

AGENDA FOR THE REGULAR FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING
TO BE HELD IN THE BOARD ROOM, CITY HALL,
ON MONDAY, 2010-JUN-14, COMMENCING AT 4:30 P.M.

1. **CALL THE REGULAR FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING TO ORDER:**
2. **INTRODUCTION OF LATE ITEMS:**
3. **ADOPTION OF AGENDA:**
4. **ADOPTION OF MINUTES:**
 - (a) Minutes of the Regular Finance / Policy Committee of the Whole Meeting held in the Board Room, City Hall, on Monday, 2010-MAY-03 at 4:35 p.m. Pg. 3-7
5. **PRESENTATIONS:**
 - (a) Mr. B. Anderson, Manager of Community Planning, to provide a PowerPoint presentation regarding the Regional Growth Strategy.
6. **DELEGATIONS PERTAINING TO AGENDA ITEMS: (10 MINUTES)**
7. **COMMISSION REPORTS:**
 - (a) **Parks, Recreation and Culture Commission – Kinsmen Outdoor Swimming Pool Co-Management Agreement** Pg. 8-30

Commission's Recommendation: That Council approve a five-year Co-Management Agreement authorizing the Nanaimo White Rapids Swim Club to operate the Kinsmen Outdoor Swimming Pool (Kin Pool) Operation from 2010-MAY-01 to 2015-APR-30.
 - (b) **Parks, Recreation and Culture Commission – Urban Forest Management Strategy** Pg. 31-32

Commission's Recommendation: That Council receive the Urban Forest Management Strategy as a guide for the ongoing management of Nanaimo's urban forest.

Link to the complete Urban Forest Management Strategy document:
<http://www.nanaimo.ca/assets/Departments/Parks~Rec~Culture/Publications~and~Forms/PRCCRPT100614UrbanForestManagementStrategyDocument.pdf>

8. **COMMITTEE REPORTS:**

9. **STAFF REPORTS:** *(blue)*

CORPORATE SERVICES:

(a) **2009 Annual Parking Reserve Fund Report** Pg. 33-34

Staff's Recommendation: That Council approve the City of Nanaimo 2009 Annual Parking Reserve Fund Report for filing with the Ministry of Community and Rural Development.

(b) **2009 Development Cost Charge Reserve Fund Report** Pg. 35-36

Staff's Recommendation: That Council approve the City of Nanaimo 2009 Development Cost Charge Reserve Fund Report for filing with the Ministry of Community and Rural Development.

(c) **2009 Statement of Financial Information** Pg. 37-38

Staff's Recommendation: That Council approve the City of Nanaimo 2009 Statement of Financial Information for filing with the Ministry of Community and Rural Development.

Link to complete 2009 Statement of Financial Information document:
<http://www.nanaimo.ca/assets/Departments/Finance/Budget~and~Financial-Reports/Financial~Reports/DraftStatementFinancialInfo2009.pdf>

10. **INFORMATION ONLY ITEMS:**

11. **CORRESPONDENCE:**

12. **NOTICE OF MOTION:**

13. **OTHER BUSINESS:**

14. **DELEGATIONS PERTAINING TO ITEMS NOT ON THE AGENDA:**
(10 MINUTES)

(a) None.

15. **QUESTION PERIOD:** *(Agenda Items Only)*

16. **ADJOURNMENT:**

MINUTES OF THE REGULAR FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING
HELD IN THE BOARD ROOM, CITY HALL,
ON MONDAY, 2010-MAY-03 COMMENCING AT 4:35 P.M.

PRESENT: Mayor J. R. Ruttan, Chair

Members: Councillor W. L. Bestwick
Councillor W. J. Holdom
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor L. D. McNabb
Councillor J. F. K. Pattje
Councillor L. J. Sherry
Councillor M. W. Unger

Others: Ms. Lorana LaPorte, B. Comm., C.A., C.F.P., Partner, Church
Pickard
Ms. Lee-Anne Harrison, B.Sc., C.A., Audit Manager, Church Pickard

Staff: A. C. Kenning, City Manager
A. W. Laidlaw, General Manager of Community Services
D. W. Holmes, General Manager of Corporate Services
E. C. Swabey, General Manager of Development Services
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
T. L. Hartley, Director of Human Resources
D. Mousseau, Manager of Engineering & Subdivision
K. Felker, Manager of Purchasing & Stores
G. Franssen, Manager of Sanitation, Recycling & Cemeteries
L. Coates, Manager of Accounting Services
S. Graham, Manager of Financial Planning & Payroll
J. E. Harrison, Manager of Legislative Services
T. Wilkinson, Recording Secretary

1. CALL THE OPEN MEETING TO ORDER:

The Regular Finance / Policy Committee of the Whole Meeting was called to order at 4:35 p.m.

2. INTRODUCTION OF LATE ITEMS:

- (a) Add Agenda Item 6 (b) – Delegations Pertaining to Agenda Items – Mr. Leon Cake regarding Request For Proposal #1003 Primary Waterworks Supplier Follow Up Report.

- (b) Councillor McNabb advised that Mr. Darryl Wright was in attendance and wished to address Council as a late delegation regarding Request For Proposal #1003 Primary Waterworks Supplier Follow Up Report.

It was moved and seconded that Mr. Wright be permitted to address Council as a late delegation with a five-minute time limitation.

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 Regular Finance / Policy Committee of the Whole Meeting held in the Board Room, City Hall on Monday, 2010-APR-19 at 4:30 p.m. be adopted as circulated. The motion carried unanimously.

5. DELEGATIONS PERTAINING TO AGENDA ITEMS:

- (a) Delegations Pertaining to the 2010 – 2014 Financial Plan.
- No one spoke to the 2010 – 2014 Financial Plan.
- (b) Mr. Leon Cake, Four Star Waterworks Ltd., 5936 Schooner Way, Nanaimo, suggested that Council reconsider the tender for Request For Proposal #1003 Primary Waterworks Supplier.
- (c) Mr. Darryl Wright, Andrew Sheret Limited, 3505 Falcon Drive, Nanaimo, recommended that Council tender Request For Proposal #1003 Primary Waterworks Supplier for a one-year term.

6. COMMISSION REPORTS:

- (a) Parks, Recreation and Culture Commission – City of Nanaimo Community Plan for Public Art

It was moved and seconded that Council approve the City of Nanaimo Community Plan for Public Art. The motion carried unanimously.

- (b) Parks, Recreation and Culture Commission – Civic Merit Awards for Sports / Arts and Culture Achievement

It was moved and seconded that Council approve the proposed new City of Nanaimo “Civic Sport Merit Awards and Arts / Culture Merit Awards” Policy and “Selection Criteria – Civic Merit Awards for Sports / Arts and Culture” as attached to the report. The motion carried unanimously.

7. COMMITTEE REPORTS:

(a) Transportation Advisory Committee – Transit Connect Electric Alliance of BC

It was moved and seconded that Council endorse the City's participation as a partner in the Transit Connect Electric Alliance of BC and is prepared to commit to the acquisition and evaluation of four to six Transit Connect Electric vehicles in 2011 and 2012, subject to a subsidy of 33% of the cost of these new vehicles. The motion carried.

Opposed: Councillors Sherry and Unger

8. STAFF REPORTS:

CORPORATE SERVICES:

(a) 2009 Annual Financial Report

It was moved and seconded that Council approve the 2009 Annual Financial Report for the City of Nanaimo. The motion carried unanimously.

(b) Request For Proposal #1003 Primary Waterworks Supplier Follow Up Report

It was moved and seconded that Council award Request For Proposal (RFP) #1003 to Corix Water Products for a five year term.

