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To: "Direct to Mayor and Council - DL" <CCDTMACDL@vancouver.ca>

Date: 5/17/2017 1:38:28 PM

Subject: Water Lot Tenures in the Fraser River Transition Area

Attachments: CMO - Mayor and Council - Water Lot tenures in the Fraser River transition area - 2017.05.05.pdf

Dear Mayor and Council,

Please see attached memo with an update on the Water Lot Tenures in the Fraser River Transition Area.

A short summary of the Memo is as follows:

- Provide an update on Fraser River water lot tenures now being administered by the Ministry of Forests, Land and Natural Resource Operations (FLNRO)
- Information on FLNRO's Collaborative Management Agreement with the Musqueam Indian Band in the Fraser River Transition Area
- Detailed information as well as the FRTA Lease time is in Appendix 1.

Please contact Marnie McGregor at 604.873.7039 or marnie.mcgregor@vancouver.ca if you have any questions.

Best
Sadhu

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OFFICE OF THE CITY MANAGER
Sadhu Johnston, City Manager

MEMORANDUM

May 5, 2017

TO: Mayor and Council

CC: Sadhu Johnston, City Manager
Paul Mochrie, Deputy City Manager
Janice MacKenzie, City Clerk
Lynda Graves, Manager, Administration Services, City Manager's Office
Rena Kendall-Craden, Director, Communications
Kevin Quinlan, Chief of Staff, Mayor's Office
Katie Robb, Director, Communications, Mayor's Office
Naveen Girn, Director, Community Relations, Mayor's Office
Marnie McGregor, Director Intergovernmental Relations & Strategic Partnerships
Sandra Nikolic, Manager, Intergovernmental Relations

FROM: Sadhu A. Johnston
City Manager

SUBJECT: Water Lot Tenures in the Fraser River Transition Area

Dear Mayor and Council,

This memo is to provide an update on the Water Lot Tenures in the Fraser River Transition Area. Detailed information as well as the FRTA Lease time is in Appendix 1.

Purpose

The purpose of this memorandum is to:

- Provide an update on Fraser River water lot tenures now being administered by the Ministry of Forests, Land and Natural Resource Operations (FLNRO); and
- Provide information on FLNRO's Collaborative Management Agreement (CMA) with the Musqueam Indian Band in the Fraser River Transition Area (FRTA).

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9/7/2017

Background

- In 2014, two Fraser River water lot tenures formerly held by Port Metro Vancouver expired, resulting in the Ministry of Forests, Lands and Natural Resource Operations (FLNRO) reassuming responsibility for the management and administration of water lot leases and licenses within the Fraser River Transition Area
- In reassuming responsibility for the administration of the leases, FLNRO has identified the Musqueam Indian Band for a leadership role in stewardship
- This has led to the signing of a five year Collaborative Management Agreement (CMA) between Musqueam and FLNRO with the objective to provide tenure holders with increased tenure certainty while also addressing FLNRO goals of good governance through stewardship of the FRTA
- The CMA is high level, with details forthcoming
- The City has licenses of occupation for some water lots in the East Fraser Lands (EFL) shoreline area, which is currently under re-development. The water lots will be required for public open space and sea-level protection works sought for that emerging community
- Staff support the concept of long term certainty for tenure holders and Musqueam's involvement in the process, but stakeholder consultation by the Province regarding the CMA has been insufficient and inadequate
- The City's and Musqueam's visions for the river correspond with one another. Both want to see the health of the river preserved, yet the City also sees the Fraser as a 'working river' and will continue to support activities that increase and sustain employment and industrial uses

Next Steps

- The City will continue to work with the Province to meet its goals of achieving long term tenure arrangements over the water lots
- Staff would also like to see the Province undertake a more reasonable consultation process regarding the CMA and hope to be more closely involved in decisions that impact the FRTA

Please contact Marnie McGregor at marnie.mcgregor@vancouver.ca if you have any questions or concerns.



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Appendix 1 - Water Lot Tenures in the Fraser River Transition Area

BACKGROUND

The bed of the Fraser River is owned by the Province of British Columbia. On December 31, 2014, two Fraser River Head Leases formerly held by Port of Vancouver (PV) expired, resulting in the Province, through FLNRO, reassuming responsibility for the management and administration of water lot leases and licenses within the FRTA. In 2014, the Province issued interim two-year licenses to the City and other existing tenants to allow time for comprehensive file reviews and completion of consultation with First Nations. Consultations have concluded and one of the issues that has emerged is an interest around improved stewardship of the Fraser River estuary ecosystem.

The Musqueam Indian Band (MIB) was identified by FLNRO for a leadership role in stewardship as they have resided in the area for thousands of years and identify as having traditionally played a stewardship role in the Fraser River Transition Area (FRTA). This has led to the signing of a CMA¹ on March 30, 2017, between MIB and FLNRO. According to a Provincial news release, the objective of the CMA is to provide tenure holders with increased tenure certainty while also addressing FLNRO goals of good governance through stewardship of the FRTA.² The CMA is a five year agreement, and is limited to FLNRO *Land Act* and *Water Sustainability Act* tenure decisions within the FRTA. Though agreement details are yet to be determined, it will include the following possible stewardship initiatives:

- Updating best management practices;
- Commissioning research;
- Developing and communicating stewardship recommendations;
- Monitoring in support of compliance and enforcement; and
- Rehabilitation measures, where the need is jointly identified.

Some of the subject water lots for which the City has a license of occupation comprise part of the East Fraser Lands (EFL) shoreline area which is currently under re-development. The water lots will be required for public open space and sea-level protection works sought for that emerging community.

¹ See http://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/consulting-with-first-nations/agreements/musqueam_cma_march_30_201720170410.pdf for the signed CMA.

