

Special Council Meeting
City of Penticton, Trade and Convention Centre
273 Power Street, Penticton, B.C.

Wednesday, November 23, 2016
at 6:00 p.m.

- Present:** Mayor Jakubeit
Councillor Sentes
Councillor Watt
Councillor Picton
Councillor Konanz
Councillor Sayeed
Councillor Martin
- Staff:** Mitch Moroziuk, Acting Chief Administrative Officer
Dana Schmidt, Corporate Officer
Blake Laven, Planning Manager
Angie Collison, Deputy Corporate Officer
- Guests:** John Singleton, Moderator
Tom Dyas, Owner
Tom Hedquist, Owner
Jeff Robinson, Trio Legal Counsel
Tyrone Duerr, City Legal Counsel

1. Call to Order

Mayor Jakubeit called the Special Council Meeting to order at 6:06 p.m.

2. Adoption of Agenda

516/2016

It was MOVED and SECONDED

THAT Council adopt the agenda for the November 23, 2016 Special Meeting of Council as presented.

CARRIED UNANIMOUSLY

Mayor Jakubeit welcomed the community and introduced Council, Staff, Legal Counsel and Trio Marine Group Inc. The moderator reviewed the process of the meeting.

3. Skaha Lake Marina and Water Park Development

3.1 Presentation from Mitch Moroziuk, Interim Chief Administrative Officer

The Interim Chief Administrative Officer provided Council and the community with an overview of the Revised Skaha Lake Marina Development agreements.

3.2 Community input (3 minutes each)

- Lisa Martin, Stocks Crescent, long and frustrating 18 months, 5200 members Save Skaha Society, protest, law suits, voicing opposition, stayed true to protect green space in the park. Met with City and Trio, time to come to negotiated resolution. Upon viewing revised agreement appears occupies more water front, do not support concession. Example of City letting Trio get what it wants, soured on entire business relationship and plan to commercially develop Skaha Park, sever ties with Trio and end fiasco once and for all.
- Gerry Karr, Stocks Crescent, Council in real mess, compounded with terrible process, how do you revitalize nature, valuable service through health and environment, need peaceful places like this park, don't need another Coney Island. Gone downhill, thought going to listen, new revised plan nothing to address objection to Skaha green space, unsettled and two days to digest info, united against stubborn council who wants their way, do not trust, get rid of developer, will be the cheapest, regroup and develop plan to develop marina which is where this all started.
- Gerry Gilligan, Penticton Avenue, report should not be approved, subsidy from City to Trio, could trigger cancelation fee of approx. \$ 200,000 exclusive rights to beach for 29 years, Trio failed to secure financing from lenders, failed to gain public trust, boycott by many, pull plug on Trio, end the relationship with Trio and instruct staff to invoke clause to expel Trio.
- Phil Mushin, pull Penticton to 21st century, make decision on development to move this city forward, do not cave in, need better development down there, Trio don't give up, this city will stagnate, wont attract development.
- Ted MaCarr, Abbott Street, why didn't council and staff learn from experience, Okanagan lake park saved from being hotel by group of citizens, urge to consider rejecting Trio proposals, experience leads to good decision making, why didn't use past experience in this case.
- Jack Bertram, Abbott Street, don't like how this was handled, don't like secrets.
- Gary Seba, Perkins Crescent, Trio did not meet time line of October 31, contract null and void. Why here tonight spending more tax payer's money?
- Dwayne Martin, Stocks Crescent, revenue projection for agreements should be audited independent third party, waterslides went broke, use third party valid number for decision making process.
- Sharon Hickey, Churchill Ave, dragon boat has 400 members, festival brings 2500 athletes, economic impact on city, small boathouse at Skaha, public consultation prior, any expansion of boat house if dragon boat club continues to grow. Will they be a tenant of Trio or City?
- Delores Rose, Yorkton Avenue, serve all citizens of Penticton, don't feel that is being done, what size hammer does Trio have over head? So concerned about pleasing Trio when there is opposition to this proposal.

