



Council Report

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Date: February 11, 2025 File No: 2380-20
To: Anthony Haddad, City Manager
From: Sheri Raposo, Land Administrator

Subject: **Sub-License to Use Agreement: Penticton Water Park Ltd. operating as Splash BC**

Staff Recommendation

THAT Council refer an extension for a one (1) year Sub-License to Use Agreement to Penticton Water Park Ltd. operating as Splash BC, for the use of approximately 0.25 hectares of Okanagan Lake, for a floating water park, and a portion of Okanagan Lake Beach for an operations tent and lifejacket storage area, and issue an RFP for an aqua park provider for a five (5) year term commencing operation for the 2026 season to the Parks and Recreation Advisory Committee for their review and recommendation.

Strategic priority objective

Vision: A vibrant, resilient and healthy waterfront city focused on safety, livability and vibrancy.

Background

Penticton Water Park Ltd., operating as Splash BC (Wibit), is a family-run business that has become a popular summer attraction. It offers an innovative way for both locals and tourists to enjoy water activities. This giant floating playground features climbing walls, monkey bars, slides, trampolines, and more.

They have expanded their Water Parks business over multiple locations Kelowna, Peachland, Osoyoos, Penticton, and two affiliated locations in Ontario. These unique water parks provide an exciting and healthy way for people of all ages to experience water recreation. Over 1 million dollars has been invested in the Penticton location alone. Splash BC Water Parks has demonstrated their commitment to our community and their ability to consistently provide a professional service.

In addition, if the WIBIT agreement is approved for a further term, they plan to introduce 10 new features for the 2025 season, with an estimated total cost of Fifty-Six Thousand (\$56,000) Dollars. One of these features, a great addition to Penticton, is an 11-foot-tall peach.

Wibit has been operating on Okanagan Lake since 2015 and employs approximately 25 local youth each summer.

History

In 2013, Summerland Boat Rentals (Penticton Water Park Ltd.) approached the City with a proposal to establish a water park on Okanagan Lake. Council supported the proposal and provided a Letter of Support to Penticton Water Park Ltd. for their application to the Province for the necessary permits.

124/2013

It was MOVED and SECONDED

THAT Council Approve in Principle the establishment and operation of a seasonal Aqua Park on Okanagan Lake by Penticton Water Sports (PWS);

AND THAT Council direct staff to draft a License to Use Agreement with PWS for Council approval;

AND THAT Council provide a Letter of Consent to PWS allowing PWS to apply to the appropriate Provincial and Federal Ministries for Permitting for this attraction;

AND THAT Council provide a Letter of Support to PWS for their applications to the appropriate Provincial and Federal Ministries for Permitting for this attraction.

CARRIED UNANIMOUSLY

Upon applying to the Province, Penticton Water Park Ltd. was informed that the requested area on Okanagan Lake was under lease to the City. Consequently, the City needed to apply to remove this area from the existing foreshore lease and then sub-lease the new tenure area to Penticton Water Park Ltd. As a result, the Council passed the following resolution on December 2, 2013.

774/2013

It was MOVED and SECONDED

THAT Council authorize staff to apply to the Ministry of Forests, Lands and Natural Resource Operations to 'carve out' a sub-lease area of approximately 0.61 ac. (2,492m²), which would be located about 90m east of S.S. Sicamous bow and 15m north of the high water mark, for commercial use from the Okanagan Lake Lease (#334320), to allow the granting of a licence to Use to Penticton Water Sports for the purposes of operating a Water Park.

CARRIED UNANIMOUSLY

Upon the initial approval of the City's application, the Province requested a council resolution for the City to enter into a 30-year commercial lease with the Province. Council passed the following resolution on December 15, 2014, which also directed staff to enter into a sub-license agreement with Penticton Water Park Ltd.

IC 250/2014

It was MOVED and SECONDED

THAT Council authorize staff to enter into a the proposed commercial lease for a 30 year term with the Province over the land covering “part of District Lot 219s, Similkameen Division Yale District being part of the bed of Okanagan Lake, containing 0.249 ha. (legal to be confirmed by survey) for a commercial aqua park with the Ministry of Forests, Lands and Natural Resource Operations, to allow the granting of a Licence to Use to Summerland Boat Rentals for the purposes of operating a floating water park.

AND THAT once the Provincial license is in place that Staff be directed to enter into a Sub Lease over the commercial area created by the Provincial Lease with Summerland Boat Rentals Ltd. at \$4,500 for the first yr. \$5,500 for the 2nd yr., \$7,000 for 3rd yr. and \$8,000 for years 4 and 5 AND with a requirement for Summerland Boat Rentals to maintain \$5,000,000 in liability insurance.

