



Governance and Priorities Committee Report

Date: April 30, 2014 **From:** Robert Woodland
Subject: Regulation of the Water Lot in the Gorge Waterway Northwest of the Selkirk Trestle

Executive Summary

The purpose of this report is to seek Council direction regarding municipal regulation of the lands covered by water (water lot) in the area of the Gorge Waterway northwest of the Selkirk Trestle.

The City is concerned with the negative impacts that unregulated activities, including long term anchoring of vessels in the Gorge Waterway is having on the marine environment, adjacent City parks and residents. Research indicates that the City may apply its authority to regulate land use to the water lot. Proactive municipal regulation is possible if the City combines its zoning authority with additional authority granted by senior governments.

Based on analysis to date, staff recommend that the City pursue regulations that would enhance the use of the Gorge Waterway for recreational purposes, and prohibit residential use and the storage of vessels. Obtaining a licence of occupation for the water lot and implementing a management plan for that area (Option B) is the most straightforward and cost effective approach. This approach is consistent with the City's Official Community Plan and Harbour Plan objectives for the Gorge Waterway.

A similar scheme implemented by the District of West Kelowna on Okanagan Lake was recently upheld in Court. To initiate action toward a proposed municipal regulatory scheme for the Gorge Waterway Council direction is required. As a part of this process, consultation with the Esquimalt and Songhees First Nations will be undertaken.

Other actions in support of protecting the marine ecosystem are also recommended. Approval of the recommendations provided in this report will start that process. Enactment of *Zoning Regulation Bylaw* amendments and applying for and receiving a Licence of Occupation are expected to take 6 to 8 months. Up to ten months may be required for implementation depending upon the approach chosen (anchoring v. mooring).

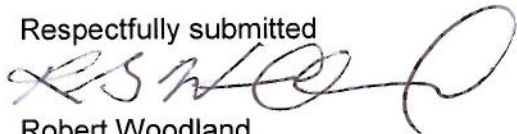
Recommendations

That Council approves the following actions:

1. That Council directs staff to prepare *Zoning Regulation Bylaw* amendments for Council's consideration that would limit the use of the Gorge Waterway to recreational activities, and prohibit live-aboard use or long term anchoring. An expedited, City-initiated rezoning process is recommended.
2. That Council directs staff to apply to the Province of British Columbia for a licence of


- occupation by the City for the Gorge Waterway, northwest of the Selkirk Trestle for:
- a. A term of at least ten years; and
 - b. For nominal rent, on the grounds that the City of Victoria is seeking to better manage the licence area for community use, recreation and the public interest.
3. That Council directs staff to develop a Project Charter to support implementation of Option B, and allocate up to \$126,000 in total funding from Contingencies in 2014 and 2015 to fund this project.
 4. That the Mayor informs the Esquimalt and Songhees First Nations of the City's intention to apply for a licence and regulate the water lot area of the Gorge Waterway, and seek First Nations' comment on the City's plans.
 5. Should Council adopt the proposed zoning regulations the Mayor sends a letter to the Minister of Lands, Forests and Natural Resource Operations and request the Minister to remove any mooring buoys and any derelict, abandoned and live-aboard vessels from the Gorge Waterway in the City of Victoria.
 6. The Mayor sends a letter to the Minister of Environment to inquire as to the process for having the Gorge Waterway declared a sensitive, protected ecological area.
 7. The Mayor sends a letter to the Capital Regional District Board to ask for their consideration of an ecosystem study of Portage Inlet, which includes the Gorge Waterway, to inform long-term ecosystem protection strategies.

Respectfully submitted



Robert Woodland
Director, Legislative & Regulatory Services

Report accepted and recommended by the City Manager:



Jason Johnson

Date:

Aug 2, 2014

Purpose

The purpose of this report is to seek Council direction regarding municipal regulation of the land covered by water (water lot) in the area of the Gorge Waterway northwest of the Selkirk Trestle.

Background

The water lot area is the part of the Gorge Waterway within the City of Victoria that lies northwest of the Selkirk Trestle between Cecelia Creek and Banfield Park. The Province of British Columbia (Province) owns the sea bed underlying the Gorge Waterway and is responsible for the regulation of the use of the public waterway, subject to Federal marine regulations. The City of Victoria leases from the Province a water lot adjacent to Banfield Park that is part of the Gorge Waterway. A reference plan of the area is appended to this report as Appendix "A".