- Sandy Miscall, Nelson Street, why did Kelowna pay 2 million to make into parkland, Lake Country bought railroad track to be made into parkland, marina project up for tender?
- Sharon Halso, dragon boat member, storage of boats, learned from council in Peachland never give up green space or park to developers.
- John Archer, Penticton Avenue, previous Iron Man, trained in Okanagan, over years intimate with beaches and parks on lake, written to Herald, destruction of esthetics of beaches commercialization, appalled by tents for tattoos and massages, cultural heritage, email to council prior to letter published for consideration and asking for acknowledgment of email, why no one had the curtesy to respond to my email.
- Emery Wilson, Brandon Avenue, waterslide concept gone, why exclusive part of the beach still in this agreement.
- Chris Staymar, Lee Avenue, come a long way see waterslide put down, like to hear from Trio group, why should we still support anything they do in our city, like to know why waterslide important, financially don't make any sense to us at all, what was in it for them in the beginning, why trust them now.
- Nicki Morris, Derenzy Place, thank council for reviewing, proud member of Save Skaha Society, not happy with first proposal, happier with this. Do you have any concerns Councillor Sayeed as you stated opposed all along. What are the limitations of beach space by Trio?
- Maureen Chatham, Yorkton Avenue, cynical, don't trust what told by politicians, revisions, don't understand when first contract didn't get going whole thing torn up, concerned with length of contract, not sure what new changes, 29 years too long. Should be federal, provincial, first nations, having say in what goes in marina area and lakes, any environmental studies done?
- Ron Smullen, Van Horne Street, cannot buy any form of restriction or limitation on green space, thank mayor for responding to my emails. Facebook has very bitter and angry people out there, grey hair set are being blamed wrongly for lack of progress and lack of consideration. Hope each one here can find a way to close our mouth and listen, two ears and listen respectfully to those who differ from us, seek to find thing in our city to celebrate, find ways to build on those.
- Connie Salmark, Roy Avenue, find a solution, encourage everyone to be optimistic, do you believe in climate change, need to have plan for resilience, climate change is real, money to be made in research and development resiliency, make our economy flourish, avenues to explore, same effort to broadening scope.
- Gerry Gilligan, Penticton Avenue, mayor will you make a motion to consider removing trio from this project? Feel lost the trust of the public, 18 months of trauma will not go away as long as Trio is part of that park.
- Barb Hoolaeff, Spruce Place, see Skaha Park from home, new proposal existing marina with restaurant, in time boathouse and concession stand expanded, anything more?
- Ben Amos, Naramata Road, déjà vu, 14 and 15 years ago development of Okanagan park for hotel complex, protect our park land, proposed development, court case and referendum, Skaha park in perpetuity open and free use for all, permanent stage for east end of park, this will not go unchallenged, how do you assess referendum 2002-24.
- Lyla Parsons, Edgewood Drive, lease the parks for five years, heart attack when heard 29 years with two five year extensions. Nothing has changed in second proposal, if need extra amenities, should be done by city. We own it, we pay our taxes, if more taxes will pay, our park, our amenities, against any commercial entity on park for more than five years, extra consultation, signed agreement when told we didn't want this waterslide so how can we trust you.
- Sabina Moss, Rigsby Street, if Trio is willing to spend 1.5 million why does the city have to give \$38,000 for rent and taxes? Why doing this for Trio?