It was moved and seconded that Council table this issue until it can be discussed at an "In Camera" meeting. The motion carried.

Opposed: Councillor Holdom

DEVELOPMENT SERVICES:

(c) Regulation of Blasting Activity

It was moved and seconded that Council direct Staff to develop guidelines and an education program regarding blasting within the City and bring a further report back to Council in one year to determine if establishment of a Blasting Bylaw is warranted. The motion carried unanimously.

(d) LED / Animated Signage

It was moved and seconded that Council direct Staff to draft amendments to "Sign Bylaw No. 2850" that would permit LED / animated signage throughout the entire city on properties zoned for commercial and industrial use and on properties operated / owned by the City. The motion carried.

Opposed: Councillors Holdom, Kipp, Pattje and Sherry

COMMUNITY SERVICES:

(e) Tender for a Vertical Split Stream Compactor Refuse Truck

It was moved and seconded that Council authorize the purchase of a Shupak Compactor mounted on an Autocar Chassis from RayMax Equipment for a tender price of \$275,965. The motion carried unanimously.

9. CORRESPONDENCE:

- (a) Letter dated 2010-APR-14 from Ms. Denise Savoie, MP, Victoria, Mr. Jack Layton, MP, Leader, New Democratic Party of Canada, and Ms. Jean Crowder, MP, Nanaimo-Cowichan, requesting a letter of support for Bill C-466, which would facilitate green commuter choices for Canadians by making employer-provided benefits for transit, carpooling and bicycle commuting tax-free at the federal level.

10. OTHER BUSINESS:

- (a) At the Regular Finance / Policy Committee of the Whole Meeting held Monday, 2010-APR-19, Councillor Unger put forward the following Notice of Motion:

"That Council review its purchasing policy."

It was moved and seconded that Council direct Staff to arrange a seminar session for Council to review the purchasing policy. The motion carried unanimously.

11. QUESTION PERIOD:

Mr. Fred Taylor re: Request For Proposal (RFP) #1003.

12. PROCEDURAL MOTION:

It was moved and seconded that Council move "In Camera" in order to deal with the following matters under the *Community Charter* Section 90(1):

- (c) labour relations or employee negotiations.

The motion carried unanimously.

Council moved into "In Camera" at 6:20 p.m.

Council moved out of "In Camera" at 7:28 p.m.

13. ADJOURNMENT:

It was moved and seconded at 7:28 p.m. that the meeting terminate. The motion carried unanimously.

CHAIR

CERTIFIED CORRECT:

MANAGER,
LEGISLATIVE SERVICES

REPORT TO: MAYOR AND COUNCIL

FROM: LARRY McNABB, CHAIR, PARKS, RECREATION AND CULTURE COMMISSION

RE: KINSMEN OUTDOOR SWIMMING POOL CO-MANAGEMENT AGREEMENT

RECOMMENDATION:

That Council approve a five-year Co-Management Agreement authorizing the Nanaimo White Rapids Swim Club to operate the Kinsmen Outdoor Swimming Pool (Kin Pool) Operation from 2010-MAY-01 to 2015-APR-30.

EXECUTIVE SUMMARY:

In 2002, the City of Nanaimo entered into a management agreement with the White Rapids Swim Club for the operation of Kin Pool in Bowen Park.

In 2005, the City of Nanaimo re-entered into an additional five-year Agreement with the White Rapids Swim Club to co-manage the operation of the Kin Pool. That Agreement ended 2010-APR-30.

During the past five years this Agreement has resulted in the Kin Pool remaining open and providing benefits to the residents of our community, as well as the White Rapids Swim Club and their members.

Representatives from the City of Nanaimo and the White Rapids Swim Club have worked jointly over the past four months to review the existing agreement and to prepare a new Co-Management agreement for the Parks, Recreation and Culture Commission's consideration.

A copy of the Kin Pool Co-Management Agreement has been attached for your review. There are minimal operational changes from the May 2005 to April 2010 Agreement as the Agreement has proven to be very effective over the past five years.

The principle changes of the new agreement include:

- An expansion to a five-year term for the Agreement from 2010-MAY-01 to 2015-APR-30.
- The Club will be paid a contract fee of \$22,650 in 2010 to help offset expenses associated with the annual operation and management of the facility. This fee will be increased every year by 2% similar to previous contracts. In addition, the City of Nanaimo covers all maintenance and chemicals costs associated with the operation. The 2010 budget for the Kin Pool is \$51,690.
- The Club will assume all risk of loss, including theft, damage, or, injury to his property or to the person or property of the provider's servants, employees, or agents.
- The Club will be deemed to be the Prime Contractor for the areas that they operate and shall fulfil the responsibilities as required by the WorkSafe BC Act and WSBC Occupational Health and Safety Regulation to ensure their staff, subcontractors, and the general public.

☐ Council
☒ Committee F/R/COW
☒ Open Meeting
☐ In-Camera Meeting
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- Any renovations or, leasehold improvements are at the cost and responsibility of the Operator (the Club) and require the City's written approval prior to the commencement of any work. Any structural improvements will become property of the City of Nanaimo.

At their meeting of 2010-MAY-26, the Parks, Recreation and Culture Commission passed a motion supporting the recommendation that Council approve a five-year Co-Management Agreement authorizing the Nanaimo White Rapids Swim Club to operate the Kinsmen Outdoor Swimming Pool (Kin Pool) Operation from 2010-MAY-01 to 2015-APR-30.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Larry McNabb". The signature is fluid and cursive, with the first name "Larry" and last name "McNabb" clearly distinguishable.

Larry McNabb, Chair
Parks, Recreation and Culture Commission

File: A4-1-2 / C2-5
2010-JUN-04
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CO-MANAGEMENT AGREEMENT

THIS AGREEMENT made the day of 2010.

BETWEEN:

CITY OF NANAIMO
455 Wallace Street
Nanaimo, British Columbia
V9R 5J6

(the "**City**")

OF THE FIRST PART

AND:

THE NANAIMO WHITE RAPIDS SWIM CLUB
PO Box 204
Nanaimo, BC
V9R 5K9

(the "**Operator**")

OF THE SECOND PART

W H E R E A S :

- A. The City is the owner of land and of the Kinsmen Outdoor Swimming Pool (Kin Pool) located in Bowen Park in Nanaimo which is described in Schedule "A" to this Agreement (the "**Pool Facilities**");
- B. The City and the Operator wish to enter into an agreement whereby the Operator undertakes responsibility for the operation and maintenance of the Pool Facilities for its own use and for the use of the public generally in exchange for:
 - (i) the payments provided for herein;
 - (ii) the waiver by the City of fees payable by the Operator for the use of the Pool Facilities by the Operator for its club activities; and
 - (iii) the entitlement of the Operator to charge fees to third parties for the use of the Pool Facilities and to retain such fees for the account of the Operator.

NOW THEREFORE in consideration of the premises, covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which each party hereby acknowledges, the parties hereby covenant and agree as follows:

1.0 RIGHT TO OCCUPY

- 1.1 The City, subject to the performance and observance by the Operator of the terms, conditions, covenants and agreements contained in this Agreement and to earlier termination as provided in this Agreement, grants to the Operator a right by way of license for the Operator, its agents, employees, and invitees to use the Land and for the purpose of the enjoyment and recreation of members of the public and for no other purpose.
- 1.2 The Pool Facilities included in this Agreement are the Kin Pool, the buildings directly associated with the pool, the grass area that is enclosed by the fencing around the east and north border, and the equipment and materials as identified by the outline in Schedule "A".
- 1.3 Grant of License - The City grants to the Operator a license to enter and be upon the lands adjacent the Pool Facilities during the Term for those purposes necessary for the operation of the Pool Facilities.