This sheltered waterway has become a popular area for vessel anchoring by adjacent onshore residents and residents who live-aboard their vessels. Long term vessel anchoring in the Gorge Waterway is not compatible with the land uses in the area and presents the following concerns:

- Discharge of sewage effluent and garbage from live-aboard vessels;
- Discharge of fuel and lubricants from unseaworthy vessels;
- Noise and nuisance activities from live-aboard vessel residents;
- Abandonment of unseaworthy vessels and vessel debris;
- Obstruction of the waterway that affects recreational use by the public.

While the Province, as the owner of the sea bed, has authority to manage the surface and sub-surface of the water lot they have no plans to exercise their authority and undertake regulation of the Gorge Waterway. The Province advises they are prepared to grant a licence of occupation for the water lot area of the Gorge Waterway to the City. The licence must be for a valid "community use/recreation" purpose, but would provide the City authority to implement a management plan for the Gorge Waterway that could include regulation of long term anchoring and/or mooring. The Federal government (Transport Canada) has jurisdiction over navigation and shipping, including anchoring in the Gorge Waterway, and has expressed no interest in regulating the area beyond ensuring that the navigational channel is kept clear.

The Gorge Waterway is designated as "Marine" in the Urban Place Designation section of the Official Community Plan. This contemplates the following uses: marine open waters, public foreshore areas, marine transportation, recreation, moorage and harvesting. The OCP identifies the area as having ecologically significant shoreline and riparian areas. The Harbour Plan does not support further development of private docks or structures at the foreshore.

The City has the authority to regulate the use of land, including land covered by water, through its Zoning Regulation Bylaw. Zoning regulations should reflect community needs and can regulate permitted uses as long as they do not improperly interfere with legitimate navigational requirements. In particular zoning can limit or prohibit uses that are not compatible with the character of the area or the use of neighbouring properties, such as long term anchoring or live-aboard vessels.

Issues

The following issues would need to be addressed as part of any City initiative to manage public marine use of the Gorge Waterway:

1. Zoning Regulations

The City's zoning authority enables the City to pass regulations respecting the use of lands within the municipality. The City's authority to regulate the use of land also applies to land covered by water. In the case at hand, zoning regulations that limit the use of the Gorge Waterway for recreational purposes and prohibit residential accommodation (live-aboard vessels) or the storage of vessels (by long term anchoring or mooring) may be considered. Such regulations, if enacted following a public hearing, provide the foundation for the Council to define the community's expectations regarding the use of these public lands.

2. Licence of Occupation and Management Plan

The Province advises that it is prepared to consider granting a licence of occupation to the City that would facilitate further municipal regulation of the water lot in the Gorge Waterway. It is expected that the Province would initially offer a ten year term for the licence to ensure that the City's proposed regulation satisfies their tenure objectives. If satisfactorily administered by the City, the Province would be prepared to commit to a longer term licence for nominal consideration.

The Province advises that the City would need to submit a management plan for the licence area. The management plan would set out the City's objectives for the use of the licence area, which may include use of the area for recreational purposes and associated restrictions on long term anchoring and/or mooring in the area. Formal input from the Esquimalt and Songhees First Nations will be sought as part of the licence application process. A Council resolution is required to support the City's application for the licence of occupation, including a request for nominal rent.

The management plan for the Gorge Waterway would outline the City's objectives for regulating public use of this waterway. The City's primary management objective would be to ensure the availability of the water lot area for recreation in a manner that is compatible with neighbouring land uses. A secondary objective would be to protect the marine and foreshore environment by reducing the discharge of sewage, contaminants and garbage from vessels that anchor in the water lot.

Management activities would need to be consistent with the objective of public use and access of the water surface. For example, the City could not prohibit the transit of vessels across the waterway, nor could the City prohibit activities that are a consequence of vessel navigation such as temporary anchoring.

From a practical point of view, if the City obtains the licence of occupation then the City may have two approaches for proactively regulating public (vessel) use of the water lot:

- I. *Anchoring* – with this approach the City enacts reasonable regulations that permit limited time period vessel anchoring in the licence area consistent with recreational use. This might range from day anchoring only to a limited overnight stay. The appropriate time period should reflect the City resources available for enforcement and the City's intention not to interfere with a vessel's right to anchor as a consequence of navigation.

- II. *Mooring* – with this approach the City prohibits overnight anchoring in the Gorge Waterway and as an alternative installs mooring buoys and regulates their use. A permitting system with fees and maximum lengths of stay would be a consequence of mooring buoys. The City might retain a third party operator for such a scheme, but it is expected that the City would need to remain involved in subsequent enforcement of the mooring regulations.

