT

REPORT TO: E.C. SWABEY, GENERAL MANAGER,
COMMUNITY SAFETY & DEVELOPMENT

FROM: TOBY SEWARD, DIRECTOR OF DEVELOPMENT,
COMMUNITY SAFETY & DEVELOPMENT

AND

BILL CORSAN, MANAGER OF REAL ESTATE
COMMUNITY SAFETY & DEVELOPMENT

RE: EXPRESSION OF INTEREST FOR SALE OF CITY HALL ANNEX

STAFF'S RECOMMENDATION:

That Council:

1. direct Staff to advertise the attached Expression of Interest for the sale of the City Hall Annex;
2. direct Staff to bring this report forward to the Open Council meeting of 2012-APR-16; and
3. direct Staff to report back to a future "In Camera" Meeting with an evaluation and summary report for Council's consideration.

EXECUTIVE SUMMARY:

At the "In Camera" Council meeting held on 2012-FEB-13, Council directed Staff to draft an Expression of Interest (EOI), which seeks proposals for the sale of the City Hall Annex upon its vacancy in July 2013. The EOI is a non-binding process and enables Council to gauge the level of interest from the development community in the property.

Staff has prepared the draft EOI for Council's discussion "In Camera", to confirm the wording of the EOI. The key elements of the EOI include:

- requests the potential purchaser to outline a vision for the property;
- provides an option for the potential purchaser to choose demolition or seismic upgrade;
- requires the potential purchaser to define a purchase price;
- if the potential purchaser wishes to undertake a seismic upgrade, a Section 219 Covenant will be required to prohibit occupancy until the structure is upgraded to 60% of the BC Building Code 2006; and
- requires an Option to Purchase Agreement in favour of the City of Nanaimo to buy the building back for \$10,000 less than purchase price should no progress be made with the upgrade or demolition within two years.

Council
 Committee *E./PLOW*
 Open Meeting
 In-Camera Meeting

Meeting Date: 2012-APR-02

The report will be forwarded to the open Council meeting of 2012-APR-16. The EOI will be advertised 2012-APR-17 with responses due by 2012-JUN-11. Staff will report back to Council in August 2012 with a summary of the responses received from the development community.

BACKGROUND:

In the fall of 2012, the majority of Staff from the City Hall Annex and City Hall will be relocated to the new office building located at 411 Dunsmuir Street. The existing City Hall building will be renovated in early 2013 with the remaining employees moving into City Hall later in the year. The City Hall Annex will become vacant which presents the City with a challenge of charting a future for the building.

At the meeting held 2012-FEB-13, Council directed Staff to prepare terms of reference for an EOI proposal that would seek to sell the City Hall Annex land and building to a purchaser who would either seismically upgrade the building to a minimum of 60% of *BC Building Code 2006* requirements or demolish the building.

Staff has prepared a draft EOI which is attached to this report (Attachment A). A Respondent Information Form (Attachment B) has been prepared for collecting responses from interested developers.

The EOI requests proposals from developers who are interested in purchasing the City Hall Annex and will commit to seismically upgrade the building or demolish the building within 24 months of the close of the sale. The EOI is a non-binding agreement and provides Council with an opportunity to test the market to see if there are any parties interested in the property given the constraints associated with the existing building.

A Section 219 Covenant, in favour of the City, will be registered on title which will prohibit occupancy of the building until it is seismically upgraded or demolished (Attachment C).

To ensure the successful proponent moves forward with the upgrade or demolition, an Option to Purchase agreement will ensure that the building and land are returned to the City should the purchaser fail to undertake the upgrade or demolition within 24 months (Attachment D). The City will buy the land and building back at the purchase price less \$10,000.00 in liquidated damages.

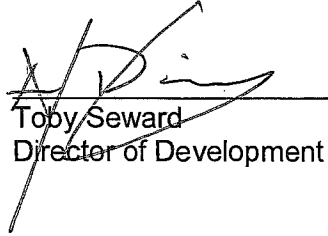
The EOI will be advertised in the local newspaper, the City's website, on the Province's BC Bid website and on the Union of BC Municipalities CivicInfo website. The EOI will be issued 2012-APR-17 with an 8-week period for proponents to prepare their responses. All responses will be due by 2012-JUN-11.

Staff will evaluate the proposals and prepare a summary report for Council's consideration at the Council meeting on 2012-AUG-13.

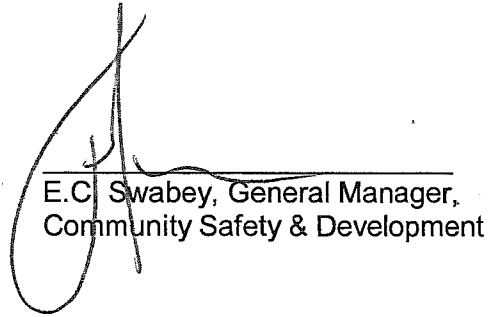
Respectfully submitted,



Bill Corsan
Manager, Real Estate



Toby Seward
Director of Development



E.C. Swabey, General Manager,
Community Safety & Development

BC/tl
Prospero: CLL00055
"IC" FPCOW: 2012-APR-02

ATTACHMENT A



CALL FOR EXPRESSIONS OF INTEREST (NON-BINDING PROCESS)

SALE/DISPOSITION OF CITY HALL ANNEX

Call for Expressions of Interest No. 1313

Issue Date: 2012-APRIL-17

Response Receipt Location:

City of Nanaimo Purchasing Department
2020 Labieux Road
Nanaimo, BC V9T 6J9

Response Location Email: purchasinginfo@nanaimo.ca

Response Location Facsimile: 250-756-5327

The City requests that responses be submitted by:

2:00 p.m. Pacific Time on Monday, 2012-JUNE-11

City Contact Person:

Bill Corsan, Manager, Real Estate

Phone: 250-755-4426

Fax: 250-755-4421

bill.corsan@nanaimo.ca

OVERVIEW OF THE REQUIREMENT

The purpose of this EOI is to solicit offers from parties interested in acquiring the City Hall Annex building at 238 Franklyn Street, Nanaimo, BC. The City is seeking offers that commit the purchaser to a deadline of 24 months from the transfer of property title to either seismically upgrade and refurbish the building or demolish the building and bring forward plans to reuse the land.

The City of Nanaimo, at its sole discretion may, or, may not proceed further based on the responses received. The City of Nanaimo may enter direct negotiations with any or all of the respondents. No party will have any formal contractual obligations to the other and either party can withdraw from the process at anytime for any reason whatsoever. Contract A obligations do not apply and the process is not binding on either side.

BACKGROUND

The City Hall Annex is located in the Old City Neighbourhood of downtown Nanaimo at 238 Franklyn Street. The 3,371m² (36,000 ft²) office building is home to approximately 140 staff. The building has been identified as requiring an approximate \$4.3 million seismic upgrade to meet 60% of the current *Building Code* requirements. A new office building to accommodate most of the staff in the existing building is currently being constructed at 411 Dunsmuir Street and is scheduled to open in the fall of 2012.

The existing City Hall building will be renovated in early 2013, with the remaining City Hall Annex employees moving into City Hall by June 2013. The City Hall Annex will become vacant, which presents an opportunity to explore alternate uses such as the sale of the land and building.

Lot Size and Area

The building is situated on an irregularly shaped lot with frontage on Franklyn Street of approximately 54.3 m (178.2 ft) and frontage on Wallace Street of approximately 48.8 m (160.1 ft). The total site area comprises approximately 2,160m² (23,250 ft²). A site plan of the existing building and lot is included with this package.

Property Analysis

- Zoning: DT2, which allows for various residential, office and commercial uses (a full list of permitted uses under the current Zoning Bylaw is included with this package);
- Lot Size: 2,160 m² (23,250 ft²);
- Building Area: 3,371m² (36,287 ft²) on three floors; and
- BC Assessment Value 2012: \$3.947 million (\$568,000 land, \$3.379 million improvements).

About the Building

The improvements include a three storey office building created out of a former distribution warehouse (formerly Kelly Douglas Foods), which has undergone various additions and renovations. The property includes approximately 592 m² of asphalt paving for 18 vehicles on the north side of the property.

The original warehouse structure was constructed as a two-storey building in 1937 by Dominion Construction. A single-storey addition was added in 1954 to the west side of the building and a third storey was added in 1978. The warehouse was renovated to an office complex between 1978 and 1981. Periodic interior remodelling, minor renovations, and exterior upgrades have occurred during the past 30 years.

Building details are briefly described as follows:

Size

Lower:	805.7m2	(8,672 ft ²)
Main:	1,458.6m2	(15,700 ft ²)
Upper:	<u>1,106.9m2</u>	<u>(11,915 ft²)</u>
Total:	3,371.2m2	(36,287 ft ²)

Foundations

Reinforced poured concrete.

Floor Structure

Lower level and grade level section of main floor area concrete slabs on grade. The balance of the main floor and upper floor is laminated wood (2X6 studs on edge) with plywood deck and concrete topping.

Floor Cover

Floor coverings throughout the building area a mixture of wall-to-wall carpeting, sheet vinyl and tile.

Ceilings

Lower level has exposed laminated wood floor system supported by wood beams and timber columns with some T-bar acoustic tile, while main and upper levels are T-bar acoustic tile suspended ceiling system.

Interior Construction

The structure is portioned and divided into various departmental office units all of which are similarly finished. The building is portioned into private offices, open offices, workrooms, meeting rooms, service areas, staff areas and washrooms.

The interior bearing and partition walls are a mixture of metal and wood frame with a combination of prefabricated curtain wall panels, painted drywall, decorative cedar and glass. The building contains a central and front stairway plus elevator.

Plumbing

6 piece ladies' and 8 piece men's washrooms on lower level, 5 piece ladies' and 7 piece men's washrooms on main level, 7 piece ladies' and 7 piece men's washrooms on upper level. Staffroom and utility sinks. Copper and cast iron piping.

Heating

Gas-fired hot water boiler providing radiant heat and warm and cool air heat pumps.

Electrical

800 amp, 120-240 volt service

Exterior Walls

The exterior wall construction comprises a mixture of reinforced poured concrete (lower level and portion of main level), giant brick (rear extension and portion of upper level) and stucco covered concrete block (portion of main floor). Cedar on wood frame buttress, upper level wood deck. Primarily double glazed windows.

Roof

Membrane roofing with tar and gravel ballast on wood deck and wood roof joists. Half canvas awning cover over decks on upper floor.

Building Quality

Overall the building is considered to be a low quality structure in good aesthetic condition and having an effective age of 50 years and a remaining economic life of five to ten years.

Fixtures and Chattels

The City Hall Annex will be delivered vacant to the potential purchaser. All existing furniture will be removed. The existing Intranet will be dismantled and meeting room smart board systems and projectors will be removed. The generator will also be removed prior to the transfer of title.

The existing heat pumps and interior millwork will remain with the building.

Seismic Issues & Repair Costs

The structure has been identified as being at high risk for structural damage or partial collapse during a significant seismic event. The details of the building deficiencies have been outlined by Herold Engineering Ltd. in a Seismic Upgrade Report dated June 2008. The report identifies building deficiencies such as:

- The existing masonry and concrete walls have insufficient shear and moment capacity to resist lateral loads;
- There is insufficient capacity for the diaphragms to transfer shear to a lateral resisting system at all three levels;
- Existing columns lack anchorage capacity; and
- All exterior concrete and masonry walls and interior concrete walls have insufficient out-of-plane capacity due to lack of reinforcing and lack of connection to the floor system.

Upon review of the seismic condition of the building, Herold Engineering concluded that in a seismic event, there is a high risk of significant damage or partial collapse of the building occurring.

The Herold report provides three upgrade options to achieve a life-safe standard for its occupants with anticipated costs ranging from \$4.3 to \$4.6 million. The report notes that if the building was vacant completely, the construction cost could be reduced to a cost of around \$4.0 million.

Environmental Assessment

Respondents to the EOI are expected to conduct their own environmental assessment of the building as part of due diligence.

Restrictive Covenant & Option to Purchase

Based on the seismic issues associated with the City Hall Annex Building, the City requires the building to be seismically upgraded to 60% of the BC Building Code 2006 before the building is occupied or for the building to be demolished. The successful bidder will have 24 months to undertake the upgrade or demolition.

A restrictive covenant will be placed on the title of the property which will prohibit the use of the Building for the purpose of any human occupancy. Once the building is sixty percent (60%) compliant with the seismic requirements of the BC Building Code, or completely demolished, the City will remove the covenant.

An Option to Purchase Agreement will require the successful purchaser to undertake the seismic upgrade or demolition within 24 months of the closing date. Failure to complete the works will result in the property transferring back to the City of Nanaimo at a price equal to the purchase price paid by the purchaser less liquidated damages in the amount of ten thousand dollars (\$10,000) to compensate the City for the costs of marketing, selling and remarketing the property.

LIST OF ADDITIONAL INFORMATION PROVIDED

The following documents related to this Call for Expressions of Interest may be viewed online at www.nanaimo.ca, where a link to these documents will be provided. The documents are also available at the City of Nanaimo Annex Building, 238 Franklyn Street, Nanaimo, BC.

- Certificate of Title – 238 Franklyn Street
- City of Nanaimo Property Report – 238 Franklyn Street
- City Hall Annex – Location Map
- City Hall Annex – Floor Plans
- Herold Engineering Seismic Upgrade Report 2008
- Draft Section 219 Covenant – No Occupation of Building
- Draft Option to Purchase Agreement – Requiring Seismic Upgrade or Demolition within 24 months
- City of Nanaimo Zoning Bylaw 4500 – Permitted Uses for DT2 Zone

PROPERTY SITE VISIT

Interested parties are advised that a property site visit has been scheduled for April 30, 2012 at 4:30 pm at 238 Franklyn Street, Nanaimo, BC. If you plan to attend, please notify the City of Nanaimo at least 2 days prior to the meeting (by email bill.corsan@nanaimo.ca).

INFORMATION TO BE PROVIDED IN SUBMISSION

Sufficient information should be provided in response to this Call for Expressions of Interest to enable the evaluation of submissions and develop a short-list of those to be invited to submit more detailed proposals. **A response form is provided in Appendix A.**

INQUIRIES

All Inquiries related to this EOI are to be directed, in writing, to the contact person at the email address on the front cover of this EOI. Inquiries should not be directed to City Council members or the remainder of staff. Information obtained from any other source is not official and should not be relied upon.

INTERVIEWS AND ADDITIONAL INFORMATION

The City of Nanaimo may request that companies participate in a telephone or in-person interview to discuss the information submitted and to ask any additional questions. Additional information may be requested by the City via mail or email as well.

QUALIFICATIONS REVIEW COMMITTEE

Review of responses will be by a committee formed by the City at its sole discretion.

RESPONDENT EXPENSES

Respondents are solely responsible for their own expenses in preparing a response and for subsequent negotiations with the City, if any. The City will not be liable to any respondent for any claims, whether for costs or damages incurred by the respondent in preparing the response, loss of anticipated profit in connection with any final contract, or any other matter whatsoever.

ACCEPTANCE OF RESPONSES

This EOI is not an agreement to purchase goods or services. The City is not bound to enter into a contract with any respondent. The City will be under no obligation to receive further information, whether written or oral, from any respondent.

MODIFICATION OF TERMS

The City reserves the right to modify the terms of this EOI at any time in its sole discretion. This includes the right to cancel this EOI at any time for any reason whatsoever without entering into a contract.

OWNERSHIP OF RESPONSES

All documents, including responses, submitted to the City become the property of the City. They will be received and held in confidence by the City, subject to the provisions of the *Freedom of Information and Protection of Privacy Act*.

CONFIDENTIALITY OF INFORMATION

Information pertaining to the City obtained by the respondent as a result of participation in this EOI is confidential and must not be disclosed without written authorization from the City.

"AS IS, WHERE IS" AGREEMENT

Expressions of Interest must be made on an "as is, where is" basis with no vendor representations or warranties other than as to ownership. Interested parties must satisfy themselves on all matters concerning the Property including without limitation, its size, location, improvements, encumbrances, and fitness for any particular purpose.

REAL ESTATE COMMISSION

The City has not engaged a real estate agent or broker and will not pay any commission or finder's fee to the purchaser or to any agent or broker engaged by the purchaser of the Property.

RESPONDENT COSTS

Respondents to this Expressions of Interest shall be solely responsible for all costs relating to:

- Performing due diligence
- Own closing and legal fees associated with title transfer
- Ensuring the site has no archaeological significance
- Hazardous materials remediation
- Any other costs incurred once title has been assumed

STATUTORY NOTICE

The Expression of Interest process is a statutory notice of disposition pursuant to section 26 of the *Community Charter* and is not a tender.

ATTACHMENT B

SALE/DISPOSITION OF CITY OF NANAIMO ANNEX – 238 FRANKLYN STEET EXPRESSION OF INTEREST RESPONDENT INFORMATION

A. Contact Information

Date	
Prospective Purchaser	
Contact Name <i>(if different from Purchaser's name)</i>	
Contact Phone Number	
Contact Fax Number	
E-Mail Address	
Address	
City	
Province/State	
Country	
Postal/Zip Code	

B. Seismic Upgrade or Demolition Option

Please select your preferred option for addressing the seismic issues associated with the City Hall Annex.

Seismic Upgrade

Demolition

**SALE/DISPOSITION OF CITY OF NANAIMO ANNEX – 238 FRANKLYN STEET
EXPRESSION OF INTEREST
RESPONDENT INFORMATION**

C. Intended Use

Describe in detail your intended future use of the Property and attach any additional information if necessary.

--

D. Purchase Price

Proposed Purchase Price	
--------------------------------	--

E. Proposed Closing Date

What is your preferred date to complete the transaction? The City Hall Annex will be vacant from July 2013 onwards.

Day	
Month	
Year	

**SALE/DISPOSITION OF CITY OF NANAIMO ANNEX – 238 FRANKLYN STEET
EXPRESSION OF INTEREST
RESPONDENT INFORMATION**

F. Additional Terms and Conditions Requested

Are there any other terms or conditions you would like to add to the purchase agreement? For example do you require a time period for due diligence?

#	Additional Terms and Conditions	Condition Date
1		
2		
3		
4		
5		
6		

G. Additional Information

If you have any questions or comments, please include them in the box below.

Please return completed forms to:

City of Nanaimo Purchasing Department
2020 Labieux Road
Nanaimo, BC V9T 6J9

Response Location Email: purchasinginfo@nanaimo.ca
Response Location Facsimile: 250-756-5327

The City requests that responses be submitted by:
2:00 p.m. Pacific Time on Monday, 2012-JUNE-11

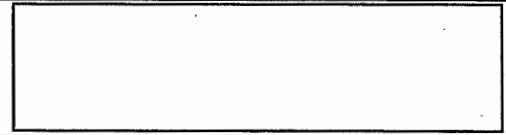
City of Nanaimo
Expression of Interest 1313

ATTACHMENT C

**LAND TITLE ACT
FORM C (Section 233) CHARGE
GENERAL INSTRUMENT - PART 1 Province of British Columbia**

PAGE 1 OF 5 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.



1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

STEWART MCDANNOLD STUART

Barristers & Solicitors

2nd Floor, 837 Burdett Avenue

Victoria

BC V8W 1B3

Tel: (250) 380-7744

Fax: (250) 380-3008

File: 194 1248 MH/lg

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

000-000-434 LOT 1, (DD F94704), SECTION 1, NANAIMO DISTRICT, PLAN 5108

STC? YES

3. NATURE OF INTEREST

Covenant

CHARGE NO.

ADDITIONAL INFORMATION

SECTION 219 COVENANT

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms D.F. No.

(b) Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

CITY OF NANAIMO

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

CITY OF NANAIMO

455 WALLACE STREET

NANAIMO

V9R 5J6

BRITISH COLUMBIA

CANADA

7. ADDITIONAL OR MODIFIED TERMS:

N/A

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

Execution Date

Y	M	D
12		

Transferor(s) Signature(s)

**CITY OF NANAIMO by its
authorized signatories:**

**Ted Swabey, General Manager,
Community Safety and
Development**

**Joan Harrison, Manager, Legislative
Services**

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

TERMS OF INSTRUMENT - PART 2

WHEREAS:

- A. The Transferor is the registered owner in fee-simple of those lands and premises located within the City of Nanaimo, in the Province of British Columbia, more particularly described as:

PID: 000-000-434
Lot 1, (DD F94704), Section 1, Nanaimo District, Plan 5108

(the "Lands")

- B. The Transferee is the City of Nanaimo;
- C. The City of Nanaimo's City Hall Annex, having a civic address of 238 Franklyn Street (the "**Building**"), is located on the Lands;
- D. The Building requires significant upgrades to meet the seismic requirements of the British Columbia Building Code 2006, as amended from time to time (the "**Building Code**");
- E. The Transferor acknowledges that it is in the public interest that the use of the Building be limited and wishes to grant this covenant (the "**Agreement**") to the Transferee;
- F. Section 219 of the *Land Title Act* provides that a covenant, whether of negative or positive nature, in respect of:
- the use of land or the use of a building on or to be erected on land;
 - that land is to be built on in accordance with the covenant;
 - that land is not to be built on or subdivided except in accordance with the covenant;
 - that land is not to be used, built on or subdivided;
 - that separate parcels of land are not to be sold or transferred separately;
 - that land or specified amenities be protected, preserved, conserved, maintained, enhanced, restored or kept in its natural or existing state;

may be granted in favour of the municipality and may be registered as a charge against the title to that land.

NOW THEREFORE THIS AGREEMENT WITNESSES that under Section 219 of the *Land Title Act*, and in consideration of the premises and the mutual covenants and agreements contained herein, and the sum of ONE (\$1.00) DOLLAR of lawful money of Canada now paid to the Transferor by the Transferee (the receipt and sufficiency of which is hereby acknowledged), and for other good and valuable consideration the parties covenant and agree each with the other as follows:

Building Upgrade or Demolition

1. The Transferor covenants and agrees with the Transferee that it must not use or permit the use of the Building for the purpose of any human occupancy unless the Transferor has first, to the satisfaction of the Transferee, carried out such renovations, modifications and upgrades as are necessary to render the Building sixty percent (60%) compliant with the seismic requirements of the Building Code.
2. The Transferee will, upon the request and at the expense of the Transferor, discharge this Agreement from title to the Lands provided that either of the following conditions has been met:
 - (a) the Transferor has carried out the renovations, modifications and upgrades necessary to render the Building sixty percent (60%) compliant with the seismic requirements of the Building Code, to the satisfaction of the Transferee; or
 - (b) the Transferor has completely demolished the Building.

General Provisions

3. The Transferor must indemnify and save harmless the Transferee from any and all claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees whatsoever which anyone has or may have against the Transferee or which the Transferee incurs as a result of any loss or damage or injury, including economic loss, arising out of or connected with:
 - (a) the breach of any covenant in this Agreement;
 - (b) the use of the Lands contemplated under this Agreement; and
 - (c) restrictions or requirements under this Agreement.
4. The Transferor hereby releases and forever discharges the Transferee of and from any claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees whatsoever which the Transferor can or may have against the Transferee for any loss or damage or injury, including economic loss, that the Transferor may sustain or suffer arising out of or connected with:
 - (a) the breach of any covenant in this Agreement;
 - (b) the use of the Lands contemplated under this Agreement; and
 - (c) restrictions or requirements under this Agreement.
5. At the Transferor's expense, the Transferor must do everything necessary to secure priority of registration and interest for this Agreement and the Section 219 Covenant it creates over all registered and pending charges of a financial nature against the Lands.
6. Nothing contained or implied in this Agreement shall prejudice or affect the rights and powers of the Transferee in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively

exercised in relation to the Lands as if the Agreement had not been executed and delivered by the Transferor.