- Jenna, Trio wants control over exclusion area, Trio doesn't want to spend the money and have the City allow massage, bocce, and other commercial set up.
- Jake Kimberly, Lakeshore Drive West, read statement from Gary Denton he writes, after many months find conclusion is no agreement at all, favor abandon agreements by city council, lost any remaining trust in city council regarding this issue. Cannot take a referendum on signed contract, tail wagging the dog, 2014-19 housekeeping bylaw for height in park 12m to 16m zoning approved, June 9, 2014, road closure 2014 enhance waterfront, accommodate some structures passed unanimously, public hearing three and half hours, presentation protecting park it took less than 15 minutes for this council to decide this contract. Should have postponed decision of council. Consultation will take place if amendment to agreement, consultation was heard for this agreement, can we trust that this council will listen? My thought is no, cannot trust you. Public land, you are responsible, not the contractor, buy this deal out or let's hear the true story in court.
- David Lindsay, Eckhart Avenue, concern with procedure, if build marina on lake, need permission of Canada, consultation with First Nations, two days' notice of new agreement is unacceptable. Skaha Lake is going to look like Okanagan Lake, procedures not being followed, have the integrity to take the stand on something, have intestinal fortitude, rectify situation, stand up for us, we do not want commercial development in our park.
- Hanna Hyland, Elm Avenue, may be limited to marina area but it is still marriage what this current city and planners have married together to take away our park, cannot believe it is just the marina area, have to get permission from lots of people before you can develop, more than 5500 people signed before, hear and do what is best for the community, saying no deals, no compromises.
- Janet McIver, Stocks Crescent, clarification, who what where when why how Trio bestowed upon most favorite status in city, only interest in marina, after he said didn't want any competition outside marina, wibit conflict for marina?
- Nelson Meikle, we put out press release yesterday, bylaws and federal laws not followed, 2013 expression of interest, Penticton Citizens First have requested city agree not to sign any further agreement with Trio or any other interested party until May 2017 when a new expression could be presented to residents. Two businesses have put names forward not heard back from city, encourage city to ensure all consultation take place prior to signing. Sufficient notice given to citizens of Penticton, comply with laws, two days' notice is unacceptable, hold civil case until May 2017. Consultation required and approved federal, provincial, municipal, native bands. Let's move forward following all laws, not just the ones people think they have.
- Lynn Crassweller, Atkinson Street, why first right of refusal on imaginary concession stand? Do not agree to some unknown business that takes highly valued land in the city, little red line can get moved anywhere, on December 1 will vote on this deal, January 2017 one month after the vote will receive marketing plan and revenue expense statement, how can you make an informed decision without financial info? You cannot. Poor financial trade off and bent protocol. Are all businesses getting this kind of deal? Many man hours of the city help to enhance this business. Dissolve this deal with Trio.
- Barb Hoolaeff, Spruce Place, numerous guest go to park, accosted to sign petition, signatures on petition doesn't mean much to me, calling for expulsion is vindictive, go forward, no opposition to Loco Landing, Patio, Senior Centre or pickle ball.
- Doug Lacosta, Douglas Avenue, sublicense? Intend to complete PIB fisheries aquatic assessment?
- Victoria Richie, Van Horne Street, happy with new agreement, what are you doing to gain support with first nations on this project? What environmental standards are you being put up to for the development of this project?

- Van Horne Street, park should be accessible and affordable to everyone, concerned with 30 year lease, paid parking, great give away of prime lakeside real estate, it's amazing let's keep it that way, disappointed at council for ignoring public at rally and petition, exempt Trio from new Parks and Recreation policy, figure out policy and how these guys might fit into it, what part of no don't you guys get.
- Dennis O'Gorman, Pharrell Street, Parks and Recreation Master Plan, vision, focus on people and not commerce, community input, listen to it, outdoor rec amenities, establish commercial uses in park, public engagement prior to approving, worth more effort, inconsistent with what said in first round of consultation.
- Tom Schultz, Corry Place, Trio considering the massive opposition, James Miller survey, will you be good corporate citizen and not squeeze for everything they've got?
- Carolae Donahue, Fintry Road, 2015 mid-July and August rally held stop commercialization, this meeting should have been held last June. If you'd have followed the democratic process, if you'd listen to those people, you wouldn't have signed the agreement. That is the biggest flaws that happened, lost trust, say goodbye to Trio and stop this community being divided, let's start again and come together as a community.
- James Palanio, daughter disappointed no water slide or splash pad, 11 and 8 years old, don't see many that age here, support new agreement, move forward, hope allow people of tomorrow to choose their own destiny, don't take away the people of the futures ability to decide what they want in their time.
- Randy Gallagher, Trout Creek, business is watersports, boat rental competition with Trio at Skaha, assisted Trio when they started, hats off to abuse taking tonight, almost got this figured out, concerned as business man, need to do due diligence, know your numbers, if marina cannot support itself not viable business, we are one of two and if RFP we'd bid on it, we own wibit, process in Penticton is lengthy, First Nation, environment process, don't think you have done due diligence in waterpark, one wibit in this town is enough, we would like opportunity to bid on proper RFP process.
- Ron Shoullahan, Penticton Avenue, Trio, in your restaurant you were serving alcohol before having a licence.
- Sharon McClennon, Atkinson Street, Trio met all commitments made prior to this time? first rights for all amenities in park, public process is people get to bid, should be able to have people making proper commitment, should be no first rights.
- Frank Deluuew, Beattie Court, parking, Trio will control and maintain, boat parking area?
- Laurell Wicket, Churchill Avenue, mystery in process, mystery remains, amenities, don't know what those are, why wasn't a simple contract negotiated for just those developments, revenue generation for waterslide, what is keeping you through this process? Don't believe concession and boat house.
- James Miller, Penticton, moderator cost, would have done for free, marina operator, community built on volunteers, put together a volunteer community, independent yacht club would be a great idea, not allow Janine to bid, first nations, taking kids away from families, going to heal this with first nations, everyone can afford the beach. 29 year lease, Global Spectrum bids every five years, what is next closest long term city lease?
- Jennifer Liew, Norton Street, how many years are you going to forgive taxes for Trio?
- Joanne Montgomery, Hatfield Avenue, not a boater, will geology of area will support 100 slip marina? Is the land marina on also designated park land? Is a restaurant a permitted use in a park area?