A longer term management plan objective for protecting the Gorge Waterway may be to seek a declaration that the marine ecosystem is sensitive and requires protection. The Province advises that a management plan based on ecosystem protection is possible, but such a plan would have to be founded on evidence that there is:

- A sensitive or unique marine ecosystem that requires protection; and
- The anchoring or mooring of vessels in the Gorge Waterway is causing harm to that marine ecosystem and should therefore be prohibited.

Satisfying the evidentiary requirements for such an approach with the Ministry of Environment would likely take considerable time and resources to complete required environmental studies. However, over time and with increasing urbanization this approach may prove to be a valid long-term objective for the Gorge Waterway. The City may wish to ask the CRD to examine the ecosystem health of the Gorge Waterway and Portage Inlet as part of its natural environment stewardship mandate.

3. Budget

The choice of management plan will inform the budget required for the City's program. Expected capital and operating budget expenditures include:

- Capital
 - installation of signs
 - installation of mooring buoys (optional)
 - subsequent repair and maintenance of signs and/or buoys
- Operating
 - monitoring and enforcement
 - a permitting system (optional)
 - dealing with legal challenge(s) to the new regulatory scheme
 - vessel impoundment and owner prosecution
 - vessel disposal

Expenses for specific elements have not been quantified at this time and would vary depending on the management plan approach chosen. For example, the *Anchoring* approach might eliminate the need for permits (operating cost) and would eliminate the need for mooring buoys (capital cost).

If the City was to pursue having Gorge Waterway declared a protected ecosystem area then the City might expect the Province to require the City to provide evidence in support of the declaration. The cost of producing such a study to support a management plan whose purpose is ecosystem protection is unknown at this time. There may be merit in asking the CRD to consider studying all of Portage Inlet, including the Gorge Waterway, for long-term strategies to preserve this unique inland marine environment.

4. Federal Government Approvals

It is expected that Transport Canada and possibly Fisheries & Oceans' prior approval will be needed for any mooring buoys or navigation aids placed in the water lot. Transport Canada's interest is to ensure there is a navigable channel through the water lot, while Fisheries & Oceans may need to assess marine habitat impacts. Mooring buoys and navigation aids must comply with Transport Canada regulations as to size, configuration and markings.

Transport Canada's approval may also be required for any prohibition on anchoring within the waterway. Implementing the *Anchoring* approach may prove to be the option that is the most consistent with Transport Canada's objectives.

5. Installation of Improvements

Marine work required for the planning, design and installation of mooring buoys and navigation aids is specialized and would have to be tendered to qualified contractors. There may also be a need to survey the sea bottom in the mooring area for depth and obstructions prior to installation. Signs will be required at strategic locations around the waterway.

Improvements such as signage and buoys may also be required if the Gorge Waterway is declared a sensitive ecosystem and the City assumes a management role.

Recreational use regulations that limit vessel anchoring in the water lot have the least requirement for the installation of any improvements. Signs are anticipated and it may be necessary to define the navigation channel with a system of marker buoys.

6. Permitting, Monitoring and Enforcement

Monitoring and enforcement will be necessary for any City regulatory scheme for the Gorge Waterway, be it zoning regulations or the management plan.

Issuing permits for anchoring, or for mooring to City-installed buoys is an option for the management plan. If anchoring and mooring were prohibited as a consequence of the Gorge Waterway being declared a protected ecosystem then a permitting scheme is not required.

Neither the Parks Department nor Bylaw & Licensing Services are currently equipped to undertake routine compliance monitoring or enforcement on the water. Victoria Police and Victoria Fire Department have vessels capable of operating in the Gorge Waterway; however, their routine use for compliance monitoring would need to be confirmed with these agencies.

The City has no direct resources available for vessel towing, impoundment or disposal. Vessel impounding and disposal is specialized marine work for which a third party contractor would be required to work under the City's supervision.

It is also expected that additional legal resources may be needed to prosecute vessel

owners who do not comply with City regulations, who abandon their vessels in the City's licence area, or those who choose to challenge the new regulatory scheme. Maritime law is complex and vessel owners are often hard to track down due to the voluntary nature of the vessel registration system. The City should not expect to recover much of its costs for any prosecutions or for the disposal of abandoned vessels.

If the City assumes a management role over the licence area and the area is declared a sensitive ecological area then the City would have similar enforcement obligations and costs to the ones noted above. It is unknown whether the Province would enforce its own ecosystem protection regulations if the City did not obtain a licence of occupation over the water lot.