2.0 RESERVATION OF RIGHTS

- 2.1 The City hereby reserves to itself from the grant and the covenants made by it to the Operator under clause 1 above the right for the City, its agents, employees, contractors and subcontractors to have full and complete access to the Land to carry out any operations associated with the City's use of the Land.

3.0 REPRESENTATIONS AND WARRANTIES

3.1 Representations of Operator

- 3.2 The Operator covenants, represents and warrants to the City that:

- (a) It has the power and capacity to enter into this Agreement and to comply with every term and condition of this Agreement;
- (b) All necessary proceedings have been taken to authorize the Operator to enter into this Agreement and to execute and deliver this Agreement;
- (c) This Agreement has been properly executed by the Operator and is enforceable against the Operator in accordance with its terms;

- (d) It has filed all tax, corporate information and other returns required to be filed by the laws of British Columbia and Canada, and has complied with all Workers Compensation legislation and other similar legislation to which it is subject and has paid all taxes, fees and assessments due by the Operator under those laws as of the reference date of this Agreement;
- (e) It will hold all permits, licenses, consents and authorities issued by any level of government, or any agency of any level of government, that are required by law to conduct its business;
- (f) It has investigated and satisfied itself of every apparent condition affecting the operation of the Pool Facilities;
- (g) It accepts the risks assigned within this Agreement identified as being borne by the Operator;
- (h) It's employees are qualified to lifeguard and manage the Pool Facilities and have the requisite skills and abilities to operate and maintain the Pool Facilities in accordance with the BC Health Act – Swimming Pool, Spray Pool, and Wading Pool Regulations (BC Regulations 423/98);
- (i) It will ensure that the designated pool manager/supervisor holds a Pool Operators level One; and,
- (j) It will complete criminal record checks of all employees of the Operator who will be employed at Pool Facilities at its own expense.

4.0 TERM

4.1 Term of Agreement

- (a) This Agreement shall be for a term of Five (5) years commencing on the 1st day of May, 2010, and ending on the 30th of April, 2015, unless terminated sooner pursuant to the terms of this Agreement (the "Term").
- (b) If for bona fide budgetary reasons the City determines that it does not wish to continue this Agreement for the upcoming Season or if City Council does not allocate sufficient funds to meet the City's financial obligations under this Agreement for the upcoming Season, then the City may terminate this Agreement effective immediately by giving notice to the Operator no earlier than November 30th preceding the upcoming Season and no later than January 31st preceding the upcoming Season.

4.2 Termination and Renewal

- (a) If at any time there occurs an Event of Default (as hereinafter defined), the City may give written notice (a "Notice of Complaint") to the Operator specifying in reasonable detail the Event of Default. If within five (5) days of receipt of any Notice of Complaint, the Operator fails to cure the Event of Default in a manner reasonably satisfactory to the City (or if any breach would reasonably require more than five (5) days, unless the Operator commences rectification within the five (5) day notice period and hereafter promptly and effectively and continuously proceeds with the rectification of the breach), or fails to take reasonable steps to so cure and give reasonable assurances to the City and that such Event of Default will be cured or rectified or removed within a reasonable period of time the City may by written notice (a "Notice of Termination") to the Operator terminate this Agreement as of the date of delivery of such Notice of Termination, without prejudice to any other right or remedy the City may have; and,
- (b) If in the opinion of the City's Director, Parks, Recreation and Culture or his designate (the "City's Representative"), the Operator does not adequately correct the Event of the Default, the City shall have the right, in its sole discretion, acting reasonably, to enter into an agreement with some other person or persons for the performance of the work called for by this Agreement, and if the cost thereof is greater than that which would have been paid to the Operator if it had supplied the services in accordance with this Agreement, that difference in price shall be charged to Operator.

4.3 For the purposes hereof, "Event of Default" shall mean any one or more of the following:

- (a) If the Operator fails to observe, perform and keep each and every of the covenants, agreements, provisions, stipulations and conditions to be observed, performed and kept by the Operator in this Agreement, or any agreement entered into pursuant to any such agreements;
- (b) If the Operator is adjudged bankrupt, makes a general assignment for the benefit of creditors, or a receiver is appointed on account of its insolvency;
- (c) If the Operator refuses or fails to supply sufficient properly skilled workers or proper material after seven (7) days written notice from the City;

- (d) If the Operator fails to make prompt payment to its subcontractors, suppliers or workers;
- (e) If the Operator has made an assignment of this Agreement without the required consent of the City; and,
- (f) If the Operator abandons the Pool Facilities at any time during the Season.

- 4.4 The City may conduct inspections and assessments of the Pool Facilities to verify that all duties, responsibilities and obligations of the Operator are being performed in accordance with the provisions of this Agreement and to the quality standard set out in this Agreement.
- 4.5 Notwithstanding anything to the contrary in this Agreement, if the City, in its absolute discretion subject only to a requirement of good faith, determines that public safety, health or welfare may be materially at risk by reason of the manner in which the Pool Facilities are being operated or maintained then the City may by notice in writing forthwith terminate this Agreement. Section 4.13(a) of this Agreement shall not apply where there has been an exercise or purported exercise by the City of its rights under this sub-paragraph 4.5.
- 4.6 The Operator or the City may terminate this Agreement upon six (6) months written notice to the other.
- 4.7 If at any time during the Term the City estimates that the aggregate cost of all unbudgeted repairs and replacement then required under Sections 5.1, 5.3 and 5.4 of this Agreement or reasonably expected to be required in the following three months will exceed \$10,000.00 then instead of performing such repairs and maintenance the City may by notice in writing to the Operator elect to terminate this Agreement effective immediately.
- 4.8 If:
- (a) this Agreement is terminated prior to August 31st of any contract year; and,
 - (b) at the time of termination the Operator is not in default of any terms and conditions of this Agreement;

then the City shall offer the Operator the use of 6 (six) twenty-five metre lanes reasonably suitable for the Operator's training needs and the City shall make all reasonable attempt to accommodate the Operator's schedule. The aforesaid space will be provided at the City's approved youth swim club rate and shall be made available until August 31st of any contract year.

4.9 Other Fees and Licences

- (a) The Operator agrees to pay all licences, whether federal, provincial, municipal, an aquatic regulatory body, or otherwise, charged upon the Operator or the City as a result of the Operator's use or occupation of the Pool Facilities.

4.10 Delivery of Records

- (a) If this Agreement is terminated pursuant to Section 4.2 the Operator shall forthwith after the termination of this Agreement, deliver to the City, or as the City may direct, all records and documents, including, without limitation, all books of account maintained in connection with the Pool Facilities and the provisions of this Agreement, accounting or other work papers and reports, and correspondence from customers and others.

4.11 Assumption of Contracts

- (a) If a Notice of Termination is given pursuant to Section 4.2(a), the Operator shall at the City's request assign to City or any successor Operator appointed by the City any arms' length contracts entered into by the Operator relating to the management and operation of the Pool Facilities.

4.12 Rights on Termination

- (a) Except as set forth herein, any termination of this Agreement shall terminate all continuing rights and obligations under this Agreement. This paragraph shall not limit the entitlement of a party to damages or other remedies in respect of a breach or wrongful repudiation of this Agreement occurring at or before the time of termination of this Agreement. All obligations of the parties which by their nature require all or part of their performance or fulfillment after the expiry or termination of this Agreement shall survive the expiry or termination of this Agreement.

