



Council Member Motion

For the Governance and Priorities Committee Meeting of August 28

Date: August 21, 2014

From: Mayor Fortin

Subject: Intervening in the Trans Mountain Expansion Public Hearing

Summary

The National Energy Board (NEB) has granted the City of Victoria intervenor status for the public hearing to review Trans Mountain's application for the Trans Mountain Expansion Project. The NEB has identified twelve issues that will be considered during the hearing. Of particular significance to Victoria is issue #5:

"the potential environmental and socio-economic effects of marine shipping activities that would result from the proposed project, including the potential effects of accidents or malfunctions that may occur"

Intervenors are allowed to:

- file written evidence
- ask written questions about Trans Mountain's and other intervenors' evidence
- file, and potentially respond to, notices of motion
- comment on draft conditions, and
- present written and oral argument

Fewer than half of those who applied to participate in the hearings as intervenors were granted intervenor status. Victoria is the only municipality on south Vancouver Island that was granted intervenor status.

The City of Victoria has an opportunity to participate in the hearings and ask questions about the project. Intervenors must make any information requests to Trans Mountain by January 9, 2015. Written evidence must be filed by March 16, 2015.

Apart from directing staff to apply for intervenor status, Council has provided no direction as to the approach or position that the City should take. To date, the City has taken no action as an intervenor.

I convened a meeting on July 18, 2014 with representatives from the Dogwood Initiative, the UVic Environmental Law Clinic, Tourism Victoria, the Sierra Club, and the Bateman Foundation to discuss the Trans Mountain project. There is an expectation among these stakeholders, and others in the community, that the City will actively participate as an intervenor in the public hearing.

At that meeting, a number of possible strategies and approaches that the City could take as an

intervenor were identified. Options ranged from full participation on every issue and in every aspect of the hearing, to simply acting as a conduit through which individuals or groups in the Capital Region who were not granted intervenor status could file written evidence.

These options require varying levels of City resources. Full participation on every issue would require significant legal and other expert resources to review and compile evidence, file notices of motion and prepare arguments. Much of this work would need to occur before the January 9, 2015 deadline for information requests to Trans Mountain. Outside resources would be required, as staff do not possess the required expertise to perform all of these tasks. As an example of the magnitude of resources required to fully participate, the City of Vancouver has an inter-departmental team working on this project, has hired outside legal counsel to assist and also has several in-house lawyers working on its submissions. There is no staff or financial capacity to undertake this amount of work within current departmental work plans or budgets for 2014.

Participation that focuses on issues specific to Victoria and the Capital Region would appear to be the most effective use of City resources. Other jurisdictions that are more directly impacted by the pipeline itself, such as the cities of Vancouver and Burnaby, are better positioned than Victoria to address many of the issues identified by the NEB. A number of intervenors are challenging, or preparing to challenge, procedural aspects of the public hearing process. There appears to be little benefit in duplicating these efforts.

In particular, the City could focus on compiling and presenting evidence regarding the environmental, financial and economic impacts to the City, its residents and businesses from a marine oil spill. Stakeholders in attendance on July 18th indicated that Victoria's "brand" is its reputation as a pristine, green, active, healthy and beautiful City. A catastrophic oil spill would devastate both Victoria's tourist economy and the quality of life of our residents.

Recommendations

That the City of Victoria host a public meeting in September, 2014 to provide members of the public an opportunity to submit their questions about the Trans Mountain Expansion Project to the City of Victoria for potential inclusion in the City's information request.

That the City of Victoria collect written questions from members of the public about the Trans Mountain Expansion Project for potential inclusion in the City of Victoria's information request.

Respectfully submitted

A handwritten signature in black ink, appearing to read "Dean Fortin". The signature is fluid and cursive, with the first name "Dean" and last name "Fortin" clearly distinguishable.

Mayor Dean Fortin