7. The Transferor covenants and agrees that the Transferee may withhold development permits, building permits and occupancy permits as necessary to ensure compliance with the covenants in this Agreement, and that the issuance of a development permit, building permit or occupancy permit does not act as a representation or warranty by the Transferee that the covenants in this Agreement have been satisfied.
8. Time is of the essence of this Agreement.
9. The Transferor covenants and agrees for itself, its heirs, executors, successors and assigns, that it shall at all times perform and observe the requirements and restrictions set out in this Agreement and they shall be binding upon the Transferor as personal covenants only during the period of its respective ownership of any interest in the Lands.
10. It is mutually understood, acknowledged and agreed by the parties hereto that the Transferee has made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the Transferor other than those contained in this Agreement.
11. The waiver by a party of any breach of this Agreement or failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar, and no waiver shall be effective unless it is in writing signed by both parties.
12. The enforcement of this Agreement shall be entirely within the discretion of the Transferee and the execution and registration of the Agreement against title to the Lands shall not be interpreted as creating any duty on the part of the Transferee to the Transferor or to any other person to enforce any provision or the breach of any provision of this Agreement.
13. Wherever the singular, masculine and neuter are used throughout this Agreement, the same is to be construed as meaning the plural or the feminine or the body corporate or politic as the context so requires.
14. The headings in this Agreement are included for ease of reference only and shall not affect the interpretation of this Agreement or any provision of this Agreement.
15. All of the provisions of this Agreement shall be construed as covenants and agreements as though the words importing covenants and agreements were used in each separate paragraph.
16. No remedy under this Agreement is to be deemed exclusive but shall, where possible, be cumulative with all other remedies at law or in equity.
17. The restrictions and covenants herein contained shall be covenants running with the Lands and shall be perpetual, and shall continue to bind all of the Lands when subdivided, and shall be registered in the Victoria Land Title Office pursuant to section

219 of the *Land Title Act* as covenants in favour of the Transferee as a charge against the Lands in priority to all charges of a financial nature.

18. The Transferor agrees to execute all other documents and provide all other assurances necessary to give effect to the covenants contained in this Agreement.
19. If any part of this Agreement is found to be illegal or unenforceable, that part shall be considered separate and severable and the remaining parts shall not be affected thereby and shall be enforceable to the fullest extent permitted by law.
20. This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

The Transferor and Transferee acknowledge that this Agreement has been duly executed and delivered by the parties executing Form C (page 1) attached hereto.

ATTACHMENT D

LAND TITLE ACT
FORM C (Section 233) CHARGE
GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 9 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

STEWART MCDANNOLD STUART
 Barristers & Solicitors
 2nd Floor, 837 Burdett Avenue
 Victoria BC V8W 1B3
 Tel: (250) 380-7744
 Fax: (250) 380-3008
 File: 194 1248 MH/lg

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
 [PID] [LEGAL DESCRIPTION]

000-000-434 LOT 1, (DD F94704), SECTION 1, NANAIMO DISTRICT, PLAN 5108

STC? YES

3. NATURE OF INTEREST CHARGE NO. ADDITIONAL INFORMATION

Option to Purchase

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms D.F. No. (b) Express Charge Terms Annexed as Part 2
 A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

CITY OF NANAIMO

 455 WALLACE STREET
 NANAIMO BRITISH COLUMBIA
 V9R 5J6 CANADA

7. ADDITIONAL OR MODIFIED TERMS:

N/A

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

Execution Date		
Y	M	D

Transferor(s) Signature(s)

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

TERMS OF INSTRUMENT - PART 2

WHEREAS:

- A. The Transferor is the registered owner in fee simple of:
- PID 000-000-434
- Lot 1, (DD F94704), Section 1, Nanaimo District, Plan 5108
- (the "**Land**");
- B. The Transferee is the City of Nanaimo;
- C. The City of Nanaimo's City Hall Annex, having a civic address of 238 Franklyn Street (the "**Building**"), is located on the Lands;
- D. The Building requires significant upgrades to meet the seismic requirements of the British Columbia Building Code 2006, as amended from time to time (the "**Building Code**");
- E. To ensure that the Building is either upgraded or demolished in a timely manner, the Transferor has agreed to grant to the Transferee an option to purchase the Land on the terms and conditions set out herein.

NOW THEREFORE, in consideration of the premises and the sum of Ten Dollars (\$10.00) now paid by the Transferee to the Transferor (the receipt and sufficiency of which is hereby acknowledged by the Transferor), the parties agree as follows:

Definitions

1. In this Agreement:
- (a) "**Agreement**" means this Agreement, including its recitals and schedules, and Forms C and D attached hereto.
- (b) "**Completion Date**" means the 60th day following the provision of notice of the exercise of the Option by the Transferee, or if the Land Title Office is closed on such day, the next day that office is open, or such other date as may be agreed in writing by the parties;
- (c) "**Election Period**" means the period of time referred to in section 6;
- (d) "**GST**" means the Goods and Services Tax levied pursuant to the *Excise Tax Act* (Canada), and if applicable, is deemed to include any harmonized sales tax levied pursuant to federal and provincial legislation.

- (e) **"Improvements"** includes all improvements on the Land as of the date of exercise of the Option by the Transferee.
- (f) **"Option"** means the option to purchase the Land granted by the Transferor to the Transferee under the terms of this Agreement;
- (g) **"Option Event"** means the event that triggers the Transferee's right to exercise the Option, as set out in section 4.
- (h) **"Permitted Encumbrances"** means the liens, charges and encumbrances set out in Schedule "A" to this Agreement.
- (i) **"Registration Date"** means the date that this instrument is registered against title to the Land in the Land Title Office.
- (j) **"Transferor"** includes the successors in title of the Transferor.

Term

- 2. The term of this Agreement is eighty (80) years commencing on the Registration Date, provided that if the perpetuity period for the Option as specified in the *Perpetuity Act* is increased or decreased in length then the term of this Agreement will be increased or decreased accordingly.

Grant of Option

- 3. The Transferor grants to the Transferee an irrevocable option to purchase the Land and Improvements on the terms and conditions set out in this Agreement.

Option Event

- 4. The Transferee may exercise the Option in the event that the Transferor has not, within two (2) years following the Registration Date, done one of the following:
 - (a) carried out the renovations, modifications and upgrades necessary to render the Building sixty percent (60%) compliant with the seismic requirements of the Building Code, to the satisfaction of the Transferee; or
 - (b) completely demolished the Building.

Notice of Exercise of Option

- 5. In order to exercise the Option, the Transferee must deliver written notice to the Transferor of the Transferee's exercise of the Option pursuant to the terms and conditions of this Option to Purchase.

6. The Transferee may exercise the Option at any time after the occurrence of the Option Event, unless prior to the exercise of the Option the Transferor has fulfilled one or the other of the requirements under sections 4 (a) and 4 (b).

Purchase Price

7. The purchase price for the purpose of the Option shall be equal to the purchase price paid by the Transferor to the Transferee on the Registration Date, not including GST, less liquidated damages in the amount of ten thousand dollars (\$10,000.00) to compensate the Transferee for the costs of marketing, selling and remarketing and selling the Land, over and above those costs for which the Transferor is responsible under section 10 (c).

General

8. The acceptance and exercising of the Option in the manner set out in this Option to Purchase constitutes a binding contract of sale and purchase of the Land and Improvements. The completion of the sale and purchase of the Land and Improvements shall take place on the Completion Date and on or before the Completion Date, the parties shall execute and deliver such documents as are reasonably required to convey title to the Land and Improvements to the Transferee, free and clear of all liens, charges and encumbrances, whether registered or unregistered, except the Permitted Encumbrances.
9. This Agreement shall terminate and the Transferee shall, at the expense of the Transferor, provide a discharge of this Agreement in registrable form, in either of the following cases:
 - (a) if the Option is not exercised in the manner set forth in this Agreement and the term set out in section 2 has expired; or
 - (b) if the Transferor has, prior to the exercise of the Option, fulfilled one or the other of the requirements under sections 4 (a) and 4 (b).
10. If the Transferee elects to acquire the Land and Improvements pursuant to this Agreement, then:
 - (a) the purchase and sale of the Land and Improvements will complete on the Completion Date;
 - (b) the Transferee will be entitled to possession of the Land and Improvements at noon on the Completion Date;
 - (c) all adjustments of taxes, utilities and other items normally adjusted between a vendor and purchaser on the sale of similar property shall be

made with respect to the Land and Improvements to and including the Completion Date. Real property taxes will be adjusted on the basis that current year's taxes will be 10% higher than previous years' taxes but the parties will readjust ten (10) days after determination of the actual current year real property taxes. The Transferor will pay the costs of the Transferee in relation to the transfer of the Land and Improvements, including Land Title Office registration fees and legal fees, and the purchase price shall be adjusted accordingly;

- (d) the Land and Improvements will be at the risk of the Transferor until 12:00 noon on the Completion Date;
 - (e) all documentation required to convey the Land and Improvements to the Transferee will be prepared by its solicitors and delivered to the solicitors for the Transferor at least five (5) business days before the Completion Date, and the Transferor will execute, in registrable form, all documents necessary to transfer title to the Land and Improvements to the Transferee;
 - (f) the Transferor will execute and deliver to the Transferee such further documents and give such further assurances as the solicitors for the Transferee may require in order to carry out and give effect to the intent of this Agreement and the purchase and sale contemplated in this Agreement;
 - (g) on the Completion Date the Transferee will cause its solicitors to register the transfer of the Land and Improvements in the Land Title Office;
 - (h) following registration of the transfer of the Land and Improvements on the Completion Date, and upon the Transferee's solicitors being satisfied by way of post-registration search that title to the Land and Improvements will vest in the Transferee in accordance with ordinary Land Title Office procedures, the Transferee will pay to the Transferor by way of solicitor's trust cheque the purchase price due to the Transferor under this Agreement, as adjusted under section 10(c).
11. After the delivery of notice under section 5, until 12:00 noon on the Completion Date the Transferor will:
- (a) permit the Transferee and its representatives to enter onto the Land and carry out such inspections, tests, studies, appraisals, surveys and investigations of the Land and Improvements as the Transferee may reasonably require;
 - (b) cause the Land and Improvements to be maintained in the manner of a prudent owner;

- (c) maintain insurance coverage with respect to the Land and Improvements in full force and effect until 12:00 noon on the Completion Date in such amounts and on such terms as would a prudent owner;
- (d) not enter into or amend any contract with respect to the Land and Improvements including, without limitation, leases or service contracts, before the Completion Date without the prior written approval of the Transferee;
- (e) grant authorizations reasonably required by the Transferee to authorize municipal or other governmental authorities to release information confirming compliance with laws, bylaws and other statutory and governmental regulations and with respect to potential statutory liens;
- (f) pay when due any indebtedness of the Transferor to any municipal or other governmental authority which, by operation of law or otherwise, becomes a lien, charge or encumbrance on the Land or Improvements from and after the Completion Date, including without limitation, corporation capital taxes and workers compensation payments; and
- (g) not modify, amend or cancel any of the Permitted Encumbrances without the prior written approval of the Transferee.

12. Time is of the essence of this Agreement.

13. Any notice required to be given under this Agreement will be in writing and will be deemed to have been received, if delivered on the date of delivery or, if mailed by prepaid registered mail, on the fourth day following the date of mailing, addressed:

In the case of the Transferee:

City of Nanaimo
455 Wallace Street
Nanaimo, B.C.
V9R 5J6

In the case of the Transferor, to the address shown on title to the Land.

14. No term, condition, covenant or other provision of this Agreement will be considered to have been waived by the Transferee unless such waiver is expressed in writing by the Transferee and the waiver by the Transferee of any such term, condition, covenant or other provision of this Agreement will not be construed as or constitute a waiver of any further or other breach of that or any other term, condition, or other provision of this Agreement.

15. This Agreement extends to, is binding upon and ensures to the benefit of the parties and their respective heirs, executors, administrators, successors and assigns.
16. In this Agreement, unless the context otherwise requires, the singular includes the plural and the masculine includes the feminine gender and a corporation.
17. The headings in this Agreement are included for ease of reference only and shall not affect the interpretation of this Agreement or any provision of this Agreement.
18. All of the provisions of this Agreement shall be construed as covenants and agreements as though the words importing covenants and agreements were used in each separate paragraph.
19. This Agreement will be interpreted according to the laws of the Province of British Columbia.
20. If any section of this Agreement or any part of a section, is found to be illegal or unenforceable, that part or section, as the case may be, will be considered separate and severable and the remaining parts or sections, as the case may be, will not be affected and will be enforceable to the fullest extent permitted by law.
21. Nothing contained or implied in this Agreement shall prejudice or affect the rights and powers of the Transferee in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Land as if the Agreement had not been executed and delivered by the Transferor.

IN WITNESS WHEREOF the parties hereto hereby acknowledge that this Agreement has been duly executed and delivered by the parties executing Form C, page 1, attached hereto.

SCHEDULE A
Permitted Encumbrances

1. All subsisting exceptions and reservations of rights, titles, interests and privileges contained in any previous Crown grant of the Land.
2. **Legal Notations:**

None.
3. **Charges, Liens and Interests:**

Undersurface Rights in favour of Her Majesty the Queen in Right of the Province of British Columbia

MINUTES OF THE "IN CAMERA" FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE DOUGLAS RISPIN ROOM, 80 COMMERCIAL STREET, NANAIMO, BC
ON MONDAY, 2012-APR-02, COMMENCING AT 6:40 P.M.

PRESENT: Mayor J. R. Ruttan, Chair (Vacated 7:50 p.m.)

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

Staff: A. C. Kenning, City Manager
D. W. Holmes, Assistant City Manager and General Manager of
Corporate Services (Vacated 7:50 p.m.)
E. C. Swabey, General Manager of Community Safety and Development
T. M. Hickey, General Manager of Community Services
I. Howat, Director of Strategic Relationships
T. L. Hartley, Director of Human Resources and Organizational Planning
B. E. Clemens, Director of Finance
T. P. Seward, Director of Development
S. Clift, Director of Engineering and Public Works
A. J. Tucker, Director of Planning
J. E. Harrison, Manager of Legislative Services
T. Wilkinson, Recording Secretary

1. CALL THE "IN CAMERA" MEETING TO ORDER:

The "In Camera" Meeting was called to order at 6:40 p.m.

2. INTRODUCTION OF LATE ITEMS:

- (a) Replace Agenda Pages 8/9 – Item 8 (a) – Staff Reports – Expression of Interest for Sale of City Hall Annex.
- (b) Add Agenda Item 10 (a) – Correspondence – Letter from Mr. G. E. Pink, Board Chair, Nanaimo Airport Commission, regarding City Nominees to Nanaimo Airport Commission.
- (c) Add Agenda Item 11 (a) – Other Business – Verbal update regarding Nanaimo Economic Development Corporation (NEDC).
- (d) Add Agenda Item 11 (b) – Other Business – Verbal update regarding a building permit issue

- (e) Add Agenda Item 11 (c) – Other Business – Verbal update regarding

3. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

It was moved and seconded that the Minutes of the "In Camera" Finance / Policy Committee of the Whole Meeting held Monday, 2012-FEB-20 at 6:05 p.m. in the Board Room, City Hall be adopted as circulated. The motion carried unanimously.

It was moved and seconded that the Minutes of the "In Camera" Finance / Policy Committee of the Whole Meeting held Monday, 2012-MAR-05 at 6:17 p.m. in the Board Room, City Hall be adopted as circulated. The motion carried unanimously.

5. STAFF REPORTS:

COMMUNITY SAFETY AND DEVELOPMENT:

- (a) Expression of Interest for Sale of City Hall Annex

It was moved and seconded that Council:

1. direct Staff to advertise the Expression of Interest for the sale of the City Hall Annex;
2. direct Staff to bring this report forward to the Open Council meeting of 2012-APR-16; and,
3. direct Staff to report back to a future "In Camera" Meeting with an evaluation and summary report for Council's consideration.

The motion carried unanimously.

6. CORRESPONDENCE:

- (a) Letter from Mr. G. E. Pink, Board Chair, Nanaimo Airport Commission regarding City Nominees to Nanaimo Airport Commission.

It was moved and seconded that Council send a letter to the Nanaimo Airport Commission which includes the entire list of applicants so that the Nanaimo Airport Commission can choose a representative. The motion carried.

Opposed: *Councillors Bestwick and Kipp*

7. OTHER BUSINESS:

- (a) Mayor Ruttan provided a verbal update regarding the Nanaimo Economic Development Corporation (NEDC). The Mayor stated that Progress Nanaimo will meet with A. J. Hustins and Moira Jenkins, past Co-Chairs, NEDC, to discuss NEDC operations and report back to Council.
- (b) Mr. E. C. Swabey, General Manager of Community Safety and Development, provided a verbal update regarding a building permit issue –

Mayor Ruttan vacated the Chair.

Councillor Kipp assumed the Chair.

- (c) Verbal update

8. ADJOURNMENT:

It was moved and seconded at 8:02 p.m. that the "In Camera" Meeting terminate. The motion carried unanimously.

CHAIR

CERTIFIED CORRECT:

MANAGER,
LEGISLATIVE SERVICES

AMENDED

AGENDA FOR THE "IN CAMERA" FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS, TO BE HELD IN
THE DOUGLAS RISPIN ROOM, 80 COMMERCIAL STREET, NANAIMO, BC
ON MONDAY, 2012-APR-23, COMMENCING IMMEDIATELY FOLLOWING THE REGULAR
FINANCE / POLICY COMMITTEE OF THE WHOLE

1. **INTRODUCTION OF LATE ITEMS:**

- Add Item 11 (a) – Other Business – Freedom of Information Request.

2. **ADOPTION OF AGENDA:**

3. **ADOPTION OF MINUTES:**

- (a) Minutes of the "In Camera" Finance / Policy Committee of the Whole Meeting held Monday, 2012-APR-02 at 6:40 p.m. in the Board Room, City Hall. *Pg. 3-5*

4. **PRESENTATIONS:**

5. **DELEGATIONS PERTAINING TO AGENDA ITEMS:**

6. **COMMISSION REPORTS:**

7. **COMMITTEE REPORTS:**

8. **STAFF REPORTS:**

CORPORATE SERVICES:

- (a) **Appointments to the Board of Variance** *Pg. 6-9*

Staff's Recommendation: That Council:

1. *appoint Amarjit Singh Minhas to the Board of Variance; and,*
2. *direct Staff to re-advertise for one additional Board of Variance member.*

9. **INFORMATION ONLY ITEMS:**

10. **CORRESPONDENCE:**

11. **OTHER BUSINESS:**

(a)

Pg. 9.1

12. **ADJOURNMENT:**

IN CAMERA

City of Nanaimo

REPORT TO FINANCE / POLICY COMMITTEE OF THE WHOLE

DATE OF MEETING: 2012-APR-23

AUTHORED BY: J. E. HARRISON, MANAGER OF LEGISLATIVE SERVICES

RE: APPOINTMENTS TO THE BOARD OF VARIANCE

STAFF RECOMENDATIONS:

1. That Council appoint Amarjit Singh Minhas to the Board of Variance.
2. That Council direct Staff to re-advertise for one additional Board of Variance member.

PURPOSE:

To fill two vacancies on the Board of Variance.

BACKGROUND:

At the "IC" meeting of Council held 2012-MAR-12, Council appointed three members to the Board of Variance. As five members are required and only three applications had been received, Council passed the following motion:


04812 It was moved and seconded that Council direct Staff to re-advertise for two additional Board of Variance members. The motion carried unanimously.

DISCUSSION:

Staff advertised for the additional appointments and received one application (Attachment A).

Should Council support this applicant, staff recommend that he be appointed to the Board of Variance. Staff also suggest that another advertisement be placed in the newspaper and on the City's website in an effort to fill the final vacancy.

Respectfully submitted,


J. E. Harrison, Manager
LEGISLATIVE SERVICES

Council
 Committee (EPCOW)
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-APR-23

Concurrence by:



D. W. Holmes
ASSISTANT CITY MANAGER /
GENERAL MANAGER OF CORPORATE SERVICES

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2012-APR-17
L:\InCamera\Reports\icRPT120423BOVAppointments

MINUTES OF THE "IN CAMERA" FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE DOUGLAS RISPIN ROOM, 80 COMMERCIAL STREET, NANAIMO, BC
ON MONDAY, 2012-APR-23, COMMENCING AT 6:23 P.M.

PRESENT: Mayor J. R. Ruttan, Chair

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

Staff: A. C. Kenning, City Manager
D. W. Holmes, Assistant City Manager and General Manager of
Corporate Services
E. C. Swabey, General Manager of Community Safety and Development
T. M. Hickey, General Manager of Community Services
T. L. Hartley, Director of Human Resources and Organizational Planning
B. E. Clemens, Director of Finance
T. P. Seward, Director of Development
A. J. Tucker, Director of Planning
J. E. Harrison, Manager of Legislative Services
L. Dennis, Recording Secretary

1. CALL THE "IN CAMERA" MEETING TO ORDER:

The "In Camera" Meeting was called to order at 6:23 p.m.

2. INTRODUCTION OF LATE ITEMS:

(a) Add Agenda Item 11 (a) – Other Business – Freedom of Information Request.

3. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

It was moved and seconded that the Minutes of the "In Camera" Finance / Policy Committee of the Whole Meeting held Monday, 2012-APR-02 at 6:40 p.m. in the Douglas Rispin Room, 80 Commercial Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

5. STAFF REPORTS:

CORPORATE SERVICES:

(a) Appointments to the Board of Variance

It was moved and seconded that Council:

1. appoint Amarjit Singh Minhas to the Board of Variance; and,
2. direct Staff to re-advertise for one additional Board of Variance member.

The motion carried unanimously.

6. OTHER BUSINESS:

(a)

It was moved and seconded that Council direct Staff to prepare a report on the legislative requirements with regards to the release of "In Camera" information, and specifically on the release of the vote on "In Camera" resolutions. The motion carried unanimously.

7. ADJOURNMENT:

It was moved and seconded at 6:42 p.m. that the "In Camera" Meeting terminate. The motion carried unanimously.

CHAIR

CERTIFIED CORRECT:

MANAGER,
LEGISLATIVE SERVICES

AGENDA FOR THE SPECIAL "IN CAMERA" FINANCE / POLICY COMMITTEE OF THE WHOLE
MEETING TO DISCUSS CONFIDENTIAL MATTERS, TO BE HELD IN THE
CITY HALL BOARD ROOM, 455 WALLACE STREET, NANAIMO, BC
ON MONDAY, 2012-MAY-07, COMMENCING AT 3:00 P.M..

1. **INTRODUCTION OF LATE ITEMS:**

2. **ADOPTION OF AGENDA:**

3. **OTHER BUSINESS:**

(a) Strategic Planning

Mr. Ken Balmer and Ms. Brenda Clarke of RETHINK (West) Inc. to facilitate discussions regarding Strategic Planning.

4. **ADJOURNMENT:**

MINUTES OF THE SPECIAL "IN CAMERA" FINANCE / POLICY COMMITTEE OF THE WHOLE
MEETING TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE BOARD ROOM, CITY HALL,
ON MONDAY, 2012-MAY-07, COMMENCING AT 3:10 P.M.

PRESENT: Mayor J. R. Ruttan, Chair

Members: Councillor G. Anderson
Councillor W. L. Bestwick (Arrived at 3:48 p.m.)
Councillor M. D. Brennan (Arrived at 3:56 p.m.)
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

Staff: A. C. Kenning, City Manager
D. W. Holmes, Assistant City Manager and General Manager of
Corporate Services
E. C. Swabey, General Manager of Community Safety and Development
T. M. Hickey, General Manager of Community Services
T. L. Hartley, Director of Human Resources and Organizational Planning

1. CALL THE OPEN MEETING TO ORDER:

The Special Meeting was called to order at 3:10 p.m.

2. PROCEDURAL MOTION:

It was moved and seconded that the meeting be closed in order to deal with the following matters under the *Community Charter* Section 90(1):

- (l) discussions with municipal officers and employees respecting municipal objectives, measures and progress reports for the purposes of preparing an annual report under section 98 [*annual municipal report*].

The motion carried unanimously.

3. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda be adopted. The motion carried unanimously.