4.13 Dispute Resolution

- (a) Subject to paragraph Section 4.2(e), if there is any dispute regarding the interpretation, performance, or an alleged breach, of this Agreement either party may give written notice of dispute to the other party and the Operator's representative and the City's representative shall meet within three (3) business days after the notice of dispute is given and shall attempt in good faith and using reasonable efforts to resolve the matter equitably to the satisfaction of both parties. If the parties' representatives cannot resolve the dispute within five (5) business days after they first meet the parties shall make good faith attempts to have the dispute mediated within seven (7) days. If mediation fails to take place or otherwise fails to

resolve the dispute within the said time frame then it shall be referred for arbitration by a single arbitrator pursuant to the *Commercial Arbitration Act*, R.S.B.C. 1996, Chapter 55, as amended. The arbitrator shall issue a final decision regarding the dispute within twenty-five (25) business days after the arbitrator's appointment, subject to extension of that time by agreement of the parties. All costs associated with the appointment of a mediator or arbitrator shall be equally shared by both parties.

5.0 CITY COVENANTS

- 5.1 The City will prepare the Pool Facilities for opening on May 1st of each year of the Term so that they will be fully operational and in good repair on that date, including but not limited to filling the pool, heating the water and bringing the chemical content to the standards required by the BC Health Act - Swimming Pool, Spray Pool, and Wading Pool Regulations (BC Regulations 423/98).
- 5.2 The City will be responsible for and perform all procedures for shutting down the Pool Facilities at the end of the Season.
- 5.3 Unless such repair or replacement has been made necessary by a default by the Operator in respect of its obligations under this Agreement, the City will pay for all repairs or replacements to the Pool Facilities where the cost of such repair or replacement is one thousand (\$1,000.00) dollars or more, including labour and materials and excluding painting, per item of repair or replacement.
- 5.4 Unless such repair or maintenance has been made necessary by a default by the Operator in respect of its obligations under this Agreement, the City shall be responsible for and bear the expense of all repairs and mechanical maintenance to the filtration equipment, heating system, disinfection system, pool tank, connecting pipes and structural components of the building.
- 5.5 The Operator will be permitted to place a temporary two-sided sign at the entrance to Bowen Park subject to compliance with City of Nanaimo Sign Bylaws. The sign may be present for a period of one (1) month in each year of the Term. Additional signage may be permitted with the approval of the Director of Parks, Recreation and Culture.
- 5.6 The Operator with further agreement from the City may place a permanent sign at the entrance to Bowen Park for the purpose of advertising future events subject to compliance with City of Nanaimo Sign Bylaws.
- 5.7 The City agrees that the Operator shall have access to parking spaces within Bowen Park for shared use.
- 5.8 The City shall provide the Operator with full access to Pool Facilities.

6.0 OPERATION AND MAINTENANCE

- 6.1 The Operator represents and warrants to the City that it has and will continue to have the equipment, personnel and expertise to provide the operation and maintenance and to fulfill its obligations set forth herein.
- 6.2 The Operator agrees with the City that, subject to the terms and conditions of this Agreement, it shall lifeguard and maintain the Pool Facilities according to the highest standards of professional conduct and shall discharge its duties under this Agreement honestly, in good faith and in the best interests of the Operator and the City.
- 6.3 The Operator will use the premises only for the operation of intended services.
- 6.4 The Operator will supply staff uniforms, and if necessary cash register, Interac and credit card hardware and services including telephone, telephone lines and internet access.
- 6.5 The Operator shall do and perform and contract for, in its own name and for its sole account, all things necessary or desirable for the proper and efficient operation and maintenance of the Pool Facilities to enable the Pool Facilities to operate as a recreational swimming facility during the Term. Without limiting the foregoing the Operator's duties include the following:
 - (a) All aspects of operation and maintenance of the Pool Facilities, including water quality, custodial and janitorial duties, after hours on-call security supervision and the making of all day-to-day decisions in connection therewith from May 1st to August 31st, except as otherwise provided herein;
 - (b) Entering into all contracts necessary or desirable for operation and maintenance of the Pool Facilities, solely on behalf of the Operator;
 - (c) Keeping of all records, statistics and accounts in respect of the operation and maintenance of the Pool Facilities in accordance with generally accepted accounting principles, consistently applied;
 - (d) Hiring, directing and supervising, in the name of the Operator as employer, all personnel who may be required for the proper fulfillment of the Operator's obligations under the terms of this Agreement;
 - (e) Furnish all labour, supervision, program and first aid supplies and other required services as needed to fully lifeguard and maintain the Pool Facilities;
 - (f) Report to the City's Representative any damage or new potential hazard, involving the Pool Facilities immediately;

- (g) Complete all other work related to the safe operation and maintenance of the Pool Facilities in accordance with the guidelines set out in this Agreement;
 - (h) Provide public access through public programs, school program access, and rentals as scheduling permits; and,
 - (i) In each year during the Term, provide a minimum of 10 hours of public swim programs each week for a minimum of eight (8) weeks between June 20th and August 20th.
- 6.6 Save as provided in the Section 6.8, the Operator is not responsible for incidents, accidents, operation or maintenance at the Pool Facilities between Seasons.
- 6.7 The Operator is responsible for the payment of heating and lighting costs at the Pool Facility during the "season" (May 1st to August 31st unless the season is extended).
- 6.8 Save as provided in Sections 5.1, 5.2, 5.3, and 5.4, the Operator is responsible for and shall bear the expense of all repairs, replacements, and maintenance of the Pool Facilities.
- 6.9 Subject to the division of responsibility established by Sections 5.3, 5.4, and 6.8, the Operator shall ensure that at the end of the each Season, the Pool Facilities are in as good or better condition than they were accepted at the beginning of the Season.
- 6.10 Any renovations or, leasehold improvements done by the Operator are at the cost and responsibility of the Operator and require the City's written approval prior to the commencement of any work. Any structural improvements will become property of the City.
- 6.11 The Operator assumes all risk of loss, including theft, damage, or, injury to his property or to the person or property of the Operator's servants, employees, or agents.
- 6.12 No liquor, drug consumption or smoking allowed at anytime.
- 6.13 The City shall advise the Operator in a timely manner of any lengthy shutdowns due to maintenance or renovations.
- 6.14 The Operator shall provide its own garbage cans and recycling collection containers.
- 6.15 Changes to Scope of Work:
- (a) The City may make changes in the scope of work at any time during the term of this Agreement. Without limitation of the foregoing, the City may expand the number of hours during which the Pool Facilities shall be used for Public Swim Programs. Such

expansion of hours may not interfere with previously scheduled programs offered by the Operator or the Operator's previously scheduled use of the Pool Facilities. Where changes in the scope of work will result in an increase or decrease in the amount of work to be completed by the Operator, the parties agree to in good faith negotiate a reasonable change in remuneration which must be confirmed in writing before the City is liable to pay the same and before the Operator is required to perform the change in the scope of work. Failing agreement, then the parties shall refer the matter to a mediator pursuant to Section 4.13(a) and failing agreement shall be determined pursuant to the arbitration process provided herein.

6.16 Extra Work

- (a) At any time during the term of this Agreement, the City may, by written order, direct the Operator to perform work which is in addition to the work required by this Agreement. Such work is referred to here as "Extra Work" and may include the provisions of labour, equipment and materials or any combination thereof. The City shall order Extra Work only when it is, in the City's opinion, necessary for the proper completion of this Agreement, or to assist the City or its agents or contractors with regard to work which is required at the Pool Facilities. The Operator agrees that it will perform Extra Work as and when directed by the City's Representative; and,
- (b) The Operator shall be paid for Extra Work at an amount to be agreed upon between the parties. Failing agreement, then the parties shall refer the matter to a mediator pursuant to Section 4.13 and failing agreement shall be determined pursuant to the arbitration process provided herein. Extra Work will be paid for on separate invoices approved by the City.