- Gerry Karr, Stocks Crescent, question of tendering, process began as bad idea with EOI presented by city and openly invited commercialization of Skaha park, make adventurous and vibrant through commercial development, EOI led to RFP and selection of Trio, if asked for tendering of a marina, would have received a different response. When talking about amenities and commercialization of parks, amenities is subservient or subordinate, not all natural parks but natural assets, we all recognize that, primary purpose many can and should be developed through community initiatives, look at splash pad in Skaha park now, developed by Rotary, didn't require developer, do not need commercial development to enhance use of these parks.
- Gail Bay, Yorkton Avenue, how much legal costs? Why FOI secret?
- Ron Smyle, Van Horne Street, stupid people all over, barb wired is one of them, inference that protestors, need further evidence, Trio has first kick, invalid precedents, golf club was empty pasture, never spent a penny, golf and country club nonprofit society, loco landing was mini golf in 60s, one reasons was historical precedent.
- George Janzen, Wilson Street, 29 years and 10 years, object to lease term length, no business needs 39 years to recoup their profit, couldn't stay in business if that poor of a business man.
- Lynn Kelsey, Oakville Street, concerned with secrecy of termination agreement, if either side doesn't follow contract we are done. Better quality food at concession is disrespectful to current concession operator. Don't trust you to listen, number of other things, cart continually in front of horse, decisions made too quickly. Policy on amenities and commercial use of park, no.
- Slo Berry, South Main Street, said about current concession, they have improved that place and made it so comfortable to use and access, not fancy but is suits that place. Went to Trio website, picture of lake with nothing else on it, peaceful place, deceiving. Go to lake once a day, was there when Trio ripped down beaver lodge, showed me heavy handed approach, installation of water line, serve waterslide, coincidence I guess, read underutilized, it's not generating income, that is when something isn't utilized, economy isn't only dollar based, don't confuse change with progress, keep your hands off her, she don't belong to you. Gotta know when to hold them know when to fold them know when to walk away.
- Acacia Place, question for City Attorney, how could recommend 29 year lease to council, would like a 10 year lease with option to review.
- Robert, Pineview Road, 2011-23 P2 parks and rec and permitted uses, if you massaged this one to fit this situation, how many others have you massaged.
- Lyle Carson, Fisher Drive, presume Trio went into this agreement to make money, why pick waterslide when waterslides going broke and by the way side?
- Judy Schiele, Lee Avenue, Trio exempt from parks master plan, will others in park be exempt? Lease and taxes, if renting house from city would have to pay my rent every month, why Trio doesn't have to pay their rent every month? How much to walk away? In favor of marina, would like to see that improved.
- Joy Thompson, South Main, Trio, boat house, concerned really going to do there, what motivates you to do this, what is advantage to do this? How does a boat house fit in?
- Helen Trevers, Pharrell Street, operated concession on beaches for five year contracts, looked for other opportunities in off season, didn't ask city for longer term leases, didn't feel needed, don't know why it has to be 29 years and monopoly on beach.
- Sharron Devlin, Abbott Street, thank you young people for coming and Trio, consultation process doesn't just involve PIB but seven bands in total, any revenue generating opportunities sole source proposal, where would they put water amenity with severe drop-off on the beach?
- David Lindsay, Eckhardt, Avenue, question for Interim CAO.

