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October 1st, 2015 Landowners Update

Special Edition #3

At the September 12th, 2015 Community Meeting, UBID heard a number of questions from landowners regarding the expired Water Infrastructure Agreement and UBID's plans for the future. This edition is in response to that feedback and has grouped the questions into various themes. It also includes written submissions received. We are aware that the proceedings for the September 12th meeting did not meet the expectations of a number of participants. We had hoped it would have been a more positive process. For a verbatim list of the questions and concerns expressed, please visit our website at www.union-bay.ca.

Your Trustees are available to meet with any landowners wanting to discuss and clarify any remaining questions. Two, one-hour meeting times are available at the UBID office on:

- Wednesday, October 7th at 3 PM; and
- Tuesday, October 13th at 6 PM

Questions and Concerns Grouped According to Themes

Theme: Expired Water Infrastructure Agreement

- What are the concerns with the old agreement?
- Why not honour the petition and a majority of landowners?
- Can UBID make copies of the old agreement available at the office?
- Given Kensington's offer of land and infrastructure can UBID not work in good faith?
- Why hasn't UBID honored the force majeure clause to allow an extension?

The Board has four main concerns regarding the expired Water Infrastructure Agreement. They are:

1. The location of the filtration plant must be on a permanent site that will address existing weaknesses (pressure and capacity) in the water system. These problems would not be solved with a filtration plant at the lower McLeod Road site. A permanent site is a condition of Island Health and UBID's water license.
2. The current water license has the capacity to support a total of 1,045 homes. With 660 current homes, 500 new homes (plus provision for infill homes) are not doable; the numbers need to be revisited.
3. UBID must retain full ownership and control of the community water system. This would not be the case under the old agreement.

4. The absence of sunset clauses, timelines and clear expectations put the community at risk of misunderstandings, legal interpretations, uncertainty and potentially the need to borrow money for other necessary works.

A copy of the expired Water Infrastructure Agreement is available on the Links page of UBID's website at www.union-bay.ca or you can stop in at the office and request a hardcopy.

At its June 17th, 2015 Board Meeting, the UBID Trustees were presented with a petition signed by 358 landowners requesting that UBID provide Kensington with approval to upgrade the existing UBID waterworks. The Board accepted receipt of the petition and subsequently reviewed it. The petition represents 43% of the total number of landowners in Union Bay (826 properties).

Since the petition was submitted, UBID also received considerable verbal and written feedback from residents. Some have indicated they did not understand what they were signing, some felt intimidated into signing and others subsequently regretted their decision. Still others said, *"We want to assure you of our continuing wholehearted support and urge you to keep working for the best possible deal for Union Bay."* *"Know that there are those of us in Craigdarroch beach area who are not supportive of the petition that was brought to the board meeting and those who spoke do not represent our views."* *"We believe we elected members to the board who are doing a fine job and continue to have 100% of our support."* *"Please stand your ground and stand up for the citizens and residents of Union Bay."*

Based on all of the input received from the petitioners, other community members, external consultants and our own review the Board stands by its decision to require a new agreement. UBID is more than open to beginning to negotiate.

Force majeure is a legal term that allows for an extension to an agreement based on a very specific set of conditions and legal precedence. The onus is on the Developer to justify using this clause. To date, UBID has received no detailed, written justification for invoking a force majeure.

The old agreement has expired. It is time to move forward to get an agreement and begin addressing Union Bay's water issues.

Theme: Negotiations Between Kensington and UBID

- Is the Board intending to hold Kensington to ransom?
- How much does the UBID lawyer cost and how much remains in the budget?
- Why is the Board saying it is working with Kensington when in fact are not? Need clarification.
- Can the Board inform the community where there is agreement/disagreement in negotiations with the Developer?
- Is there a way to establish a democratic process to include the people of Union Bay in the creation of a water agreement?
- Involve the community more directly in the negotiation process, Keep the community in the loop, do so more collaboratively.
- Will UBID be discussing raising of Langley Lake in negotiations with the Developer?
- Will UBID be discussing and negotiating raising Langley Lake with Kensington and/or any other Developer in their upcoming agreements?
- Will UBID be putting forth this water infrastructure proposal in conjunction with the Provincial Government and the CVRD?
- Concern: at any stage whereby Langley Lake has insufficient water to meet the development's needs, who pays for the unknown quantity and source of water at that point? Will this concern be addressed by UBID in negotiations?