Analysis

The Gorge Waterway is designated as "Marine" in the Urban Place Designation section of the Official Community Plan. In terms of uses, this contemplates: marine open waters, public foreshore areas, marine transportation, recreation, moorage and harvesting. The OCP identifies the area as having ecologically significant shoreline and riparian areas; the reduction of vessel sewage and pollutant discharge is an objective consistent with protecting these marine systems. Finally, the Harbour Plan does not support increasing the number of private docks and other foreshore structures that reduce the public's use of the Gorge Waterway.

Due diligence undertaken to date indicates that it is possible for the City to implement a management scheme for the area of Gorge Waterway north west of the Selkirk Trestle. The extent of possible regulation is subject to receiving the authority to do so from the Provincial and Federal governments. City prohibition of vessel transit or anchoring under the management scheme, or City regulations that would unreasonably interfere with "community use/recreation" on the waterway would not be permitted. All costs associated with any City management scheme would be borne by the City.

It may be possible to seek a declaration from the Provincial Ministry of Environment that the Gorge Waterway is a sensitive ecosystem. If such a declaration is made, it may be possible for the City to lease the water lot and to create a "marine park" that would exclude mooring and anchoring in the water lot, but not the transit of vessels over the water lot.

In either case, undertaking the lease of Gorge Waterway for the purpose of regulating public access and use of the water lot will require the dedication of City resources. These resources are expected to be needed in two distinct phases:

1. Service Planning & Design

Issues 1 and 2 will need to be actioned in order for the City to regulate the Gorge Waterway. The implementation of new zoning regulations and the preparation, submission and review of a City tenure application to the Province are expected to take up to eight months. External consulting resources may be required for some elements of this phase.

2. Service Implementation

Issues 3 thru 6 would be implemented once the Province grants a licence of occupation to the City. Council will need to approve a budget for the proposed service level that is

chosen. This phase is expected to take up to ten months, depending upon which regulatory approach (anchoring or mooring) is chosen, and receipt of subsequent senior government approvals.

Options

Option A – Enact Specific Zoning Regulations for the Gorge Waterway

This would entail adopting *Zoning Regulation Bylaw* amendments following a public hearing that would restrict the use of the Gorge Waterway to recreational activities and would prohibit residential uses (live-aboards) or storage of vessels (long term anchoring). This action may be taken independent of any other action, and would provide a basis for City compliance monitoring and enforcement.

Expected timeline is 6 to 8 months to enact zoning regulations and install signs.

One-time costs (rezoning and signs) estimated at \$11,000.

Ongoing compliance and enforcement costs estimated at \$112,000 and diminishing over time (vessel impound, vessel disposal, legal expenses).

Advantages: Does not require senior government approval; relatively straightforward implementation; provides legal foundation for subsequent City compliance monitoring and enforcement; may provide basis to compel Provincial compliance action.

Disadvantages: No City interest in water lot area; Province may not respond to requests to take compliance action; likely to trigger a legal challenge to the new regulations.

Option B – Option A plus Licence of Occupation with Anchoring Regulations

This would entail adopting Zoning Bylaw amendments (Option A) and applying for a Licence of Occupation for the Gorge Waterway. The new zoning regulations and the management plan would work together to regulate recreational use of the Gorge Waterway. This combination of actions would provide a stronger basis for City compliance monitoring and enforcement of recreational use of the Gorge Waterway.

Expected timeline is 6 to 8 months to enact zoning regulations, obtain Licence of Occupation and install signs.

One-time costs (rezoning, licence and signs) estimated at \$14,000.

Ongoing compliance and enforcement costs estimated at \$112,000 and diminishing over time (vessel impound, vessel disposal, legal expenses).

Advantages: Province consents to the proposed regulatory scheme; regulations are relatively simple and straightforward; provides stronger legal foundation for subsequent City compliance monitoring and enforcement.

Disadvantages: City becomes solely responsible for administrative, compliance monitoring and enforcement costs; likely to trigger a legal challenge to the new regulations

Option C – Option A plus Licence of Occupation with Mooring Buoys Only

This would entail adopting Zoning Bylaw amendments (Option A) and applying for a Licence of Occupation for the Gorge Waterway. The new zoning regulations and the management plan (licence) would work together to prohibit anchoring and require vessels to moor to City-installed

mooring buoys. This combination of actions would provide the strongest basis for City compliance monitoring and enforcement of recreational use of the Gorge Waterway. Expected timeline is 6 to 8 months to enact zoning regulations and obtain Licence of Occupation. Installation of signs and mooring buoys expected to take up to 10 months. One-time costs (rezoning, licence, signs, mooring buoys) estimated at \$54,000. Ongoing compliance and enforcement costs estimated at \$112,000 and diminishing over time (vessel impound, vessel disposal, legal expenses).