- Ron Smyle, appears OCP is guideline, is it possible to have iron clad bylaw for parks that must be approved of majority of eligible electors?
- Gary Seba, Perkins Crescent, meeting is public input on revised marina development, what are these agreements on? They failed to meet conditions of?
- Diana Varga, Haynes Avenue, status of original contract, glossed over, why isn't that not being settled before now?
- David Lindsay, Eckhardt Avenue, mentioned restaurant auxiliary to marina, parking lot for boats, absurd to park boats where alcohol being served, don't see rationale, cases determined that issue.
- Patty Quinn, Yorkton Avenue, observing everything tonight, went to council meeting perception is everything, Trio caught up in a lot of this, marina great, walk park everyday, dragon boats everyday, where will you put a waterslide that floats in the lake? Don't forget to listen to the people who voted you in. Think dedicated people trying to do the best you can, where will you put a floating slide thing when you have dragon boats on the lake?
- Tom Schultz, Corry Place, now we know Trio not good corporate citizens, not walking away from their dreams, significant damages, heading for fist fight, if know going to cost more, Save Skaha and Nelson will you vote to terminate agreement?
- Brian Cawthorn, Blairmore Crescent, no need for more debate, shut it down, leave Skaha park free of charge, that's the end of it.
- Jake Kimberly, met with the city five years ago? Procedure through public hearing process, concerned with process now because of what happened June 29, council made a decision to approve, know the public process is crucial to everything city does, heavy fines if violate rules of Community Charter. This could have been avoided by this Council by stopping this and making sure everything was looked after, this council has gone through consultation and ignored it, agreed with comments that if it is minor amendment fine if major amendment got to go to referendum.
- Lynn Kelsey, Oakville Street, secrecy of termination agreement, clause that says if this one party or citizen says no foul no harm, concern with December 1 timeline to make a decision, I don't think you have enough time to process what has been said, don't feel that has been happening, lawyers speaking inflamed the situation tonight.
- Lance Bishop, Wiltse Blvd, moved here when five night clubs, line up of cars, town rocked, something happened 15 years ago, sliding backwards, gave away jobs, call centre, turned away prison, town gone backward 30 years, company wants to invest millions and we have people telling them to leave, how many have come and said I want to invest, previous council kicked them out, voted in on youth movement basis, if we don't like what they do we can vote them out. My future is here, I am in fifties, son is ten, he may work at waterslide, that is income, put through college, better tax base, need tax base, people willing to invest in Penticton, Council stay the course.
- Nelson Meikle, clear up question on contract null and void, current Sept 28, 2015, alternately could not elect to extend the dates, this would mean the agreement would die once dates had passed, liquor licence, did not get restaurant and food licence until August.
- Maureen Chatham, Yorkton Avenue, lawyer for Trio, going by original contract, scares me, look at how much money lawyers charge, see lawyers getting rich here, tax payers holding the bag, upset most is feel backroom deals done, everything secret until recent, don't want Skaha Lake to look like Kelowna.
- Randy Gallagher, am one of the businesses prepared to enter into RFP if marina comes up, in marina business, know what is going on, anyone who has a boat knows we need marine mechanics, why Trio wants exclusive beach rights, take marina and do the best job with that.

4. Adjournment

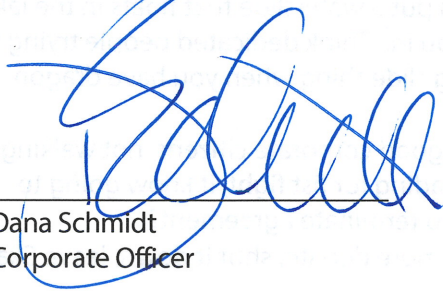
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It was MOVED and SECONDED

THAT Council adjourn the Special Council meeting held on Wednesday, November 23, 2016 at 11:02 p.m.

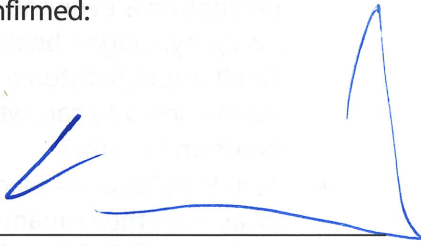
CARRIED UNANIMOUSLY

Certified correct:



Dana Schmidt
Corporate Officer

Confirmed:



Andrew Jakubeit
Mayor