- Will UBID be negotiating on our behalf with Kensington to clean up our water system?
- Will Kensington's contribution include the setup of a filtration plant? Who will pay for ongoing operational costs? Has UBID developed a budget for the projected maintenance of this filtration system?
- Is UBID considering removal of the peat islands from Langley Lake?
- Has UBID taken steps to address the peat problem?
- Will UBID be negotiating the peat removal and subsequent costs with Kensington in their agreement for water infrastructure?
- What does outside assistance mean? What is the timeline?
- Collaborative mechanism to keep citizens informed about both sides of negotiations? Equal input from both parties
- Concern: Nothing is free. What will be given up for water services?

Since the agreement expired on December 31st, 2014 the Board has had four formal meetings with the Developer to discuss the agreement. In addition, during this time there have been meetings with the K'ómoks First Nation, our MLA, other stakeholders, in-camera discussions and considerable correspondence, both legal and less formal. At a June 23rd meeting, the Developer stated, "*We can talk, with legal counsel in the room, so we have assurances we are all speaking the same language. That's the most prudent way to resolution*". It was at this point that UBID engaged the services of a negotiations lawyer.

After spending a couple of months drafting a new agreement, it was provided to the Developer on August 31st, 2015. As of September 30th, UBID is waiting to hear from the Developer regarding a date to begin discussions for a new arrangement.

To date, UBID has engaged a negotiations lawyer and a consulting engineer. No new studies have been commissioned although we are working with engineers to calculate capacity and the impact of new development on our existing system. In every case, UBID is diligent in negotiating the best possible price for these services.

The 2015 budget for legal services was set at \$40,000. As of August 31st, 2015 we have spent \$57,050. The vast majority of these expenditures have been related to finalizing the outstanding legal issues associated with the old school property. The Board expects to cover any shortfalls within the existing operating budget.

Negotiation of business contracts are not done in a public forum. Your Board has done its due diligence in establishing a negotiation process with the Developer. UBID's lawyer will lead the negotiations on behalf of the community. Since areas of agreement or disagreement may change over the course of the negotiations it is not possible to report discussions on an on-going basis and it is too early to comment on any potential cost sharing arrangements. When both parties agree that a public statement can be made the community will be informed.

Although there is long list of issues needing attention, this negotiation is only related to infrastructure needs to support up to 1,045 total houses. The priority for the Board is the water treatment plant, water storage reservoir and the McLeod Road water main. Future negotiations, as the Developer identifies new phases, will address issues such as the availability of sufficient water, peat removal, raising the dam, etc.

Theme: Communication between the Board and Community

- How will these questions be answered by UBID?
- Will our questions be answered in a timely manner?
- What is the process to keep the community in the loop?
- Are you aware of the UBID website and what it has to say?
- Kensington would like to see a forum where they had equal time to speak. Request for UBID to respond to this.
- Concern: way to inform residents who are no-landowners about the process.
- Correction of website is needed.
- Tax payer money is being used to convince us that the proposal is “bad”
- Concern that the citizens take more initiative to get involved.
- More evening meetings possibly

UBID distributes bi-monthly landowner updates at a cost of approximately \$500 per issue. In addition, over the course of this summer three special editions were produced, in addition to the presentation for the Community Meeting, and distributed to landowners. All of these materials are available on the News page of UBID’s website at www.union-bay.ca. If errors are found on the website, please notify the Administrator. Landowners are always welcome to attend the monthly Board meetings which wrap-up with a question and answer period.

There will be no public debate/forum between the Developer and UBID. Consistent with normal business practice, those discussions will occur at the negotiation table.

Theme: UBID Plans and Water Quality Issues

- Concern that water provision in Union Bay be in public control
- What is the Board going to do to make water quality (drinkable) immediately?
- How many houses will this summary cover? (handout table)
- Has research been done on an aquifer, not just Langley Lake?
- What are the consequences of a landowner saying no to hooking up to the (water) system?
- Can the Developer access other source of water? Associated costs?
- How many doors would a new water agreement provide? Casino?
- How long do we need to wait to get satisfactory (water) filtration?
- Does UBID intend to install the water system (yes or no) and inform the community?

Island Health has formally accepted UBID’s plan for water treatment and a new reservoir and subsequently granted an extension to UBID to complete this work which is reflected in the amended terms and conditions associated with UBID’s water license. The key points of this plan are:

- On or before May 31st, 2015, complete filtration plant pilot testing; (this was completed in January 2015);
- On or before August 31st, 2017, obtain a permit to construct the water filtration plant, disinfection processes and all necessary works to meet the Surface Water Quality Treatment Objectives;

- On or before August 31st, 2018, construct and commission a water filtration plant and all necessary works; and
- On or before August 2021, add a secondary primary disinfectant, if deemed necessary.