Advantages: Province consents to the proposed regulatory scheme; regulations are relatively straightforward; provides strongest legal foundation for subsequent City compliance monitoring and enforcement.

Disadvantages: City becomes solely responsible for administrative, compliance monitoring and enforcement costs; design and capital costs for installation of mooring buoys; operating costs for a permitting system and repair/maintenance of buoys; likely to trigger a legal challenge to the new regulations

Option D – Protected Marine Ecosystem Designation – No Mooring or Anchoring

This would entail seeking a Ministry of Environment declaration that the Gorge Waterway is a sensitive or protected marine ecosystem. A consequence of such a declaration would be to prohibit mooring or anchoring in the Gorge Waterway, and may require the City to hold a Licence of Occupation.

Estimated timeline is unknown.

Cost to undertake studies is unknown.

Advantages: Province makes the declaration; prohibition is straightforward to enforce; provides strong legal foundation for compliance monitoring and enforcement.

Disadvantages: City may be responsible for compliance monitoring and enforcement costs; ecosystem declaration will require environmental studies to provide supporting evidence for declaration; timeline and City costs for this process are unknown.

Conclusion

The OCP and Harbour Plan assign priority to public access to and use over the Gorge Waterway, and to protecting the foreshore and riparian (marine) environment. If Council is supportive of advancing the OCP and Harbour Plan objectives then Council should support municipal regulation of the Gorge Waterway.

A regulatory scheme designed to support recreational use, and prohibit residential use and the long-term storage of vessels in the Gorge Waterway (Option B) is likely the simplest and most efficient approach to achieving those objectives. In summary, this approach would involve:

1. Implementing zoning regulations that limit the use of the Gorge Waterway for recreational purposes and prohibit residential use and the storing of vessels.
2. Developing a management plan whose objective is to regulate anchoring in the Gorge Waterway for a limited time period (to be implemented as part of the licence of occupation).
3. Obtaining a licence of occupation over the Gorge Waterway from the Province.

4. Implementing the City's management plan, including routine compliance monitoring and enforcement.

A similar approach was successfully employed by the District of West Kelowna, which sought to regulate the anchoring of float homes in Gellatly Bay, Okanagan Lake. The Supreme Court of British Columbia upheld the municipality's regulatory scheme when it was challenged in Court.

Council must be prepared to set aside financial resources to enable this proposed scheme. At this point in time, it is estimated that Council should set aside up to \$126,000 from contingencies for the planning and implementation of *Option B*. Ongoing funding for compliance monitoring and enforcement is expected to decline over time as the City's enforcement actions will deter vessel owners from using this area for live-aboards or long-term vessel storage. The most significant impacts on work plans would be borne by Bylaw & Licensing Services Division (compliance monitoring and enforcement) and Legal Services (prosecutions, Court actions).

Further detail of expected on-going financial obligations and specific work plan impacts would be set out in the Project Charter.

If Council directs staff to undertake work on the proposed zoning regulations and management plan then it would be prudent to take these additional actions in support of the OCP's environmental objectives:

1. If Council adopts zoning regulations that prohibit residential use or the storing of vessels in the Gorge Waterway, then the City should write to the Minister of Lands, Forests and Natural Resource Operations and request the Minister to remove any mooring buoys and any derelict, abandoned and live-aboard vessels from the Gorge Waterway in the City of Victoria.
2. The City should write to the Minister of Environment to inquire as to the process for having the Gorge Waterway declared a sensitive, protected marine ecosystem.
3. The City should write to the Capital Regional District Board to ask for their consideration of an ecosystem study of Portage Inlet, which includes the Gorge Waterway, to inform long-term ecosystem protection strategies.

Recommendations

That Council approves the following actions:

1. That Council directs staff to prepare *Zoning Regulation Bylaw* amendments for Council's consideration that would limit the use of the Gorge Waterway to recreational activities, and prohibit live-aboard use or long term anchoring. An expedited, City-initiated rezoning process is recommended.
2. That Council directs staff to apply to the Province of British Columbia for a licence of occupation by the City for the Gorge Waterway, northwest of the Selkirk Trestle for:
 - a. A term of at least ten years; and
 - b. For nominal rent, on the grounds that the City of Victoria is seeking to better manage the licence area for community use, recreation and the public interest.
3. That Council directs staff to develop a Project Charter to support implementation of Option

B, and allocate up to \$126,000 in total funding from Contingencies in 2014 and 2015 to fund this project.

