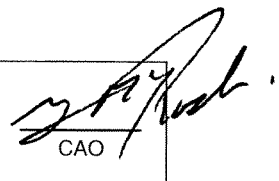


COUNCIL AGENDA/INFORMATION		
<input type="checkbox"/> Closed	Date: _____	Item # _____
<input checked="" type="checkbox"/> Reg. Council	Date: <u>Nov. 16, 09</u>	Item # <u>11</u>
<input type="checkbox"/> Supplemental	Date: _____	Item # _____

RF Director	 CAO
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DISTRICT OF WEST VANCOUVER
750 – 17TH STREET, WEST VANCOUVER, BC V7V 3T3

COUNCIL REPORT

Date: October 26, 2009 File: 1785-19
From: Raymond Fung, Director, Engineering & Transportation
Subject: **Spirit Trail Greenway Community Engagement Strategy Update**

RECOMMENDED THAT:

1. The report dated October 26, 2009 from the Director, Engineering & Transportation entitled, "Spirit Trail Greenway Community Engagement Strategy Update" be received for information.

Purpose

To provide an update to the progress on the Spirit Trail project since the Community Engagement Strategy developed by the Spirit Trail Working Group was received by Council.

1.0 Background

1.1 Prior Resolutions

At its meeting of July 27, 2009, Council received the report and presentation from Rick Gregory, Chair, Spirit Trail Working Group, entitled, "Spirit Trail Greenway Community Engagement Strategy: Working Group Report and Recommendations." Further, Council requested that staff report back on implementation and resource requirements for implementing the Report Recommendations by October 2009. This current report has been prepared in direct response to this request.

1.2 Working Group Report and Recommendations

The task of the Spirit Trail Working Group was to design a strategy for engaging the citizens of West Vancouver in a creative dialogue to implement the District's Spirit Trail Greenway, as part of a larger North Shore Spirit Trail that will connect Horseshoe Bay to Deep Cove.

The Working Group's Community Engagement Strategy included the following recommendations:

- The municipality should proceed with urgency;
- The public engagement procedure should follow the step-by-step process of Inform, Consult, Involve, and Collaborate;
- A community engagement package should be prepared;

- Agreements should be pursued with CN/government agencies;
- Re-establishing a Working Group to assist staff with the implementation of the community engagement process for the Trail should be considered; and
- An aggressive completion date for the Trail should be set.

2.0 Discussion

More specifically, the Working Group's recommendation regarding CN states:


Agreements/understandings should be pursued with CN with respect to routing within the rail corridor, prior to engagement. It would seem counterproductive to engage the public on railroad routing without having active and positive dialogue underway with the railroad stakeholders.

Unfortunately, staff have not been able to dialogue with CN in a meaningful way since their letter of February 23, 2009 (Attachment 1). Despite a meeting with CN staff in July, dissatisfaction with the lack of progress on issues led the Mayor to send a letter to John Weston, MP, West Vancouver-Sunshine Coast-Sea To Sky Country (Attachment 2) requesting his assistance in resolving this matter. Therefore, at this time, staff have not prepared a detailed implementation plan for community engagement on the Spirit Trail Greenway project. Rather, for 2010, staff plan to limit its Spirit Trail consultation activity to conducting preliminary dialogue with residents using the recommended Working Group community engagement strategies along Phase 4 segments from Seaview Walk to Horseshoe Bay where CN issues are not critical to the trail. Meanwhile, staff and elected representatives from three levels of government and from across the North Shore plan to address CN issues with a unified voice.

From a construction perspective, staff plan to focus efforts in 2010 (subject to budget approval) on the following:

- Completion of the first section of Spirit Trail from Park Royal to 13 Street, complete with signage and landscaping, such that an opening ceremony can be held in the Spring;
- Initiating works on the section along Bridge and Welch Roads, east of Capilano River to the municipal boundary with District of North Vancouver; and
- Initiating works on the Spirit Trail pedestrian/cycle bridge crossing of Capilano River.