6.17 Prompt Payment

- (a) The Operator shall promptly pay, within thirty (30) days, all accounts for work or services done, or caused to be done, by the Operator, and shall keep the title to the Pool Facilities and every part thereof free and clear of any lien or encumbrance in respect of any such work and shall indemnify and hold harmless the City its elected officials, agents and employees against any claim, loss, cost, demand and legal or other expense, whether in respect of any lien or otherwise, arising out of the supply of materials, services or labour for the work. Notwithstanding anything contained herein, the Operator shall be entitled in good faith to contest or challenge any amounts alleged to be due for work or services done so long as any such contest or challenge does not impair the functioning of the Pool Facilities as provided in this Agreement.

6.18 Books of Account

- (a) The Operator shall keep proper books of account in respect of all expenditures arising from its program management of the Pool Facilities during the Term. The City, its agents, solicitors and auditors may at any time and times inspect the books of account, records, reports and other papers of the Operator relating to the services performed by the Operator under this Agreement on a date convenient to both parties during the working hours of a business day or days, provided however, that the City shall have the right to inspect such books of account, whether agreement as to a convenient date can be obtained or not, within the maximum period of seven (7) days from the date of providing notice of such request to the Operator provided only that the City shall attempt to schedule the inspection so as to cause as little interruption as reasonably practicable to the activities of the Operator.

7.0 COMPENSATION

- 7.1 The City shall pay to the Operator the amount of \$22,650.00 in the first year of the Agreement and shall increase the amount by two (2%) percent in each of the following years of the Agreement. The payment of the compensation amount will be scheduled accordingly: 40% on May 1st; 40% on July 1st; and, 20% on September 1st in each year of the Agreement. In the event of the early termination of this Agreement, such compensation shall be pro-rated based upon the portion of the Season completed and a further payment or refund shall be made as required.
- 7.2 The City shall not be responsible for expenses incurred by the Operator in excess of the agreed amount as set out in Schedule "B" or for any deficiency of revenue.

8.0 REGULATIONS

- 8.1 The Operator and its employees and its subcontractors and their employees shall conform to all health and safety laws, by-laws, or regulations of the Province of British Columbia including any regulations requiring installation or adoption of safety devices or appliances. The City may on twenty-four (24) hours written notice to Operator, install such devices or rectify any conditions creating an immediate hazard existing that would be likely to result in injury to any person. However, in no case shall the City be responsible for ascertaining, or discovering through inspections or review of the operations of the Operator or otherwise, such deficiency or immediate hazard; and

8.2 Workers Compensation Board

- (a) The Operator shall fulfill all its duties, obligations and responsibilities in such a manner that it ensures the safety of the public and in accordance with the safety regulations of the Workers Compensation Board;
- (b) The Operator agrees that it shall at its own expense procure and carry or cause to be procured and carried and paid for, full Workers Compensation Board coverage for itself and all workers, employees, servants and others engaged in or upon any work or service which is the subject of this Agreement. The City shall have the right to withhold payment under this Agreement until the Workers Compensation Board premiums, assessments or penalties in respect of the work done or service performed in fulfilling this Agreement have been paid in full;
- (c) The Operator agrees that it is the "principal Operator" for the purposes of the Workers Compensation Board Industrial Health and Safety Regulations for the Province of British Columbia. The Operator shall have a safety program acceptable to the Workers Compensation Board and shall ensure that all Workers Compensation Board safety rules and regulations are observed during performance of this Agreement, not only by the Operator but by all subcontractors, workers, material men and others engaged by the Operator in the performance of this Agreement; and,
- (d) The Operator shall annually provide the City with the Operator's Workers Compensation Board registration number and a letter from the Workers Compensation Board confirming that the Operator is registered in good standing with the Workers Compensation Board and that all assessments have been paid to the date thereof prior to the City having and obligations to pay monies under this Agreement.

8.3 The Operator as Independent Contractor

- (a) Nothing in this Agreement shall be construed as to constitute a partnership between the City and the Operator. The duties to be performed and the obligations assumed by the Operator under this Agreement shall be performed and assumed by it as an independent contractor and not as agent or in any other way representative of the City. In no circumstances shall the Operator have any authority to represent or contract on behalf of or otherwise bind the City;
- (b) The Operator is and shall at all times during the performance of this Agreement be an independent contractor, and at no time shall the Operator be considered an agent, servant, or partner of the City;

and all persons employed by the Operator to perform its obligations under the Agreement shall be its employees or servants and not the employees, servants or agents of the City; and,

- (c) This Agreement does not create any estate in land in favor of the Operator. If or to the extent that this Agreement authorizes the use of land by the Operator, such authorization is by licence only.

8.4 Indemnity by Operator Arising from Property Use

- (a) The Operator covenants and agrees to indemnify and save harmless the City, its elected and appointed officials, employees and agents from and against all costs and expenses caused to or incurred by the City and from all claims, demands, liens, losses, damages, actions, suits and other proceedings whatsoever and by whomsoever made, brought or prosecuted caused by or arising out of the operation, use and maintenance of the Pool Facilities and the equipment as set out in Schedule "A" and/or other property utilized in the performance of the terms of this Agreement whether such property is under the care, custody or control of or owned or leased by Operator.

8.5 General Indemnity

- (a) The Operator covenants and agrees to indemnify and save harmless the City, its elected and appointed officials, employees and agents from and against any and all liability, actions, causes of actions, claims, damages, expenses, costs, debts, demands or losses suffered or incurred by the City arising from any default of the Operator under or in respect of this Agreement;
- (b) The Operator shall inform the City promptly in writing of all claims for personal injury or death or loss of or damage to property arising out of the performance of the requirements of this Agreement of which the Operator has knowledge and on settling any such claims shall use best efforts to obtain a release in respect thereof jointly in the name of the Operator and the City; and,
- (c) The Operator shall on final completion or termination of the Agreement provide the City with a statement containing the particulars of all claims for personal injury or death or loss of or damage to property arising out of the operation and maintenance of the Pool Facilities of which the Operator has knowledge and which are still outstanding at such time.

8.6 Strikes

- (a) The Operator does hereby release the City from any responsibility or liability whatsoever that might arise out of the City failing to provide any services to the Pool Facilities under the terms of this Agreement arising out of any strike or lockout between the City and its employees.

8.7 Insurance

The Operator covenants and agrees:

- (a) That it will take out and maintain during each Season, a policy of general public liability insurance against claims for bodily injury, death or property damage arising out of the use and occupancy of the Pool Facilities by the Operator in an amount of not less than FIVE MILLION (\$5,000,000.00) DOLLARS per single occurrence or such greater amount as the City may from time to time designate, naming the City as an insured party thereto and shall provide the City with a certified copy of such policy or policies;
- (b) That:
 - (i) It will take out and maintain during each Season a policy of insurance insuring the Pool Facilities to the full insurable replacement value thereof against risk of loss or damage caused by or resulting from fire, lightning, tempest, or earthquake or any additional peril against which the City normally insures;
 - (ii) This policy of insurance shall name the City as an insured party to it and shall be in a form satisfactory to the City; and,
 - (iii) It shall provide the City with a copy of the policy;
- (c) That all policies of insurance shall contain a waiver of subrogation clause in favor of the City and shall also contain a clause requiring the insurer not to cancel or change the insurance without first giving the City 30 days prior written notice;
- (d) That if it does not provide or maintain in force the insurance required by this Agreement, the City may take out the necessary insurance and pay the premium for periods of one year at a time, and the Operator shall pay to the City rent the amount of the premium immediately on demand; and,

- (e) That if both the City and the Operator have claims to be indemnified under any insurance required by this Agreement; the indemnity shall be applied first to the settlement of the claim of the City and the balance, if any, to the settlement of the claim of the Operator.