4. OTHER BUSINESS:

(a) Strategic Planning

Mr. Ken Balmer and Ms. Brenda Clarke of RETHINK (West) Inc. facilitated discussions regarding Strategic Planning.

Councillor Bestwick vacated the Board Room at 8:35 p.m.

It was moved and seconded that Council approve in principle:

- Vision
- Mission
- Values
- Operating Philosophy
- 4 Pillars
- Draft Strategic Priorities

The motion carried unanimously.

It was moved and seconded that the items Council approved in principle be made public so that these can be provided to the media and used in the second community survey. The motion carried unanimously.

5. ADJOURNMENT:

It was moved and seconded at 8:50 p.m. that the Special "In Camera" Meeting terminate. The motion carried unanimously.

It was moved and seconded at 8:50 p.m. that the Special Meeting terminate. The motion carried unanimously.

C H A I R

CERTIFIED CORRECT:

MANAGER,
LEGISLATIVE SERVICES

AGENDA FOR THE "IN CAMERA" COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS, TO BE HELD IN
THE DOUGLAS RISPIN ROOM, 80 COMMERCIAL STREET, NANAIMO, BC
ON MONDAY, 2012-JUN-18, COMMENCING IMMEDIATELY FOLLOWING
THE REGULAR COMMITTEE OF THE WHOLE

1. **INTRODUCTION OF LATE ITEMS:**

2. **ADOPTION OF AGENDA:**

3. **ADOPTION OF MINUTES:**

(a) Minutes of the "In Camera" Finance / Policy Committee of the Whole Meeting held in the Shaw Auditorium, 80 Commercial Street, on Monday, 2012-APR-23 at 6:23 p.m. *Pg. 3-4*

(b) Minutes of the Special "In Camera" Finance / Policy Committee of the Whole Meeting held in the City Hall Board Room, 455 Wallace Street, on Monday, 2012-MAY-07 at 3:10 p.m. *Pg. 5-6*

4. **PRESENTATIONS:**

NONE

5. **ADMINISTRATION:**

NONE

6. **COMMUNITY SAFETY AND DEVELOPMENT:**

NONE

7. **CORPORATE SERVICES:**

NONE

8. **COMMUNITY SERVICES:**

NONE

9. **CORRESPONDENCE (not related to a Report to Council):**

NONE

10. **OTHER BUSINESS:**

(a) Verbal update regarding

(b) Verbal update regarding 1135 Farquhar Street (Port Authority subdivision).

11. **ADJOURNMENT:**

MINUTES OF THE "IN CAMERA" COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE DOUGLAS RISPIN ROOM, 80 COMMERCIAL STREET, NANAIMO, BC
ON MONDAY, 2012-JUN-18, COMMENCING AT 7:03 P.M.

PRESENT: Mayor J. R. Ruttan, Chair

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

Staff: A. C. Kenning, City Manager
D. W. Holmes, Assistant City Manager and General Manager of
Corporate Services
E. C. Swabey, General Manager of Community Safety and Development
T. M. Hickey, General Manager of Community Services
T. L. Hartley, Director of Human Resources and Organizational Planning
B. E. Clemens, Director of Finance
T. P. Seward, Director of Development
A. J. Tucker, Director of Planning
J. E. Harrison, Manager of Legislative Services
T. Wilkinson, Recording Secretary

1. CALL THE "IN CAMERA" MEETING TO ORDER:

The "In Camera" Meeting was called to order at 7:03 p.m.

2. INTRODUCTION OF LATE ITEMS:

- (a) Add Agenda Item 10 (c) – Other Business – Development Permit
- (b) Add Agenda Item 10 (d) – Other Business – Personnel matter.

3. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

It was moved and seconded that the Minutes of the "In Camera" Finance / Policy Committee of the Whole Meeting held Monday, 2012-APR-23 at 6:23 p.m. in the Douglas Rispin Room, 80 Commercial Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

It was moved and seconded that the Minutes of the Special "In Camera" Finance / Policy Committee of the Whole Meeting held Monday, 2012-MAY-07 at 3:10 p.m. in the City Hall Board Room, 455 Wallace Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

5 OTHER BUSINESS:

- (a) Mr. T. P. Seward, Director of Development, provided a verbal update regarding
- (b) Mr. E. C. Swabey, General Manager of Community Safety and Development, provided a verbal update regarding
- (c) Mr. A. J. Tucker, Director of Planning, provided a verbal update regarding Development Permit
- (d) Mr. A. C. Kenning, City Manager, advised that Ms. Joan Harrison, Manager of Legislative Services, has accepted the Director of Corporate Services position with the Regional District of Nanaimo.

6. ADJOURNMENT:

It was moved and seconded at 7:55 p.m. that the "In Camera" Meeting terminate. The motion carried unanimously.

C H A I R

CERTIFIED CORRECT:

CORPORATE OFFICER

AGENDA FOR THE "IN CAMERA" COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS, TO BE HELD IN
THE DOUGLAS RISPIN ROOM, 80 COMMERCIAL STREET, NANAIMO, BC
ON MONDAY, 2012-JUL-23, COMMENCING IMMEDIATELY FOLLOWING
THE REGULAR COMMITTEE OF THE WHOLE

1. INTRODUCTION OF LATE ITEMS:

2. ADOPTION OF AGENDA:

3. ADOPTION OF MINUTES:

- (a) Minutes of the "In Camera" Committee of the Whole Meeting held in the Douglas Rispin Room, 80 Commercial Street, on Monday, 2012-JUN-18 at 7:03 p.m.

Pg. 3-4

4. PRESENTATIONS:

NONE

5. ADMINISTRATION:

NONE

6. COMMUNITY SAFETY AND DEVELOPMENT:

- (a) **Approval In Principle of 99-Year Lease With Ducks Unlimited Canada For Lands Located at 175 Pryde Avenue (West Marsh)**

Staff Recommendation: That Council:

Pg. 5-30

1. approve in principle the acquisition of a 99-year Lease for Ducks Unlimited Canada's one half interest of 175 Pryde Avenue; and,
2. direct Staff to return to the Open Council Meeting on 2012-AUG-13 for final approval.

7. CORPORATE SERVICES:

- (a) **E9-1-1 Call Answer Levy**

Staff Recommendation: That Council receive the report regarding E9-1-1 Call Answer Levy.

Pg. 31-32

(b) **Quarterly Direct Award Purchases**

Staff Recommendation: That Council receive the report regarding quarterly direct award purchases. *Pg. 33-34*

8. **COMMUNITY SERVICES:**

(a) **Recognition Naming – Sports Fields at Harewood Centennial**

To be introduced by PRCC Chair, Councillor Johnstone.

Commission Recommendation: That Council approve the naming of the sports fields at Harewood Centennial Park to "Sherry Sports Fields". *Pg. 35*

9. **CORRESPONDENCE (not related to a Report to Council):**

NONE

10. **OTHER BUSINESS:**

(a) Follow-up Discussion – SFN Council to Council Meeting.

(b) Verbal Staff report regarding the Wellcox Property.

11. **ADJOURNMENT:**

City of Nanaimo
"IN CAMERA"
REPORT TO COUNCIL

DATE OF MEETING: 2012-JUL-23

AUTHORED BY: BILL CORSAN, MANAGER, REAL ESTATE

AND

RICHARD HARDING, DIRECTOR, PARKS, RECREATION & CULTURE

RE: APPROVAL IN PRINCIPLE OF 99-YEAR LEASE WITH DUCKS UNLIMITED CANADA
FOR LANDS LOCATED AT 175 PRYDE AVENUE (WEST MARSH)

STAFF RECOMMENDATION:

That Council:

1. approve in principle the acquisition of a 99-year Lease for Ducks Unlimited Canada's one half interest of 175 Pryde Avenue; and
2. direct Staff to return to the open Council meeting on 2012-Aug-13 for final approval.

PURPOSE:

At the 2012-Feb-27 "In Camera" Council meeting, approval was granted for the acquisition of 64.6 acres of land located in the West Buttertubs Marsh (West Marsh), addressed as 175 Pryde Avenue for parks purposes. The acquisition is a joint partnership between the City and Ducks Unlimited Canada (DUC).

The property will be conveyed to the City and DUC on 2012-Jul-31. Following the acquisition, DUC wishes to lease its half interest in the land to the City in the form of a 99-year Lease agreement for \$1.00 (Attachment A).

BACKGROUND:

175 Pryde Avenue, the West Buttertubs Marsh, was identified as an important acquisition target by the City of Nanaimo Parks, Recreation & Culture (PRC) Master Plan and DUC. The 26.13 ha (64.6 acre) parcel is a critical component of the Millstone ecosystem due to its environmentally sensitive wetlands that provide habitat for a variety of species of wildlife.

Council approved the acquisition of the property with DUC at the 2012-Feb-27 Council meeting. DUC will contribute \$400,000.00, City of Nanaimo \$430,000.00, with the remaining \$300,000.00 of the appraised value covered through a tax credit provided to the vendors by Environment Canada's ecological gift program.

Council
 Committee of the Whole
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-JUL-23

RE: 99-Year Lease with Ducks Unlimited Canada for Lands Located at 175 Pryde Avenue

Subsequent to the 2012-Jul-31 conveyance of title to the partners, DUC will grant a 99-year Lease for its half interest in the land at no cost to the City in exchange for the ongoing management of the property by the City.

The City will utilize the land as a public park. Management of the property will be in accordance with the operating agreement which was developed jointly between DUC and the City. Further park planning with consultation from the general public will take place in the future.

DISCUSSION:

Staff are seeking Council's approval in principle for the Lease acquisition at the 2012-Jul-23 In-Camera meeting. The draft Lease is shown in Attachment A.

If Council grants approval in principle, Staff will return with a report to the 2012-Aug-13 open Council meeting for approval.

The 2012-Aug-13 Council meeting will include an information only report announcing the acquisition of the the West Marsh lands at 175 Pryde Avenue. A press release will also be prepared in advance.

STRATEGIC PLAN CONSIDERATIONS:

Transportation & Mobility: acquisition will help expand and link pedestrian and cycling off-road trail routes;

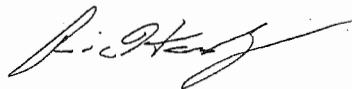
Waterfront Enhancements: better connections between the Waterfront Trail and the Millstone River Trail; and

Attachment 1: 4 Sustainability Pillars (Environmental Responsibility): focus park land and green space acquisitions on natural areas consistent with the Parks Plan.

Respectfully submitted,



Bill Corsan, Manager
Real Estate Section

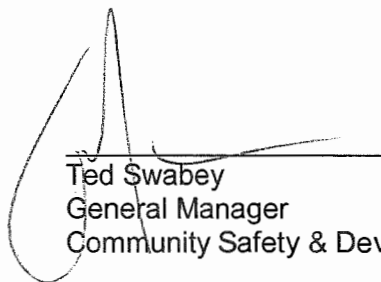


Richard Harding
Director, Parks, Recreation & Culture

Concurrence by:



Andrew Tucker
Director
Planning



Ted Swabey
General Manager
Community Safety & Development

CITY MANAGER COMMENT:

ATTACHMENT "A"

TERMS OF INSTRUMENT:

THIS LEASE DATED FOR REFERENCE THE DAY OF _____, 2012.

BETWEEN:

DUCKS UNLIMITED CANADA
Unit 511 – 13370 78th Ave
Surrey, British Columbia, V3K 6P8

(the "Landlord")

OF THE FIRST PART

AND:

CITY OF NANAIMO
455 Wallace Street
Nanaimo, BC V9R 5J6

(the "Tenant")

OF THE SECOND PART

WHEREAS:

- A. The Landlord and the Tenant have acquired as Tenants in Common the land (the "**Land**") described in item 2 of the Form C comprised herein.
- B. The Landlord is the registered owner in fee simple of an undivided 550,000/1,100,000^{ths} interest in the Land (**the "Landlord's Interest"**) and the Tenant is the registered owner in fee simple of an undivided 550,000/1,110,000^{ths} interest in the Land.
- C. The Landlord and Tenant acknowledge that the Land was acquired by the Landlord and the Tenant along with an "ecological gift" made by the prior owner of the Land under the terms of the Government of Canada's ecological gifts program.
- D. The Landlord and Tenant therefore must preserve the conservation and protection of Canada's environmental heritage comprised in the Land and the Landlord wishes to grant this Lease to the Tenant to ensure that such preservation is maintained.
- E. The Tenant wishes to utilize the whole of the Land as a public park and to provide recreational amenities to the public consistent with the conservation purposes for which the Land was acquired.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the rents and agreements to be paid and performed by the Tenant, the parties hereto covenant and agree with each other as follows:

1. Defined Terms

In this Agreement:

- (a) **“Base Line Report”** means the report prepared by SLR Consulting (Canada) Ltd. with respect to the Lands dated March 21, 2012, a copy of which has been received by both the Landlord and the Tenant;
- (b) **“Management Plan”** means the management plan agreed to by the Landlord and the Tenant and attached to this Agreement as Schedule “A”, as may be amended or supplemented from time to time;
- (c) **“Permitted Encumbrances”** means the exceptions, reservations, charges and encumbrances set out in Schedule “B” to this Agreement.

2. Land

The Landlord leases to the Tenant the Landlord’s interest and any interest which the Landlord may have in any land which is accreted or may in future accrete to the Landlord’s Interest.

3. Term

The term of this Lease shall commence immediately upon the execution of this Lease by both parties (the **“Effective Date”**) and end on the 31st day of May 31, 2111.

4. Rent

The rent for the full Term shall be the sum of \$1.00, the receipt of which is hereby acknowledged by the Landlord.

5. Tenant’s Covenants

The Tenant covenants with the Landlord:

Use

- (a) to use the Land solely for the purpose of a public park in compliance with the status of the Land as an “ecological gift”, and in accordance with the terms of the Management Plan.

Rent

- (b) to pay all rents reserved under this Lease;

Utilities and Taxes

- (c) to pay, when due, of all charges for gas, electricity, telephone, cable, internet, water, garbage, sanitary and storm sewer and any other utilities and services used in or supplied to the Land throughout the Term;
- (d) to pay when due all taxes, permits and license fees charged for the use or occupancy of the Land, including any Improvements, by the Tenant and any other lawful occupiers;
- (e) to pay to the Landlord when due all goods and services tax payable under the *Excise Tax Act (Canada)* or any other tax that is substituted for that tax;
- (f) to indemnify the Landlord from and against all losses, costs, charges, interest and expenses arising from any and all of the charges described in above subsections (c), (d) and (e) and the Landlord may collect any such losses, costs, charges, interest and expenses that are suffered by the Landlord as additional rent;

Alterations

- (g) not to make any alterations, additions or improvements on or to the Land except alterations, additions or improvements that are consistent with the terms of the Management Plan and with the use of the Land as a public park;

Entry by Landlord

- (h) to allow the Landlord's officers, servants and agents to enter and inspect the Land at all reasonable times to determine whether the Tenant is in compliance with its obligations under this Agreement;

Regulations

- (i) to comply promptly at its own expense with the legal requirements of all authorities and all notices issued under them that are served upon the Landlord or the Tenant, and
- (j) to indemnify the Landlord from all lawsuits, damages, losses, costs or expenses that the Landlord may incur by reason of non-compliance by the Tenant with legal requirements;

Indemnification

- (k) to indemnify the Landlord from and against all lawsuits, damages, losses, costs or expenses which the Landlord may incur by reason of the use of the Land by the Tenant or any person authorized by the Tenant to use the Land or the carrying on upon the Land of any activity in relation to the Tenant's use of the Land and in respect of any loss, damage or injury sustained by the Tenant or any other person, including any personal injury (including death) or damage to any

property, and including all costs and legal costs, taxed on a solicitor and own client basis, and disbursements, unless the damages, losses, costs, expenses or injuries are the result of the negligence of the Landlord, its officers, servants and agent, and this indemnity shall survive the expiry or sooner determination of this Lease;

Possession

- (l) at the expiration or sooner determination of this Lease to peaceably surrender and give up possession of the Land to the Landlord;

Maintenance and Repair

- (m) to maintain the Land, at all times, to a reasonable standard of maintenance;

Public Announcements and Signage

- (n) to consult with Ducks Unlimited Canada ("Ducks Unlimited") before making any public announcements or media statements about the grant of this Lease, or about the terms and conditions under which the Landlord acquired the Land; to give appropriate recognition to the role of Ducks Unlimited its funding partners and land donation from the prior owner in the acquisition and conservation of the Land through permanent signage to be placed upon the Land; and to require as a condition of the grant of any licence to a user of the Land or any part thereof that the licensee obtain the Tenant's prior approval of any media releases, signage or public announcements that refer or could be interpreted as referring to Ducks Unlimited its funding partners and land donation from the prior owner and its role in the acquisition and conservation of the Land.

6. Environmental

- (a) The Tenant further covenants with the Landlord:
 - (i) not to use or permit to be used, all or any part of the Land for the sale, storage, manufacture, handling, disposal, use or any other dealing with any Contaminants without the prior written consent of the Landlord, which may be unreasonably withheld;
 - (ii) to strictly comply, and cause any person for whom it is in law responsible to comply, with all Environmental Laws regarding the use and occupancy of the Land;
 - (iii) to promptly provide to the Landlord a copy of any environmental site investigation, assessment, audit, report, or test results relating to the Land conducted by or for the Tenant at any time;
 - (iv) to promptly notify the Landlord in writing of any release of a Contaminant or any other occurrence or condition on the Land or any adjacent property which could contaminate the Land or subject the Landlord or the Tenant to any fines, penalties, orders, investigations, or proceedings under Environmental Laws;

- (v) on the expiry or earlier termination of this Lease, or at any time if requested by the Landlord or required by any governmental authority under Environmental Laws, to remediate in accordance with the requirements of Environmental Laws any contamination of the Land or any adjacent property resulting from Contaminants, in either case brought onto, used at, or released from the Land by the Tenant or any person for whom it is in law responsible. The Tenant shall perform these obligations promptly at its own cost and in accordance with Environmental Laws. The Tenant shall provide to the Landlord full information with respect to any remedial work performed under this sub-section and shall comply with the Landlord's requirements with respect to such work. All such Contaminants shall remain the property of the Tenant, notwithstanding any rule of law or other provision of this Agreement to the contrary and notwithstanding the degree of their affixation to the Land; and
 - (vi) to indemnify the Landlord and its directors, officers and employees from any and all liabilities, actions, damages, claims, remediation cost recovery claims, losses, costs, orders, fines, penalties, and expenses whatsoever, including any and all environmental or statutory liability for remediation, all legal and consultants' fees and expenses and the cost of remediation of the Land (and any adjacent property) arising from or in connection with any release or alleged release of any Contaminants at or from the Land related to or as a result of the use and occupation of the Land by the Tenant or any act or omission of the Tenant or any person for whom it is in law responsible.
- (b) The obligations of the Tenant under this section 6 shall survive the expiry or earlier termination of this Lease.
 - (c) For the purposes of this Agreement:

"Contaminants" means any pollutants, contaminants, deleterious substances, underground or above-ground tanks, asbestos, asbestos-containing materials, hazardous, corrosive, or toxic substances, hazardous waste, waste, polychlorinated biphenyls ("**PCBs**"), PCB-containing equipment or materials, pesticides, defoliants, fungi, including mould, spores arising from fungi, or any other solid, liquid, gas, vapour, odour, heat, sound, vibration, radiation, or combination of any of them, which is now or hereafter prohibited, controlled, or regulated under Environmental Laws.

"Environmental Laws" means any statutes, laws, regulations, orders, bylaws, standards, guidelines, protocols, criteria, permits, codes of practice and other lawful requirements of any governmental authority having jurisdiction over the Land now or hereafter in force relating in any way to the environment, environmental assessment, health, occupational health and safety, protection of any form of plant or animal life or transportation of dangerous goods, including the principles of common law and equity.

7. Landlord's Covenants

The Landlord covenants with the Tenant for quiet enjoyment subject to the Permitted Encumbrances.

8. Miscellaneous Covenants

And it is hereby mutually agreed:

Limitation on Liability of Landlord

- (a) that under the terms of this Lease the Landlord has agreed to grant to the Tenant exclusive use and possession of the Landlord's Interest only, and that the Landlord shall not be liable to the Tenant, or to any successor or assignee of the Tenant, or to any other person, for any loss or damage arising from the inability of the Tenant, or the Tenant's successor or assignee, to enjoy exclusive use and possession of the Land (other than the Landlord's Interest), other than as a result of an act or default on the part of the Landlord.

Re-entry

- (b) that if the Tenant shall default in the payment of any sum payable hereunder, or fail to perform any covenant hereunder (save and except for the Tenant's covenant under sub-section 5(n)) and if such default shall continue for ninety (90) days after the giving of written notice by the Landlord to the Tenant, then the Landlord may re-enter the Landlord's Interest and the rights of the Tenant with respect to the Land shall lapse and be absolutely forfeited;

Landlord's Payments

- (c) that if the Landlord incurs any damage, loss or expense or makes any payment for which the Tenant is liable under this Lease, then the Tenant shall reimburse the Landlord for the amount of such damage, loss or expense, or payment, failing which the Landlord may add the cost or amount of the damage, loss, expense or payment to the rent and may recover it as if it were rent in arrears;

Time

- (d) that time shall be of the essence of this Lease;

Notice

- (e) that any notice required to be given by any Party under this Lease is sufficiently given if delivered by facsimile or registered mail to the addresses of the Parties first written above or at a different address that a Party, from time to time, directs in writing;

Fitness of Land

- (f) that the Tenant admits that it has inspected the Land in its present state, that the Tenant has received a copy of the Baseline Report, and that the Land is suitable for the Tenant's purposes;

Binding Effect

- (g) that this Lease shall ensure to the benefit of and be binding upon the parties hereto and their respective successors, administrators and permitted assignees;

Amendment

- (h) that the parties hereto may by agreement amend the terms of this Lease, such amendment to be evidenced in writing and executed by both parties;

Law Applicable

- (i) that this Lease shall be construed in accordance with and governed by the laws applicable in the Province of British Columbia;

Interpretation

- (j) that when the singular or neuter are used in this Lease they include the plural or the feminine or the masculine or the body politic or corporate where the context or the parties require;
- (k) all provisions of this Lease are to be construed as covenants and agreements as though the words importing covenants and agreements were used in each separate paragraph;
- (l) that the headings to the clauses in this Lease have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Lease or provision of it.

Overholding

- (m) If at the end of the Term, the Tenant remains in possession where the Landlord has accepted any rent from the Tenant, then such overholding will be on a month to month basis, not year to year and will be subject to all the terms of this Lease applicable to a month to month lease.

Dispute Resolution

- (n) The parties will each appoint a person as that party's representative for the purpose of coordinating all matters and obligations of the parties as required by this Agreement. Each party will advise the other parties in writing of the name, telephone number and fax number of its representative and each party may change its representative from time to time by notice in writing to the other party.
- (o) If any dispute arises between the parties with respect to this Agreement, then, within fourteen (14) days of written notice from one party to the others, or such

time as agreed to by all parties, the representatives of the parties will participate in good faith discussions in order to resolve and settle the dispute.

- (p) If the representatives of the parties are unable to resolve the dispute within 14 days, they will agree upon the selection of a qualified independent mediation practitioner versed in the resolution of commercial disputes in order to assist the parties in the resolution of the disputes, and who will attempt to so assist the parties for a period of 30 days from the date of his or her appointment. Each party will bear their own costs of the formal mediation process.
- (q) If the matter is not settled through the process and within the time frame provided under sub-section (o), or if the parties are unable to agree upon the selection of a mediator under sub-section (p), then unless the parties mutually agree to extend the time frame for dispute resolution provided hereunder, the matter may with the agreement of both parties be referred to a single arbitrator, pursuant to the *Commercial Arbitration Act* of British Columbia.

IN WITNESS WHEREOF the parties hereto hereby acknowledge that this Agreement has been duly executed and delivered by the parties executing Form C, pages 1 and 2, attached heretohave signed and sealed this Lease on the day and year first above-written.

