



March 3, 2017

**TO:** Park Board Chair and Commissioners  
**FROM:** General Manager - Vancouver Board of Parks and Recreation  
**SUBJECT:** Cetaceans at the Vancouver Aquarium - Referral Report Back

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## RECOMMENDATION

**THAT** the Vancouver Park Board direct staff to further investigate and report back on implementation of the Board's preferred option to address concerns regarding cetaceans at the Vancouver Aquarium, as outlined in this report.

- Option 1:** Call on City Council to include an assent question (plebiscite) in the 2018 municipal election;
- Option 2:** Accept the Vancouver Aquarium's February 20, 2017 announced plans;
- Option 3:** Amend the Parks Control By-laws;
- Option 4:** Maintain status quo.

## REPORT SUMMARY

With the recent deaths of two Vancouver Aquarium belugas at the Vancouver Aquarium in November 2016, the Park Board has seen a resurgence of public concern regarding cetaceans in captivity. Ongoing protests have been held at Park Board meetings and at the Vancouver Aquarium, multiple online petitions against captivity have been launched, and email campaigns targeting elected Park Board and City officials have resulted in hundreds of emails received from supporters from both sides of the debate.

In response, the Board introduced a [motion entitled "Cetaceans at the Vancouver Aquarium"](#) that recommends a plebiscite be held in 2018 to seek the opinion of Vancouver electorate. After some discussion, the motion was referred to staff to provide additional information on the proposal to hold a plebiscite, as well as to provide other possible options the Board could consider prior to making a decision.

This report outlines four possible options available to the Board, which include: 1) seeking public opinion via a plebiscite; 2) accept the Vancouver Aquarium's plans announced on February 20, 2017; 3) amend the by-laws that regulate cetaceans in Vancouver parks; 4) maintain the status quo. Staff are seeking Board direction on which option, or options, should be further explored.

## BOARD AUTHORITY / PREVIOUS DECISIONS

The Parks Control By-Laws set the conditions under which cetaceans (whales, dolphins, and porpoises) can be acquired and kept. Under section 9(e), the by-laws state that no person shall bring into any park, or otherwise keep or maintain in any park, any cetaceans, including

baleen whales, narwhals, dolphins, porpoises, killer whales and beluga whales, which have been captured or taken from their wild habitat except:

- i) Captive cetaceans caught from the wild prior to September 16, 1996, and cetaceans born into captivity at any time;
- ii) Cetaceans which are already being kept or maintained in a park as of September 16, 1996;
- iii) A member of an endangered cetacean species, provided that approval for bringing it into a park has first been obtained from the Park Board; and
- iv) An animal that has been injured or is otherwise in distress and in need of assistance to survive or rehabilitation, whether or not the intention is to release it back into its natural wild habitat.

In [November 2006, a Special Board meeting](#) was held to discuss the aquarium expansion proposal and an amendment to the by-laws in response to concerns regarding the clarity of the wording of Section 9(e)(iv) after the import of additional dolphins into the Vancouver Aquarium. The Board approved a motion directing legal staff to prepare an amendment to section 9(e)(iv) to provide for importation with intention to release or not to release. These amendments were [enacted on June 25, 2007](#). Additionally, in a motion regarding the Aquarium's expansion proposal, an amendment was approved to indicate that it was the Board's intention to further review the Parks Control By-law relating to captive cetaceans in 2015.

In [July 2014, a Special Board meeting](#) was held to discuss the matter of cetaceans in captivity. The Board approved a motion that: called upon the Aquarium to undertake a detailed examination of the applicable standards of care and the impacts of those standards on captive cetaceans; directed staff to establish an Oversight Committee, and to work with the Aquarium to investigate alternatives to cetacean exhibition and to continue research on rehabilitation and release; and to bring forward a by-law to prohibit the breeding of captive cetaceans in Vancouver parks, unless the cetacean is a threatened species.