To review UBID's "Comprehensive Review of Public Works and Water Management in Union Bay" plan, please visit the Water Quality Issues page of UBID's website at www.union-bay.ca or stop by the UBID Administration office to request a hardcopy.

Once an agreement is negotiated with the Developer, these timelines could be moved forward.

The summary table circulated at the community meeting (which is also available on our website) reflects plans to accommodate up to a total of 1,045 homes.

Any landowner has the ability to develop their own water source (e.g. well). Any costs associated with filtration or storage would become the responsibility of the landowner. In that case water tolls are not charged but if the UBID system is accessible to the landowner, parcel taxes still apply.

UBID has done no work to determine a source of water apart from Langley Lake.

The Board has adopted the guiding principle that UBID accepts authority over all matters for which we are held responsible and accountable by our customers, regulators and other stakeholders. As such, we as your Trustees must be assured UBID has full ownership of and full control over any water related infrastructure in order to maintain such unfettered authority.

Theme: Questions and Concerns Regarding Financial Matters

- For UBID's three funding options for water filtration and a reservoir:
 - Annual modest increase to parcel tax rate with long term borrowing. Questions: What is the amount borrowed? What is the loan balance at 2023? What are the projected hook-ups for 2023 vs. 2015? What is the interest rate assumed to be? What are the CECs projected to be?
 - Fund by Parcel Taxes only with no borrowing. What is the total cost of the project? Does it include raising of the dam if necessary? What are the projected hook-ups for 2023?
 - The Developer provides funding. To what extent and what is the projected over-all costs to be shared and what are the projected hook-ups for 2023?
- Will UBID ensure that qualified professionals accurately determine the water capacity of Langley Lake and will that cost be shared between all parties involved?
- What is the taxpayer faced with assuming the water, fire hall (plus trucks) and sewer projects?
- When will tenders be issued? Will it be "cost-plus"?
- What mechanisms for shortfall?
- What is the process for replacing water meters? Who pays?
- Concern the Board is spending money for studies already done.
- What contingency plan is in place should a referendum fail?

The three options put forth in the report submitted to Island Health, called “Response to Island Health’s Surface Water Quality Treatment Objectives”, include early preliminary estimates based on initial work done by our engineers and administrator. At this point, we do not know exact costs, potential interest rates, how much money we will have in reserve when we begin construction or how much the Developer will be contributing. All of this information will need to be thoroughly investigated and calculated. The only information we do know for certainty is the amount of money we currently have in reserves (as of August 31st, \$243,990 in the CEC Reserve Fund and \$547,930 in the Waterworks Renewal & Replacement Reserve Fund). Once firm numbers are available, UBID will need to come to the landowners for approval if funds need to be borrowed. The only potential contingency for a failed referendum would be to raise parcel taxes and save until there are enough reserves; or not proceed with the project.

Water meters were installed over a period of time beginning in 2004. The life expectancy of these meters is estimated to be 15 years (we are already experiencing a few failures). By 2018, UBID will need to begin a program of replacing the old meters. When this occurs it is expected that the costs will come out of the renewal and replacement fund.

No new studies have been undertaken. The project will be tendered to obtain the best possible proposal, however details have not been determined at this point.

Theme: Questions Regarding UBIDs Relationship with CVRD

- Is it the ultimate goal of the Board to be taken over by the CVRD?
- What would be the process be for the CVRD to take over UBID responsibility and costs?
- Can the Board clarify its relationship with the CVRD?

UBID has worked hard at developing and maintaining a good working relationship with the CVRD. Bi-annual meetings are scheduled each spring and fall to discuss issues of mutual interest such as: the Regional Water Strategy, development applications, implementation of the Kensington Master Development Agreement, etc.

The Master Development Agreement between the CVRD and the Developer includes specific points of collaboration between UBID and the CVRD.

This Board has no plans to transfer UBID’s authority or water assets to the CVRD. The process to transfer authority from UBID to the CVRD requires a request (based on a specific reason) from UBID to the CVRD, approval by the CVRD and Province, public meetings and potentially some kind of vote.

Questions Directed Toward Kensington and/or the CVRD

- Can Kensington come forward with more information?
- When will work commence on the Coal Hills remediation, and get the timeline of work from the CVRD?

These questions will need to be answered by Kensington or the CVRD.