4. That the Mayor informs the Esquimalt and Songhees First Nations of the City's intention to apply for a licence and regulate the water lot area of the Gorge Waterway, and seek First Nations' comment on the City's plans.
5. Should Council adopt the proposed zoning regulations the Mayor sends a letter to the Minister of Lands, Forests and Natural Resource Operations and request the Minister to remove any mooring buoys and any derelict, abandoned and live-aboard vessels from the Gorge Waterway in the City of Victoria.
6. The Mayor sends a letter to the Minister of Environment to inquire as to the process for having the Gorge Waterway declared a sensitive, protected ecological area.
7. The Mayor sends a letter to the Capital Regional District Board to ask for their consideration of an ecosystem study of Portage Inlet, which includes the Gorge Waterway, to inform long-term ecosystem protection strategies.


List of Attachments

Plan and aerial photo of the water lot in the Gorge Waterway
Report and GPC Minutes from August 22, 2013



Legend

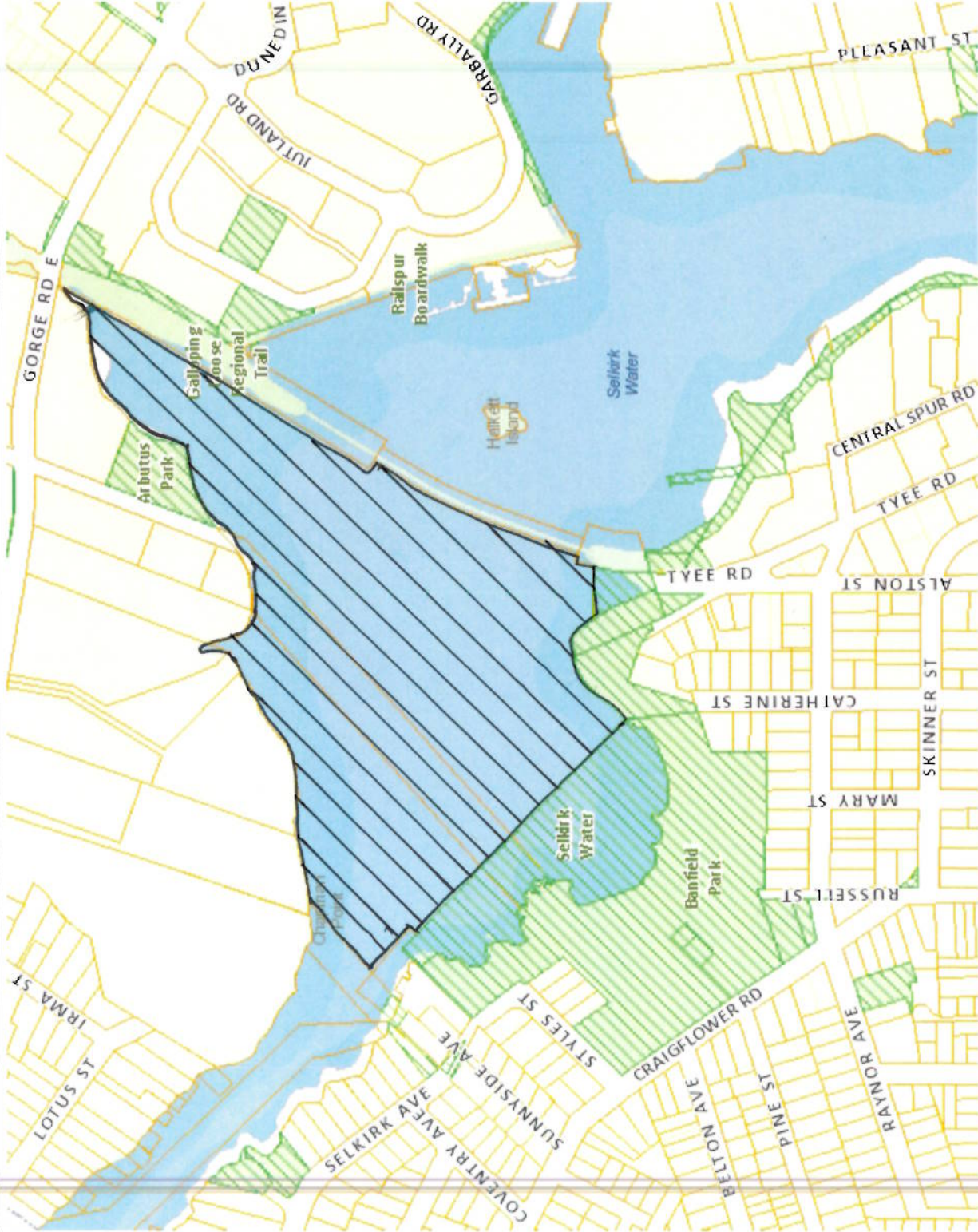
-  City Owned Parcels
-  Victoria Parcels