In [November 2014, at their Regular Board meeting](#), the Board received a report for consideration that included a proposed amendment to the Parks Control By-law in regard to breeding cetaceans, and the proposed terms of reference for a Vancouver Aquarium Oversight Committee. As a new Board had been recently elected, the outgoing [Board passed a motion](#) for the proposed by-law amendments to be reviewed by the new Board in 2015, as per the November 2006 recommendation, and for staff to conduct further public consultation on this matter.

In January 2017, following the November 2016 deaths of the two remaining belugas at the Vancouver Aquarium, [a motion titled "Cetaceans at the Vancouver Aquarium"](#) was introduced. The motion supported inclusion of an assent question on the 2018 Municipal Election ballot to determine if Vancouver residents support keeping cetaceans at the Vancouver Aquarium, and further requested that the Vancouver Aquarium consider not bringing more cetaceans into the facility until after the results of the 2018 plebiscite are received. This motion was referred to staff to report back with more information about the process of holding a plebiscite, and to outline other options for the Board to consider before making a decision. See Appendix A for additional links to past Board decisions.

## BACKGROUND

### History of issue from 2014 to Present

In April 2014, [a motion titled “Plebiscite on Phasing Out Cetaceans in Captivity in the Vancouver Aquarium”](#) was considered by Vancouver City Council. The motion did not pass. Council noted the issue was the preserve of the elected Park Board, which holds a lease with the Vancouver Aquarium. The Park Board, in conjunction with applicable provincial and federal laws pertaining to cetaceans, permits and regulates the Aquarium’s activities in Stanley Park.

On April 28, 2014, the Park Board approved the [motion titled “A Review of the Practice of Keeping Captive Cetaceans in Stanley Park”](#), which directed staff to prepare a report on cetaceans in captivity at the Vancouver Aquarium, including best practices at other aquariums that may or may not have captive cetaceans, and to provide a public memo that provides an overview of the relationship between the Park Board and Aquarium.

Dr. Joseph Gaydos, a renowned wildlife veterinarian and scientist at UC Davis Wildlife Health Centre SeaDoc Society Program, was contracted to conduct a comprehensive review of the Vancouver Aquarium cetacean program and to provide a report that included an overview of aquariums around the world and their accrediting agencies, along with a comparison of Vancouver Aquarium operations in context to similar institutions. Dr. Gaydos found that the Vancouver Aquarium contributes to marine mammal conservation and provides a robust rescue and care program for injured marine mammals. Additionally, Dr. Gaydos noted that several aquariums around the world operate without captive cetacean displays.

At the [Special Meeting that commenced on July 26, 2014](#), Park Board staff and Dr. Gaydos provided a [presentation](#) on the findings outlined in the [aquarium review report](#). The Vancouver Aquarium was also provided an opportunity to speak and present materials supporting its cetacean program. Additionally, the Board received hundreds of emails, online petitions signed by thousands, and heard from 76 registered speakers on the topic over two days of delegations. On [July 31, 2014, the Board approved a motion](#) directing staff to propose a by-law that restricts cetacean breeding in Vancouver parks and to establish a committee of animal welfare experts to provide oversight of the cetacean program at the Vancouver Aquarium. Additionally, the motion called on the Vancouver Aquarium to undertake further examination on the current standards of animal care and the implications of these standards on captive cetaceans.

In August 2014, the [Vancouver Aquarium launched legal action](#) in BC Supreme Court to challenge the authority of the Vancouver Park Board to enact the breeding ban. No formal have steps have been taken in the litigation since October 2014.

In November 2014, staff presented the [proposed by-law amendments and terms of reference for a Vancouver Aquarium Oversight Committee](#) to the Board for consideration. As a new Board had been elected, the outgoing [Board directed](#) that a by-law review occur in 2015, as per previous Board direction in November 2006, and that staff engage in further public consultation on the matter. No further action on this direction has been taken to date.

In 2015-2016, five of the cetaceans owned by the Vancouver Aquarium died. This included Hana (2015), a Pacific White Sided Dolphin, and Jack (2016), a Harbour Porpoise, along with three Beluga whales: Nanuq (2015), on loan to SeaWorld Florida, followed by Aurora and Qila (2016) at the Vancouver Aquarium. As a result, there are currently no Belugas at the

Vancouver Aquarium, however there are currently 5 on loan to other aquariums in the US (Seaworld and the Georgia Aquarium).