**Schedule "A"
Management Plan**

**Management Plan for Buttertubs Marsh West
(Nanaimo)**



**Prepared by Ducks Unlimited Canada & City of Nanaimo
July 2012**

VERSION – July 17, 2012

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Introduction

General Location

The project is located in Nanaimo, on the east side of Vancouver Island. Jingle Pot Road provides access to the property and it is adjacent to the existing Buttertubs Marsh Conservation Area. UTM Zone 10U Easting: 428760, Northing: 5447040, NAD 83

Purpose

The purpose of the management plan is to provide the general direction for the management of the property and identify the primary goals and issues for the project. Ducks Unlimited Canada (DUC) and City of Nanaimo agree that it is important to conserve, maintain and enhance the natural state of the Lands and its amenities in perpetuity as habitat for waterfowl, fish, and wildlife. The land will be managed by the City of Nanaimo as a natural park that will provide passive recreation and education opportunities that are consistent and compatible with the conservation purposes for which the Land was purchased. Subsequent more detailed plans or updates may be completed over time and may replace this plan upon agreement with Ducks Unlimited Canada and the City of Nanaimo. As the property is the subject of an Ecological Gift, any dispositions or changes in use of the property require an authorization from the Federal Minister of the Environment.

Property Securement

The property securement was led by City of Nanaimo, and in 2011 DUC and the City of Nanaimo negotiated a purchase and sale agreement with the former owners to acquire the property. DUC and City of Nanaimo will hold the property as Tenants in Common. As part of the purchase, the former owners agreed to a donation that qualified under the Ecological Gifts Program administered by Environment Canada. DUC and the City of Nanaimo would be joint recipients of the donation.



Figure 1. Property Boundary of the Buttertubs West Property

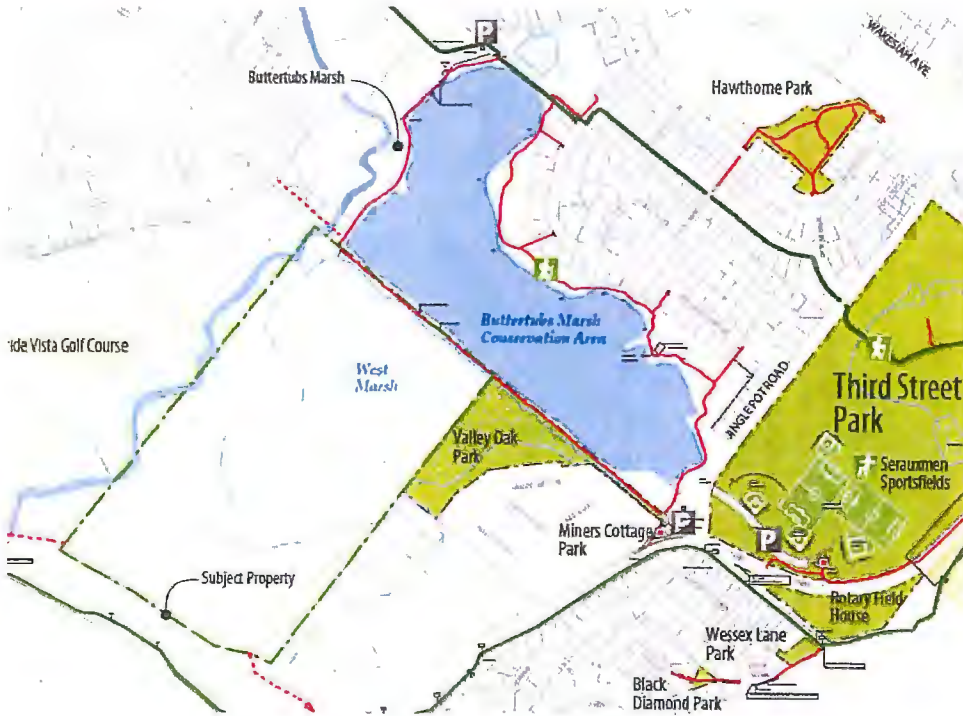


Figure 2. Subject Property in relation to Other Conservation Areas and Parks

Property Overview

Legal Description

The property consists of one legal parcel (Figure 3):

1. Section 12, Range 8, Mountain District, Except the Westerly 11.979 Chains thereof and Except that Part in Plans 25503 and VIP61854 (PID 009-456-601)



Figure 3. Legal Parcel Boundary

Historical Ownership and Management

Buttertubs Marsh West is adjacent to the Buttertubs Marsh Conservation Area. Buttertubs Marsh, as a whole, was once a shallow lake. In the mid-1800's, European settlers drained much of the area to provide pasture for animals as well as potato and dairy production. This land has been in private ownership since that time. In 1975, a portion of Buttertubs Marsh was purchased by the Nature Trust of BC (at that time called the National Second Century Fund of BC). After purchase, the Nature Trust leased the property to the Ministry of Environment (MOE) under a 99-year lease and is now the Buttertubs Marsh Conservation Area, which includes DUC, City of Nanaimo and the Nanaimo Field Naturalists as partners. DUC provided engineering to restore the area back into a productive wetland. A steering

committee now guides the management and agency responsibilities for the Conservation Area. Around this same time, the City of Nanaimo built a dike to cover a municipal water main that effectively divided Buttertubs Marsh from the Buttertubs West property. In an agreement with the landowners, the City put ditching into the Buttertubs West property to try to alleviate increased water levels caused by the water main dike. The Ministry of Environment and Department of Fisheries and Oceans expressed concern with ditching and further ditch maintenance on this site because of the potential to impact fish and wildlife habitat.

Buttertubs West has been targeted for securement by the various conservation organizations in the region for the last few decades. It has remained privately owned and portions of it have continued to be used as pasture and hay production although in the last few years a good portion has reestablished as wetland. Despite previous attempts to reach agreements, the project never moved forward until now. The site is adjacent to residential properties and a golf course and the potential for development was high. The children of the previous landowners have decided to sell the property and the City of Nanaimo has worked to negotiate the terms.

Land Use

The property is zoned by the City of Nanaimo as AR-1 (Rural Resource). AR-1 zones permit uses such as agricultural uses, animal shelters, campgrounds, golf courses, and single dwellings. The property is identified as an Environmentally Sensitive Area (watercourse/wetland) in the Official Community Plan. It is also part of the Agricultural Land Reserve. This zoning may be altered in the future by the City of Nanaimo to reflect the Natural Park status.

Ecogift Designation

The Ecogift designation on the property is conferred on the property by Environment Canada for the purposes of conservation and protection of Canada's environmental heritage. The property is certified as ecological sensitive land and then the land (or portion of) is donated to a designated charity or local government (in this particular case DUC and City of Nanaimo). The donor then receives a taxation benefit for the donation. As the recipients of the Ecogift, DUC and City of Nanaimo must protect the land in perpetuity and have a responsibility to maintain the biodiversity and environmental heritage of these properties. The biological value of the ecogift was justified under the following criteria:

1. Areas identified, designated or protected under a recognized classification system
 - This area is recognized by the BC Ministry of Environment as a sensitive ecosystem based on the Sensitive Ecosystem Inventory mapping. It is mapped as wetland and riparian habitat as well as woodland.
2. Natural buffers around environmentally sensitive areas such as water bodies, streams or wetlands
 - This property includes wetland habitat as well as upland habitat that buffer the wetland and the adjacent Millstone Creek.

3. Sites that have significant current ecological value, or potential for enhanced ecological value, as a result of their proximity to other significant properties
 - This property is directly adjacent to Buttertubs Marsh Conservation Area and Millstone Creek, which are both recognized as valuable for fish and wildlife. The addition of this property will double the size of the conservation area.
4. Private lands that are zoned by municipal or regional authorities for the purpose of conservation
 - The City of Nanaimo recognizes this wetland area as Environmentally Sensitive.

Ecological

Buttertubs Marsh including Buttertubs Marsh West is a shallow, clay-bottomed wetland located on the floodplain of Millstone River. It is an urban wetland surrounded by urban developments. The wetland component comprises about 50% of the property with the remaining area functioning as riparian habitat and upland wooded sections. The area functions as important flood protection as it can absorb overflow from the Millstone Creek during high water events.

Habitat and Site Characteristics

Biogeoclimatic zone: Coastal Douglas Fir (CDFmm; one of the rarest BEC zones in BC)

Ecoprovince: Georgia Depression (Nanaimo Lowland Ecoregion)

Habitat Types (as described in the Buttertubs Marsh Conservation Area Management Plan):

Marsh and Shallow Water

Dominant Vegetation = cattail, smartweed, pondweed, hardhack

Wildlife Values = habitat for red-winged blackbirds, American bittern, Virginia rails, wood ducks, mallards, pied-billed grebes, beaver, mink and more

Riparian Areas

Dominant Vegetation = English oak, Pacific willow, black cottonwood, red alder, Nootka rose, common hawthorn

Wildlife Values = habitat for barred owls, band-tailed pigeons, several hawks species and woodpeckers, deer, river otter, and fish

Vegetated Upland

Dominant Vegetation = old pasture with reed canary grass, common hawthorn, red alder, Pacific crabapple, snowberry and upland trees including some conifers

Wildlife Values = habitat for songbirds including chickadees, kinglets, American robin, deer, raccoons, Townsend's vole and shrews, Pacific tree frog and more

Exotic/Invasive species – this area has been disturbed by previous agricultural activities and local urban development and many exotic species are present. These include species such as Himalayan blackberry, yellow-flag iris, purple loosestrife, scotch broom, knotweed, and reed canary grass. Although several sites have been modified, there are still significant wetland and wildlife values that are provided by this area.

Rare and endangered species (as listed in the Buttertubs Marsh Conservation Area Management Plan 2003) – this area is known to provide habitat for the purple martin, trumpeter swan, American bittern, great blue heron, green heron, turkey vulture, short-eared owl, and western painted turtle. Recently,

western painted turtles, which are considered endangered under the Species at Risk Act, have been found nesting in the Buttertubs Marsh Conservation Area.

Infrastructure

There are no existing buildings on the property. There are two gates that restrict access off of Jingle Pot Road and a small culvert along the overgrown road access to the old field portion of the property.

Strategic Planning

Provincial Biodiversity Directions

In 2008, a BC provincial status report on biodiversity was completed Taking Nature's Pulse - the Status of Biodiversity in British Columbia (Austin et al., 2008). There were 23 major findings that identify what components of biodiversity are the most important, where impacts have occurred and where our greatest vulnerabilities are in the future. Below are the relevant major findings that are applicable to this site to direct management activities:

- Of the species assessed to date in British Columbia, 43% are of provincial conservation concern and are concentrated in the four biogeoclimatic zones of conservation concern (Coastal Douglas-fir, Interior Douglas-fir, Coastal Western Hemlock, and Ponderosa Pine). The highest percentages of ecological communities of concern also occur in these four biogeoclimatic zones
- Significant areas of wetlands in British Columbia have been converted or degraded.
- The flow of water in lakes, streams, wetlands and groundwater systems is being seriously impacted in British Columbia by dams, water diversions, logging, stream crossings and climate change.
- British Columbia has many significant seasonal concentrations of species [e.g., migratory birds, spawning salmon] that are vulnerable to human impacts.
- Alien species are seriously impacting British Columbia's biodiversity, especially on islands and in lakes.
- Climate change is already seriously impacting British Columbia and is the foremost threat to biodiversity.
- The cumulative impacts of human activities in British Columbia are increasing and are resulting in the loss of ecosystem resilience.
- Gaps in our knowledge of biodiversity in British Columbia create major challenges for effective conservation action.

City of Nanaimo Parks Master Plan

The City of Nanaimo Parks Master Plan guides park development and acquisition priorities. The Master Plan was last updated in 2005 and involved significant public input. The public suggested that additional waterfront parks and continued trail development are most needed in terms of new and improved facilities, followed by environmentally sensitive areas (ESAs) and natural /passive parks.

In addition, the idea of greenway connections throughout town and along the Millstone River was also deemed a priority. The City of Nanaimo Master Plan designated marshes around Buttertubs Marsh as "Priority A" sites for acquisition. The Master Plan states that the City should work with landowners to co-manage the ESAs and determine appropriate measures to protect hydrologic regimes and aquatic habitat.

City of Nanaimo Trail Implementation Plan

The City of Nanaimo Trail Implementation Plan looks at pedestrian connections throughout the city, plans for circulation connections, and outlines construction guidelines. A goal for the subject property is to connect it with adjacent trail connections and park systems. Given the environmental sensitivity and carrying capacity of the site, trail construction will be to the City of Nanaimo Urban Soft Surface Trail and Boardwalk standards.

Buttertubs Marsh Conservation Area Management Plan

As shown in Figure 2, several City of Nanaimo parks and the 18.7 ha Buttertubs Marsh Conservation Area owned by The Nature Trust of British Columbia, sit adjacent to the project site. A management plan for the Buttertubs Marsh Conservation Area property was prepared in 2003 in partnership with Nature Trust of British Columbia, Province of BC, City of Nanaimo, Ducks Unlimited Canada and Nanaimo Field Naturalists. Key Goals and objectives for that property include:

GOAL 1: Maintain and, where possible, enhance plant & animal resources of the Conservation Area

- Objective 1: Provide wildlife habitat
- Objective 2: Control exotic, invasive plant and animal species
- Objective 3: Gradually increase wildlife habitat and species biological diversity

GOAL 2: Provide for compatible public recreational and educational use of the area

- Objective 4: Provide controlled public access
- Objective 5: Provide wildlife and nature viewing opportunities
- Objective 6: Provide public education opportunities

Management Goals

The proposed management of the property is to conserve the property and its biodiversity values in the current state. The key management goals for the site will be:

1. Environmental Conservation (Primary Value)
 - a. The Project will conserve, maintain and enhance the natural state and its amenities as habitat for fish and wildlife.
 - b. All other values, principles, goals and actions must not compromise this primary value or the Certification of the land as Ecologically Sensitive under the Ecological Gifts Program.
2. Education and Passive Recreation
 - a. The Project may provide interpretive and educational opportunities to foster public appreciation for the values and benefits, and an understanding of protecting sensitive values.
 - b. Physical structures to support education and recreation e.g. small trails, signage will be designed and located in a manner that minimizes habitat impacts.
3. Cooperative Management
 - a. DUC and City of Nanaimo will hold title in this property as “Tenants in Common” and manage the property through a management agreement and management plan. The City of Nanaimo may in the future develop more refined management plans.

Management Zones

The property is divided into two main management zones (Figure 4) based on ecology of area:

Zone 1 (Upland)

- This area contains most of the forested ecosystem on the property and is a sloped, higher elevation zone.
- This area will be managed as natural forest and will be the focus of improvements, signage or trail development (see appendix).

Zone 2 (Wetland & Riparian)

- This zone contains freshwater wetland, riparian and floodplain habitat adjacent to the Millstone River and a portion of this riparian area was once used for hay production.
- The area will be managed to maintain wetland values of the site and potential restoration activities may occur in this zone.
- Any trail development will involve boardwalks designed to City of Nanaimo standard (see appendix) and will be focused on minimizing fragmentation of the area.
- Any activities that would be considered a change in use would not be undertaken without prior permission from the Ecological Gifts Program (Federal Minister of the Environment).



Figure 4. Property Management Zones

Management Considerations

The known physical, ecological and cultural information combined with the strategic planning information, provides the following recommendations for future action on the property.

Ecological Gift Designation

The key attributes important for the Ecological Gift designation are the natural wetland and forest ecosystems on the property. These areas must remain intact in perpetuity, in order to avoid taxation pursuant to section 207.31 of the Income Tax Act. As DUC and City of Nanaimo are the recipients of the Ecological Gift, annual monitoring will be completed to track the ecological attributes. Human activities that result in the ecosystem conversion (direct and complete conversion of natural landscapes, such as wetlands to human uses e.g. buildings, houses, parking lots, agricultural fields) or ecosystem degradation (change to the structure of a natural system e.g. water diversion, impacting an ecosystem’s composition and function) cannot be allowed to negatively impact the ecological functions of the project.

Habitat Conservation

Maintaining the existing wetlands, riparian areas and forest will be important to maintain the biodiversity of the property. Activities that reduce the hydrological flow should be avoided. Conserving

the existing habitat should also protect the existing assemblage of ecological communities and maintain areas for seasonal concentration of various species including wetland birds and native fish.

Habitat Enhancement

While no initial enhancement activities are anticipated in the short term, in the longer term some enhancement (or restoration) may be developed with partners to maintain or improve fish and wildlife habitat through the use of channels and other features to connect to the Millstone River and reduce dense monotypic stands of emergent vegetation and reed canary grass in zone 2. Restoration activities may also be carried out to restore historical wetland/riparian function, or address other management issues such as invasive species.

Invasive Species

Maintaining the integrity (resilience) of the natural areas will reduce the opportunities for invasive species. Several invasive species exist on the property including Himalayan blackberry, Scotch broom, knotweed, English holly and reed canary grass. Where possible, these species should be removed and replaced with native vegetation or other vegetation that supports better ecological functions of the property. Given several of these species exist on the adjacent Buttertubs Marsh Conservation Area, the inventory and removal should be coordinated with work on Buttertubs Marsh. Conducting a detailed inventory would be beneficial to developing a plan for minimizing invasive species in the area.

Monitoring

Regular monitoring of the site will be important to ensure appropriate use and maintenance of ecological integrity. Inventory for birds, invasive species, and amphibians were identified as a priority for the Buttertubs Marsh and would apply to this property.

Access and Greater Park System Trail Connections

Vehicle access occurs off of Jingle Pot Road but only authorized vehicles will be allowed onto the property. Gates will be maintained to restrict this use. Pedestrian access will be allowed through this same entrance and along future trails. With public use, access, safety, waste management and minimizing disturbance should be planned and developed for this property. Coordination with adjacent parks and protect lands would be a logical approach.

Education and Recreation

The secondary management goal of education and recreation will require a plan to guide recreational access and development of some facilities. Any new facilities will be sited outside sensitive wetland and riparian habitats. This may include a small parking lot, structures for general and interpretive signage, wayfinding signage, and gates to contain and control motorized vehicles.

References

Austin, M.A., D.A. Buffett, D.J. Nicolson, G.G.E. Scudder and V. Stevens (eds.). 2008. Taking Nature's Pulse: The Status of Biodiversity in British Columbia. Biodiversity BC, Victoria, BC. 268 pp. Available at: www.biodiversitybc.org.

Buttertubs Conservation Area Management Plan. 2003.
<http://www.nanaimo.ca/assets/Departments/Parks~Rec~Culture/Parks/buttertubsmp.pdf>

Appendix

Design for City of Nanaimo Urban Soft Surface Trails

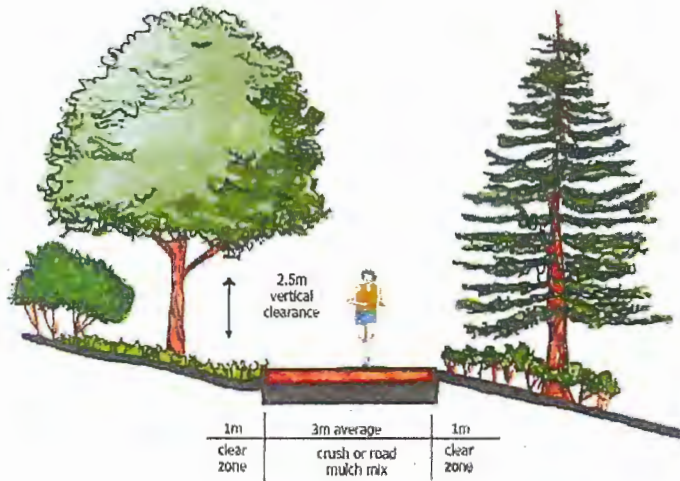
Urban Soft Surface Trail:

Level of Use	Type of Use/ Accessibility	Surface	Width	Vegetation Clearance	Slope	Horizontal Curves	Barriers	Drainage	Residential Buffer	Level of Maintenance	Location	Comments/Variations	Example
Moderate (40%)	<ul style="list-style-type: none"> Walking Jogging Cycling Stroller Universally accessible where possible Visually impaired (with walking) 	Crush and/or 5%SSD Top 80% and 10%SSD 20% rule	3m (front) but use 4m or 5m as preferred in urban side of trail 2.5m minimum vertical clearance	<ul style="list-style-type: none"> 1m preferred maximum horizontal clearance on urban side of trail 2.5m minimum vertical clearance 	<ul style="list-style-type: none"> Maximum 3% maximum settlement grade 5% for 30m or less 10% for 15m or less 10% for 15m or less 2% cross slope Stone slabs 	<ul style="list-style-type: none"> Ensure adequate sightlines on curves See Subtable 1: Bicycle Facility Design Guidelines (2.3-2.4) 	<ul style="list-style-type: none"> Foot and stumps on right-of-way Stumps, cattle guards or barriers may be used on non-right-of-way trails 	<ul style="list-style-type: none"> Shallow swale on right side and (option) all low points 	2-5m	Maintenance	City level parks, trails, rural (40%)	<ul style="list-style-type: none"> Generally in a wooded or riparian setting Avoidance of utility lines, signage, garbage, benches, maintenance, playgrounds, picnic facilities, etc. Coordinate with ESA's map table environmental standards 20' higher tree limit, a general guideline of 2m between benches and trail area 	Westwood Lake, Jack Point, Peter's Lagoon

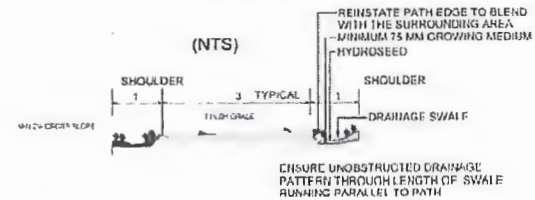


View along the Westwood Lake trail near the Resort on the Lake.

