

July 10, 2014

DISTRICT OF LANTZVILLE
IN - CAMERA MEMORANDUM

To: Mayor & Members of Council
From: Twyla Graff, CAO
Re: CoN/DoL Draft Water Agreement

Council will recall that on June 27, 2013, Council of the City of Nanaimo voted yes to providing water to the District of Lantzville by directing city staff to finalize a water supply agreement with the District of Lantzville. City staff then spent the next several months preparing the agreement which received City of Nanaimo Council approval on February 24, 2014 (see Draft February 14, 2014 Lantzville/Nanaimo Water Agreement attached).

At Council's In-Camera meeting held March 10, 2014, the District's legal counsel, Mr. Don Lidstone was present and took this opportunity to provide Council with an overview of the agreement and suggested a number of amendments should be made. Further, direction received by Council at that same meeting is as follows:

MOVED/SECONDED that staff and the District's solicitor be directed to meet and negotiate with City of Nanaimo staff and its legal counsel amendments to the draft Lantzville/Nanaimo Water Agreement. Further, that the terms and conditions identified above and being negotiated, remain in-camera until such time as Council resolves to rise and report.

Since receiving this direction, negotiations regarding the draft water supply agreement have been ongoing and to date, legal counsel and staff of the City of Nanaimo, along with legal counsel and staff of the District of Lantzville have negotiated and come to consensus with the amended draft dated July 4, 2014 (attached) with the exception of the highlighted text. {NOTE: highlighted text were items added by the DoL on July 10, 2014 and therefore, yet to be presented to and accepted by the CoN}.

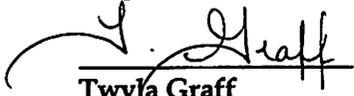
A number of changes to the original agreement approved by City of Nanaimo Council have been made with the most significant being:

- Amending the structure of the agreement to reflect operational in nature vs. the initial agreement which set the criteria for a capital liability. This has been achieved by amending the term 'charge' to 'fees' throughout the agreement. This amendment to the structure of the agreement eliminates the requirement of the District to obtain elector assent prior to executing the agreement.
- Striking section 15 (d) - Cost Sharing for Other Services
- Certainty as to when financial obligations are expected to be met (i.e., at the time of physical connection to the CoN water system vs. at signing of the agreement)
- Language that addresses that Nanaimo shall endeavour to equalize the effect of the water reduction on uses and consumers within Nanaimo and Lantzville should a water shortage event of Force Majeure

As a result of the number of amendments to the original agreement approved by CoN Council, both staff and legal counsel of the District will be requesting that the amended agreement be presented to CoN Council for their approval.

In the interim, this agreement is being presented to Lantzville Council for your review and comment prior to forwarding to the City of Nanaimo for their consideration and approval.

Respectfully submitted



Twyla Graff
Chief Administrative Officer
District of Lantzville

Attachments: **Lantzville/Nanaimo Draft Water Agreement dated July 4, 2014**
 Excerpt of In-Camera Council Meeting Minutes dated March 10, 2014
 Lantzville/Nanaimo Draft Water Agreement dated February 14, 2014 (approved by CoN Council)