In particular, the recent unexplained deaths of Aurora and Qila have renewed calls for cetaceans to no longer be kept at the Vancouver Aquarium. Protestors have been present at Park Board meetings and outside the Aquarium to bring this matter back to the attention of the public, Aquarium leadership, and elected officials.

The Aquarium currently has three cetaceans in captivity: Helen, a Pacific White Sided Dolphin, Daisy, a Harbour Porpoise and Chester, a False Killer Whale. All three cetaceans were rescues.

The Vancouver Aquarium has a plan to build two expanded whale pools in the second phase of a \$100 million expansion program. Phase 2 involves a new Arctic exhibit with two beluga pools. On February 20, 2017, the Aquarium announced plans to bring back some of their loaned belugas in late 2018 or early 2019, but that they would be non-breeding and the beluga display would be discontinued by 2029.

## DISCUSSION

This report will examine four possible options the Board can consider when addressing the issue of cetaceans in captivity at the Vancouver Aquarium:

- Option 1:** Call on City Council to include an assent question (plebiscite) in the 2018 municipal election;
- Option 2:** Accept the Vancouver Aquarium's February 20, 2017 announced plans;
- Option 3:** Amend the Parks Control By-laws;
- Option 4:** Maintain status quo.

Any solution to the current question of cetaceans at the Vancouver Aquarium should consider: cetaceans on loan to other facilities that the Aquarium may wish to repatriate; the existing cetaceans residing at the aquarium; future breeding at the aquarium; and the role of the Aquarium in rescuing and rehabilitating cetaceans.

Additionally, in light of the Aquarium's February 20 announcement that it intends to bring more belugas into the park, the Aquarium should be informed that the Board intends to consider the cetaceans-in-captivity issue more generally and be requested to not make any changes until Board direction is clear.

A high level overview evaluating each of the four options is provided in Table 1, with a more detailed analysis following. The factors assessed include:

- financial implications to the Park Board and/or Aquarium;
- time required to implement a solution;
- complexity of the change; and
- role of public engagement.

The Board should also consider legal ramifications of any proposed option.

For each factor considered, the level of impact is noted (e.g. low, medium, high).

**Table 1: Overview of Options**

	Plebiscite in 2018	Aquarium Plan	By-law Changes	Status Quo
Financial	Low-Med - if included in 2018 local election; only costs related to informing voters	Low	Depends on changes proposed;	None
Time	Slow - outcome non-binding; likely push Board decision to 2019	Immediate - however final outcome likely slower than public expectations	Fast - depends on changes proposed; enactment could occur in 2017; implementation varies	None
Complexity	Med - requires Council approval, roughly 80 days prior to vote	Med - if 2014 Board directions enacted	Depends on amendments proposed	None
Public Engagement	High - captures voters' opinion; non-Vancouver residents excluded; non-binding.	Low	High - any member of the public can provide feedback on proposed changes.	Low
Summary	Longest cycle time to resolution; Board decision still required; Bill S-203 may impact if passed.	Current plans do not fully address public concerns; Bill S-203 may impact if passed	Depends on direction; Bill S-203 may impact if passed	Current plans do not fully address public concerns; Bill S-203 may impact if passed

**OPTION 1: Call on City Council to include an assent question (plebiscite) in the 2018 municipal election;**

The formal process for holding a plebiscite starts with the Park Board approving a motion calling for Council to include an assent question on the 2018. The Mayor or a City Councillor would need to introduce a motion for debate at Council that references the Park Board's decision. Council can opt to include the question during the general local election, recommend it be conducted on its own (which would cost an estimated \$1 million), or not pass the motion at all. As per the Vancouver Charter ([Section 184](#) and [Sections 129-136.7](#)), Council must approve the assent voting, timing, and wording of the question. To make it to the 2018 ballot, the assent question would need to be approved by Council by July 2018 at the latest.

