



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Canadian National Exhibition Association (CNEA) Permit for West Channel Water Shows

Date: September 5, 2017

To: Executive Committee

From: Deputy City Manager, Cluster A and City Solicitor

Wards: Wards 14 and 19

REASON FOR CONFIDENTIAL INFORMATION

This report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

This report provides information on the Acting City Manager's decision and legal rationale to issue a one-time permit to the Canadian National Exhibition Association ("CNEA") for a period of 28 days from August 9 to September 5, 2017 including a 10-day set up and tear down period at the Marilyn Bell Park Watercourse ("West Channel"). This is 18 days in excess of the Council direction to restrict the hosting of motorboat-towed competitions and events within the West Channel to a combined total maximum of 10 days per calendar year.

RECOMMENDATIONS

The Deputy City Manager and the City Solicitor recommend that:

1. City Council receive this report for information.
2. City Council direct that the confidential information contained in Confidential Attachment 1 remain confidential in its entirety, as it relates to the receiving of advice that is subject to solicitor-client privilege.

FINANCIAL IMPACT

This report has no financial impact.

DECISION HISTORY

At its meeting held on July 8 - 11, 2014, City Council, in its consideration of item PE28.1 "Legacy Usage of the West Channel 2015 Pan/Parapan American Games Venue" adopted a recommendation from the Parks and Environment Committee restricting "the hosting of motorboat-towed competitions and events within the West Channel to a combined total maximum of 10 days per calendar year, including all days which interrupt public use, so as to ensure access to and quiet enjoyment of the surrounding parkland by residents".

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PE28.1>

At its meeting held on January 31, 2017, City Council, in its consideration of EX21.4 "Amendments to the Master Agreement between the Canadian National Exhibition Association, Exhibition Place and City of Toronto" authorized the City Manager to finalize and execute the Master Agreement relating to the operation of the Canadian National Exhibition (CNE) between the City and the CNEA. The body of the report did not specifically reference a licence agreement for Marilyn Bell Park as the terms and conditions had not yet been negotiated. The licence agreement was included in the list of schedules to be attached to the Master Agreement, which was included in the report as an appendix.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX21.4>

COMMENTS

The Marilyn Bell Park Watercourse is a legacy venue funded through the TO2015 Pan and ParaPan American Games. During the 2015 Games, the West Channel served as the venue for Open Water Swim, Wakeboard and Water Ski, and the swim segment of the Triathlon. Prior to 2015, the West Channel was the venue for various open water swim events, dragon boat races and other flatwater boating events hosted by community organizations and the surrounding boat clubs, including the Argonaut Rowing Club, and Great White North Inc.

In 2016, Parks, Forestry and Recreation issued a permit to the CNEA for the use of the West Channel for a period of 22 days - August 15 to September 5, 2016 (including set up and tear down periods) for the CNEA Waterfront Shows. This permit was issued in error, as permitting staff were not aware of the 2014 Council direction related to the 10-day restriction (re: PE28.1 adopted by City Council in July 2014). However, it is our understanding that the local Councillor approved the use of the West Channel for the 18 day CNE water show event on a one-time basis, with the expectation that the CNEA and other parties would meet following the 2016 event to evaluate its success and any feedback received from other stakeholders and community residents. It is our understanding that this meeting did not take place.

In February of 2017, the CNEA applied for the same permit for use of the West Channel during the 2017 CNE. However, the CNEA did not pursue this permit application as they were in the process of negotiating a licence agreement with the City and the CNE for use of Marilyn Bell Park, which they assumed would also cover the use of the West

Channel. Staff from Parks, Forestry and Recreation's Business Services Unit (responsible for negotiation of licence agreements for City Parks) were unaware of the 10-day restriction and agreed to recommend (through PFR's delegated approval process) that the licence agreement for Marilyn Bell Park include the West Channel. PFR's delegated approval process requires that staff obtain approval from the local Councillor before entering into an agreement. It was only when PFR staff approached the local Councillor in July to obtain the local Councillor's approval that they became aware of the 10-day restriction.

The CNEA proceeded to enter into agreements with various parties for the 2017 CNE Water Show events as they assumed that the proposed event would go ahead as planned under either a license agreement or a permit as in the previous year.

In early August 2017, this matter came to the attention of the Acting City Manager. In consultation with Legal Services, an exception for 2017 was allowed and the Acting City Manager authorized the issuance of a permit to the CNEA on a one-time basis for the use of the West Channel for the period of August 9 to August 25, August 28 to September 4, and on August 27 beginning at 2:00 pm (on the basis that the water show will run for no longer than 18 days, and the remaining days are for set up, take down and rehearsals).

City staff will communicate to CNEA that future use of West Channel will be limited to the 10 days per calendar year by all parties (including community associations) as directed by City Council in July, 2014.

CONTACT

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SIGNATURE

Giuliana Carbone
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Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1