9.0 INTERPRETATIONS

9.1 Interpretation Not Affected by Headings

- (a) Grammatical variations of any terms defined herein have similar meanings. Words importing the singular number shall include the plural and vice versa. Words importing the masculine gender shall include the feminine and neuter genders. The division of this Agreement into separate articles, sections, subsections and clauses, and the insertion of headings and marginal notes and references are for convenience only and shall not affect the construction or interpretation of this Agreement.

9.2 Governing Law

- (a) This Agreement shall be governed by and construed in accordance with the law of British Columbia and the laws of Canada applicable therein and shall be treated in all respects as a British Columbia contract.

9.3 Notes And Other General Provisions

- (a) Any notice which may be or is required under this Agreement shall be in writing and delivered or sent by facsimile transmission, addressed to:

- (i) To the City

- City of Nanaimo
455 Wallace Street
Nanaimo, BC V9R 5J6
Fax: 250-753-7277
Attention: Director of Parks, Recreation and Culture

- (ii) To the Operator

- The Nanaimo White Rapids Swim Club
Box 204
Nanaimo BC V9R 5K9
Fax: 250-754-5954
Attention: Club President

- (b) Any notice that is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. If a party changes its address or facsimile number, or both, it shall promptly give notice of its new address, telephone number or facsimile number, or all, to the other party as provided in this section.

9.4 Waiver

- (a) Any failure of the City at any time or from time to time, to enforce or require the strict keeping and performance of any of the terms or conditions of this Agreement, shall not constitute a waiver of such terms or conditions and shall not affect or impair any terms or conditions in any way or the right of the City at any time to avail itself of such remedies as it may have for any breach of such terms or conditions; and,
- (b) No action or want of action on the part of the City at any time to exercise any rights or remedies conferred upon it under the Agreement shall be deemed to be a waiver on the part of the City of any of its said rights or remedies.

9.5 Minimum Rate of Pay

- (a) The Operator agrees that at those times when the Operator is delivering programs to the public on behalf of the City, it is understood that the minimum rate of pay for work performed under this Agreement or under sub-contract shall be as classified in the current agreement between the City of Nanaimo and the Canadian Union of Public Employees, Local 401.

9.6 Environmental

- (a) "Contaminants" means any materials or structures of any kind the storage, manufacture, disposal, treatment, generation, use, transportation, remediation or release into the environment of which is prohibited, controlled, regulated or licensed under environmental laws.
- (b) If the Operator shall bring or create upon the Pool Facilities any contaminants then, notwithstanding any rule of law to the contrary, such contaminants shall be and remain the sole and exclusive property of the Operator and shall not become the property of the City, notwithstanding the degree of affixation of the contaminants or the goods containing the contaminants to the Pool Facilities and notwithstanding the expiry or earlier termination of this Agreement.

- (c) The Operator shall indemnify and save harmless the City, its officers, employees, agents, successors and assigns from any and all liabilities, actions, damages, claims, losses, charges and expenses and the costs of removal, treatment, storage and disposal of Contaminants and redemption of the property which may be paid by, incurred by or asserted against the City, its officers, employees, agents, successors or assigns as a direct or indirect result of the presence of any contamination, in or under, or the escape, seepage, leakage, spillage, discharge, emission or other release of any Contaminants from any part of the Pool Facilities and to the extent caused by any act or omission of the Operator its employees, agent, contractors, invitees, contractors, or sub-contractors from any part of the Pool Facilities into the environment including, without limitation, into or upon any real property, the atmosphere or any water course or body of water.

9.7 Subcontractors

- (a) The Operator shall not subcontract the whole of the operation of the Pool Facilities nor shall any part of the operation be subcontracted without the prior written consent of the City.
- (b) The subcontracting of any of the duties, obligations or responsibilities of the Operator under this Agreement shall not relieve it of the responsibility for the proper commencement, execution or completion of the duties, obligations or responsibilities as set out herein and the Operator shall be fully responsible for the acts, omissions and debts of its subcontractors.

9.8 Assignment

- (a) The Operator may not assign this Agreement or any part thereof without the prior written consent of the City which consent may be arbitrarily withheld at the sole discretion of the City. This Agreement shall enure to the benefit of and be binding upon the parties hereto and in the case of the City, its successors and permitted assigns.

9.9 Amendments

- (a) This Agreement may not be modified or amended except with the written consent of the parties hereto.

9.10 Further Assurances

- (a) The parties hereto agree that they will, from time to time, at the reasonable request of either of them, execute and deliver such agreements, contracts, assignments and instruments and take such further action as may be required to accomplish the purposes of this Agreement.

9.11 Survival of Covenants

- (a) The covenants of the Operator shall survive the termination of this Agreement and shall continue in full force and effect for the benefit of the City.

9.12 Juveniles

- (a) Where the Pool Facilities are used by a juvenile group, the Operator shall ensure that a responsible qualified person has authority over the group and shall remain with the group while in the Pool Facilities.

9.13 Entire Agreement

- (a) This Agreement constitutes the entire Agreement between the parties and there are no representations or warranties, express or implied, statutory or otherwise and no agreements collateral hereto other than as expressly set forth or referred to herein.

9.14 Time of the Essence

- (a) Time shall be of the essence of this Agreement.

9.15 Agents

- (a) It is understood and agreed that the Operator and all agents, servants and workmen of the Operator are not and shall not be deemed to be agents or employees of the City.

9.16 Force Majeure

- (a) If any performance of any term or provision of this contract or part thereof is prevented, rendered impossible or unfeasible (the "Inability"), by any cause beyond the control of the parties, including but not limited to any act or regulation or by any public authority or bureau, civil tumult, strike, insolvency, epidemic, interruption in or delay of transportation services, war conditions or emergencies, earthquake or fire, then, to the extent and for the duration of the Inability, the respective obligations contracted herein shall be suspended and the remuneration of the Operator shall be suspended on a pro-rated basis based on the portion of the Season that is disrupted.

IN WITNESS WHEREOF the parties hereto have set their hands and seals as of the day and year first above written.

by its authorized signatories)
)
)

_____)
Mayor)
)

_____)
Director of Legislative Services)
)

by its authorized signatories)

_____)
The Nanaimo White Rapids Swim Club)
)

_____)
The Nanaimo White Rapids Swim Club)
)

SIGNED, SEALED AND DELIVERED)
in the presence of:)
)

