



Corporate Report

NO: R141

COUNCIL DATE: June 23, 2003

REGULAR

TO: Mayor & Council DATE: June 19, 2003
FROM: City Solicitor FILE: 5360-60
SUBJECT: Establishment of a Special Committee to Resolve
Surrey / GVS&DD Issues in Respect to Delays in
Siting the Surrey Transfer Station

RECOMMENDATION

That Council adopt the By law attached as Appendix "A" to this report to establish a special committee of Council (the "Special Committee") and delegate to it the power to resolve the issue of apportionment of the costs incurred by both the City of Surrey (the "City") and the Greater Vancouver Sewerage & Drainage District (the "GVS&DD") as a result of delays in establishing the Surrey Transfer Station.

INTENT

The intent of this report is to establish a Special Committee of Council to resolve the City and the GVS&DD's financial issues in respect of delays in siting the Surrey Transfer Station.

BACKGROUND

Council at its meeting of May 5, 2003 adopted the recommendations embodied in a confidential report from the General Manager, Engineering to Closed Council, which included the establishment of a committee composed of two Council members. This Special Committee will then meet with a committee composed of two members of the Administration Board of the GVS&DD.

DISCUSSION

The City Solicitor was directed to prepare the By law necessary to delegate to the Special Committee the powers required to resolve the issue of cost apportionment between the City and the GVS&DD with respect to the delays caused by the GVS&DD in establishing the Surrey Transfer Station. Once Council has enacted the By law attached to this report, the Mayor may then appoint two members of Council to the Special Committee.

The Special Committee will then meet and negotiate with a special committee composed of two Board members. Both committees will be empowered to negotiate, compromise, settle and agree on behalf of the City and the GVS&DD respectively, a mutually agreeable financial settlement. The committees are to either conclude a binding settlement agreement or if no agreement has been reached, prepare a report recommending further steps to be taken.

CONCLUSION

The adoption of the attached By law will implement the recommendations adopted by Council at its Closed Council meeting of May 5, 2003. The Special Committee shall have until October, 2003 to either reach a settlement with the GVS&DD or report back to Council with recommendations as to further steps to be taken to resolve this matter.

CRAIG MacFARLANE
City Solicitor

CM:mlg
Attach.

c.c. General Manager, Engineering

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APPENDIX "A"

CITY OF SURREY

BY-LAW NO. _____

A by-law to establish a Special Committee of Council to
resolve the City of Surrey and Greater Vancouver Sewerage &
Drainage District financial issues in respect of delays in siting
the Surrey Transfer Station

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- (a) WHEREAS the Greater Vancouver Sewerage & Drainage District (the "Corporation") by resolutions of the Administration Board of the Corporation (the "Board"), adopted under the provisions of the *Greater Vancouver Sewerage and Drainage District Act*, S.B.C. 1956, c. 59, as amended and the provisions of Part 3 of the *Waste Management Act*, S.B.C. 1982, c. 41, as amended, the 1985 Greater Vancouver Regional Solid Waste Management Plan dated October 1985 and the 1995 Greater Vancouver Regional Solid Waste Management Plan dated July 1995, approved by the Minister of Environment, Lands and Parks, provided for the handling of municipal solid waste that is for the benefit of the total area of the Greater Vancouver Regional District (the "1995 Plan").
- (b) AND WHEREAS Section 6.1.6 of the 1995 Plan identified as an initiative, that the Corporation, in cooperation and in close coordination with the City of Surrey (the "City"), establish a solid waste transfer station (the "Surrey Transfer Station") for

residual wastes from Surrey which then went to the Port Mann Landfill. Despite several years of effort to establish a solid waste transfer station in the City, the Port Mann Landfill was closed in November 1997 prior to the establishment of the Surrey Transfer Station. The establishment of the Surrey Transfer Station is now well underway and the Surrey Transfer Station is expected to be operational in early 2004.

- (c) AND WHEREAS the Corporation and the City entered into a non binding mediation process (the "Mediation Process") to attempt to resolve the issue of the apportionment of costs and expenses resulting from the delay in establishing the Surrey Transfer Station. The Corporation and the City were unable to reach an agreement through the Mediation Process.
- (d) AND WHEREAS Council for the City (the "Council") is authorized under Section 176(1)(e) of the *Local Government Act*, R.S.B.C. 1996, c. 323, as amended, to delegate by by law to a committee of Council the authority to exercise any of its powers, duties and functions, including those specifically established by an enactment.
- (e) AND WHEREAS the Council wishes to establish a committee (the "Special Committee") which shall have the responsibilities and powers set out below.

AND NOW, THEREFORE, the City Council of the City of Surrey, in open meeting assembled, ENACTS AS FOLLOWS:

1. A Special Committee shall be and is hereby established and shall be comprised of two (2) members of Council.
2. The mandate and responsibilities of the Special Committee shall be:
 - (a) to receive and consider the submissions of the respective staffs of the Corporation and the City and other professional consultants appointed by the respective staffs and the findings of the mediator arising from the Mediation Process;
 - (b) to meet with, from time to time, such Board members as may be appointed by the Board and to negotiate, compromise, settle and agree on behalf of the Council a mutually agreeable financial settlement between the City and the Corporation in respect of any and all claims, liabilities, damages, costs, losses and expenses whatsoever (collectively the "Claims") of the City resulting from delays in establishing the Surrey Transfer Station and for that purpose to do all such things as may be necessary and cause to be executed and delivered such agreements, instruments, documents and releases as may be necessary or desirable, with or without the corporate seal or countersignature of any person; and
 - (c) to report back and deliver to the Council, no later than October, 2003 (or such other date that the Council may determine), either:
 - (i) a binding agreement, instrument, document and release, duly executed by the Corporation and the City, effecting financial settlement and/or release mutually agreed with the City in respect of the Claims, or
 - (ii) if a binding agreement, instrument, document and release have not been executed by the Corporation and the City, a written report recommending further steps to be taken by the City.
3. The Special Committee is hereby delegated the authority to carry out its mandate, as set out above, and to authorize the payment of such sum of money as the Special Committee determines is appropriate to effect settlement of the Claims.
4. The Special Committee shall not sub delegate any of the powers granted to it under this by law and, in particular, shall not submit any matters within its mandate, as set out above, to binding arbitration.
5. This by law may be cited for all purposes as "Surrey Special Committee on the Surrey Transfer Station Mediation By law, 2003, No. _____".

PASSED THREE READINGS by the Council of the City of Surrey on the _____ day of _____, 2003.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the

_____ day of _____, 2003.

_____ MAYOR

_____ CLERK