 **Proposed
City of Victoria
Licence area**

1: 5,356



Notes



272.1 136.04 272.1 Meters



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Legend

- City Owned Parcels
- Victoria Parcels

1: 5,356



Notes



272.1 136.04 272.1 Meters

NAD 83 CSRS UTM Zone 10N

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Governance and Priorities Committee Report

Date: July 26, 2013 **From:** Robert Woodland
Subject: Regulatory Principles for Selkirk Water Northwest of the Selkirk Trestle

At the June 13, 2013 meeting Council adopted the following resolution:

1. *That Council direct staff to report back to Committee with draft principles regarding objectives for the management of the Selkirk Waterway; then*
2. *Meet with representatives of the Provincial and Federal Governments to gain information about the management of the Selkirk Waterway and explore possible changes to marine navigation rules.*

Currently, the public has a right to transit and moor in the Selkirk Water, which arises from the Provincial Crown's ownership of the water lot and from the Federal Crown's regulation of the navigable waterway. The City understands that any proposed City management scheme must respect and accommodate these rights. To that end, a proposed City management scheme would likely involve mooring or anchoring permits that set reasonable limits on the number and condition of vessels in the Selkirk Water, and on the duration of stay. Further objectives of a City management scheme could include protection of marine habitat and maintaining a defined navigation channel through the waterway.

Proposed Management Plan Objectives

The following City management plan objectives are believed to be consistent with the Province's community use and recreation objectives for the Selkirk Water:

1. To reduce the impacts of moored vessels on the environment through municipal regulation.
2. To reduce the impacts of moored vessels on the community through municipal regulation.

Proposed Regulatory Approach

These proposed regulatory approaches would support the management objectives:

- Implement a system of mooring or anchoring permits in the Selkirk Water to:
 - Regulate the number of vessels that may moor/anchor in the Selkirk Water;
 - Regulate the period of time that a vessel may moor/anchor under the permit;
 - Require vessels mooring/anchoring to have a sewage holding tank;
 - Require vessels mooring/anchoring to be seaworthy.
- Delineate areas where vessels are prohibited from mooring or anchoring in order to:
 - Protect wildlife and marine habitat;
 - Keep a clear navigation channel through the waterway.

The following are the intended outcomes of the *Management Plan Objectives*:

- Reduction in sewage discharged from moored vessels;
- Reduction in other waste discharged from vessels (fuel, lubricants, garbage);
- Reduction in the number of abandoned vessels and/or the amount of vessel debris;
- Reduction in noise and nuisance activities caused by vessel occupants;
- Healthier marine ecosystems within the water lot;
- An unobstructed navigation channel.

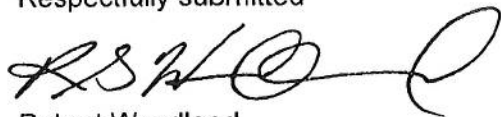
Discussion with Transport Canada is required to ensure that these proposed objectives and approaches can be supported by Federal marine regulations. If Transport Canada is supportive then their input will be reviewed with the Province in the context of the proposed objectives and approaches. A report summarizing these discussions will be brought to Council before any further action is taken by the City.

Once the discussions are complete the City will have a better sense of the potential options for regulating vessel mooring/anchoring in the Selkirk Water. A budget for each option will need to be developed so that Council may determine whether the City has the capacity and resources to undertake a regulatory role. Before implementing any option community consultation is recommended.

Recommendation:

1. That the Committee approve the proposed *Management Plan Objectives and Regulatory Approach* for discussion with the Provincial and Federal governments; and
2. That a further report be prepared for Committee once these discussions are complete.

