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Date: 1/26/2018 1:01:26 PM
Subject: Council Roles – City as Land Owner and Regulator
Attachments: Council Roles_City Landowner Regulator_January 25, 2018.pdf

Greetings Mayor and Council,

Attached is a memo responding to Council's request to outline the powers and functions of City Council. As per your request, this information is also posted on the city's website. Vancouver City Council exercises an array of powers in performing its various functions and can wear many hats, even in one project. These functions fall into the following categories:

- Legislative – enacting by-laws and making resolutions;
- Business – the management of municipal assets (including real estate) and their purchase and sale; and
- "Quasi-judicial" – Council sitting as an administrative tribunal.

Please do not hesitate to contact Francie Connell or Janice MacKenzie with any questions.

Best

Sadhu

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MEMORANDUM

January 25, 2018

TO: Mayor and Council

CC: 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
Naveen Girn, Director of Community Relations, Mayor's Office
Gil Kelley, General Manager, Planning, Urban Design and Sustainability
Bill Aujla, General Manager, Real Estate & Facilities Management
Francie Connell, City Solicitor

FROM: Sadhu Johnston, City Manager

SUBJECT: Council Roles - City as Land Owner and Regulator

Dear Mayor and Council,

I am writing to provide clarification on the role of Council as land owner and regulator, specifically as it relates to Council's role with respect to the sale or re-zoning of land.

Please find attached a Fact Sheet, prepared by our Legal Services department, which outlines the background and guidance for Council.

Information has also been added to the City web site <http://vancouver.ca/your-government/types-of-city-council-meetings.aspx> to clarify this issue for members of the public who attend public meetings.



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COUNCIL ROLES: CITY AS LAND OWNER AND REGULATOR

Background Re: Council Powers

Vancouver City Council exercises an array of powers in performing its various functions and can wear many hats, even in one project. These functions fall into the following categories:

- a) Legislative - enacting by-laws and making resolutions;
- b) Business - the management of municipal assets (including real estate) and their purchase and sale; and
- c) “Quasi-judicial” - Council sitting as an administrative tribunal.

Circumstances arise where Council’s legislative decisions (i.e. enacting a zoning by-law) will affect the City’s business interests (i.e. the sale of land). The Courts have ruled that these conflicts are inevitable and that the Council must carefully separate its business and legislative functions to manage the potential conflict. Council members must not allow the City’s business interests to inform or fetter Council’s legislative decision making.

For example, where Council is considering a project involving a sale of land and there may be a financial benefit to the City if the land is rezoned, Council must consider the sale of land with an open mind as a prudent owner, taking into account that the land may or may not be rezoned, and Council must consider the rezoning with an open mind without being fettered by its business interests.

In exercising its business powers regarding the disposition of land Council must act in good faith. Each councillor must determine whether they believe that the purchase or sale of land is in the best interests of the City.

In exercising its legislative powers, Council will consider an array of social, economic, political and non-legal considerations. The only restriction of Council’s legislative authority, assuming that all appropriate procedural steps are taken, is that the decision be a reasonable one.

Considerations for Public Meetings

The *Vancouver Charter* allows Council to consider the acquisition, disposition or expropriation of land or improvements *in camera* if Council considers that disclosure could reasonably be expected to harm the interest of the City, which is often the case.

Any amendment to the *Zoning and Development By-law*, including a re-zoning of a specific site, requires a public hearing. The public hearing is a legislative function of Council and it is no appropriate for the public hearing to consider any potential business interest the City may have in the land which is being rezoned. The Chair at the public hearing is tasked with restricting the public input to the matters under consideration by Council in the public hearing. Any public input regarding the City’s business decisions relating to the land in question will likely be ruled out of order.