
CITY OF KELOWNA

MEMORANDUM

Date: September 6, 2006
File No.: 2240-20
To: City Manager
From: Cultural Facilities Manager
Subject: Waterfront Park Lagoons Operating Agreement

RECOMMENDATION

THAT City Council approves the Lagoons System Agreement that has been fully executed by all other parties to the agreement;

AND THAT Council transfers revenues received on behalf of two strata corporations to the Grand Okanagan Resort

- \$15,000 collected from boat berths on behalf of **Lagoons** Strata KAS 1436
- \$9,000 collected from boat berths on behalf of the **Dolphins** Strata KAS 1261;

AND THAT the 2006 budget be amended with funding from the City Rental Property Reserve (R052);

AND FURTHER THAT Council authorize the Mayor and City Clerk to execute the agreement on behalf of the City of Kelowna.

BACKGROUND

The Lagoon System was developed in partnership between the City and Relax Development on a 1/3rd - 2/3rd cost sharing basis for the development, maintenance and capital replacement.

Relax Development sold the strata lands to Lakepoint Developments which changed the cost sharing to be 1/3rd of the total cost of the Waterfront Park Lagoons System to the City, 1/3rd to Relax Development and 1/3rd to Lakepoint Development.

The original agreement has proven unworkable and resulted in dispute. Through negotiations we have been able to develop an agreement that deals with the management, operation and capital replacement of the Lagoons system, modernizes the terms and is an excellent compromise. All parties to the agreement have consented. Part of the agreement requires that the City pay \$24,000 on behalf of the Strata councils to Grand for outstanding maintenance invoices. This funding has been reserved by the City for boat berth rentals on behalf of the Strata Corporations while the agreement was in dispute. Finance staff recommends that the funding come from the City Rental Property Reserve (R052).

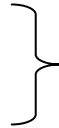
During the winter and early spring of 2006 the uncertainty surrounding the agreement resulted in delays in scheduling the environmental cleaning of the lagoons system. Limited cleaning was done this year however a full environmental cleaning of the entire lagoon will be required in

2007. This will require additional funding in the neighbourhood of \$65,000 for the City's portion which will be budgeted for in the 2007 budget cycle.

TERMS

- The agreement is for 18 months with a clause that all parties shall meet and use their best efforts to reach an agreement in substitution for this Agreement for a ten (10) year or longer term subject to the appropriate City approval process. Civic Properties will take a lead role in this process.
- The agreement allocates the costs for operations, maintenance and capital replacement reserve of the Lagoons system.
 - The costs are shared as follows:

▪ The Grand	33.3%	
▪ Lagoons Strata	6.06%	
▪ Dolphins Strata	3.63%	
▪ Discovery Pointe Strata	7.26%	
▪ Discovery Bay Strata	16.35%	
▪ City of Kelowna	33.40%	

 Collectively 33.3%
- There is a mechanism for the development of an annual budget that must be approved by the partners to the agreement. It is estimated that the City's portion of the operational budget for 2006 is \$56,000.
- A capital replacement reserve will be funded at \$60,000 as part of the annual budget. The purpose of the capital reserve is to set aside funds for major repairs and capital improvements.
- The City grants access to the Lagoons waterway to the Administrator (party assigned the task of maintaining and operating the Lagoon System.)
- The City grants the right to occupy the boat berths and to charge and collect rent for the use of the berths as follows:

○ Lagoons Strata	10
○ Dolphins Strata	6
○ Discovery Pointe Strata	12
○ Discovery Bay Strata	27
- The agreement notes that any capital repairs up to \$500,000 shall be funded by the partners of the agreement using the above funding formula.
- The agreement also contains a clause that any capital repairs in excess of \$500,000 shall be funded by the partners of the agreement up to \$500,000 and that the City will cover 100% of the costs over the \$500,000 amount.

Ron Forbes
Cultural Facilities Manager

cc: Director of Recreation Parks and Cultural Services
Director of Financial Services
Financial Planning Manager
Civic Properties Manager
Parks Manager