

Date: September 28, 2015 **File No:**
To: Eric Sorensen, City Manager
From: Mitch Moroziuk, Director of Operations
Subject: **Skaha Lake Marina Development Agreement Conditions Precedent Dates**

Staff recommendation

THAT Council, in accordance with paragraph 17.1 of the City Trio Skaha Marina – Marina Development Agreement, authorize staff to extend the conditions precedent dates contained in paragraphs 11.1 and 11.2 of the City Trio Skaha Marina – Marina Development Agreement by one year;

AND THAT Council authorize staff to extend all other dates by one year, in the City Trio Skaha Marina – Marina Development Agreement impacted by the change to the conditions precedent dates;

AND THAT Council authorize staff to work with the Penticton Indian Band to complete an environmental and archaeological impact assessment and undertake further consultation with the Penticton Indian Band;

AND THAT Council authorize staff to extend the duration of the Trio Marine Group Inc. License to Use dated January 1, 2015 for one year; and

AND THAT Council authorize staff to extend the grant of period of the Trio Marine Group Inc. Sublicense of Occupation for one year.

Strategic priority objective

The proposed development and improvements to the Skaha Lake Marina area are supportive of the City of Penticton Strategic Priority of waterfront enhancement.

Background

On June 29, 2015 Council passed resolution 347/2015, see Attachment "A", authorizing the execution of the Skaha Marina – Marina Development Agreement and the Skaha Marina – Waterpark Development Agreement. Since that time staff and Trio have been working toward removing the Conditions Precedents contained in paragraph 11 of the Skaha Marina - Marina Development Agreement. However, two issues have arisen that require a time extension to the conditions precedent dates, other dates in the Skaha Marina – Marina Development Agreement, as well as to the one year Marina License to Use and the one year Marina Sublicense of Occupation.

First, one of the conditions precedents requires that by October 1, 2015 the City, Trio and the Province of BC will execute a joint lease for the Marina Lands. The City has just recently received the Joint Lease Agreement and is in the process of reviewing it. There will not be enough time for both the City and Trio to review the agreement, address any required changes and for the City to obtain a resolution from Council to execute the Joint Lease before the conditions precedent date expires.

Second staff have also been in discussion with the Penticton Indian Band who have indicated that they would like investigative work related to environmental and archaeological impacts and further consultation completed prior to disturbing the land.

This information has been communicated to Trio and various extension options have been presented. Trio has requested that the City grant a one year extension to the conditions precedent dates and to the License to Use and Sublicense of Occupation.

Financial implication The Financial implications are currently unknown.

Analysis

The City and Trio are still desirous in developing the Skaha Lake Marina and Waterslide. Granting a one year extension to the conditions precedent dates, other dates in the Skaha Marina – Marina Development Agreement, as well as to the one year Marina License to Use and the one year Marina Sublicense of Occupation will provide time for further consultation with the Penticton Indian Band on environmental and archeological issues brought forward to occur.

Alternatively Council could elect to not extend the dates. This would mean that the Skaha Marina – Marina Development Agreement would die once the conditions precedent dates had passed and they have not been waived or removed. The Skaha Marina – Waterslide Agreement would still be live as the conditions precedent dates do not come into play until March of 2017. Council could also provide other direction to staff.

Alternate recommendations

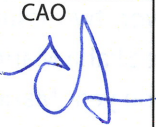
Alternative 1 THAT Council not extend the conditions precedent dates for the Skaha Marina – Marina Development Agreement and not extend the duration of the one year Trio Marine Group Inc. License to Use and the grant of period of the Trio Marine Group Inc. Sublicense of Occupation.

Alternative 2 - THAT Council provide other direction to staff.

Attachments Attachment "A" – June 29, 2015 Resolution 347/2015

Respectfully submitted,

Mitch Moroziuk P.Eng. MBA
Director of Operations

CAO


Attachment "A" – June 29, 2015 Resolution 347/2015

4.1 Skaha Marina Area Development Agreements

347/2015 It was MOVED and SECONDED

THAT Council receive this report for information;

AND THAT Council after:

- Reviewing the Amended Skaha Marina – Marina Development Agreement, contained in Attachment "A" to this Council Report;
- Reviewing the Amended Skaha Marina – Waterpark Development Agreement, contained in Attachment "B" to this Council Report;
- Listening to citizen comment regarding the proposed marina and waterpark development.

Select the following alternative:

THAT Council authorize the Mayor and Corporate Officer to execute the Amended Skaha Marina – Marina Development Agreement and the Amended Skaha Marina – Waterpark Development Agreement as contained in Attachment "A" and "B".

CARRIED

Mayor Jakubeit and Councillor Sayeed, Opposed