

AMENDED

AGENDA FOR THE SPECIAL FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING TO BE HELD IN THE BOARD ROOM, CITY HALL, ON WEDNESDAY, 2008-DEC-17, COMMENCING AT 4:30 P.M.

1. **CALL THE SPECIAL FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING TO ORDER:**

2. **INTRODUCTION OF LATE ITEMS:**

- Add Item 4 (a) - Staff Reports - Status Update on the Amended Partnering Agreement for the Millennium Hotel at the Vancouver Island Conference Centre.

2. **ADOPTION OF AGENDA:**

3. **PRESENTATIONS:**

- (a) Mr. B. E. Clemens, Director of Finance, to provide a PowerPoint presentation regarding the provisional budget.

(Materials to be distributed at the meeting.)

4. **STAFF REPORTS:**

ADMINISTRATION:

- (a) **Status Update on the Amended Partnering Agreement for the Millennium Hotel at the Vancouver Island conference Centre** Pg. 1.1-1.2

Staff's Recommendation: That Council adopt the following resolution:

Be it therefore resolved that:

1. *the City of Nanaimo considers Millennium Nanaimo Properties Ltd., and Suro Development Company (the "Developers") in default of the Amended Partnering Agreement (the "partnering agreement") and the Purchase Agreement (Hotel/Residential Lands) (the "hotel land agreement") in that the Developers have:*
 - (a) *acknowledged that there is no secured financing to commence the hotel immediately, in breach of the representation and warranty to do so under the partnering agreement;*
 - (b) *failed to pour the footings for the hotel by the agreed date of 2008-MAY-31;*
 - (c) *failed to pay the City for the costs of providing services to the hotel as required under Section 4.5 of the partnering*

*agreement; and,
(d) not as yet paid the initial payment for the cost of providing parking for the hotel under Section 14.4 of the hotel land agreement and Section 8.2 of the partnering agreement.*

2. that the matter of these defaults be considered at the Council Meeting of 2009-JAN-19.

3. that notice of the defaults referred to in Paragraph 1 of this resolution be provided to the Developers.

5. COUNCIL APPOINTMENTS:

(a) Council to appoint two elected representatives (one primary and one alternate) and two staff representatives (one primary and one alternate) to the Lower Mainland Treaty Advisory Committee (LMTAC) for a one-year term.

Pg. 2

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

7. ADJOURNMENT:

STAFF REPORT

TO: G.D. BERRY, CITY MANAGER

FROM: A.C. KENNING, DEPUTY CITY MANAGER

RE: PARTNERING AGREEMENT (AS AMENDED)

STAFF RECOMMENDATION:

It is recommended that Council adopt the attached resolution.

BACKGROUND:

The City's amended Partnering Agreement with the Millennium/Suro Joint Venture envisioned the development of a hotel as an integral part of the Port of Nanaimo Centre. This has not occurred and the Joint Venture is now in default under the Agreement.


It is, therefore, considered to be in the community's best interest to provide formal notice to the Joint Venture as per the terms of the Amended Partnering Agreement that the City's relationship with the Millennium/Suro Joint Venture will be terminated in 30 days if the default has not been rectified.

The principals of the Joint Venture have advised Council that in the current economic environment their financing plan for the hotel is no longer viable and have requested an extension.

On 2008-DEC-15, Millennium made a written request for a five-month extension with an offer to pay \$50,000. per month during the extension period and to place the hotel land in trust with the City solicitors pending the start of construction. Based on this offer, Council did not give formal 30 day notice of potential termination at its meeting on 2008-DEC-15 and instead deferred consideration of the issue until 2008-DEC-17 pending further information from staff on the extension request.

Staff can now advise that after discussion with the City solicitors and through them with Millennium that we are unable to recommend that Council approve the extension request because the terms offered by Millennium do not provide adequate compensation and protection to the City taxpayers. For example, staff requested the first payment of \$50,000 be paid immediately and this has not been agreed by Millennium.

Respectfully submitted,



ACK/jdk

Council: 2008-DEC-17

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☒ Council
☒ Committee... of the Whole
☒ Open Meeting
☐ In-Camera Meeting
Meeting Date: 2008-DEC-17

RESOLUTION:

Be it therefore resolved that:

1. The City of Nanaimo considers Millennium Nanaimo Properties Ltd and Suro Development Company (the "Developers") in default of the Amended Partnering Agreement (the "partnering agreement") and the Purchase Agreement (Hotel/Residential Lands) (the "hotel land agreement") in that the Developers have:

- (a) acknowledged that there is no secured financing to commence the hotel immediately, in breach of the representation and warranty to do so under the partnering agreement;
- (b) failed to pour the footings for the hotel by the agreed date of 2008-MAY-31;
- (c) failed to pay the City for the costs of providing services to the hotel as required under section 4.5 of the partnering agreement;
- (d) not as yet paid the initial payment for the cost of providing parking for the hotel under section 14.4 of the hotel land agreement and section 8.2 of the partnering agreement.

2. That the matter of these defaults be considered at the Council Meeting of 2009-JAN-19.

3. That notice of the defaults referred to in paragraph 1 of this resolution be provided to the Developers.

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MAYOR'S OFFICE

November 24, 2008

Mayor Korpan and Council
City of Nanaimo
455 Wallace Street
Nanaimo, BC V9R 5J6

Dear Mayor Korpan and Council:

RE: 2009 Appointments to LMTAC

As your jurisdiction is an observer member of the *Lower Mainland Treaty Advisory Committee* (LMTAC), this letter is a kind reminder that your Council will need to appoint, or re-appoint, representatives to LMTAC. Please disregard this request if you have already submitted this information.

Each Council or Board may appoint a maximum of 2 elected representatives (one primary and one alternate) and 2 staff representatives (one primary and one alternate). The term of the appointment to LMTAC is one year.

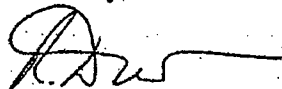
Please send an official letter to the LMTAC office indicating your representatives to LMTAC as soon as possible, and no later than January 9th, 2009, with complete contact information for each representative including: position, address, phone, fax and email address.

Please note that an annual orientation workshop for new and returning LMTAC representatives will be held on **Friday, January 16th, 2009**, in advance of the inaugural Board meeting. We strongly encourage all representatives to attend. More details will be provided in the near future.

LMTAC's inaugural Board meeting is scheduled for **Wednesday, January 28th, 2009**. During this meeting, elections will be held for the following positions: Chair, Vice-Chair, Executive Committee, Finance & Administration Sub-Committee and Treaty Table Representatives.

If you have any questions, please contact Ms. Regan Schlecker, LMTAC Managing Director, directly at (604) 451-6198. For your additional information, a copy of LMTAC's preliminary 2009 meeting schedule is enclosed.

Sincerely,



Mayor Ralph Drew
Chair, Lower Mainland Treaty Advisory Committee

☒ Council
☐ Committee.....
☒ Open Meeting
☐ In-Camera Meeting
Meeting Date: 2008-DEC-17

Attachment