Author:


Raymond Fung, Director, Engineering & Transportation

Attachments:

1. Letter dated February 23, 2009 from John Klaus, General Manager, BC South Sub-Region, CN to Brent Dozzi, Manager, Roads & Transportation
2. Letter dated October 15, 2009 from Pamela Goldsmith-Jones, Mayor to the Honourable John Weston, MP, West Vancouver-Sunshine Coast-Sea to Sky Country regarding Railroad Issues in West Vancouver



www.cn.ca

Western Canada Region

Région de l'ouest du Canada

John Klaus

General Manager
B.C. South Sub-Region

Directeur général
Subdivision de la région du sud

11717 -138 Street Suite 200
Surrey, British Columbia V3R 6T5
Canada
T 604-589-6504
F 604-589-6583

11717 - rue 138 Bureau 200
Surrey (Colombie-Britannique) V3R 6T5
Canada
T 604-589-6504
Tc 604-589-6583

23 February 2009

Mr. Brent A. Dozzi, P. Eng., PTOE
Manager Roads and Transportation
Engineering and Transportation Division
District of West Vancouver
3755 Cypress Bowl Road,
West Vancouver, B.C.
V7S 3E7

OPERATIONS CENTRE		
ENGINEERING & TRANSPORTATION DIVISION		
ATTACHMENT <u>1</u>		
Feb 23 2009		

Dear Brent,

Thank you for your email dated February 19, 2009 and for the opportunity to visit the site of the proposed Spirit Trail. As you know, CN appreciates the benefits of creating a recreational trail in the District. Regrettably, however, CN must decline the District's request to have the proposed trail encroach on any part of CN's right-of-way.

CN has outlined a number of safety concerns with the District's proposal, both in our original letter of December 16, 2008, and in several subsequent discussions between CN and District representatives. As you know, CN's main concern is the risk to public safety, whether as a result of a rail-related incident, or as a result of trespassing. Both of these risks are, in CN's experience, unfortunate but inevitable results of bringing the public closer to the right-of-way.

CN understands the District's view that safety risks can be mitigated by various physical barriers and other protective measures. Those measures raise concerns about CN's own access to its right-of-way that is needed at various times ranging from regular maintenance to emergency situations. In any event, any encroachment on CN's right-of-way, no matter how well protected, can only increase risk. From CN's perspective, it will not knowingly increase the risk of public safety by any degree where it is unnecessary to do so. Frankly, it is difficult to understand why the District would prefer an encroachment on CN's right-of-way to other available lands to the west that are already being used for recreational purposes and would not attract these serious risks.


.../2

CN also understands the District's suggestion that financial risks to CN can be dealt with by way of an indemnity agreement such as the one you have provided. It has been CN's experience that these agreements can be unreliable and result in protracted litigation. In any event, the consequences to CN of an incident go well beyond its immediate financial impact -- including damage to CN's safety record and its reputation. There is no indemnity that can compensate CN for those effects.

Finally, CN must comply with the federal *Railway Safety Act*, which contains an anti-trespassing provision to the effect that no person may enter on a right-of-way without a lawful excuse. In substance, the District is asking CN to legitimize trespassing on those areas that will encroach on the right-of-way. There is serious question whether CN could allow this request without breaching the letter or the spirit of the *Railway Safety Act*.

The bottom line is that as a matter of principle, CN will not permit a situation that unnecessarily invites a compromise of public safety. I hope that by providing you with this information I have made CN's final position on this matter clear, but if the District has any remaining questions, I am available to answer them.