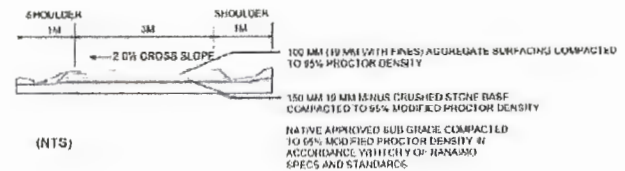
Trail Concept:



Construction Detail: Typical Trail



Construction Detail: Materials



Design for City of Nanaimo Park Boardwalks

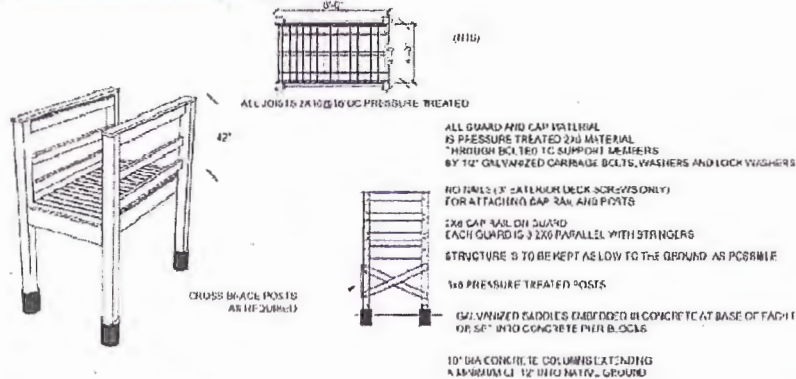
Boardwalk:

Level of Use	Type of Use/ Accessibility	Surface	Width	Vegetation Clearance	Slope	Horizontal Curves	Barriers	Drainage	Residential Buffer	Level of Maintenance	Location	Comments/Variations	Example
Recreate	<ul style="list-style-type: none"> • Wildlife viewing • Walking • Generally not seasonally accessible 	<ul style="list-style-type: none"> • Dappled • Gravel or crushed stone 	1.5-2.0	<ul style="list-style-type: none"> • Remove existing vegetation at least 1.0m wide • Mow high water level and over bank riparian vegetation • Get it all ground level as possible • Grading etc. 	10%	<ul style="list-style-type: none"> • Key to a minimum clearance of 1.8m 	<ul style="list-style-type: none"> • None on the structure • Joints at crossing rails 	RA	Yes	Recreate	<ul style="list-style-type: none"> • Structure includes passage over wet or sensitive areas and riparian habitat 	<ul style="list-style-type: none"> • Materials of construction and design vary with site and seasonality/ riparian condition • Limited materials are preferred: sawn softwood (last and 1st class) 	Richards Marsh Outer River Library Park

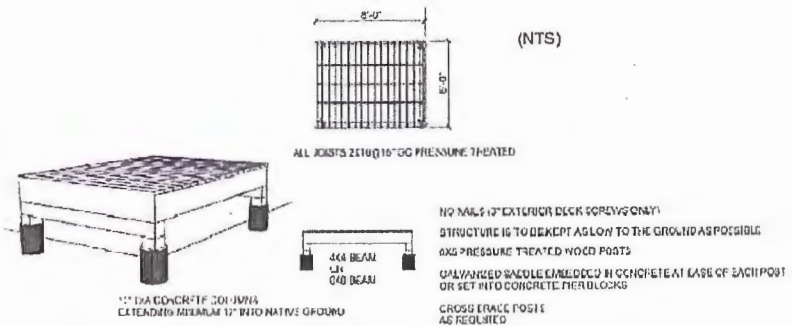


Boardwalk at Richards Marsh Park

Raised Boardwalk Detail (with guard):



Grade Boardwalk Detail (no guard):



SCHEDULE "B"

Permitted Encumbrances

a. Charges

- Undersurface Rights M76301 in favour of Her Majesty the Queen in Right of the Province of British Columbia; and
- Right of Way E88261 in favour of the City of Nanaimo

b. Legal Notations

- Hereto is annexed Easement P72893 over part of Parcel B, Section 12, Range 8, Mountain District;
- This Certificate of Title may be affected by the *Agricultural Land Commission Act*, see Agricultural Land Reserve Plan No. 5, deposited 26.07.1974;
- Hereto is annexed Easement EM63205 over part of Lot B (DD 33803N), Section 11, Range 8, Mountain District except parts in Plans 8205, 8509, 35744 & 42277;
- Dominant Tenement Easement EM63205 cancelled as to part included in Plan VIP67537, road only. EM70813

c. Exceptions and Reservations

- The exceptions referred to in section 23 of the *Land Title Act*, R.S.B.C. 1996, c. 250

Statutory rights of way that the Landlord may hereafter agree to grant in favour of a public utility, with the consent of the Tenant not to be unreasonably withheld.

Other claims, charges or encumbrances that are found by a court of competent jurisdiction to be binding upon the interests of the Landlord and the Tenant.

"IN CAMERA"

City of Nanaimo

REPORT TO COUNCIL

DATE OF MEETING: 2012-JUL-23

AUTHORED BY: PER KRISTENSEN, DIRECTOR, INFORMATION TECHNOLOGY

RE: E9-1-1 Call Answer Levy

STAFF RECOMMENDATION:

That this report be received for information.

PURPOSE:

The purpose of this report is to update Council following the Court ruling striking down Bylaw 7114.

BACKGROUND:

In November 2010, Council adopted "911 CALL ANSWER LEVY BYLAW 2010 NO 7114". This Bylaw was to provide for the recovery of costs of providing 9-1-1 service in the City of Nanaimo by means of a call answer levy. The purpose of the Bylaw is to include the wireless service providers (i.e. cellular companies: Rogers, Bell Mobility and Telus Mobility) in the call answer levy (CAL) which provides funding for the Central Island 9-1-1 Service. The Bylaw fixes a \$0.75 fee per telephone per month. Should the Provider not wish to participate in the CAL fee, then the Provider will be charged \$30 per call to Central Island 9-1-1. Currently only the landline (fixed location) telephone providers (i.e. Telus, Shaw) participate in the CAL as they are directed to by the Canadian Radio and Telecommunications Commission (CRTC) to do so. The CRTC does not provide a similar directive to the cellular providers.

On 2012-JULY-10 the Supreme Court of BC released the ruling on the matter of CTWA, Telus, Bell and Rogers petitioning against the City of Nanaimo's E911 Call Answer Levy Bylaw No. 7114. The Judge's ruling concludes that the City does not have the power to impose the fee in the Bylaw and accordingly quashes the City Bylaw. In his decision, the Judge views the \$30 single call fee is a levy on the cellular company. He determines that the \$30 fee is a tax, as the cellular providers must use Central Island 9-1-1 service, as directed by the CRTC. He concludes that the single call fee is an unauthorized tax, not authorized by the *Community Charter*, and therefore quashes the Bylaw.

DISCUSSION:

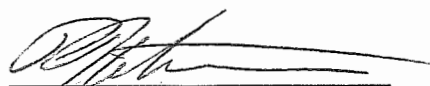
Strategic Plan Considerations:

Providing 9-1-1 Service is an important component of social services. Sustainable funding of this service through a user pay model is an identified Council strategy.

- Council
- Committee of the whole
- Open Meeting
- In-Camera Meeting
- Meeting Date: 2012-JUL-23

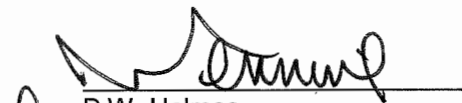
A late resolution for the UBCM September Convention is also drafted and is being presented to Council for consideration at the 2012-JULY-23 Committee of the Whole meeting. In addition to this resolution, that requests support for the wireless CAL, meetings with the government Ministers are also being arranged.

Respectfully Submitted



P. Kristensen,
Director, Information Technology

Concurrence by:



D.W. Holmes,
Assistant City Manager/
GM Corporate Services

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2012-JULY-17

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City of Nanaimo
REPORT TO COUNCIL

IN CAMERA

DATE OF MEETING: 2012-JUL-23

AUTHORED BY: K. FELKER, MANAGER, PURCHASING AND STORES

RE: QUARTERLY DIRECT AWARD PURCHASES

Council
 Committee of the Whole
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-JUL-23

STAFF RECOMMENDATION:

That Council receives this report for information.

PURPOSE:

To comply with Council's approved Purchasing Policy by reporting direct award purchases made during the three month period covered by the report.

BACKGROUND:

Under the City's Purchasing Policy, a report to Council will be provided each quarter summarizing any direct award purchases between \$25,000 to \$250,000. Council approves any direct awards over \$250,000. This report covers the period between 2012-Apr-01 to 2012-Jun-30.

DISCUSSION:

Council adopted a new Purchasing Policy that gives authority for staff to directly award a contract to a vendor if certain conditions are met. This policy also requires staff to report on these direct awards (also known as "sole source" or "single source" purchases) valued at \$25,000 to \$250,000 each quarter.

According to the policy, the circumstances under which a direct award can be made are as follows:

1. to ensure compatibility with existing equipment, facilities or to maintain specialized products by the manufacturer or representative.
2. one with which staff has specialized training and/or extensive experience.
3. where there is an absence of competition and no acceptable alternative or substitute exists.
4. for the purchase of used equipment or at auction.
5. where it can be demonstrated the product or service is available only through one authorized manufacturer, distributor, dealer, or service provider.
6. item is purchased for testing or trial use.
7. for matters involving high security and/or to protect the confidentiality of the City.
8. urgently required on an emergency basis (e.g. life/death, health, safety, critical equipment or facility breakdown).
9. a Notice of Intent to Direct Award is posted electronically and is not challenged.

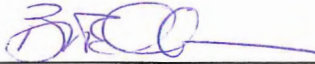
10. where there is demonstrated value to continue consultant services into the next project phase (i.e. from design to construction).
11. any other situation where it is clearly demonstrated there is only one viable source of supply.

Vendor: Associated Engineering BC Ltd
Amount: \$43,660
Description: Revisions to Watershed Yield Assessments and In-Stream Flow requirements in the Nanaimo River
Reason: Cost Share with Nanaimo Forest Products. Associated Engineering has completed all previous study and assessment work on this project.

Respectfully submitted,



K. Felker
Manager, Purchasing & Stores
Concurrence by:



B. E. Clemens,
Director of Finance




D. W. Holmes,
Assistant City Manager
General Manager, Corporate Services

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2012-JUL-19
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"IN CAMERA"

REPORT TO: MAYOR AND COUNCIL

**FROM: DIANA JOHNSTONE, CHAIR
PARKS, RECREATION AND CULTURE COMMISSION**

RE: RECOGNITION NAMING - SPORTS FIELDS AT HAREWOOD CENTENNIAL

RECOMMENDATIONS:

That Council approve the naming of the sports fields at Harewood Centennial Park to "Sherry Sports Fields".

That Council approve the release of this resolution from "In Camera" for public information.

BACKGROUND:

At their "In Camera" meeting of 2012-JUN-27, the Parks, Recreation and Culture Commission passed a motion supporting the recommendation that Council approve the naming of the sports fields at Harewood Centennial Park to "Sherry Sports Fields", in recognition of Loyd Sherry's 32 years of service to the City of Nanaimo.

Respectfully submitted,



Diana Johnstone, Chair
Parks, Recreation and Culture Commission

2012-JUL-16

File: A4-1-2 / A2-4 / C9

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Council
 Committee of the Whole
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-JUL-23

MINUTES OF THE "IN CAMERA" COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE DOUGLAS RISPIN ROOM, 80 COMMERCIAL STREET, NANAIMO, BC
ON MONDAY, 2012-JUL-23, COMMENCING AT 6:30 P.M.

PRESENT: Mayor J. R. Ruttan, Chair

Members: Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor W. B. McKay
Councillor J. F. K. Pattje

Absent: Councillor G. Anderson
Councillor J. A. Kipp

Staff: A. C. Kenning, City Manager
E. C. Swabey, General Manager of Community Safety and Development
T. M. Hickey, General Manager of Community Services
I. Howat, Director of Strategic Relationships
T. L. Hartley, Director of Human Resources and Organizational Planning
B. E. Clemens, Director of Finance
T. P. Seward, Director of Development
R. J. Harding, Director of Parks, Recreation and Culture
(Vacated at 7:05 p.m.)
P. Kristensen, Director of Information Technology
Chief R. Lambert, Nanaimo Fire Rescue (Vacated at 6:58 p.m.)
K. King, Acting Manager of Legislative Services
T. Wilkinson, Recording Secretary

1. CALL THE "IN CAMERA" MEETING TO ORDER:

The "In Camera" Meeting was called to order at 6:30 p.m.

2. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda be adopted. The motion carried unanimously.

3. ADOPTION OF MINUTES:

It was moved and seconded that the Minutes of the "In Camera" Committee of the Whole Meeting held in the Douglas Rispin Room, 80 Commercial Street, Nanaimo, BC, on Monday, 2012-JUN-18 at 7:03 p.m. be adopted as circulated. The motion carried unanimously.

4. COMMUNITY SAFETY AND DEVELOPMENT:

- (a) Approval In Principle of 99-Year Lease With Ducks Unlimited Canada For Lands Located at 175 Pryde Avenue (West Marsh)

It was moved and seconded that Council:

1. approve in principle the acquisition of a 99-year Lease for Ducks Unlimited Canada's one half interest of 175 Pryde Avenue; and,
2. direct Staff to return to the Open Council Meeting on 2012-AUG-13 for final approval.

The motion carried unanimously.

5. CORPORATE SERVICES:

- (a) E9-1-1 Call Answer Levy

It was moved and seconded that Council receive the report regarding E9-1-1 Call Answer Levy. The motion carried unanimously.

- (b) Quarterly Direct Award Purchases

It was moved and seconded that Council receive the report regarding quarterly direct award purchases. The motion carried unanimously.

6. COMMUNITY SERVICES:

- (a) Recognition Naming – Sports Fields at Harewood Centennial

It was moved and seconded that Council approve the naming of the sports fields at Harewood Centennial Park to "Sherry Sports Fields". The motion carried unanimously.

It was moved and seconded that Council authorize the Mayor to announce the naming of the sports fields at Harewood Centennial to "Sherry Sports Fields". The motion carried unanimously.

7. OTHER BUSINESS:

- (a) Follow-up Discussion – SFN Council to Council Meeting.
- (b) Verbal Staff report by Mr. E. C. Swabey, General Manager of Community Safety and Development, regarding the Wellcox Property.

8. ADJOURNMENT:

It was moved and seconded at 7:10 p.m. that the "In Camera" Meeting terminate.
The motion carried unanimously.

C H A I R

CERTIFIED CORRECT:

CORPORATE OFFICER

AGENDA FOR THE "IN CAMERA" COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS, TO BE HELD IN
THE DOUGLAS RISPIN ROOM, 80 COMMERCIAL STREET, NANAIMO, BC
ON MONDAY, 2012-AUG-27, COMMENCING IMMEDIATELY FOLLOWING
THE REGULAR COMMITTEE OF THE WHOLE

1. **INTRODUCTION OF LATE ITEMS:**

2. **ADOPTION OF AGENDA:**

3. **ADOPTION OF MINUTES:**

- (a) Minutes of the "In Camera" Committee of the Whole Meeting held in the Douglas Rispin Room, 80 Commercial Street, on Monday, 2012-JUL-23 at 6:30 p.m. *Pg. 3-5*

4. **PRESENTATIONS:**

- (a) Presentation from Mr. Bruce Williams, Manager – Community and Client Relations, CTV Vancouver Island.

5. **ADMINISTRATION:**

NONE

6. **COMMUNITY SAFETY AND DEVELOPMENT:**

(a)

Pg. 6-9

(b) **Road Closure Portion of Bowen and Meredith Road Adjacent to 2103 Bowen Road**

Staff Recommendation: That Council:

Pg. 10-12

1. approve in principle the proposed road closure and consolidation of City-owned property located at 2103 Bowen Road;
2. direct Staff to prepare a report with an accompanying road closure bylaw for the next Open Council agenda; and,
3. direct Staff to repeal Bylaw No. 4733 at the next Open Council Meeting.

(c) **Road Closure Portion of Highland Boulevard South of 2180 and 2190 Highland Boulevard**

Staff Recommendation: That Council:

Pg. 13-17

1. approve in principle the sale of the proposed road closure area to Brooks Landing Centre Inc. and 676604 B.C. Ltd. (Attachment B) for the sum of \$43,500; and,
2. direct Staff to prepare a report with an accompanying road closure bylaw for the next Open Council agenda.

(d)

Pg. 18-34

7. **CORPORATE SERVICES:**

NONE

8. **COMMUNITY SERVICES:**

NONE

9. **CORRESPONDENCE (not related to a Report to Council):**

NONE

10. **OTHER BUSINESS:**

(a) Discussion regarding SFN Council to Council Meeting

Correspondence:

Letter dated 2012-AUG-21 from Chief D. White, Snuneymuxw First Nation, in response to Mayor Ruttan's letter dated 2012-AUG-16 (attached).

Pg. 35-38

11. **ADJOURNMENT:**

"IN CAMERA"

City of Nanaimo REPORT TO COUNCIL

DATE OF MEETING: 2012-AUG-27

AUTHORED BY: BILL CORSAN, MANAGER, REAL ESTATE

RE: ROAD CLOSURE PORTION OF HIGHLAND BOULEVARD SOUTH OF 2180 AND
2190 HIGHLAND BOULEVARD

STAFF RECOMMENDATION:

That Council:

1. approve in principle the sale of the proposed road closure area to Brooks Landing Centre Inc. and 676604 B.C. Ltd. (Attachment B) for the sum of \$43,500.00; and
2. direct Staff to prepare a report with an accompanying road closure bylaw for the next open Council agenda.

PURPOSE:

The purpose of this report is to provide information to Council and seek approval in principle, for the sale of a portion of road right of way known as Highland Boulevard.

BACKGROUND:

Brooks Landing Centre Inc. has submitted a road closure application for the acquisition of part of Highland Boulevard. The road closure area comprises of approximately 241.9 m² (2,603.8 ft²) as shown on Attachment A. The road closure area will be consolidated with the two adjoining parcels at 2180 and 2190 Highland Boulevard. The owner intends on consolidating in the future these two parcels with the larger parcel of property it owns at 2000 Island Highway North (Brooks Landing Centre). It has paid for an independent appraisal which estimates the market value of the road right of way to be \$43,500.00 and has submitted an Offer to Purchase on this basis.

Highland Boulevard is paved asphalt with concrete curbs and sidewalks and underground utility services. There are no utilities located within the proposed road closure area. Fortis BC, Telus, Shaw, BC Hydro and the Ministry of Transportation interests are unaffected by this application.

In addition to the \$500.00 fee for processing the road closure application, costs for legal, survey and advertising will be recovered from the applicants.


Council
 Committee *of the whole*
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-AUG-27

DISCUSSION:

Staff have reviewed the application in accordance with all City standards and can confirm the road area to be surplus to the City's needs.

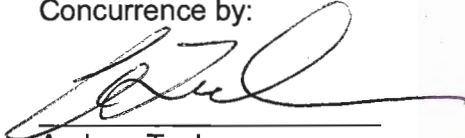
As this report deals with land disposition, Staff has brought the report to an "In Camera" meeting. If approval in principle for the disposal of the land is received, a report will be prepared and brought forward to the next open Council agenda as part of a road closure bylaw.

Respectfully submitted,

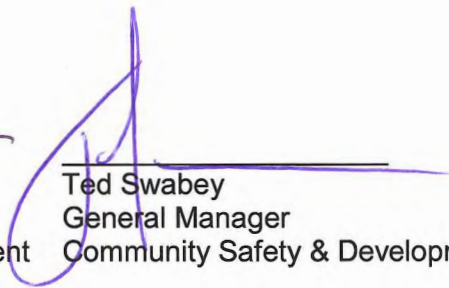


Bill Corsan
Manager, Real Estate
Community Safety & Development

Concurrence by:



Andrew Tucker
Director of Planning
Community Safety & Development

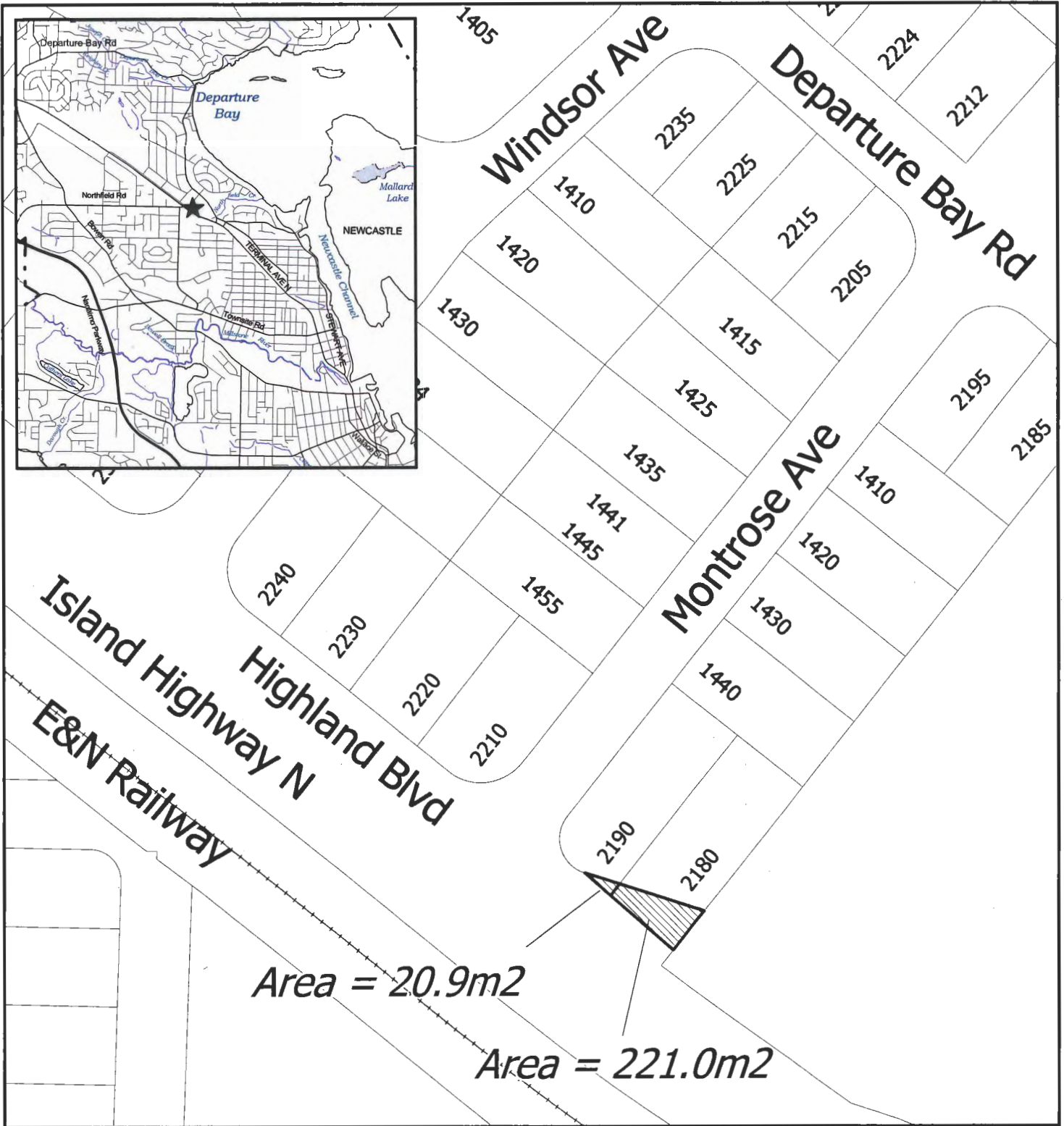


Ted Swabey
General Manager
Community Safety & Development

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2012-AUG-16
File LD002492
NP/tl



LOCATION PLAN

 **Subject Property**

Road Closure over part of Road Dedication on Plan 9500 and 12677, Section 1, Nanaimo District

“IN CAMERA”
City of Nanaimo
REPORT TO COUNCIL

DATE OF MEETING: 2012-AUG-27

AUTHORED BY: BILL CORSAN, MANAGER, REAL ESTATE

RE: ROAD CLOSURE PORTION OF BOWEN AND MEREDITH ROAD ADJACENT TO
2103 BOWEN ROAD

STAFF RECOMMENDATION:

That Council:

1. approve in principle the proposed road closure and consolidation of City-owned property located at 2103 Bowen Road;
2. direct Staff to prepare a report with an accompanying road closure bylaw for the next open Council agenda; and
3. direct Staff to repeal Bylaw No. 4733 at the next open Council meeting.

PURPOSE:

The purpose of this report is to provide information to Council and seek approval in principle for the road closure of a portion of road right of way on the corner of Meredith and Bowen Road.

BACKGROUND:

During the course of acquiring property for the widening of Bowen Road in 1992, the City purchased and demolished a house located at 2103 Bowen Road. The property is now vacant and the required road dedication has been completed to accommodate the construction of Bowen Road.

As a result of the change in the road alignment at this location, an estimated 1,020 m² of road right of way bordering Meredith Road was left over and available for consolidation with the remainder of 2103 Bowen Road (Attachment A).

On 1993-DEC-20, Council adopted Bylaw No. 4733. This bylaw closed the 1,020 m² of land which was to be consolidated with 2103 Bowen Road. For reasons unknown by Staff, the road closure and lot consolidation survey plan was never filed at the Land Title Office and therefore this file was not completed.

Council
 Committee of the Whole
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-AUG-27

DISCUSSION:

Staff would now like to complete this file by way of preparing a new road closure bylaw and consolidating the closed road with the property at 2103 Bowen Road.

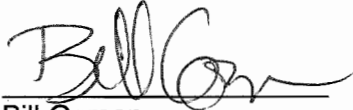
The enlarged parcel would be of sufficient size to support a fee simple row housing project which aligns with the current R7 row house residential zoning designation. Council could then decide if it wishes to dispose of the property or use it for a City purpose.

