



Date: July 30, 2003

TO: Board Members - Parks and Recreation
FROM: General Manager - Parks and Recreation
SUBJECT: LICENCE AGREEMENTS WITH AAA HORSE & CARRIAGE LTD.

RECOMMENDATION

- A) THAT the annual fee paid to the Board by AAA Horse & Carriage Ltd. for the licence to operate its business in approved areas of Stanley Park, for the five year period from May 1, 1998 to April 30, 2003, be set at 4% on the first \$300,000 of gross revenues and 6% in excess of that amount.

If the Board grants a long-term licence for AAA to occupy a portion of the Stanley Park Service Yard then this annual fee will be reviewed every five years.

- B) THAT no legal rights shall arise hereby and none shall arise hereafter until execution of the contemplated document.

CONSIDERATION

THAT the Board consider granting AAA a licence to occupy a portion of the Stanley Park Service Yard from May 1, 1998 to April 30, 2003 with three (3) five year options for a total of 20 years.

AAA will, before September 30, 1999, construct to the approval of the General Manager, a facility for the operation of their business in Stanley Park, to include stables, carriage shelter, corral and all ancillary uses, to a value of no less than \$300,000.

BACKGROUND

A staff report (Appendix A) providing the background to this issue and recommending terms for a license to operate in Stanley Park and a license to occupy the Service Yard site, was discussed by the Board at its meeting on April 27, 1998. A copy of that report is attached as Appendix A.

At that meeting, the following resolutions were approved by the Board:

- A. THAT staff provide the Board with a copy of the 1993 RFP upon which AAA Horse and Carriage's license is based.

THAT staff provide the Board with information on:

- who was directly provided with the RFP
- minutes of meeting which approved AAA Horse & Carriage with a five year plus five year option
- a copy of the legal agreement that has been provided to AAA Horse & Carriage recently in draft.

- B. THAT staff invite Old Tyme Carriage and other operators to a meeting to discuss potential avenues for their operation in the park.

DISCUSSION

The above information requested by the Board was forwarded to them on May 24, 1998.

In reviewing the 1993 Request for Proposal documents and the subsequent proposal by AAA it was determined that the company had exclusive rights to offer carriage rides within the park. Old Tyme Carriage Rides were advised of this information and withdrew their request to operate in Stanley Park.

AAA and Old Tyme Carriage Rides are the only operators which currently have licences to offer carriage rides in the City and staff are not aware of any other operators who might be interested in providing this service.

Licence to Operate

Details of the background to this issue are included in Appendix A.

AAA has now provided a copy of its unaudited financial statements for the year ending December 31, 1997, showing gross revenue for the year of \$424,000. Under the proposed new

fee structure, on these revenues AAA would have paid the Board a license fee of \$19,440. For the year ended April 30, 1998, the actual license fee paid by AAA to the Board was \$2,490.

For the year commencing May 1, 1998 Mr O'Neil forwarded a cheque in the amount of \$2,489.60 to the Board. The cheque was accepted but Mr O'Neil was advised that since his contract with the Board had not been finalized the amount would be considered as a partial payment or an advance to 1998-99 fees once negotiations had been completed.

Licence to Occupy

Previously Mr O'Neil had offered to invest \$75,000 to remove fill from the proposed corral location but upon further discussion with the Board and staff this option was not pursued. However, the Board was of the opinion that a \$75,000 capital improvement in lieu of rent over five years, was fair market rental to occupy a portion of the park.

In a letter dated July 3, 1998, AAA was given formal notice to vacate the old carpentry building (used for storing the carriages) by September 1, 1998 so that renovations can commence for the new police facility. In addition, the building where the horses are currently stabled, the adjacent storage area and the temporary trailer used as an office have to be removed by March 31, 1999 so that the entrance to the new parking lot can be completed by the 1999 summer season.

After numerous efforts from staff to negotiate any future occupancy by AAA for of a portion of the Stanley Park Service Yard and obtain cost estimates, Mr O'Neil has advised that there is only one proposal that is acceptable to him, subject to financing, for a future licence agreement. The conditions are as follows:

1. The occupancy of approximately 2908 sq metres in the Stanley Park Service Yard.
2. The construction of a facility to accommodate the horse drawn carriage service in Stanley Park, to include stables, carriage shelter, corral and all ancillary uses.
3. The expenditure of approximately \$300,000 towards this project. If the final expenditure is less than this amount, the balance will be paid as prepaid rent for the use of the land.
4. The facility will only be used for business pertaining to the Stanley Park operation.
5. At the end of the licence period, (April 30, 2018), the facility becomes the property of the Board, unless AAA voluntarily terminates the agreement beforehand.

6. All maintenance, utilities and operating costs for the land are the responsibility of AAA.
7. All insurance requirements to be satisfactory to the General Manager and the Director of Legal Services.

The following is a summary of the advantages and disadvantages for the Board when considering this proposal:

ADVANTAGES

1. The continuity of a popular horse drawn carriage service in Stanley Park by an operator who has provided a satisfactory level of service in the past.
2. The construction of a facility that will, after 20 years, become the property of the Board.

DISADVANTAGES

1. A twenty year agreement essentially monopolizes an operation in Stanley Park for a long period of time. (AAA has stipulated that it wants exclusive use during this period)
2. AAA has offered no additional rent for the use of a prime piece of parkland.
3. The Board will be committed to a horse drawn carriage service for a 20 year period of time without knowing future traffic trends and this decision will affect future transportation policies and decisions on Stanley Park.

SUMMARY

AAA is currently paying the Board an annual fee which is significantly lower than the opportunity provided by its location in Stanley Park.

The payment for a licence to operate in Stanley Park is considered to be appropriate for the next five years.

The requested twenty year term to occupy a portion of the Stanley Park Service Yard, in return for a major capital expenditure, is submitted for the Board's consideration but staff are concerned

with the length of the term. Mr O'Neil has advised, however, that this is the only proposal that is acceptable to him and if it is not granted he will consider terminating his current agreement with the Board after this current season.

Staff are also concerned that the proposed length of the term and the absence of any rent for the land could be viewed as a precedent by other entrepreneurs seeking to do business with the Board.

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