_____)
Witness (please print))

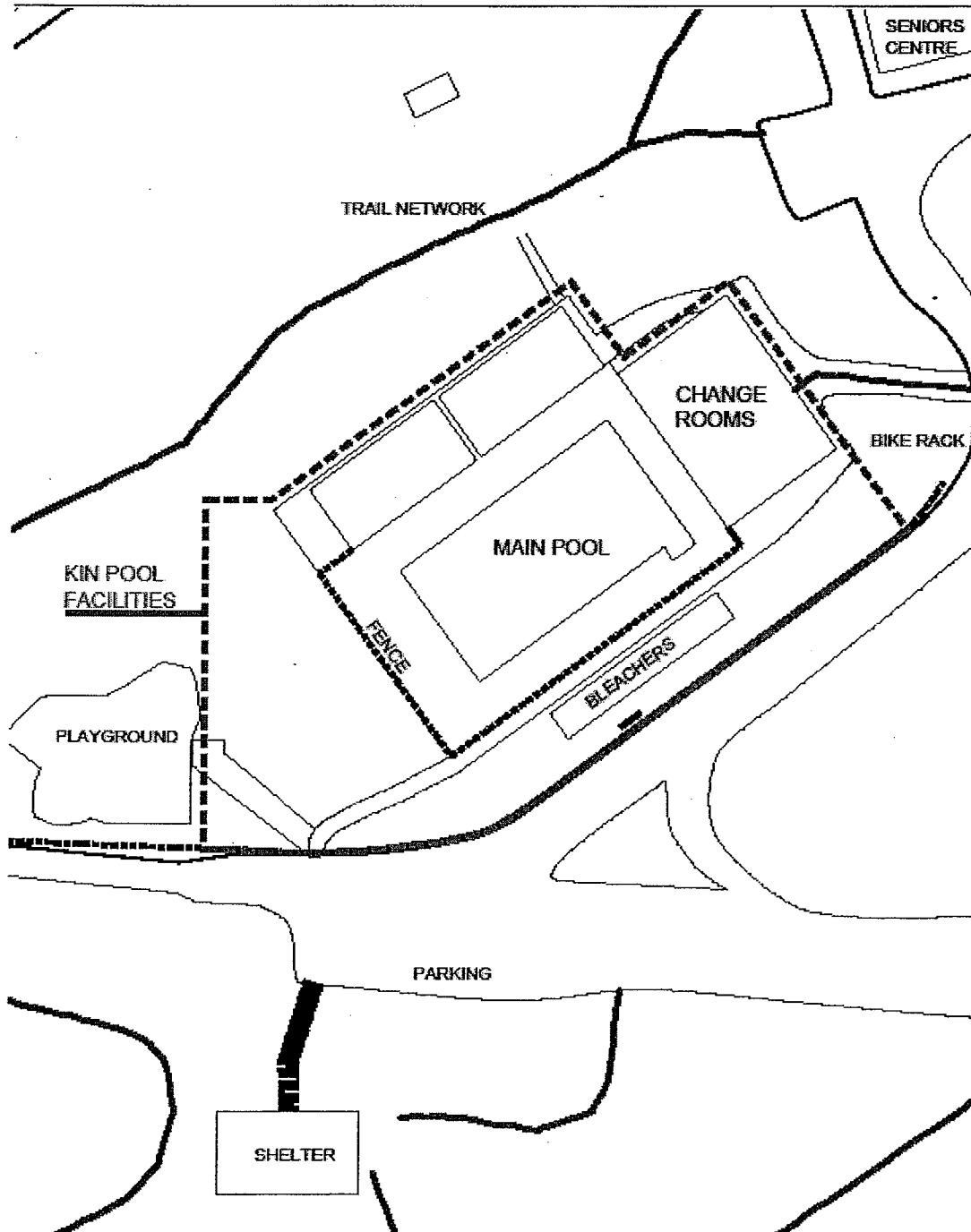
Witness Signature

_____)
Address)
)

_____)
)

_____)
Occupation)

Schedule - A



SCHEDULE "B"

Equipment and materials provided by the City for the operation and maintenance of the Pool Facilities:

1. three (3) sets of 5 bench bleachers (if available);
2. one (1) diving board;
3. one (1) slides;
4. rescue equipment: spine board, oxygen unit, reaching assist, ring buoy;
5. safety equipment: S.C.B.A., half mask respirators (3 – S, M, L), safety goggles, rubber apron, rubber gloves, rubber boots;
6. pool vacuum;
7. security system;
8. pool cover (new in 2002); and,
9. chemicals required for the operation of the pool.

REPORT TO: MAYOR AND COUNCIL

FROM: LARRY McNABB, CHAIR, PARKS, RECREATION AND CULTURE COMMISSION

RE: URBAN FOREST MANAGEMENT STRATEGY

Council ☒ Committee Follow-up ☒
Open Meeting ☒ In-Camera Meeting ☐
Meeting Date: 2010 JUN - 14

RECOMMENDATION:

That Council receive the Urban Forest Management Strategy as a guide for the ongoing management of Nanaimo's urban forest.

EXECUTIVE SUMMARY:

The Urban Forest Management Strategy (the Strategy) has been developed to fulfill a need for better forest, vegetation and ecosystem management throughout the City of Nanaimo. The Strategy establishes the overall direction of the management of Nanaimo's urban forest using guiding principles and policies that are organized around seven "modules".

At their meeting of 2010-APR-28, the Parks, Recreation and Culture Commission passed a motion supporting the recommendation that Council receive the Urban Forest Management Strategy as a guide for the ongoing management of Nanaimo's urban forest.

BACKGROUND:

The Urban Forest Management Strategy has been developed over the past three years in accordance with the recommendations of the 2004 Parks Recreation and Culture Master Plan.

The need for an Urban Forest Strategy was identified in the following City documents:

- The Official Community Plan OCP (2008);
- The Urban Forest Study- City Trees and You (2008); and,
- The Parks, Recreation and Culture Master Plan (2004).

The process to develop the Strategy began in the spring of 2007. The process was led by a staff project team, including the Urban Forestry Coordinator, the Environmental Planner and members of the Advisory Committee on the Environment.

Work included precedent research and review of current management plans from communities in British Columbia and North America, review of Urban Forest Management Plans, and Tree Protection Bylaws. The Official Community Plan was also reviewed with the intention to better harmonize and integrate City policy regarding its urban forests.

During the fall of 2007, with the assistance of the Advisory Committee on the Environment, a stakeholder's forum was organized to define the scope and direction of the Strategy and to help design a public survey to identify relevant issues and concerns from the public. The Public Opinion Survey (City Trees and You) was developed with assistance from the Recreation and Tourism Department of Malaspina University College (Vancouver Island University). The public

opinion survey was distributed to 2000 residents in the spring of 2008. The study determined that the citizens of Nanaimo value trees within Nanaimo. The respondents indicated that they place a high value on the urban forest and support further initiatives for better urban forest management. An initial Strategy document was completed during this time which incorporated the survey results.

In April of 2008, a presentation of the Urban Forest Strategy was shown to the Parks Recreation and Culture Commission. In May the preliminary draft of the Strategy was then given to the Parks Recreation and Culture Commission for their review.

In June of 2008 three initial Open Houses were held. The first was held on Protection Island, with assistance from the Protection Island Rate Payers Association and the Lions Club. The second open house was held at the Oliver Woods Community Centre and the third was held at the Maffeo Sutton Pavilion. These open house events were well attended and comment sheets were provided for further information gathering. This information was also incorporated into the Strategy.

From the fall of 2008 until the spring of 2009 staff worked on developing the seven modules that are the key to the success of the Strategy. These modules were developed with input from other departments including Planning and Development and the Fire Rescue Department.

The Parks Recreation and Culture Commission were provided an updated plan at their meeting held 2009-APR-22. An open house was held in June at the Oliver Woods Community Centre.

At their meeting of 2010-APR-28, the Parks, Recreation and Culture Commission passed a motion supporting the recommendation that Council receive the Urban Forest Management Strategy as a guide for the ongoing management of Nanaimo's urban forest.

The Urban Forest Management Strategy is attached.