Staff have been advised that the survey plan prepared in 1993, accompanying Bylaw No. 4733, is out of date according to current Land Title Office filing requirements therefore a new survey plan must be prepared. Legislative Services has advised that Bylaw No. 4733 must be repealed.

Staff can confirm the road area is surplus to the City's needs.

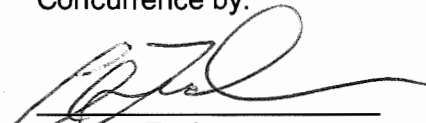
As this report deals with City-owned inventory of land, Staff has brought the report to an "In Camera" meeting. If approval in principle for the road closure and consolidation of the land is received, a report will be prepared and brought forward to the next open Council agenda as part of a road closure bylaw. Staff will repeal Bylaw No. 4733.

Respectfully submitted,

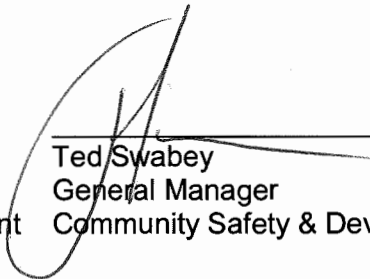


Bill Corsan
Manager, Real Estate
Community Safety & Development

Concurrence by:



Andrew Tucker
Director of Planning
Community Safety & Development



Ted Swabey
General Manager
Community Safety & Development

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2012-AUG-15
File LD002593
NP/tl

MINUTES OF THE "IN CAMERA" COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE DOUGLAS RISPIN ROOM, 80 COMMERCIAL STREET, NANAIMO, BC
ON MONDAY, 2012-AUG-27, COMMENCING AT 7:14 P.M.

PRESENT: Mayor J. R. Ruttan, Chair

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

Others: Mr. Bruce Williams, CTV (arrived 7:16 p.m., vacated 7:49 p.m.)

Staff: D. W. Holmes, Assistant City Manager and General Manager of
Corporate Services
E. C. Swabey, General Manager of Community Safety and Development
T. M. Hickey, General Manager of Community Services
I. Howat, Director of Strategic Relationships
T. L. Hartley, Director of Human Resources and Organizational Planning
B. E. Clemens, Director of Finance
S. Clift, Director of Engineering and Public Works
A. J. Tucker, Director of Planning
D. Lindsay, Manager, Building Inspection
S. Samborski, Senior Manager
K. King, Acting Manager of Legislative Services
L. Dennis, Recording Secretary

1. CALL THE "IN CAMERA" MEETING TO ORDER:

The "In Camera" Meeting was called to order at 7:14 p.m.

2. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

3. ADOPTION OF MINUTES:

It was moved and seconded that the Minutes of the "In Camera" Committee of the Whole Meeting held Monday, 2012-JUL-23 at 6:30 p.m. in the Douglas Rispin Room, 80 Commercial Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

Mr. Bruce Williams entered the Doug Rispin Room at 7:16 p.m.

4. PRESENTATIONS:

- (a) Presentation from Mr. Bruce Williams, Manager – Community and Client Relations, CTV Vancouver Island
-

Mr. Williams presented "Nanaimo: Majesty & Myths" the results of a CTV sponsored community survey to gauge attitudes and opinions regarding downtown Nanaimo.

Mr. Williams vacated the Doug Rispin Room at 7:49 p.m.

5. COMMUNITY SAFETY AND DEVELOPMENT:

- (a)

- (b) Road Closure Portion of Bowen and Meredith Road Adjacent to 2103 Bowen Road

It was moved and seconded that Council:

1. approve in principle the proposed road closure and consolidation of City-owned property located at 2103 Bowen Road;
2. direct Staff to prepare a report with an accompanying road closure bylaw for the next Open Council agenda; and,
3. direct Staff to repeal Bylaw No. 4733 at the next Open Council Meeting.

The motion carried unanimously.

- (c) Road Closure Portion of Highland Boulevard South of 2180 and 2190 Highland Boulevard

It was moved and seconded that Council:

1. approve in principle the sale of the proposed road closure area to Brooks Landing Centre Inc. and 676604 B.C. Ltd. (Attachment B) for the sum of \$43,500; and,
2. direct Staff to prepare a report with an accompanying road closure bylaw for the next Open Council agenda.

The motion carried unanimously.

- (d) Expression of Interest for Sale of City Hall Annex
-

It was moved and seconded that Council direct Staff to transfer the land and building at 238 Franklyn Street to Tectonica Management Inc. The motion carried unanimously.

6. OTHER BUSINESS:

- (a) Discussion regarding SFN Council to Council Meeting

7. ADJOURNMENT:

It was moved and seconded at 9:03 p.m. that the "In Camera" Meeting terminate. The motion carried unanimously.

CHAIR

CERTIFIED CORRECT:

CORPORATE OFFICER

AGENDA FOR THE "IN CAMERA" COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS, TO BE HELD IN
THE DOUGLAS RISPIN ROOM, 80 COMMERCIAL STREET, NANAIMO, BC
ON MONDAY, 2012-OCT-22, COMMENCING IMMEDIATELY FOLLOWING
THE REGULAR COMMITTEE OF THE WHOLE

1. **INTRODUCTION OF LATE ITEMS:**

2. **ADOPTION OF AGENDA:**

3. **ADOPTION OF MINUTES:**

- (a) Minutes of the "In Camera" Committee of the Whole Meeting held in the Douglas Rispin Room, 80 Commercial Street, on Monday, 2012-AUG-27 at 7:14 p.m. *Pg. 3-5*

4. **PRESENTATIONS:**

NONE

5. **ADMINISTRATION:**

NONE

6. **COMMUNITY SAFETY AND DEVELOPMENT:**

NONE

7. **CORPORATE SERVICES:**

NONE

8. **COMMUNITY SERVICES:**

(a) **Chase River Dams**

Staff Recommendation: That Council direct Staff to:

Pg. 6-22

1. proceed with removal of the Middle and Lower Chase Dams, as soon as is reasonably practicable by:
 - engaging an engineering consultant by direct award to provide design, cost estimates, and oversee a contractor for the dam decommissioning and land restoration process;
 - obtaining the necessary approvals and permits to perform the work; and,

- exploring options and costs for restoring this section of the Chase River Valley to a naturalized state in keeping with the existing Colliery Dam Park uses.
- 2. proceed with short-term borrowing of up to \$7 million (Option 4 in the Staff report) in 2013 and prepare an appropriate resolution for Council approval at a future meeting;
- 3. implement a communications campaign that informs the general public of the issues and intended actions, and that communicates to the impacted properties the emergency response plan to follow in the event of an evacuation emergency.

(b) **School District 68 / City of Nanaimo Collaboration Agreement**

Staff Recommendation: That Council receive the report regarding the School District 68 / City of Nanaimo Collaboration Agreement.

Pg. 23-28

9. **CORRESPONDENCE (not related to a Report to Council):**

NONE

10. **OTHER BUSINESS:**

- (a) Verbal update regarding potential land swap with School District #68.
- (b) Verbal update regarding hotel.
- (c) Verbal update regarding CP Lands.

11. **ADJOURNMENT:**

'IN CAMERA'

City of Nanaimo

REPORT TO COUNCIL

DATE OF MEETING: 2012-OCT-22

AUTHORED BY: SUSAN CLIFT, DIRECTOR, ENGINEERING & PUBLIC WORKS
BILL SIMS, MANAGER OF WATER RESOURCES

RE: CHASE RIVER DAMS

STAFF RECOMMENDATION:

That Council direct Staff to:

- (1) proceed with removal of the Middle and Lower Chase Dams, as soon as is reasonably practicable by:
 - engaging an engineering consultant by direct award to provide design, cost estimates, and oversee a contractor for the dam decommissioning and land restoration process;
 - obtaining the necessary approvals and permits to perform the work; and,
 - exploring options and costs for restoring this section of the Chase River Valley to a naturalized state in keeping with the existing Colliery Dam Park uses.
- (2) proceed with short-term borrowing of up to \$7 million (Option 4 in the report) in 2013 and prepare an appropriate resolution for Council approval at a future meeting;
- (3) implement a communications campaign that informs the general public of the issues and intended actions, and that communicates to the impacted properties the emergency response plan to follow in the event of an evacuation emergency.

PURPOSE:

To seek direction on the preferred course of action to remove or reduce the risks posed by the presence of the Middle and Lower Chase River dams and proceed toward implementation in an expedited manner.

SUMMARY:

The Lower and Middle Chase Dams are structures that were built in 1911 by a private coal mining company for washing coal on the waterfront, a purpose that no longer exists. These assets are over 100 years old and have reached the end of their useful lives. Although they have not yet shown direct physical evidence of major deterioration, a 2010 seismic hazard assessment and a 2012 dam breach impact study have determined that they pose an unacceptable risk to the downstream community. The Dam Safety Branch has requested that the City of Nanaimo take action to reduce that risk to an industry accepted standard, as soon as is reasonably practical. In considering all of the available options for risk mitigation, Staff recommends that the dams be removed and the Chase River valley be re-naturalized. This work is expected to cost \$5-7 million. Community notification of the interim risk and public education on emergency planning for mitigating the risk is also recommended.

Council
 Committee.....
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-OCT-15

BACKGROUND:

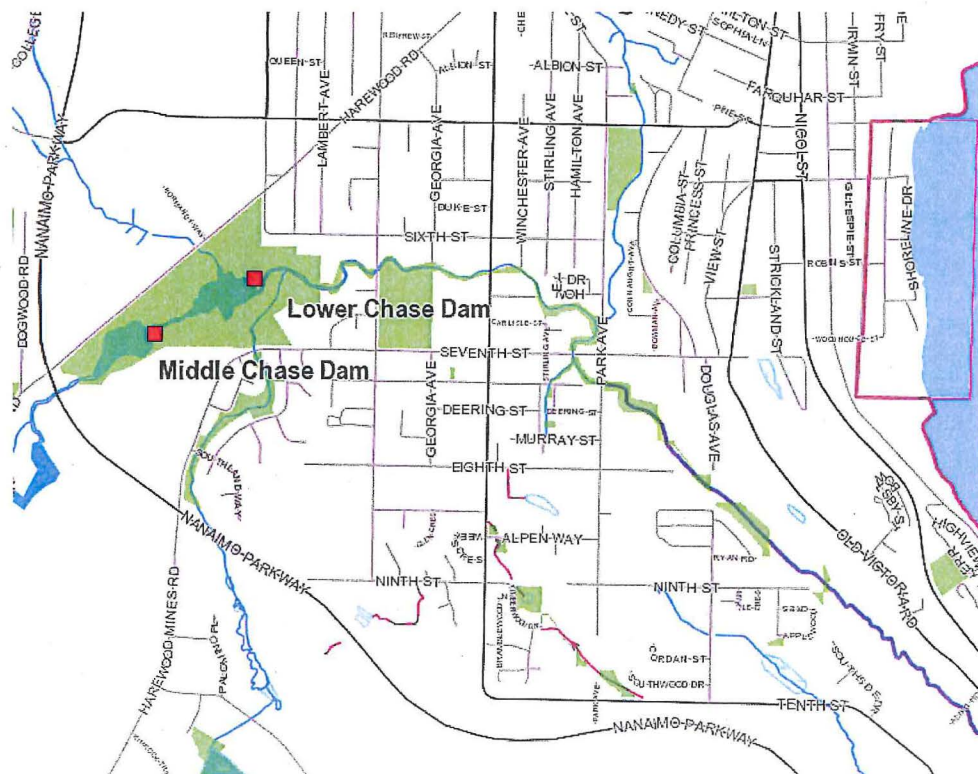
The Middle and Lower Chase River Dams were built in 1911 by the Western Fuel Corporation, who impounded the river water to wash coal on the waterfront. These structures are now over a hundred years old. The City of Nanaimo assumed ownership and responsibility for the dams in 1975 when the Harewood Improvement District was amalgamated into the City. The reservoirs created by the dams are currently used for recreational purposes, specifically for swimming and fishing.

Since assuming ownership, the dams have been operated and maintained by the City in accordance with BC Dam Safety Regulations. This involves weekly inspections by Staff, formal annual inspection of the structures by a qualified professional engineer, maintaining and repairing deficiencies, a major review every 10 years, and undertaking remedial action to safeguard the public.

DISCUSSION

As part of the last Dam Safety Review, the City was asked to undertake a major assessment of these two dams. In October of 2010, Staff informed Council that studies were underway that would define the risk of the presence of the dams to the community. The final report in the series of studies was received in September of 2012. These studies:

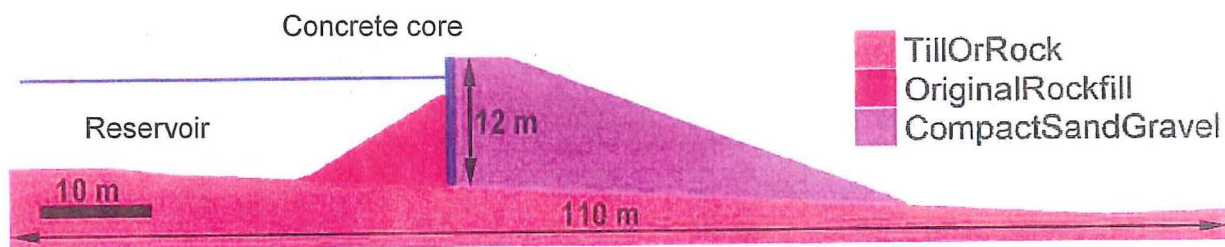
- assessed the current condition of the dams;
- predicted the probable modes of failure;
- outlined the probabilities of the events that could lead to a failure;
- modelled the consequences of the dam failures; and
- made recommendations for actions to reduce the risk posed by the dams.



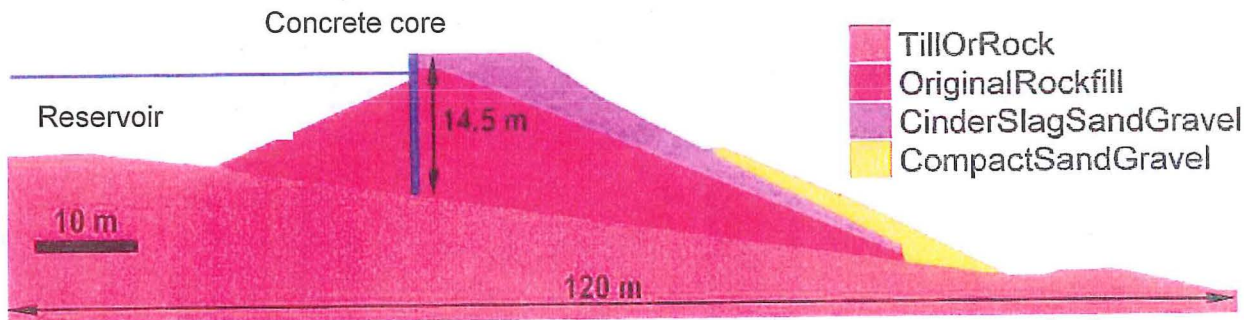
Chase Dams Location

Study results

Both dams have a concrete core with downstream and upstream fill slopes. The purpose of the core is to impound the water and the purposes of the slopes are to protect the core. The concrete is unreinforced and shows signs of loss of the cement matrix at the old pour joints. The original rock fill that makes up the slopes is un-compacted and of unknown quality. In 1978 the downstream fill slope of the Middle Chase Dam was replaced with compact sand and gravel and a filter blanket was added to the toe of the Lower Chase.



Middle Chase Dam Section



Lower Chase Dam Section

Modes of Failure

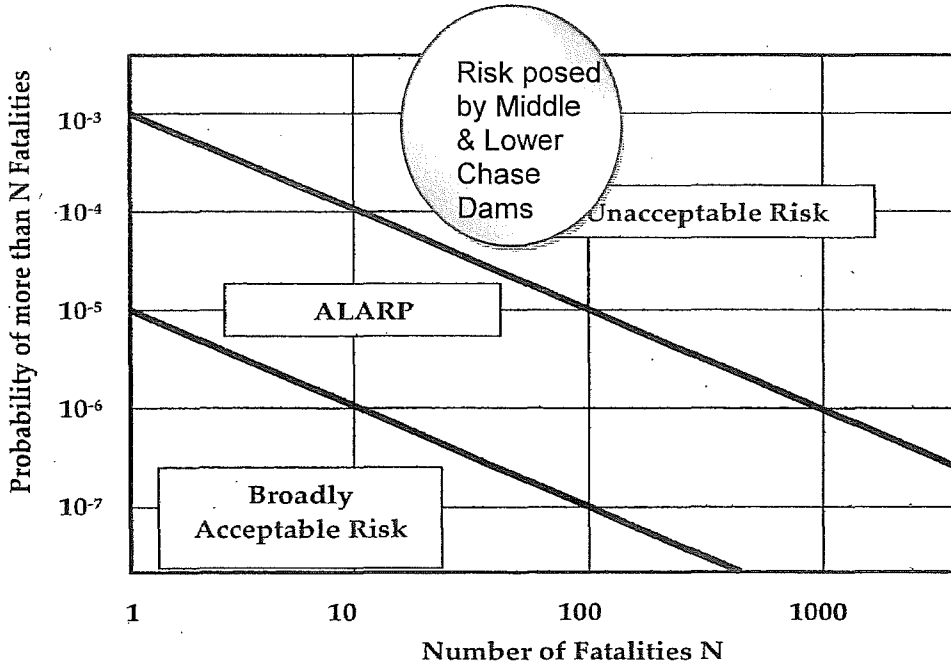
During a seismic event, the concrete wall of the Middle Dam is predicted to topple upstream, causing the dam to breach and the water to drain uncontrolled over the downstream face. The Lower Chase Dam concrete wall would crack, causing leaks and instability while the water from the already failed Middle Dam will cause the lower dam to fail.

A second mode of failure is possible due to the significant under sizing of the spillways. They are not large enough to accommodate the size of flood required by the Dam Safety Regulations. The excess runoff would breach the dams, cause catastrophic failure and uncontrolled draining of the lakes

Risk

Risk is defined by two factors; probability and consequences of failure. Societal acceptance of the risk of fatalities from dam failure is represented graphically below. If a high number of fatalities are possible from a failure, and the likelihood of failure is also high, then society will deem that risk unacceptable. Societal risk due to the presence of dams is required to fall within the band in the middle of the graph, where the risk is considered As Low As is Reasonably Practicable (ALARP).

Figure 1: Societal Risk Criteria for Dam Safety



Based on the recently conducted studies, both dams are considered to pose an unacceptable risk. The dams cannot withstand the design seismic event and the spillways are too small to pass large floods. Under the Dam Safety Branch Regulations, these dams are now characterized as having an *Extreme Consequence* (loss of life, major environmental impact, and extreme infrastructure loss) with a *Large* (clear) probability of failure. The dams have been placed on *Alert* level which requires the City to take action to reduce the risk posed to the public.

Options for action

There are three options for permanently reducing the risk posed by dams that are at the end of their life: Rebuilding the dams to current standards, rehabilitating the dams, or removing the dams. In considering these options, life safety and residual risk, followed by the benefit provided by their presence is weighed against the cost of construction.

- 1) **Rebuilding the dams** can maintain the current uses. However, the dams will still have the same *Extreme Consequence* rating.
 - Building two large dams would mean heavy civil construction for a considerable period of time, severely impacting the Park.
 - Timeframe for building a new dam project (5-10 years) exceeds the tolerance for the risk to be in place.
 - The underlying bedrock may not be suitable as a dam foundation as there is a fault running through the valley.
 - The existing dams would have to be removed anyway.
 - The costs would be in the \$30 million range.

This option is not recommended.

- 2) **Rehabilitating the dams** would involve new material buttressing both sides of the core material, along with new and larger spillways. However, the dams would still have the same *Extreme Consequence* rating.
- Reduction of risk to an acceptable level is unlikely due to the uncertain quality of the original construction.
 - Will not necessarily breach in a seismic event but will need to be removed immediately after.
 - The costs would also be in the \$30 million range.

This option is not recommended.

- 3) **Removing the dams** will change the way that some park users enjoy the area.
- The societal risk is reduced to an acceptable level.
 - The City's liability due to dam failure is removed.
 - The river valley can be restored to a more natural state
 - Costs for removal are estimated to be in the \$5-7million range.

This option is recommended.

Re-naturalization of the Chase River

Removal of the dams provides an opportunity to restore the Chase River to its natural state. It is clearly recognized by the City that Colliery Dams Park is a much-beloved and well-used natural recreational area. While there is occasional fishing and swimming in the lakes, by far the greatest use of the park is for hiking, biking, and dog-walking. It would be beneficial for these users if the trail system remain, utilizing bridges spanning the ravine at or near each dam's location. While a few early concepts are being developed, it is proposed that PRC lead the process to determine options that maintain these Park uses. The removal of the dams will have no impact to the downstream flows or stream characteristics.

Process of Removal

The Dam Safety Regulation requires that the City prepare a plan of action when a hazard exists. If Council approves the staff recommendation, a plan for removal of the dams will be submitted to the Dam Safety Branch for approval. Staff expects that the Dam Safety Branch will expedite the approval process. However, the plan for removal is subject to review by federal and provincial environmental agencies, Snuneymuxw First Nation and the community. This will likely result in a number of conditions attached to the approval, and potentially delay approval.

Early communication with the various agencies will go a long way to understanding concerns and conveying the need for the project. This review process introduces a level of uncertainty into what the final timing and scope of the process will be.

To expedite the project, and ensure that removal can occur by summer of 2013, Staff propose to award engineering, project management and approvals directly to a highly qualified consultant with experience in dam safety issues. Proceeding through the regular consultant selection process, even in an expedited manner, would delay starting the work until the new year. This in turn could jeopardize early removal of the dams, and create complications on several fronts: communications, emergency planning, approvals, liability and public safety.

Communications Plan

Staff has prepared a Communications Plan, attached to this report as Appendix A. The City is under a legal obligation as per s.25(1) of the Freedom of Information and Protection of Privacy Act to disclose the public information about a “risk of significant harm to the environment or to the health or safety of the public or a group of people” or the disclosure of which is “clearly in the public interest”. As such, the City must inform the public residing in the inundation zone of the hazard that exists, and educate them on how the City will handle an emergency and reduce the risk. There will be an early need to communicate the rationale for removal to community organizations, approval agencies and the broader public to facilitate understanding of the project. The public would be invited to provide input into how the Park would look after the naturalization process.

Emergency Planning

From an emergency management perspective, the most effective way to manage risk is through mitigation of the hazard. Hence, the removal of the dams eliminates possible failure and the associated risk to citizens and properties downstream.

In the interim, given the high risk to the community, it is important that the dams and relative inundation area be targeted in the event of an unexpected event. There is a Dam Failure section in the Emergency Response and Recovery Plan and specific exercises have been conducted. A contingency plan has also been assembled that addresses trigger points for the activation of the Emergency Coordination Center among other critical issues. The required documentation for the declaration of ‘Local State of Emergency’, ‘Evacuation Alerts’ and ‘Evacuation Notices’ as required by the *BC Emergency Program Act* have been prepared to expedite response action plans if required. In addition, an evacuation plan has also been developed interdepartmentally that will include evacuation routes, high ground areas, and predefined Reception Centres. Further, methods of communication to the general public to advise of potential failure are also part of the contingency plan.

Financial Implications

The options available to Council for the funding of this project are: increasing property taxes, long-term borrowing that requires the assent of electors and short-term borrowing. The estimated impact on property taxes over the next 6 years for these options is presented in the following table.

		2013	2014	2015	2016	2017	2018
Option 1	Taxation	8.03%	-8.03%				
Option 2	Long-term borrowing 10 years	0.14%	0.78%				
Option 3	Long-term borrowing 20 years	0.14%	0.39%				
Option 4	Short-term borrowing 5 years	1.34%	0.40%				-1.00%

Short-term borrowing (five years or less) is different than the long-term borrowing that the City has done in the past. These are some factors to be aware of (assuming borrowing is through the Municipal Finance Authority):

- No elector or minister approval is required. This is permitted under Section 175 of the Community Charter.