If held during the 2018 vote, the additional cost to include an assent question is minimal, however the costs related to the communications required to ensure voters are well informed on the issue could vary significantly depending on direction provided. It is expected that the Aquarium would actively promote their interests.

From a public engagement perspective, a plebiscite does provide a greater number of constituents the ability to weigh in on the topic to provide a broad temperature check of the population. However it does exclude many users of the Aquarium as participation would be limited to Vancouver voters only. As well, the outcome will be influenced by prevailing public sentiment and the nature and effectiveness of communications used to inform voters of the relevant facts on the matter in advance of the plebiscite.

If approved, the results of the plebiscite would be non-binding, which means while the outcome will express the public opinion of the electorate, the Park Board would still need to make a decision on how to move forward. That would likely push any decision to 2019 at the earliest. At that time, the same options will be before the Park Board as they are now -- accept the Aquarium's plan to voluntarily phase out belugas by 2029, implement by-law changes, or maintain status quo, pending a decision on [Federal Bill S-203](#) currently at committee (Senate) to end captivity of whales and dolphins.

### **OPTION 2: Accept the Vancouver Aquarium's February 20, 2017 announced plans**

As per their announcement in February 2017, the Aquarium has voluntarily agreed to not breed belugas at the Vancouver Aquarium and to phase-out beluga displays entirely by 2029. However, in the meantime, they do intend to incorporate beluga displays in their new Arctic Exhibit starting in 2018/19, as part of their on-site conservation research program. While this does not fully address concerns regarding the other cetaceans in captivity at the Vancouver Aquarium, it is a quick and relatively low impact option to ultimately achieve an outcome.

To help enforce the Aquarium's current plan, the Board could provide direction to amend the by-laws proposed in 2014 to not only restrict breeding, but to also reference the phase out of belugas by 2029. This would require legal review and a staff report back on the proposed amendments before final Board enactment.

Staff could also proceed with establishing the Vancouver Aquarium Oversight Committee recommended by the Board in 2014. The oversight provided by this committee, along with the bi-annual public reporting on the status and well-being of all cetaceans owned by the Aquarium, could help assuage public concerns.

Additionally, staff could work collaboratively with the Aquarium on the remaining Board recommendations from 2014 that called for further examination of the implications of current standards of care, investigation to alternatives to cetacean exhibition, and continued research on rehabilitation and release.

This option may involve relatively low public engagement, depending on whether any by-law changes are proposed. Further actions may still be required pending the Federal decision on [Bill S-203](#).

### **OPTION 3: Amend the Parks Control By-laws.**

As per the Board direction provided in 2014, and referenced in Option 2, by-laws to restrict cetacean breeding have already been prepared and could be brought forward immediately for approval and enactment. This would enforce the Aquarium's February 2017 statement indicating that they have no plans to breed belugas at the Vancouver Aquarium.

However, as noted in Option 2, the Aquarium has stated its intent to incorporate beluga displays in their new Arctic Exhibit until the eventual phase out in 2029. Major aquariums around the world have shifted their businesses away from the traditional captive, performing cetaceans to focus on other education and rescue type activities. At a [Special Park Board meeting held on April 10, 1996](#), the Board directed staff to consult with City Legal around developing a Park Board by-law in keeping with the [City of Nanaimo By-law #4505](#), which prohibits performances involving wild animals. This language was not included in the final by-law that was enacted later that year.

Currently, neither the existing Parks Control by-laws nor proposed amendment on breeding may prevent the Aquarium from bringing additional cetaceans into Stanley Park. Should the Board want to impose stricter regulations, other by-law amendments would need to be proposed and enacted. Further by-law review may be required regardless should [Bill S-203](#) be federally enacted.

Proposed amendments could range from the low impact changes mentioned in Option 2, which would include only regulations on breeding and an aligned phase-out target of 2029, to high impact amendments that prohibit wild animal performances and/or call for an outright ban to bringing or keeping any captive cetaceans in Stanley Park.

