



Date: July 30, 2003

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

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## **RECOMMENDATION**

- A) THAT the Board execute a licence agreement with AAA Horse & Carriage Service Ltd to operate its business in approved areas of Stanley Park, and the annual fee 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 and that there be no renewal option.
- B) THAT the Board grant AAA a licence to occupy a portion of the Stanley Park Service Yard from May 1, 1998 to April 30, 2003 subject to AAA making capital improvements up to a maximum of \$75,000 as identified in this report.
- C) THAT relocation expenses for the information kiosk be at the Board's cost except that the relocation of the telephone lines and carriage hitching posts be at AAA's cost.
- D) THAT no legal rights shall arise hereby and none shall arise hereafter until execution of the contemplated document.

## **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.*

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

Throughout the summer meetings were held with AAA in order to try and reach a negotiated settlement for a new licence agreement. For various reasons this was not accomplished and on July 27, 1998, the following **Notice of Motion** was put forward by Commissioner Chesman for the Board's September 14, 1998 meeting:

*THAT the Board approve a renewed agreement with AAA Horse & Carriage or that AAA Horse & Carriage be required to cease and desist all activity in Stanley Park on or before January 10, 1999.*

At the September 14 meeting the Board agreed to defer the Notice of Motion until the September 28, 1998 meeting.

### **Licence to Operate**

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

It is recommended that the Board will execute a licence agreement with AAA to operate a horse & Carriage service in approved areas of Stanley Park and the licence term will be five years, from May 1, 1998 to April 30, 2003 and there will be no renewal option.

The agreement will give AAA exclusive rights to operate a horse & carriage service in Stanley Park but Old Tyme Rides will continue to be allowed to access Stanley Park at Beach Avenue, drop off passengers and exit the park at Nelson Street.

### **Annual Fee**

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 licence fee of \$19,440. For the year ended April 30, 1998, the actual licence 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.

It is recommended that the annual fee will be 4% of gross revenues up to \$300,000 and 6% in excess of that amount for the full five year term. The fee will be paid on a monthly basis, and received by the Board within 20 days from the end of each month.

AAA will be required to provide the Board with annual audited statements of revenues, prepared by a C.A., C.G.A., or person with another recognized professional accounting designation acceptable to the Board.

Approved souvenir sales will be permitted and the Board will receive 10% of the gross revenues.

### **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.

AAA have agreed to make capital improvements to a maximum of \$75,000 and they will be applied to the following:

- ▶ fencing the barn structure and office trailer currently being used by AAA and improving the exterior of the building.
- ▶ erecting a temporary cover between the barn structure and office trailer to house and protect the AAA carriages.
- ▶ building a horse paddock on the portion of the Service Yard designated by the General Manager.
- ▶ any other related structures or work, as agreed upon by the General Manager.

All utility costs in the Service Yard will be the responsibility of AAA.

All proposed structures and design work will be approved in advance by, and completed to the satisfaction of the General Manager.

### **Relocation of Ticket Sales Kiosk and Point of Departure for AAA Rides.**

AAA has always been aware that the arrangements for it to occupy the Board's information kiosk were temporary. The agreement has been that AAA provides general information to the public and in return has been allowed to use the kiosk to sell its tickets.

On July 26, 1996, the Board approved the concept plan for the restoration of the former Lower Zoo area. This included a new information / food service kiosk and public washrooms, to be operated by the Board. Mr O'Neil attended this meeting and indicated his concerns that the proposed choices for a pick-up zone for his service might be impractical. The Board, however, approved the overall design.

AAA has been offered an alternative location in the Children's Farmyard parking lot but has rejected this location.

AAA has requested to meet with planning staff once again to review alternative sites close to their existing location. This meeting will take place as soon as possible but AAA has been given notice and has agreed to vacate the existing kiosk by November 30, 1998.

After discussions with AAA about the relocation of the kiosk the following was agreed:

- ▶ The exact relocation site of the kiosk will be the decision of the General Manager.
- ▶ AAA will be allowed to use the kiosk at no charge for the remainder of their agreement.
- ▶ The Board will pay for the relocation of the kiosk, the new concrete pad and electricity and water connections as required.
- ▶ AAA will pay for the telephone line hook-up to the new location and the relocation of the hitching posts for the carriages.

### **SUMMARY**

AAA have now agreed to terms for the five year renewal period of their operating licence in Stanley Park. The rent is considered appropriate when compared to the Park Board's other leased operations.

The capital improvements in lieu of rent for the occupation of a portion of the Stanley Park service yard is considered to be fair and reasonable and will enable AAA to operate its business for the balance of the term. The improvements to the paddock will benefit the Board if it wishes to continue with a similar operation in the future.

The costs incurred for the relocation of the information kiosk will be divided between AAA and the Board.

Prepared by:  
Administration and Revenue Services Division  
Board of Parks and Recreation  
Vancouver, B.C.  
PJ