- The interest rate is variable, not fixed; therefore, there is a risk that the rate will increase over the five-year period.
- Interest is calculated daily and paid monthly.
- Interest is simple interest, not compounded.
- The debt cannot be converted to long-term debt or extended beyond the five years.
- The principal payments can be made at any time (most make annual payments).
- The principal can be paid back in full at any time without penalty.
- The debt does count against calculations of the City's borrowing limit.
- The City loan will be secured with a promissory note.
- The MFA will require a Council resolution that must include a repayment schedule (ie. commit to repaying the principal).

If Council agrees to do short-term borrowing, then Staff will bring back a report with an appropriate resolution.

Borrowing from the City's own reserves was considered by Staff. The only uncommitted reserves available are in the sewer fund. Staff believe future sewer renewal projects may be underfunded and for this reason, this option is not recommended.

Legal Advice

Once a decision has been made by City Council in regard to the future of the Middle and Lower Chase Dams, Staff will be working closely with the City's solicitors to prepare and present to City Council an interim policy resolution documenting the steps to be taken by the City regarding the dams. We would expect this interim policy resolution to be brought back to Council before the end of 2012. The City solicitors have advised that an interim policy resolution is an important step to take to protect the City from certain forms of liability during the time frame in which the City is dealing with the dams.

CONCLUSION

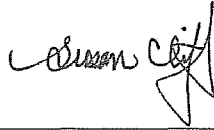
The Lower and Middle Chase Dams are 100 year old structures that have reached the end of their useful lives, and built for a purpose that no longer exists. When these dams were built, the engineering behind dam construction was not what it is today; much more is understood about seismic activity, extreme rainfall and risk. Two studies have concluded that the dams pose an unacceptable risk to the downstream community. The BC Dam Safety Branch has requested that the City of Nanaimo take action to reduce that risk to an industry accepted standard, as soon as is reasonably practical.

While the lakes provide considerable aesthetic and recreational benefit to the community, the costs to keep them and the risks posed are unacceptably high. In considering all of the available options for risk mitigation, Staff recommend that the dams be removed and the Chase River valley be re-naturalized. Colliery Dams Park and the lakes are highly valued community recreational assets, and it can be anticipated that interest will be high in remediating the Park in a way that preserves its natural characteristics, as well as provide for the multi-use trail ways.

Respectfully submitted,



Bill Sims, Manager,
Water Resources



Susan Clift, Director
Eng. & Public Works

Concurrence by:



Tom Hickey, General
Manager, Community Services

CITY MANAGER COMMENT:

I concur with the Staff recommendation.

Drafted: 2012-Oct-10

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SC/fg

'IN CAMERA'
City of Nanaimo
REPORT TO COUNCIL

DATE OF MEETING: 2012-OCT-22

AUTHORED BY: TOM HICKEY, GENERAL MANAGER, COMMUNITY SERVICES

RE: SCHOOL DISTRICT 68 / CITY OF NANAIMO COLLABORATION AGREEMENT

STAFF RECOMMENDATION:

That Council receive the report regarding the School District 68 / City of Nanaimo Collaboration Agreement.

PURPOSE:

The purpose of this report is to establish a process for the completion and adoption of a Collaboration Agreement between School District 68 and the City of Nanaimo.

BACKGROUND:

As an outcome of a City Council and School Board meeting held 2012-May-10 the following motion was passed by Council at its 2012-May-28 meeting:

"That City Council direct staff to develop a protocol agreement between the City of Nanaimo and the Board of Education of School District 68 (Nanaimo-Ladysmith) to govern relations on matters of common interest."

A similar motion was passed by the School Board.

DISCUSSION:

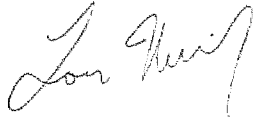
School District and City staff searched for samples of protocol agreements in B.C. The best model was a Collaboration Agreement between the District of North Vancouver and the Board of Education of School District 44 (North Vancouver). Using that agreement as a template, staff drafted the Collaboration Agreement that is attached.

The draft agreement is being circulated to both School Board and City Council In Camera meetings in October for comment. If both parties generally agree with the purpose, principles and terms of the Collaboration Agreement then a joint School Board / City Council meeting will be held on Thursday, November 8 from 3:30 to 5:00 PM where both parties can more thoroughly discuss the intent and content of the agreement.

A final agreement will be prepared based on the input provided at this meeting. The agreement will then be sent to respective School Board and Council meetings in December for ratification.

Council
 Committee
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-OCT-15

Respectfully submitted,



Tom Hickey, General Manager
Community Services

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2012-Oct-12

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TH/fg

COLLABORATION AGREEMENT



Between the



Nanaimo City Council
and the
Board of Education of School District 68 (Nanaimo/Ladysmith)

The Nanaimo City Council and the Board of Education of School District 68 (Nanaimo/Ladysmith) will strive to work together on initiatives of mutual interest for the benefit of Nanaimo residents. It is important to think creatively and collaboratively about our shared responsibility for community well-being.

This Collaboration Agreement signals our commitment to:

- open communication
- a collaborative approach to decision making where there is mutual interest
- short and long term planning that best meets community and education needs.

This AGREEMENT dated for reference the _____ of _____ 20__.

BETWEEN: The Nanaimo City Council (hereinafter called the "Council")

AND: The Board of Education of School District 68 Nanaimo/Ladysmith (hereinafter called the Board")

WHEREAS:

- A. The Council and the Board each have distinct governance authorities and responsibilities towards residents and stakeholders and acknowledges that the interests of all community members are best served by working together in the spirit of cooperation AND
- B. The Council and the Board recognize that a formal commitment to collaborative decision making and effective communication will result in more successful community development.

NOW THEREFORE the Council and the Board enter into this Agreement to formalize their commitment to: sharing information, improving communications, addressing specific concerns, setting a solid foundation for future planning and raising awareness and understanding of current and future challenges, duties and responsibilities under the Local Government Act and the Community Charter and under the School Act.

1.0 PURPOSE

The purpose of this Collaboration Agreement (hereinafter called the "Agreement") is to:

- 1.1 Enter into a more formal arrangement between the Board and the Council to establish and maintain a long-term relationship based upon effective communications and effective collaboration; and
- 1.2 Establish a Staff Working Committee, comprised of senior staff members of both parties to further the development of Clause 1.1.
- 1.3 The Agreement does not replace or diminish the existing Agreements between the Board and the Council.

2.0 PRINCIPLES OF COOPERATION

We agree that the Board and the Council will:

- 2.1 Meet regularly to promote and encourage open and constructive dialogue based on mutual trust, honesty, respect and understanding.
- 2.2 Continually promote understanding of each other's governing structures, capacities, roles, responsibilities and current projects.
- 2.3 Maintain respect for the views and authority of each other.

3.0 PRINCIPLES FOR COMMUNICATION

- 3.1 We recognize that the foundation of a successful Board to Council relationship is open and timely communication. Effective communication between each other can help achieve collaborative decision making and lead to cooperative actions on common areas of interest.
- 3.2 We consider ourselves to have an obligation to communicate effectively between each other and with the residents, stakeholders and other partners.
- 3.3 We acknowledge and recognize that communication and information sharing for the key joint interests set out in Clause 4.1 may be subject to Federal and Provincial Freedom of Information and Protection of Privacy Legislation.
- 3.4 We will endeavour to acknowledge each other's political representatives at events or meetings.

4.0 KEY JOINT INTERESTS

- 4.1 We agree to work together within applicable statutes on all areas of mutual interest, which may, at various times, include the following elements:
 - Land Use Planning
 - Development Planning and Processes
 - Environmental Protection
 - Economic Development
 - Transportation and Traffic Management
 - Child Care and Preschool
 - Emergency Planning
 - Capacity Building
 - Sustainable, Healthy Communities
 - Joint Facility Planning and Use, where appropriate
 - Special Projects
 - Other Initiatives of mutual interest

5.0 STAFF WORKING COMMITTEE

- 5.1 A Senior Staff Working Committee will carry out the intent of this Agreement based on direction provided from Board and Council.
- 5.2 The Committee will meet quarterly, or as required and the primary liaison will be the Board's Secretary-Treasurer and the City Manager.
- 5.3 The duties and responsibilities of the Staff Working Committee are:
 - a) To facilitate communications and collaboration on items of mutual interest to each other.
 - b) To provide advice to the Council and the Board.
 - c) To implement the decisions of the elected Council and Board for the undertaking of specific projects and initiatives.
 - d) To establish technical committees and/or working groups to undertake specific projects as required, and
 - e) To identify and recommend financial and other resources required to undertake projects of mutual benefit.

6.0 COUNCIL AND BOARD MEETINGS

- 6.1 The elected Council and Board will endeavor to meet twice annually to provide leadership, to recommend strategic direction and to monitor and evaluate the implementation of this Agreement and the specific initiatives undertaken thereto.

7.0 TERMS OF THE AGREEMENT

- 7.1 This Agreement shall take effect by a formal resolution of each respective party.
- 7.2 This Agreement is a living document and may be subject to revision from time to time by mutual consent. The revisions must be agreed to in writing and by formal resolution by each respective Council and Board.
- 7.3 This Agreement will remain in effect continuously unless terminated by either of the parties by providing sixty (60) days' notice in writing, to be delivered by hand, email or registered mail.
- 7.4 This Agreement does not prejudice or affect the Board's rights, powers, duties or obligations in the exercise of its functions pursuant to the School Act, as amended from time to time.
- 7.5 This Agreement does not prejudice or affect the Council's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Local Government Act*, the *Community Charter* and other applicable statutes as amended from time to time.

8.0 CONTACT INFORMATION

BOARD OF EDUCATION OF SCHOOL DISTRICT 68 (NANAIMO/LADYSMITH)
c/o Secretary-Treasurer
395 Wakesiah Avenue, Nanaimo, BC V9R 3K6

CITY OF NANAIMO
c/o City Manager
455 Wallace, Nanaimo, BC V9R 5J6

IN WITNESS THEREOF the Parties have hereunto affixed their signatures as of the day and year first written above.

Nanaimo City Council

The Board of Education of School District 68 (Nanaimo/Ladysmith)

BY: MAYOR JOHN RUTTAN

BY: CHAIR, JAMIE BRENNAN

WITNESS

WITNESS

MINUTES OF THE "IN CAMERA" COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE DOUGLAS RISPIN ROOM, 80 COMMERCIAL STREET, NANAIMO, BC
ON MONDAY, 2012-OCT-22, COMMENCING AT 4:54 P.M.

PRESENT: Mayor J. R. Ruttan, Chair

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor M. D. Brennan (vacated 6:31 p.m.)
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

Staff: A. C. Kenning, City Manager
D. W. Holmes, Assistant City Manager and General Manager of
Corporate Services
E. C. Swabey, General Manager of Community Safety and Development
T. M. Hickey, General Manager of Community Services
I. Howat, Director of Strategic Relationships
T. L. Hartley, Director of Human Resources and Organizational Planning
L. Coates, Acting Director of Finance
T. P. Seward, Director of Development
S. Clift, Director of Engineering and Public Works (vacated 5:49 p.m.)
Chief R. Lambert, Nanaimo Fire Rescue (vacated 5:49 p.m.)
A. J. Tucker, Director of Planning
P. Cooper, Communications Manager (vacated 5:49 p.m.)
B. Sims, Manager, Water Resources (vacated 5:49 p.m.)
K. MacDonald, Parks Planner (vacated 5:49 p.m.)
H. Davidson, Records Management Clerk
S. Snelgrove, Acting Steno
K. King, Acting Manager of Legislative Services
L. Dennis, Recording Secretary

1. CALL THE "IN CAMERA" MEETING TO ORDER:

The "In Camera" Meeting was called to order at 4:54 p.m.

2. INTRODUCTION OF LATE ITEMS:

It was moved and seconded that Council move Agenda Item 10 (a) - Verbal Update Regarding Potential Land Swap with School District #68 to the end of the agenda. The motion carried unanimously.

- (a) Add Agenda Item 10 (c) – Other Business – Annex Sale Communication Plan.

3. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

It was moved and seconded that the Minutes of the "In Camera" Committee of the Whole Meeting held Monday, 2012-AUG-27 at 7:14 p.m. in the Douglas Rispin Room, 80 Commercial Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

5. COMMUNITY SERVICES:

(a) Chase River Dams

It was moved and seconded that Council direct Staff to proceed with removal of the Middle and Lower Chase Dams, as soon as is reasonably practicable by:

- engaging an engineering consultant by direct award to provide design, cost estimates, and oversee a contractor for the dam decommissioning and land restoration process;
- obtaining the necessary approvals and permits to perform the work; and,
- exploring options and costs for restoring this section of the Chase River Valley to a naturalized state in keeping with the existing Colliery Dam Park uses.

The motion carried.

Opposed: *Councillor Bestwick*

It was moved and seconded that Council direct Staff to proceed with short-term borrowing of up to \$7 million (Option 4 in the Staff report) in 2013 and prepare an appropriate resolution for Council approval at a future meeting. The motion carried unanimously.

It was moved and seconded that Council direct Staff to implement a communications campaign that informs the general public of the issues and intended actions, and that communicates to the impacted properties the emergency response plan to follow in the event of an evacuation emergency. The motion carried unanimously.

It was moved and seconded that Council, at the earliest date, review reserves and look at other proposed capital projects as part of the budget review. The motion carried unanimously.

Councillor Brennan vacated the Doug Rispin Room at 5:49 p.m. on a conflict of interest as her spouse is an School District No. 68 Trustee.

(b) School District 68 / City of Nanaimo Collaboration Agreement

It was moved and seconded that Council receive the report regarding the School District 68 / City of Nanaimo Collaboration Agreement. The motion carried unanimously.

Councillor Brennan returned to the Doug Rispin Room at 5:51 p.m.

6. OTHER BUSINESS:

(a) Verbal Update Regarding Hotel

Mr. A. C. Kenning and Mr. I. Howat updated Council on

Meetings with proponents will be scheduled for the morning of 2012-OCT-24.

(b) Verbal Update Regarding CP Lands

Mr. E. C. Swabey updated Council on the purchase of CP Lands and advised Council that the draft purchase and sale agreement is currently with Canadian Pacific for review.

(c) Annex Sale Communication Plan

Mr. A.C. Kenning informed Council that Staff is aware that if the sale agreement for the Annex building is signed by Tectonica Management Inc., a communications plan will need to be in place as the agreement becomes public.

Councillor Brennan vacated the Doug Rispin Room at 6:31 p.m. on a conflict of interest as her spouse is an School District No. 68 Trustee.

(d) Verbal update regarding potential land swap with School District #68

Mr. E.C. Swabey outlined the properties that may be negotiated for a land exchange with School District No. 68.

7. ADJOURNMENT:

It was moved and seconded at 6:47 p.m. that the "In Camera" Meeting terminate. The motion carried unanimously.

CHAIR

CERTIFIED CORRECT:

CORPORATE OFFICER

AMENDED

AGENDA FOR THE "IN CAMERA" COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS, TO BE HELD IN
THE DOUGLAS RISPIN ROOM, 80 COMMERCIAL STREET, NANAIMO, BC
ON MONDAY, 2012-NOV-05, COMMENCING IMMEDIATELY FOLLOWING
THE REGULAR COMMITTEE OF THE WHOLE

1. **INTRODUCTION OF LATE ITEMS:**

- Add Item 5 (a) – Administration – Report regarding Snuneymuxw First Nation (SFN) Water

2. **ADOPTION OF AGENDA:**

3. **ADOPTION OF MINUTES:**

- (a) Minutes of the "In Camera" Committee of the Whole Meeting held in the Douglas Rispin Room, 80 Commercial Street, on Monday, 2012-OCT-22 at 4:54 p.m. *Pg. 4-6*

4. **PRESENTATIONS:**

NONE

5. **ADMINISTRATION:**

(a)

Pg. 6.1 - 6.4

6. **COMMUNITY SAFETY AND DEVELOPMENT:**

NONE

7. **CORPORATE SERVICES:**

(a) **Quarterly Claims Report - Period ending 2012-SEP-30**

Staff Recommendation: That Council receive the Quarterly Claims Report for the period ending 2012-SEP-30. *Pg. 7-11*

(b) **Exempt Compensation**

Staff Recommendation: That Council receive the report regarding Exempt Compensation. *Pg. 12-15*

8. **COMMUNITY SERVICES:**

(a) **Nanaimo Cultural Awards Recommendations for 2012**

Commission Recommendation:

Pg. 16-19

That Council:

1. approve the following awards:
 - the Vancouver Island Symphony as the recipient of the 2012 Excellence in Culture Award;
 - Eveline O'Rourke as the recipient of the 2012 Honour in Culture Award; and,
2. approve the release of this resolution from "In Camera" for public information.

(b) **Appointment to City Grants Advisory Committee**

Commission Recommendation:

Pg. 20

That Council:

1. appoint Commissioner Ian Thorpe to the Grants Advisory Committee to replace Commissioner Beaudoin-Lobb on the Committee for the remainder of his current term of appointment to the Parks, Recreation and Culture Commission.
2. approve the release of this resolution from "In Camera" for public information.

(c) **Police Operations Building Cell Block Renovation Tender Award**

Staff Recommendation: That Council award the contract for the Police Operations Building Cell Block Renovation to Knappett Projections Inc. for the price of \$696,600 (excluding HST).

Pg. 21-22

(d) **Minutes of the "In Camera" Parks Recreation and Culture Commission Meeting held 2012-JUL-25**

To be introduced by PRCC Chair, Councillor Johnstone.

Commission Recommendation: That Council receive the minutes of the "In Camera" Parks, Recreation and Culture Commission Meeting held 2012-JUL-25.

Pg. 23-25

9. **CORRESPONDENCE (not related to a Report to Council):**

NONE

10. **OTHER BUSINESS:**

NONE

11. **ADJOURNMENT:**

IN CAMERA

City of Nanaimo

REPORT TO CITY COUNCIL

DATE OF MEETING: 2012-November 5

AUTHORED BY: Terry Hartley, Director of HR & Organizational Planning

RE: Exempt Compensation

STAFF RECOMMENDATION:

That Council receive this report for information.

PURPOSE:

To provide information to Council on management compensation adjustments for 2012.

BACKGROUND:

The 1991 exempt compensation policy provides that the City will compensate its management group at the median (50th percentile) of the national public sector as determined annually by an independent survey. This policy has been modified for employees in Bands 1 to 3 (administrative assistants), who receive annual salary adjustments based on CUPE Local 401 across-the-board increases. The Fire Chief is covered by the exempt compensation policy however other members of Fire Management are governed by a 1995 policy which calculates salaries based on a compression formula (i.e. Deputy Chiefs receive a fixed percentage above the pay of the Assistant Deputy Chiefs and the latter receive a fixed percentage above the pay for Captains).

At a March 29, 2010 Special In-Camera Meeting, Council considered the exempt compensation policy, voting to maintain the policy in 2010, but to review the annual salary adjustment system in 2011.

A presentation on management compensation was provided to Council at a seminar on April 7, 2011. The presentation included information about how comparator municipalities provide compensation adjustments for its exempt employees. Most municipalities provide an annual across-the-board adjustment to exempt staff salaries (cost of living), often basing the amount of the increase on that which has been approved for internal union employees. Then, every 2-4 years, these municipalities conduct a market survey of benchmark positions to ensure management salaries remain competitive with the market; the "market" is typically defined as other municipalities. In contrast, the City uses the annual Hay Group survey to determine both the annual cost of living increase and to act as the market comparison, with the market being defined as organizations in the national public sector. The presentation raised the question as to whether the national public sector was the right labour market in which to compare exempt

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Meeting Date: 2012-NOV-05

compensation, particularly since the municipal labour market is used for salary comparison purposes for the City's other employee groups (CUPE, IAFF, Council).

Normally, a labour market is defined as those employers an organization loses employees to and hires employees from. An analysis was done of recruitment and exit data over the previous five years and it showed that the City primarily recruits its exempt employees from the municipal sector (mostly in B.C.) and the internal union market (mainly CUPE). Most of the exempt employees who resign from the City exit to work at other local government organizations in B.C. A review of the Hay Group survey participant list showed that there were very few municipalities being studied.

With respect to market competitiveness, the presentation showed that exempt salary adjustments were not maintaining pace with the internal (union) market and may not be maintaining pace with the external (municipal) labour market. At an In-Camera Council Meeting on April 11, 2011, Council directed staff to retain an independent compensation consultant to identify the appropriate labour market for City of Nanaimo management employees and to conduct a review to assess the competitiveness of management salaries and benefits within the identified market.

Following a competitive bid process, Kathy Sainas of Sainas Consult Inc. was retained as the independent compensation consultant to perform the review. Using information about the industry types and geographic locations the City recruits exempt employees from and loses exempt employees to, the consultant identified a labour market consisting of 14 municipalities (12 in BC and 2 in Alberta) with a median population of 85,236. A representative sample of exempt positions at the City of Nanaimo was selected so these could be evaluated against similar positions in the comparator organizations.

The Sainas data showed that the salaries of management employees at the City of Nanaimo are not competitive with the median of the municipal market. The exempt staff salary bands for 2011 were an average of 5.1% below the municipal median.

At an In-Camera meeting of Council on October 3, 2011, Council voted to maintain the status quo (i.e. to continue to use the national public sector median for salary adjustments) rather than to adopt a new compensation policy using the municipal market as the comparison group. During the discussion, Council members expressed concerns about economic conditions.

DISCUSSION

As noted above, the City has traditionally used the Hay Group survey, conducted in May of each year, to determine the median of the national public sector market. According to this data, the required increase to the pay policy line for 2012 is 1.3%.

There are two methods that may be used to apply these results: (1) adjust each pay band based on the market median for that band; or (2) provide an across-the-board adjustment based on the pay policy line increase to the market median.

When each pay band is adjusted to correspond with the median of comparable positions in the national public sector, the Hay Group data acts as both the annual (cost of living) increase and as the market on which to base classification adjustments. While this is the way the system was designed to be applied, using this approach has been problematic in recent years.

If the aforementioned approach had been used in 2010 and 2011, it would have resulted in high salary increases in the City Manager and General Manager pay bands and low compensation adjustments for the rest of the management staff.¹ Similarly, using this approach in 2012 would provide the City Manager with a market increase of 7.59%, the General Managers with a market increase of 4.56%, and 52 of the remaining 55 management employees with a 0% wage adjustment. This result is likely to exacerbate the attraction, retention and engagement concerns noted in previous reports.

For example, the fact that management salaries at the City are not maintaining pace with those of comparable positions in other municipalities (per the Sainas report), means that there have been issues with attraction (we have had to advertise multiple times for various management positions) and retention (on a percentage basis, exempt employees resign from the City more than our other employee groups and they regularly cite pay as a concern in the exit interview).

In addition, management employee salary adjustments are not maintaining pace with those of our internal (union) employee groups (see chart below). While this has had an impact on management morale, it also has an effect on our ability to recruit union members to management positions. It is important that the City position itself to attract qualified exempt employees to replace the large number of management staff who will be eligible to retire with an unreduced pension in the next 5 years (51% eligibility).

Compensation Increase Comparisons, 2006-2011							
	2006	2007	2008	2009	2010	2011	Average
CUPE, Level 11	3.5%	3.0%	4.0%	3%	3.5%	2.0%	3.2%
IAFF	3.5%	3.5%	5.0%	5%	3.0%	2.5%	3.8%
Management	2.9%	3.41%	3.36%	2.1%	1.51%	1.7%	2.5%

In light of the concerns above, the City Manager has instructed staff to apply the median of the national public sector of 1.3% to all management pay bands equally (i.e. an across-the-board increase). This is the same approach that was taken in 2010 and 2011.