Any proposed changes should consider potential legal, financial, safety, and operational impacts to cetaceans currently at the Aquarium and those loaned to US aquariums that could be repatriated; to existing rescue and rehabilitation work; to research and education programs; and to the already approved, planned, and funded expansion.

Should the Board choose to develop new by-laws for enactment, staff would work with Legal to develop proposed amendments for consideration that would outline potential legal and financial impacts, as well as considerations for implementation. The costs and legal complexity will depend on the changes requested. As well, the Aquarium should be provided with advance notice of the Board's intention to consider by-law changes - potentially including a prohibition on the display of cetaceans - and the Aquarium should be asked not to relocate belugas back into the Aquarium until the process of public consultation and Board deliberation is complete.

This work could begin immediately, with any approved by-law changes potentially approved and enacted in 2017. Depending on the changes requested, the time period required for operational implementation may vary considerably.

This option provides high public engagement that is not limited to only Vancouver residents. Any proposed by-law changes would be processed via the regular public process, with notice of any proposed motion provided to the public in advance, and an opportunity for delegations (including the Aquarium and any other affected parties) to comment on the proposed actions. Feedback on any recommendations brought forward can be provided to the Board via multiple channels: in-person delegations, written correspondence, petitions, etc.

#### **OPTION 4: Maintain status quo**

While this option is low cost, low complexity, and may have fewer legal considerations, it does not address the growing public sentiment toward cetaceans in captivity and the continued protests and lobbying from special interest groups would be expected. As the decisions from 2014 are still active business, maintaining the status quo could include a staff report back on the process to implement, amend, or rescind those recommendations.

Taking no action could potentially allow the Aquarium to change its plans over time. Ultimately, a by-law review may be required should [Bill S-203](#) be federally enacted.

## **NEXT STEPS**

The Board will need to consider the options provided and direct staff as to the next steps. The first three options have some time sensitivity, considering the Aquarium's current expansion plans, but do not need to be mutually exclusive of one another. Regardless of the option that the Board chooses, staff have an obligation to provide adequate notification to the Aquarium of any actions the Board may be considering that could impact its current and/or future operations.

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## Past Decisions Related to Vancouver Aquarium Cetaceans

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### 2006-11-27 - Special Park Board Meeting

#### Proposed Aquarium expansion and by-law review

- [Minutes](http://parkboardmeetings.vancouver.ca/2006/061211/mom_sp_mtg06nov27.pdf) (http://parkboardmeetings.vancouver.ca/2006/061211/mom\_sp\_mtg06nov27.pdf)

- [Agenda & Reports](http://parkboardmeetings.vancouver.ca/2006/061127/index.htm) (http://parkboardmeetings.vancouver.ca/2006/061127/index.htm)

- *Aquarium expansion approved, with amendments; includes intention for a 2015 review of the Parks Control By-law relating to captive cetaceans; Amendments to improve clarity of Parks Control By-law Section 9(e)(iv) requested.*

### 2007-05-28 - Regular Board Meeting

#### Vancouver Aquarium Expansion

- [Minutes](http://parkboardmeetings.vancouver.ca/2007/070611/mom_revised_07_may28.pdf) (http://parkboardmeetings.vancouver.ca/2007/070611/mom\_revised\_07\_may28.pdf)

- [Agenda & Reports](http://parkboardmeetings.vancouver.ca/2006/061127/index.htm) (http://parkboardmeetings.vancouver.ca/2006/061127/index.htm)

- *Development permit schematic design plans for the Aquarium expansion were reviewed and approved*

### 2010-07-19 - Regular Board Meeting

#### Motion for a plebiscite on containment of cetaceans in Vancouver parks

- [Minutes](http://parkboardmeetings.vancouver.ca/2010/100920/MeetingMinutesJul19.pdf) (http://parkboardmeetings.vancouver.ca/2010/100920/MeetingMinutesJul19.pdf)

- [Agenda & Reports](http://parkboardmeetings.vancouver.ca/2010/100719/index.htm) (http://parkboardmeetings.vancouver.ca/2010/100719/index.htm)

- *Motion to hold a plebiscite on cetaceans during 2011 civic election defeated.*