Respectfully submitted



Robert Woodland
Director, Legislative & Regulatory Services



Acting General Manager
Corporate Services

Report accepted and recommended by the City Manager:


Gail Stephens

6.2 Regulatory Principles for Selkirk Water Northwest of the Selkirk Trestle

At the June 13, 2013, meeting Council adopted the following resolution:

1. That Council direct staff to report back to Committee with draft principles regarding objectives for the management of the Selkirk Waterway; then
2. Meet with representatives of the Provincial and Federal Governments to gain information about the management of the Selkirk Waterway and explore possible changes to marine navigation rules.

Currently, the public has a right to transit and moor in the Selkirk water, which arises from the Provincial Crown's ownership of the water lot and from the Federal Crown's regulation of the navigable waterway. The City understands that any proposed City management scheme must respect and accommodate these rights. To that end, a proposed City management scheme would likely involve mooring or anchoring permits that set reasonable limits on the number and condition of vessels in the Selkirk water, and on the duration of stay. Further objectives of a City management scheme could include protection of marine habitat and maintaining a defined navigation channel through the waterway.

Proposed Management Plan Objectives

The following City management plan objectives are believed to be consistent with the Province's community use and recreation objectives for the Selkirk Water:

1. To reduce the impacts of moored vessels on the environment through municipal regulation.
2. To reduce the impacts of moored vessels on the community through municipal regulation.

Proposed Regulatory Approach

These proposed regulatory approaches would support the management objectives:

- Implement a system of mooring or anchoring permits in the Selkirk water to:
 - Regulate the number of vessels that may moor/anchor in the Selkirk Water;
 - Regulate the period of time that a vessel may moor/anchor under the permit;
 - Require vessels mooring/anchoring to have a sewage holding tank;
 - Require vessels mooring/anchoring to be seaworthy.
- Delineate areas where vessels are prohibited from mooring or anchoring in order to:
 - Protect wildlife and marine habitat;
 - Keep a clear navigation channel through the waterway

The following are intended outcomes of the Management Plan Objectives:

- Reduction in sewage discharge from moored vessels;
- Reduction in other waste discharge from vessels (fuel, lubricants, garbage);

- Reduction in the number of abandoned vessels and/or amount of vessel debris;
- Reduction in noise and nuisance activities caused by vessel occupants;
- Healthier marine ecosystems within the water lot;
- An unobstructed navigation channel.

Discussion with Transport Canada is required to ensure that these proposed objectives and approaches can be supported by Federal marine regulations. If Transport Canada is supportive then their input will be reviewed with the Province in the context of the proposed objectives and approaches. A report summarizing these discussions will be brought to Council before any further action is taken by the City.

Once the discussions are complete the City will have a better sense of the potential options for regulating vessel mooring/anchoring in the Selkirk water. A budget for each option will need to be developed so that Council may determine whether the City has the capacity and resources to undertake a regulatory role. Before implementing any option, community consultation is recommended.

Action: Councillor Isitt moved that Committee:

1. Approve the proposed *Management Plan Objectives and Regulatory Approach* for discussion with the Provincial and Federal governments; and
2. That a further report be prepared for Committee once these discussions are complete.

Committee discussed:

- The risk of the City having to assume the indemnity or the cost of removing derelict vessels and any environmental damage that could occur.
- Does the City want to add another service? Perhaps this could be done through a subcontract and further discussions with CRD or the Greater Victoria Harbour Authority to manage the marine park.
- The recommendation does not commit the City to any path but is to contemplate the issue with full information. It provides a path of more responsible use of water ways for the community.
- This is a problem not unique to Victoria and the biggest concern is who will bear the regulatory costs.
- The rules already exist, but they are not being enforced by the Federal and Provincial Governments. Why should the City use our resources to work on this? If the City takes the lead on this problem we will be saddled with it.

Action: Councillor Isitt moved that Committee consider the following amendment:

1. Approve the proposed *Management Plan Objectives and Regulatory Approach* for discussion with the Provincial and Federal governments; **including ongoing Provincial or Federal funding to remove vessels from the waterway; and**
2. That a further report be prepared for Committee once these discussions are complete.

On the amendment:
CARRIED 13/GPC374

For: Mayor Fortin, Councillors Coleman, Gudgeon, Isitt, Madoff,
Thornton-Joe and Young
Against: Councillor Helps

On the main motion as amended:
CARRIED 13/GPC375

For: Mayor Fortin, Councillors Coleman, Gudgeon, Isitt, Madoff,
Thornton-Joe and Young
Against: Councillor Helps