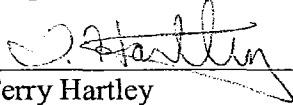
While the City Manager's direction ensures that the 2012 compensation adjustment does not cause additional concerns with the attraction, engagement and retention of management employees, the across-the-board approach cannot be sustained over the long-term. As discussed previously, while most organizations apply an across-the-board increase annually, they also review the market every 3-4 years in order to make the appropriate classification adjustments.

¹ The likely reason for these results is that many of the participants in the Hay Group national public sector survey are Crown corporations (the executive pay bands in these types of organizations typically receive higher salary adjustments).

The City has not provided classification adjustments since 2009. This means that some positions are not being paid in accordance with the median of the national public sector as per Council's identified labour market.


While staff is not recommending that Council reconsider its decision on the Sainas report in 2012, Council may wish to ask staff for a report on options to move to the municipal median, commencing in 2013. Options could include modification of the municipal market identified in the Sainas report (e.g. elimination of the two Alberta municipalities) and methods to defer implementation costs.

Respectfully submitted,



Terry Hartley
Director, HR & Organizational Planning

Concurrence by:



D.W. Holmes
Assistant City Manager/General Manager,
Corporate Services

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: October 15, 2012

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City of Nanaimo

“IN CAMERA” REPORT TO COUNCIL

DATE OF MEETING: 2012-NOV-05

AUTHORED BY: DIANA JOHNSTONE, CHAIR,
PARKS, RECREATION AND CULTURE COMMISSION

RE: NANAIMO CULTURAL AWARDS RECOMMENDATIONS FOR 2012.

RECOMMENDATIONS:

That Council approve:

1. the Vancouver Island Symphony as the recipient of the 2012 Excellence in Culture Award; and,
2. Eveline O'Rourke as the recipient of the 2012 Honour in Culture Award;

That Council approve the release of this resolution from “In Camera” for public information.

PURPOSE:

Each year, the “Excellence in Culture” award is presented to an organization or individual that has achieved regional and/or national recognition in the field of arts and culture. The recipient of this award would be well recognized as a “Nanaimo Artist,” having demonstrated excellence in their field, and as being a significant inspiration to others.

The “Honour in Culture” Award is presented to an individual, group or corporation that is known for their dedication and support of the development of the cultural fabric of Nanaimo

Nominations for both awards are reviewed by the Cultural Committee with recommendations to the Parks, Recreation and Culture Commission for their endorsement. The awards will be presented at the Port Theatre by City Council, in the form of a framed photograph of the recipient that will be displayed in the Margaret Strongitharm Gallery at the Port Theatre.

SUMMARY:

The Cultural Awards Project Committee reviewed 7 nominations for the Excellence in Culture Award and 14 nominations for the Honour in Culture Award.

At their 2012-OCT-03 meeting, the Committee agreed by consensus that the Vancouver Island Symphony be recommended for the Excellence in Culture Award and that Eveline O'Rourke be recommended for the Honour in Culture Award.

At their 2012-OCT-24 meeting, the Parks, Recreation and Culture Commission voted unanimously that they recommend that Council approve the Vancouver Island Symphony for the Excellence in Culture Award and Eveline O'Rourke for the Honour in Culture Award.

BACKGROUND:

Excellence in Culture Award:

The Vancouver Island Symphony (VIS) is being recommended for the Excellence in Culture Award for its musical and artistic excellence for the last 17 years. The VIS is recognized as one of Canada's leading regional orchestras and it is an important cultural asset in Nanaimo.

Annually, the VIS presents an 8 to 12 concert season of great orchestral performances and new commissions that have been premiered in Nanaimo including Vancouver Island Legends, a multi media show about Nanaimo. The Symphony's impact on the community has been significant with over 76,000 tickets sold for performances at the Port Theatre and over 47,000 people have enjoyed free activities offered by the VIS. The participation numbers of audience and public continue to rise annually.

The Symphony's Economic Impact Study (2011) showed the direct economic impact of the Symphony on Nanaimo - musicians have spent over 11,100 nights in hotels; 25,000 cars of symphony patrons have used city; over \$1,260,000 is generated at each concert season; \$1840 is spent at local restaurants for every 100 Symphony tickets sold. As the Port Theatre's anchor tenant, the VIS has paid for over 309 nights of rent at the Theatre over the last 12 years.

The Symphony's commitment to community outreach programs remains strong including events like celebrating the contributions of Nanaimo's unsung heroes (including Fire, RCMP, Coast Guard, and Paramedic Services) and individual heroes that have made a difference in our community.

The VIS showcases young local talent, (Tetsuumi Nagata, violin; Devon Joiner, piano, British Columbia Boys Choir) and the work of local composers: James Mark, Patrick Carpenter, and Jason Nett.

Developing the creativity in students is another area where the VI Symphony continues to lead with its: Noteworthy Kids Music Club Program, the Musical Instrument Zoo offered twice annually where kids can come and try all the instruments of the orchestra and an opportunity for VIU and Conservatory of Music students to attend Symphony rehearsals and learn through watching and listening to professional musicians.

The VIS has an outstanding education program designed specifically for the 46,000 Elementary School students from 10 School Districts on Vancouver Island that have heard the orchestra play live in a theatre, offering a creative outlet for the musician and audience members of tomorrow to dream through exposure to the magic of 50+ musicians playing together on stage!

Vancouver Island Symphony is a dynamic artistic presence integral to the quality of life in Nanaimo. It gives us music to lift our spirits, engage our minds, and celebrate the joy of life.

Honour in Culture Award:

Eveline O'Rourke is being recommended for the Honour in Culture Award for her strong advocacy and support of cultural advancement in Nanaimo. She advocates strongly for her city because she believes that cultural amenities are absolute necessities and have a positive impact on our daily lives. She has worked tirelessly on a multitude of committees and boards to help Nanaimo mature and become the dynamic and creative city it is today.

Eveline has been a valued member of the Nanaimo Museum Board and Executive for many years as well as an avid supporter of events and programs as a member. Her calm, reasoned and thoughtful guidance has helped the Museum grow to where it is today. Her numerous connections in our community continue to provide strong links and partnership opportunities.

Eveline served on the Nanaimo Cultural Committee from 1997 to 2012-MAR-31, serving her last term as Chair. Her leadership and positive influence resulted in a Cultural Strategy for Nanaimo, the adoption of Art in Public Places, and expanded arts and cultural programming.

When the Vancouver Island Symphony was first established Eveline was appointed as the inaugural President by then Mayor Gary Korpan to form a society and oversee the advancement of this professional group. She continues to serve on the board and is Co-Chair again this season. The Symphony has enjoyed years of successful seasons largely due to the fact Eveline has worked tirelessly behind the scenes preparing grant applications, fund raising activities and seeking community sponsorships. Her ongoing leadership and support of the VIS has earned her an Honorary Concert Master's chair in perpetuity.

As past President of Tourism Nanaimo, Eveline advocated strongly ensuring that the society and membership embraced cultural tourism as essential to growing Nanaimo as a dynamic city. Her leadership earned her the admiration of our citizens and the 2000 Citizen of the Year Award.

Eveline presents pre-concert talks for VIS and has taught the history of music at Vancouver Island University. As well, she has been a member of the Malaspina Choir for over 20 years serving on the Executive as Marketing Chair.

Eveline's love of music, the performing and visual arts, her many talents, efforts and accomplishments have helped define our city's dynamic creative sector.

STRATEGIC PLAN CONSIDERATIONS:

Asset Management: The City has embraced "Cultural Vitality" as a 4th pillar of sustainability in its Corporate Strategic Plan. The Vancouver Island Symphony has been an important key cultural asset for Nanaimo. To this end the City has invested yearly in the Symphony through the Cultural Operating Investment program (\$85,000 in 2012). The city recognizes that culture is a significant economic driver and sustaining its key cultural assets is vital for a prosperous and successful city. Recognizing individuals and organizations for their contribution to Nanaimo's cultural vitality is an excellent way to sustain our key cultural assets and resources.

Community Building Partnerships: The Nanaimo Cultural Awards Program has been an important program for community building and partnerships since 1998. It brings awareness to the breadth and variety of the cultural activity in our community. It also builds pride in the cultural accomplishments of individuals and organizations and pride in our community.

Respectfully submitted,



Diana Johnstone
CHAIR
PARKS, RECREATION AND CULTURE COMMISSION

Drafted: 2012-OCT-25

File: A4-1-2 / A2-4 / A2-11

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City of Nanaimo

"IN CAMERA" REPORT TO COUNCIL

DATE OF MEETING: 2012-NOV-05

AUTHORED BY: DIANA JOHNSTONE, CHAIR
PARKS, RECREATION AND CULTURE COMMISSION

RE: APPOINTMENT TO CITY GRANT ADVISORY COMMITTEE

RECOMMENDATIONS:

That Council appoint Commissioner Ian Thorpe to the Grants Advisory Committee to replace Commissioner Beaudoin-Lobb on the Committee for the remainder of his current term of appointment to the Parks, Recreation and Culture Commission.

That Council approve the release of this resolution from "In Camera" for public information.

PURPOSE:

To appoint Commissioner Ian Thorpe to the Grants Advisory Committee to replace Commissioner Beaudoin-Lobb on the Committee for the remainder of his current term of appointment to the Parks, Recreation and Culture Commission.

BACKGROUND:

In accordance with the City of Nanaimo, Grants Advisory Committee, Terms of Reference, Section 1. Composition and Term, the Parks, Recreation and Culture Commission at their "In Camera" meeting, held 2012-OCT-24, unanimously agreed to recommend to Council that Commissioner Thorpe replace Commissioner Beaudoin-Lobb on the Grants Advisory Committee.

At their "In Camera" meeting of 2012-OCT-24, the Parks, Recreation and Culture Commission passed a motion supporting the recommendation that, as Commissioner Beaudoin-Lobb was having scheduling conflicts with the timing of the Grant Advisory Committee meetings, Council appoint Commissioner Ian Thorpe to the Grants Advisory Committee to replace Commissioner Beaudoin-Lobb on the Committee for the remainder of his current term of appointment to the Parks, Recreation and Culture Commission

Respectfully submitted,



Diana Johnstone
CHAIR
PARKS, RECREATION AND CULTURE COMMISSION

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Drafted: 2012-OCT-26 File: A4-1-2/A1-4/A2-4
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“IN CAMERA”
City of Nanaimo
REPORT TO COUNCIL

DATE OF MEETING: 2012-NOV-05

AUTHORED BY: STEVE RICKETTS, MANAGER, CONSTRUCTION

RE: POLICE OPERATIONS BUILDING CELL BLOCK RENOVATION TENDER AWARD

STAFF RECOMMENDATION:

That Council award the contract for the Police Operations Building Cell Block Renovation to Knappett Projects Inc. for the price of \$696,600 (excluding HST).

PURPOSE:

To have Council award this contract in accordance with the Purchasing Policy which states that if there are unusual circumstances, a Staff Report shall be provided for Council's approval.

This report is "In Camera" because of legal issues with the tender award.

BACKGROUND:

Council received an Information Report at the 2012-AUG-27 meeting advising of the Police Operations Building Cell Block Renovation tender.

Tenders were called for the above project on September 20, 2012.

Six (6) tenders were received by the Manager of Purchasing and Stores on October 17, 2012 and opened in the Purchasing Department at 3:00 p.m. Tenders were as follows:

1.	Knappett Projects Inc.	\$696,600
2.	Heatherbrae Builders Co. Ltd	\$728,000
3.	Island Westcoast Developments Ltd.	\$751,061
4.	W. J. Murphy Contracting Ltd.	\$757,000
5.	Kinetic Construction Ltd.	\$780,766
6.	D. Robinson Contracting Ltd.	\$900,700

The tenders were checked and no errors were found.

Based on this tender, work within the premises will commence January 28, 2013 and be complete May 15, 2103.

DISCUSSION:

- Council
- Committee COW
- Open Meeting
- In-Camera Meeting

Meeting Date: 2012-NOV-05

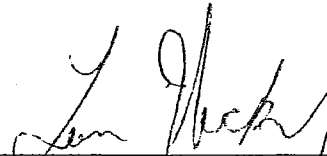
The low tender, Knappett Projects Inc., is within the City's capital budget for this project (P-3714). The budget will be supplemented by \$70,000 from the Police Services Project No. 10536 for the Surveillance System Installation included with this contract.

Respectfully submitted,

Concurrence by:



S. Ricketts, Manager,
Engineering Construction



T. Hickey, General Manager,
Community Services

CITY MANAGER COMMENT:

I concur with the Staff recommendation.

Drafted: 2012-OCT-31 SR/d
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**MINUTES OF THE "IN CAMERA"
PARKS, RECREATION AND CULTURE COMMISSION MEETING
HELD IN THE BOWEN PARK COMPLEX CONFERENCE ROOM
ON WEDNESDAY, 2012-JUL-25, COMMENCING AT 9:26 P.M.**

PRESENT: Commissioner D. Johnstone, Chair

Members: Commissioner T. Greves
Commissioner F. Pattje
Commissioner K. Alden
Commissioner L. Avis
Commissioner M. Beaudoin-Lobb
Commissioner A. McPherson
Commissioner D. Rinald
Commissioner G. Savage
Commissioner I. Thorpe

Regrets: Commissioner M. Young
Commissioner H. Houle

Staff: R. Harding J. Ritchie
B. Kuhn R. Tweed, recording

2. CALL THE "IN CAMERA" MEETING TO ORDER:

The "In Camera" Meeting was called to order at 9:26 p.m.

2. INTRODUCTION OF LATE ITEMS:

- Add item 10.(a) –

3. ADOPTION OF AGENDA:

It was moved and seconded that the "In Camera" Agenda, as amended, be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

- (a) Minutes of the "In Camera" Parks, Recreation and Culture Commission Meeting held Wednesday, 2012-JUN-27 at 9:49 p.m. in the Bowen Park Complex Conference Room.

It was moved and seconded that the Minutes be adopted as circulated. The motion carried unanimously.

5. PRESENTATIONS: (None.)

6. DELEGATIONS: (None.)

Council
 Committee...COW
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-NOV-05

7. CHAIR'S REPORT:

- (a) The naming of the sports fields at Harewood Centennial Park to "Sherry Sports Fields" was approved by Council at their "In Camera" meeting held on 2012-JUL-23. This information is not yet public. It will be announced by Mayor Ruttan as part of a special event.

8. REPORTS OF ADVISORY BODIES: (None.)

9. STAFF REPORTS (Action):

- (a) **Re-Naming of Forest Drive Park to Forest Drive Gyro Park.**

Staff's Recommendation: That the Parks, Recreation and Culture Commission recommend that Council approve a name change of Forest Drive Park to Forest Drive Gyro Park.

It was moved and seconded that the recommendation be adopted. The motion carried unanimously.

10. STAFF REPORTS (Information Only):

- (a)

11. CORRESPONDENCE: (Action)

- (a) Referred from the regular open meeting for discussion - Letter dated 2012-JUN-25 from Mr. Ian Cumpstone, President, Nanaimo Hornets R.F.C., 6704 Dover Road, Nanaimo, BC, V9V 1M6, regarding preserving School District 68 lands along Shook and Dickenson Roads, Nanaimo, BC, as parkland and requesting that they be advised if the City of Nanaimo plans to hold a public forum/discussion with respect to the future use of these School District lands.

CORRESPONDENCE: (Information) (None.)

12. NOTICE OF MOTION: (None.)

13. CONSIDERATION OF OTHER BUSINESS: (None.)
14. BUSINESS ARISING FROM DELEGATIONS: (None.)
15. UNFINISHED BUSINESS: (None.)
16. QUESTION PERIOD: (No questions.)
17. ADJOURNMENT:

It was moved and seconded at 9:34 p.m. that the "In Camera" meeting adjourn, with the next "In Camera" Meeting of Commission to be held, if required, Wednesday, 2012-SEP-19, in the Bowen Park Complex Conference Room, following adjournment of the regular Commission meeting.

The motion carried unanimously.

CERTIFIED CORRECT:



D. Johnstone, Chair
Parks, Recreation and Culture Commission

R. Harding, Director
Parks, Recreation and Culture

MINUTES OF THE "IN CAMERA" COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE DOUGLAS RISPIN ROOM, 80 COMMERCIAL STREET, NANAIMO, BC
ON MONDAY, 2012-NOV-05, COMMENCING AT 6:14 P.M.

PRESENT: Mayor J. R. Ruttan, Chair

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

Staff: A. C. Kenning, City Manager
D. W. Holmes, Assistant City Manager and General Manager of
Corporate Services
E. C. Swabey, General Manager of Community Safety and Development
T. M. Hickey, General Manager of Community Services
I. Howat, Director of Strategic Relationships
T. L. Hartley, Director of Human Resources and Organizational Planning
B. E. Clemens, Director of Finance
T. P. Seward, Director of Development
R. J. Harding, Director of Parks, Recreation and Culture
K. King, Acting Manager of Legislative Services
S. Snelgrove, Recording Secretary

1. CALL THE "IN CAMERA" MEETING TO ORDER:

The "In Camera" Meeting was called to order at 6:14 p.m.

2. INTRODUCTION OF LATE ITEMS:

- (a) Add Agenda Item 5 (a) – Administration – Supply of Water to Snuneymuxw First Nation IR 4.
- (b) Councillor Anderson advised that he would be bringing forward a motion under Other Business.

3. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

It was moved and seconded that the Minutes of the "In Camera" Committee of the Whole Meeting held Monday, 2012-OCT-22 at 4:54 p.m. in the Douglas Rispin Room, 80 Commercial Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

Councillor McKay vacated the Douglas Rispin room at 7:11 p.m.

Councillor McKay returned to the Douglas Rispin room 7:13 p.m.

5. ADMINISTRATION:

(a) Supply Of Water To Snuneymuxw First Nation IR 4 (SFN)

It was moved and seconded that Council agree to start the engineering process to supply water to IR #4,

The motion carried.

Opposed: Councillors Anderson, Pattje

6. CORPORATE SERVICES:

(a) Quarterly Claims Report – Period ending 2012-SEP-30

It was moved and seconded that Council receive the Quarterly Claims Report for the period ending 2012-SEP-30. The motion carried unanimously.

(b) Exempt Compensation

It was moved and seconded that Council receive the report regarding Exempt Compensation. The motion carried.

Opposed: Councillors Bestwick, Kipp

7. COMMUNITY SERVICES:

(a) Nanaimo Cultural Awards Recommendations for 2012

It was moved and seconded that Council:

1. approve the following awards:

- the Vancouver Island Symphony as the recipient of the 2012 Excellence in Culture Award;
- Eveline O'Rourke as the recipient of the 2012 Honour in Culture Award; and,

2. approve the release of this resolution from "In Camera" for public information.

The motion carried unanimously.

(b) Appointment to City Grants Advisory Committee

It was moved and seconded that Council:

1. appoint Commissioner Ian Thorpe to the Grants Advisory Committee to replace Commissioner Beaudoin-Lobb on the Committee for the remainder of his current term of appointment to the Parks, Recreation and Culture Commission.
2. approve the release of this resolution from "In Camera" for public information.

The motion carried unanimously.

(c) Police Operations Building Cell Block Renovation Tender Award

It was moved and seconded that Council award the contract for the Police Operations Building Cell Block Renovation to Knappett Projects Inc. for the price of \$696,600 (excluding HST). The motion carried unanimously.

(d) Minutes of the "In Camera" Parks, Recreation and Culture Commission Meeting held 2012-JUL-25

It was moved and Seconded that Council receive the minutes of the "In Camera" Parks, Recreation and Culture Commission Meeting held 2012-JUL-25. The motion carried unanimously.

8. OTHER BUSINESS:

(a) Councillor Anderson – Invitation to attend "In Camera" Council Meeting

It was moved and seconded that Council direct Staff to invite Mr. Merv Unger, City Representative on the Nanaimo Port Authority (NPA) Board, to attend an upcoming "In Camera" Council meeting to provide an update on the Nanaimo Port Authority Board operations. The motion carried unanimously.

9. ADJOURNMENT:

It was moved and seconded at 7:33 p.m. that the "In Camera" Meeting terminate. The motion carried unanimously.

CHAIR

CERTIFIED CORRECT:

CORPORATE OFFICER

AGENDA FOR THE "IN CAMERA" COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS, TO BE HELD IN
THE DOUGLAS RISPIN ROOM, 80 COMMERCIAL STREET, NANAIMO, BC
ON MONDAY, 2012-NOV-26, COMMENCING IMMEDIATELY FOLLOWING
THE REGULAR COMMITTEE OF THE WHOLE

1. **INTRODUCTION OF LATE ITEMS:**

2. **ADOPTION OF AGENDA:**

3. **ADOPTION OF MINUTES:**

- (a) Minutes of the "In Camera" Committee of the Whole Meeting held in the Douglas Rispin Room, 80 Commercial Street, on Monday, 2012-NOV-05 at 6:14 p.m. *Pg. 2-4*

4. **PRESENTATIONS:**

NONE

5. **ADMINISTRATION:**

NONE

6. **COMMUNITY SAFETY AND DEVELOPMENT:**

NONE

7. **CORPORATE SERVICES:**

- (a) **Potential Conflict of Interest**

Staff Recommendation: That Council receive the report regarding potential conflict of interest. *Pg. 5-10*

8. **COMMUNITY SERVICES:**

NONE

9. **CORRESPONDENCE (not related to a Report to Council):**

NONE

10. **OTHER BUSINESS:**

- (a) Ms. Terry Hartley, Director of Human Resources and Organizational Planning, and Mr. Ed Doherty, Manager, Labour Relations,

11. **ADJOURNMENT:**

MINUTES OF THE "IN CAMERA" COMMITTEE OF THE WHOLE MEETING
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE DOUGLAS RISPIN ROOM, 80 COMMERCIAL STREET, NANAIMO, BC
ON MONDAY, 2012-NOV-26, COMMENCING AT 6:37 P.M.

PRESENT: Mayor J. R. Ruttan, Chair

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

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E. C. Swabey, General Manager of Community Safety and Development
T. M. Hickey, General Manager of Community Services
T. L. Hartley, Director of Human Resources and Organizational Planning
B. E. Clemens, Director of Finance
T. P. Seward, Director of Development
A. J. Tucker, Director of Planning
C. Richarson, Deputy Fire Chief Operations
E. Doherty, Manager, Labour Relations
K. King, Acting Manager of Legislative Services
S. Snelgrove, Recording Secretary

1. CALL THE "IN CAMERA" MEETING TO ORDER:

The "In Camera" Meeting was called to order at 6:37 p.m.

2. INTRODUCTION OF LATE ITEMS:

(a) Add Agenda Item 7 (b) - Staff Report - Legal Action BC Ferries Assessment Appeal Update.

3. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

It was moved and seconded that the Minutes of the "In Camera" Committee of the Whole Meeting held Monday, 2012-NOV-05 at 6:14 p.m. in the Douglas Rispin Room, 80 Commercial Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

5. CORPORATE SERVICES:

(a) Potential Conflict of Interest

It was moved and seconded that Council direct Staff prepare a report for an open meeting of Council summarizing the findings in the "In Camera" Potential Conflict of Interest report. The motion carried unanimously.

Councillor Greves vacated the Douglas Rispin Room on a conflict of interest at 7:57 p.m.
Councillor Greves returned to the Douglas Rispin Room 8:02 p.m.

(b) Legal Action – BC Ferries Assessment Appeal Update

It was moved and seconded that Council authorize the City Manager to respond to issues as they arise during the legal process in the matter of BC Ferry Services Inc v. Area 08 (BC Assessment Authority) with the objective of trying to best protect the taxpayers' interest in maintaining a fair and equitable system of assessment and taxation. The motion carried unanimously.

6. OTHER BUSINESS:

- (a) Ms. Terry Hartley, Director of Human Resources and Organizational Planning, and Mr. Ed Doherty, Manager, Labour Relations, provided an update

7. ADJOURNMENT:

It was moved and seconded at 8:05 p.m. that the "In Camera" Meeting terminate.
The motion carried unanimously.

C H A I R

CERTIFIED CORRECT:

CORPORATE OFFICER