### 2011-03-03 - Park Board Planning & Environment Committee Meeting

#### Aquarium Revised Concept plan

- [Minutes](http://parkboardmeetings.vancouver.ca/2011/pe110303/DraftMinutesPE03Mar11-dd.pdf) (http://parkboardmeetings.vancouver.ca/2011/pe110303/DraftMinutesPE03Mar11-dd.pdf)

- [Agenda](http://parkboardmeetings.vancouver.ca/2011/pe110303/index.htm) (http://parkboardmeetings.vancouver.ca/2011/pe110303/index.htm)

- *revised development permit drawings to come back to the Board on April 18/11.*

### 2011-04-18 - Regular Board Meeting

#### Vancouver Aquarium Development Permit Revision

- [Minutes](http://parkboardmeetings.vancouver.ca/2011/110502/2011MinutesApr18.pdf) (http://parkboardmeetings.vancouver.ca/2011/110502/2011MinutesApr18.pdf)

- [Agenda & Reports](http://parkboardmeetings.vancouver.ca/2011/110418/index.htm) (http://parkboardmeetings.vancouver.ca/2011/110418/index.htm)

- *revised development permit design plans approved.*

### 2014-04-28 - Regular Board Meeting

#### Motion to Review Practice of Keeping Captive Cetaceans in Stanley Park

- [Minutes](http://parkboardmeetings.vancouver.ca/2014/140428/minutes_pb20140428.pdf) (http://parkboardmeetings.vancouver.ca/2014/140428/minutes\_pb20140428.pdf)

- [Agenda & Reports](http://parkboardmeetings.vancouver.ca/2014/140428/index.htm) (http://parkboardmeetings.vancouver.ca/2014/140428/index.htm)

- *Motion for staff to report back by July 2014 on Vancouver Aquarium operations regarding captive cetaceans approved.*

### 2014-07-26, 28, 31 - Special Board Meeting

#### Review of the Practice of Keeping Captive Cetaceans in Stanley Park

- [Minutes](http://parkboardmeetings.vancouver.ca/2014/140726/minutes_specpb20140726.pdf) (http://parkboardmeetings.vancouver.ca/2014/140726/minutes\_specpb20140726.pdf)

- [Agenda & Reports](http://parkboardmeetings.vancouver.ca/2014/140726/index.htm) (http://parkboardmeetings.vancouver.ca/2014/140726/index.htm)

- *Staff directed to prepare by-law amendment to restrict cetacean breeding; establish an aquarium oversight committee; to investigate alternatives to cetacean exhibition; and to continue research on cetacean rehabilitation and release.*

## Past Decisions Related to Vancouver Aquarium Cetaceans

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### 2014-11-24 - Regular Board Meeting

#### Aquarium Cetaceans - Parks Control By-law Amendment & Oversight Committee

- [Minutes](http://parkboardmeetings.vancouver.ca/2014/141124/minutes_pb20141124.pdf) (http://parkboardmeetings.vancouver.ca/2014/141124/minutes\_pb20141124.pdf)
- [Agenda & Reports](http://parkboardmeetings.vancouver.ca/2014/141124/index.htm) (http://parkboardmeetings.vancouver.ca/2014/141124/index.htm)

- *Board received the proposed by-law amendments and oversight committee terms of reference; deferred by-law review to 2015 (as per Nov 2006 motion); directed staff to conduct further public consultation*

### 2017-01-23 - Regular Board Meeting

#### Motion for a plebiscite on keeping cetaceans at the Vancouver Aquarium

- [Minutes](http://parkboardmeetings.vancouver.ca/2017/20170123/MINUTES_PB-20170123.pdf) (http://parkboardmeetings.vancouver.ca/2017/20170123/MINUTES\_PB-20170123.pdf)
- [Agenda & Reports](http://parkboardmeetings.vancouver.ca/2017/20170123/index.htm) (http://parkboardmeetings.vancouver.ca/2017/20170123/index.htm)

- *Motion to hold a plebiscite on cetaceans during 2018 civic election referred to staff to report back on options.*