Regards,



John C. Klaus
General Manager – B.C. South

c.c. J. Vena – Senior Vice President, Western Region, Edmonton, AB



THE CORPORATION OF THE
DISTRICT OF WEST VANCOUVER
 OFFICE OF THE MAYOR

October 15, 2009

File: 1785.16

The Honourable John Weston, MP
 West Vancouver – Sunshine Coast – Sea to Sky Country
 Suite #21, 285 17th Street
 West Vancouver, BC V7V 3S6

Dear Mr. Weston:

RE: Railroad Issues in West Vancouver

Since 2004, when Canadian National (CN) acquired publicly-owned, BC Rail Limited (BCR) from the Province of British Columbia and obtained the right to operate on the BCR roadbed under a renewable sixty year lease, jurisdictional responsibilities associated with the rail line have shifted from the provincial to the federal level. A number of unintended consequences have been experienced by the municipality as a result of this change. The purpose of this letter is to outline these issues and seek your assistance in resolving these matters.

Railroad Crossing Safety

CN is regulated by the *Railway Safety Act* and *Canada Transportation Act*, as administered by Transport Canada and the Canadian Transportation Agency (CTA) - both mandated to ensure railroad and public safety. In a letter dated July 28, 2008, Transport Canada directed CN and the District to effect improvements to all railroad crossings within the District, as a condition for continuance of anti-whistling, at a projected cost of \$8 million to the local taxpayer. CN has stated that the District is responsible for both construction and ongoing maintenance costs, without consultation with the municipality. It would seem unreasonable for the District to be suddenly burdened with significant costs for crossing improvements or subject to whistling without any meaningful discussion with CN or Transport Canada.

Railroad Crossing Maintenance

Prior to acquisition by CN, BCR billed the District annually for ongoing maintenance of all railroad crossings within the municipality. A lump sum amount of \$17,484 was paid per year up to and including 2008.

In a letter dated December 18, 2008, CN stated that as of 2009, the amount to be billed annually would be \$87,132. This amounts to a five-fold increase in one year! Further, CN's overhead charge represents 111% of the increase. The District received the letter from CN without discussion, or supporting documentation or justification for the invoice has been received to date (although we have asked).

Most recently, the District attempted to renegotiate an existing sanitary sewer crossing agreement with CN. Aside from the challenge of obtaining permission to access and survey the site, CN required of the municipality a \$25,000 agreement fee for processing. This amount is excessive relative to the work and runs contrary to facilitating inter-agency cooperation.

Spirit Trail Greenway

The Spirit Trail Greenway is to be a multi-user pathway connecting all municipalities across the entire North Shore. Within the District, the pathway is proposed to be located parallel to the rail tracks along some segments, given the relatively flat grade. To this end, the District recently submitted design drawings to CN for a section of Spirit Trail through Ambleside Park. To accommodate the works, the District requested an encroachment of up to 1.5 m within the rail right of way for a distance of 300 m with legal liabilities protected through a proposed access agreement.

In a letter dated December 16, 2008, CN stated that it would not permit any encroachment of Spirit Trail over any portion of the rail right of way. Given an existing encroachment of the park road of up to 0.5 m, CN's response would appear to contradict existing conditions in an environment, which has been established by a long history of co-existence without threat to public safety. Further, Spirit Trail construction provides an opportunity to increase safety through new fencing and screening, maze barriers at pedestrian crossings, a reduction in the number of pedestrian crossings compared to present, improved sight lines by the removal of all vegetation, and a new drainage system which diverts water away from the railroad bed.

Responses from CN regarding these issues have been most disappointing to the District. Currently no funding exists for the proposed railroad crossing improvements. The maintenance invoices greatly exceed existing budgets. Finally, rejection of the Spirit Trail Greenway is a major set back for the District and our commitment to improving the health and well being of citizens, sound transportation planning, and to the environment by reducing green house gas emissions.

We would greatly appreciate the opportunity to work together with you, to our mutual benefit.

Yours truly,



Pamela Goldsmith-Jones
Mayor, District of West Vancouver

The Honourable Shirley Bond, Minister of Transportation and Infrastructure
The Honourable Naomi Yamamoto, Minister of State for Intergovernmental Relations
Ralph Sultan, MLA, West Vancouver-Capilano
Joan McIntyre, MLA, West Vancouver-Garibaldi
District of West Vancouver Council