Respectfully submitted,



Larry McNabb, Chair
Parks, Recreation and Culture Commission

Attachment - 1

File: A4-1-2 / K8-8
2010-JUN-04
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STAFF REPORT

REPORT TO: B. E. CLEMENS, DIRECTOR OF FINANCE

FROM: L. A. COATES, MANAGER, ACCOUNTING SERVICES

RE: 2009 Annual Parking Reserve Fund Report

RECOMMENDATION:

That Council approve the City of Nanaimo 2009 Annual Parking Reserve Fund Report for filing with the Ministry of Community and Rural Development.

BACKGROUND:

The Local Government Act, as of 2008, requires municipalities to prepare an Annual Parking Reserve Fund Report by June 30 each year to be filed with the Ministry of Community and Rural Development.

DISCUSSION:

The City has one statutory reserve fund related to parking and the collection of cash in lieu for off street parking spaces or loading spaces. This reserve fund is for the Old City Neighbourhood and was established in 1994. 2009 is the second year of the new reporting requirements for this reserve in accordance with section 906(9) of the Local Government Act. The balance in the reserve at December 31, 2009 is \$54,536.

Respectfully submitted,



Lorrie A. Coates
Manager, Accounting Services



Brian E. Clemens
Director of Finance



Douglas W. Holmes
General Manager, Corporate Services

LC/dp

Finance/Policy Committee of the Whole June 14

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☐ Council
☒ Committee *E/PCOW*
☒ Open Meeting
☐ In-Camera Meeting
Meeting Date: *2010-JUN-14*

CITY OF NANAIMO

2009 ANNUAL PARKING RESERVE FUND REPORT

in accordance with section 906 of the Local Government Act

2009

OLD CITY NEIGHBOURHOOD PARKING RESERVE

Fund balance - beginning of year	<u>\$ 50,108</u>
Payments received in lieu of off-street parking and loading spaces	3,000
Investment earnings	<u>1,428</u>
	<u>4,428</u>
Expenditures from the Old City Neighbourhood Parking Reserve Fund	<u>-</u>
Fund balance - end of year	<u><u>\$ 54,536</u></u>

PROJECTED TIMELINE FOR FUTURE PROJECTS TO BE FUNDED FROM RESERVE

The City of Nanaimo's five year financial plan has no expenditures budgeted from the statutory parking reserves created under the Local Government Act subsection 906(7).

STAFF REPORT

REPORT TO: B. E. CLEMENS, DIRECTOR OF FINANCE

FROM: L. A. COATES, MANAGER, ACCOUNTING SERVICES

RE: 2009 Development Cost Charge Reserve Fund Report

RECOMMENDATION:

That Council approve the City of Nanaimo 2009 Development Cost Charge Reserve Fund Report for filing with the Ministry of Community and Rural Development.

BACKGROUND:

The Local Government Act has a requirement for municipalities to prepare an Annual Development Cost Charge Reserve Fund Report by June 30 each year to be filed with the Ministry of Community and Rural Development.

DISCUSSION:

The City collects development cost charges in accordance with Bylaws 7065 to 7070 inclusive. 2009 is the second year of the reporting requirements for this reserve in accordance with section 937.01 of the Local Government Act. The balance in the reserve at December 31, 2009 is \$35,445,221.

In 2009, there was one reduction of development cost charges in the amount of \$18,494 for a building permit issued to the Haven Society for non-market housing at 2270 Labieux Road.

Respectfully submitted,



Lorrie A. Coates
Manager, Accounting Services



Brian E. Clemens
Director of Finance



Douglas W. Holmes
General Manager, Corporate Services

LC/dp

Finance/Policy Committee of the Whole June 14

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☐ Council
☒ Committee *F/PCOW*
☒ Open Meeting
☐ In-Camera Meeting
Meeting Date: *2010-JUN-14*

CITY OF NANAIMO

2009 ANNUAL DEVELOPMENT COST CHARGES RESERVE FUND REPORT

in accordance with section 937.01 of the Local Government Act

2009

DEVELOPMENT COST CHARGE RESERVE

Fund balance - beginning of year	<u>\$ 35,184,992</u>
Development cost charges received	4,325,157
Investment earnings	<u>907,639</u>
	<u>5,232,796</u>
Expenditures from the development cost charge reserve fund	<u>(4,972,567)</u>
Fund balance - end of year	<u><u>\$ 35,445,221</u></u>

WAIVERS AND REDUCTIONS

For the year ended December 31, 2009, the City of Nanaimo issued one reduction under section 933.1 (2) totalling \$18,494.

STAFF REPORT

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

FROM: B. E. CLEMENS, DIRECTOR OF FINANCE

RE: 2009 STATEMENT OF FINANCIAL INFORMATION

☐ Council
☒ Committee F/PCOW
☒ Open Meeting
☐ In-Camera Meeting
Meeting Date: 2010-Jun-14

STAFF'S RECOMMENDATION:

That Council approve the City of Nanaimo 2009 Statement of Financial Information for filing with the Ministry of Community and Rural Development.

EXECUTIVE SUMMARY:

The *Financial Information Act* requires municipalities to prepare a Statement of Financial Information (SOFI) by June 30 each year to be filed with the Ministry of Community and Rural Development.

BACKGROUND:

The SOFI contains information not found in the City of Nanaimo's financial statements:

- Schedule of Guarantee or Indemnity
- Schedule of Remuneration & Expenses
- Schedule of Severance Agreements
- Schedule of Goods and Services

The Schedule of Remuneration & Expenses includes information which must be considered annually by Council under section 168 of the *Community Charter*.

The *Financial Information Regulation* provides some detail on what should be included in these schedules, including specific definitions of "remuneration" and "expenses". For example, while "remuneration" specifically includes salary, wages, and taxable benefits, it specifically excludes anything payable under a severance agreement. The Schedule of Severance Agreements must include the number of severance agreements and the range of equivalent months' compensation represented by those agreements. "Expenses" specifically must exclude benefits of a general nature applicable to all employees, such as medical, dental, counseling, insurance and similar plans.

2009 was an unusual year in that it included 27 bi-weekly pay periods for all City of Nanaimo employees and City Council members. This occurs every 11 years, due to the fact that there are 365 or 366 days in a calendar year, whereas 26 pay periods only account for 364 days (26

pay periods x 14 days per period = 364 days). As a result, the amount of remuneration recorded for each employee (and Council member) appears higher than the actual amount earned in 2009. In fact, some of the remuneration paid in 2009 was earned in 2008. This report is required to be prepared on a cash disbursement basis. This should be kept in mind if comparing amounts paid to an individual employee from 2008 to 2009.

To understand this, it may help to think of how the bi-weekly pay system fits into the annual calendar. Every year, there are ten months where the employee receives two paycheques and two months where the employee receives three paycheques. The employee's salary wasn't 50% higher during those two months, it is just a quirk of the bi-weekly system when comparing to calendar months and years.

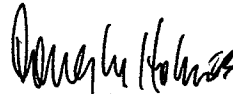
Another unusual occurrence in 2009 was that the City and IAFF (firefighters) concluded a collective agreement that had been outstanding since 2007. This meant that retro-active payment was made for 2007 and 2008 during the 2009 calendar year. Therefore some of the amounts paid in 2009 were earned in, and attributable to, previous years. Once again, this should be kept in mind if comparing amounts paid to individuals from 2008 to 2009. The employees affected by these retro-active payments are marked with a "*" in the SOFI.

Finally, a few employees were hired part way through 2008. Since they worked a full year in 2009, it may appear that their remuneration increased considerably in 2009, but in reality the amounts are not comparable as they don't represent the same time period. These employees are noted in the report.

Respectfully submitted,



B. E. Clemens,
Director of Finance



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

BEC/ck

Finance/Policy Committee of the Whole 2010-Jun-14
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