² See <https://news.gov.bc.ca/releases/2017FLNR0083-001163>.

See the FRTA Lease timeline below:

FRTA Lease Timeline from the beginning of Provincial Responsibility

January 20, 2014	FLNRO sent letter to every subtenant advising of changes
February 17, 2014	Deadline for applications for a new tenure
June 6, 2014	Meeting with Province, PV, and Vancouver City Manager to discuss Fraser River issues including the FRTA transition, Deering Island Diking, and the West Fraser Lands disputed rents
March – December, 2014	City of Vancouver submission of 25 License of Occupation applications to FLNRO
January, 2015	Council, In-Camera, authorized the DLS to enter into three licenses of occupation agreements for Kent Yards at commercial rates; the remaining nominal licenses could be entered into and executed by DLS pursuant to delegated authorities
February 2015	FLNRO issues two year licenses effective January 1, 2015 and expiring January 1, 2017
April 17, 2015	Meeting with FLNRO to discuss Fraser River Transition Process
October 7, 2015	Letter from the Honourable Steve Thomson, Minister of Forests, Lands and Natural Resource Operations to the Honourable Kerry-Lynn Findlay, Minister of National Revenue regarding the duty to consult with First Nations
March 24, 2016	FLNRO asks for new applications to be submitted
April 2016 – April 2017	<p>City of Vancouver continues to work with FLNRO on the submission of 25 License of Occupation renewals for Community/Institutional, Utility and Industrial uses. Terms vary from 10 to 30 years, with negotiations ongoing to see possible conversions to Statutory Right of Ways on specific Utility Licenses. Public open space areas will be subject to nominal rents but industrial uses (i.e. Kent Yards) will be subject to industrial rents unless sponsorship can be obtained from a Provincial stakeholder. The license arrangements which have now expired, will be honored (over held) until the renewal process is completed. Current status:</p> <ul style="list-style-type: none"> • 2 Licenses signed; • 3 Licenses in negotiation; • Remaining 20 Licenses are under review or being processed.
March 13, 2017	City of Vancouver receives a letter dated March 6, 2017 from FLNRO regarding the stakeholder consultation process for the proposed Collaborative Management Agreement
March 16, 2017	Stakeholder meeting to advise stakeholders, including the City of Vancouver, of the proposed Collaborative Management Agreement between FLNRO and the Musqueam Indian Band
March 30, 2017	CMA signed by FLNRO and the Musqueam Indian Band

COLLABORATIVE MANAGEMENT AGREEMENT

On March 16, 2017, FLNRO invited representatives from the Cities of Vancouver, Burnaby, Delta and Richmond, in addition to Metro Vancouver and the Musqueam Indian Band (MIB) to provide an update on FLNRO's agreement with MIB in relation to the transfer of the administration of tenures from PMV to FLNRO in the FRTA. Attendees were notified that FLNRO and Musqueam have agreed to develop a CMA in which the core principle is stewardship of the FRTA.

The CMA has been developed to address concerns specific to the FRTA and supports potential joint stewardship initiatives such as:

- Reviewing and updating best management practices for some Crown land program areas;
- Development of recommendations for the improvement of the overall health of the FRTA;
- Hosting stewardship forum meetings with stakeholders; and
- Improved monitoring to support compliance and enforcement.

The agreement will also include an engagement framework that sets out how FLNRO will engage with Musqueam on future authorizations under the *Land Act and Water Sustainability Act* in the FRTA, which may have potential adverse impacts on Musqueam's asserted or established Aboriginal rights.

FLNRO has stated that the CMA itself will have no impact on tenure terms but will focus on bringing together tenure holders, the Province and Musqueam to determine the stewardship of the river. The CMA grants Musqueam a lead role in coordinating stakeholder forums between tenure holders, municipalities, and other First Nations to discuss Fraser River stewardship. Note that the terms of the CMA do not grant Musqueam statutory decision-making power, but do provide them with additional resources and funding to raise their capacity to participate, and take a role in coordinating stakeholder forum events and setting forum agendas.

KEY ISSUES

Staff support the concept of long term certainty for tenure holders and Musqueam's involvement in the process, but stakeholder consultation by the Province regarding the CMA has been insufficient and inadequate.

Staff attended a stakeholder consultation meeting on March 16, 2017 to learn about the proposed agreement. Unfortunately, the agreement itself was not made available for review and the timeframe required for a response from stakeholders was very tight. FLNRO required responses on March 22, 2017 (only four business days after the meeting and during Spring Break), with the agreement scheduled to be signed by the end of March 2017. Essentially, stakeholders were asked to provide feedback on an agreement they had not seen within an unrealistic timeframe. FLNRO has stated that the CMA that has now been signed is high level, with details forthcoming.

ADDITIONAL INFORMATION REQUIRED

Staff are unclear on the level of discussion FLNRO and Musqueam have had on the lands so far and are unclear if Musqueam has expressed interest and/or concerns over any parcels in particular.

While the City's vision for the river corresponds with Musqueam's goal of preserving the health of the Fraser River, the City sees the Fraser as a 'working river' and supports activities that increase and sustain employment opportunities and industrial uses on the river. The City also maintains that the public should have access to waterfront areas and supports recreational and park uses along the shore.

NEXT STEPS

City of Vancouver REFM staff continue to work with the Province on new tenure arrangements. The City's long term goal is to achieve long term tenures over the water lots, statutory rights of way for utilities, and to obtain ownership of the filled foreshore or accreted strips of land adjacent to City owned upland parcels.

Staff would also like to see the Province undertake a more reasonable consultation process regarding the CMA and hope to be more closely involved in decisions that impact the FRTA.