CARRIED UNANIMOUSLY

The agreement with Penticton Water Park Ltd. began on June 1, 2015, for a five-year term, with a renewal term for an additional five-years extending the term to May 31, 2025.

Park Land Protection and Use Policy References

As the foreshore and the portion of Okanagan Lake, where the floating water park is located, is parkland, the Park Land Protection and Use Policy requires new agreements or renewal of agreements within our parkland follow the following procedure:

- Step 1: Application to renew submitted to City staff
- Step 2: Proposal brought forward to Open Council meeting
- Step 3: Circulation of application to City Departments and Parks and Recreation Advisory Committee
- Step 4: City staff conduct License Review to confirm conditions of license met and license in good standing
- Step 5: City staff review finding with Parks and Recreation Advisory Committee
- Step 6: Parks and Recreation Advisory Committee review application and feedback from Staff
- Step 7: Parks and Recreation Advisory Committee would then make a recommendation to Council to approve or deny the renewal

If directed by Council, staff will present a report to the Parks and Recreation Advisory Committee at the next available meeting and subsequently provide Council with the Committee’s recommendation at the next available Council meeting.

Request for Proposal Process

An RFP (Request for Proposal) is used when the City needs to seek proposals for providing a product or service. Although the New West Partnership Trade Agreement does not require issuing an RFP for revenue-generating

opportunities like this, it may be an appropriate solution to find a future operator through a competitive process. This specific tenure has not been publicly offered since its inception.

While the Parkland Protection and Use Policy outlines a three-year period for a Licence to Use agreement, staff believe a longer term, up to a maximum of five years, would be more appropriate due to the level of investment required by any operator at this site.

Sub-License to Use Agreement Summary

The Sub-Licensee will be responsible for paying property taxes and ensuring the safety and security of the area. They must comply with all water and health and safety rules and regulations. The Sub-Licensee will be required to carry a minimum of \$5,000,000 (Five Million Dollars) liability insurance.

Mobi -Mats

Included in this Council agenda is an associated staff report about the expansion of mobi-mats and chairs. Staff are recommending that this infrastructure be installed at Okanagan Lake, adjacent to other accessible infrastructure and in close proximity to the Wibit. Staff have confirmed that the operators of the Wibit are willing to provide support by managing the chairs and the security of the equipment on a day-to-day basis, which is a welcome addition to both the accessibility infrastructure and this sub-license agreement. This service is currently being provided by the Wibit in other municipalities in which they operate.

Financial implication

Currently, there are no financial implications for the City. Staff anticipate that the market rates in the proposals will not differ significantly from the current appraisal and current Sub-License to Use Agreement rates.

Analysis

The Provincial Head Lease stipulates that the leased area must be used as an aqua park, therefore, all future agreements must adhere to this requirement. The Park Land and Protection Use Policy, provides staff with supportive direction for a three (3) year License to Use Agreement in public parks. Recently, the Parks & Recreation Advisory Committee has recommended five-year LTU Agreements when there is a significant and longstanding positive history of use or financial investment. Due to the substantial financial investment required by any operator at this site to offer an aqua park, staff suggest requesting the Parks & Recreation Advisory Committee consider an LTU Agreement for a five (5) year term.

Should Council endorse the staff recommendation to issue an RFP for a floating water park within the licensed area, due to the length of time that this process would take, staff are seeking direction to extend the current Sub-License Agreement with the existing operator for the 2025 season. The existing operator would be permitted to prepare for the 2025 season and staff would then commence the RFP process to have an operator in place for the 2026 season. Once the successful proponent has been selected, staff would enter into a Sub-License to Use Agreement for a five (5) year term.

Alternatively, in recognition of the level of investment provided by the existing operator, Council may wish to forego the competitive process. Should this be preferred by Council, staff have provided an alternate

recommendation that would refer the renewal of a five (5) year term with the existing operator to PRAC for their review and recommendation.

Alternate Recommendation

THAT Council refer the renewal of a five (5) year Sub-License to Use Agreement to Penticton Water Park Ltd. operating as Splash BC, for the use of approximately 0.25 hectares of Okanagan Lake, for a water park, and a portion of Okanagan Lake Beach for an operations tent and lifejacket storage area, to the Parks and Recreation Advisory Committee for their review and recommendation.

Attachments

Attachment A – Sub-Leased Area

Attachment B – Park Land Protection and Use Policy

Attachment C – Letter of Intent

Respectfully submitted,

Sheri Raposo
Land Administrator

Concurrence

Director, Finance and Administration AMC	General Manager, Infrastructure KD	Director, Community Services KJ	City Manager AH
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Attachment A

Sub-Licensed Area

