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Meeting2013 Feb 18

COUNCIL REPORT

TO: CITY MANAGER **DATE:** 2013 February 12

FROM: DIRECTOR FINANCE

SUBJECT: SHARK FIN

PURPOSE: To provide information to Council on the request to ban shark fin.

RECOMMENDATIONS:

1. **THAT** Council receive this report for information.
2. **THAT** a copy of this report be sent to Ms. Marley Daviduk and Mr. Anthony Marr.
3. **THAT** local Members of Parliament and Members of the Legislative Assembly be sent a copy of this report and encouraged to support change to federal and provincial law to address global shark finning.

REPORT

At the 2012 June 25 Open Council meeting, Ms. Marley Daviduk and Mr. Anthony Marr appeared as a delegation expressing opposition to shark finning. The delegation concluded their presentation by requesting the City of Burnaby in conjunction with the cities of Richmond and Vancouver implement a simultaneous ban on the possession, sale and trade of shark fins. Arising from consideration of the presentation, Council introduced and adopted the following motion:

“**THAT** the presentation by the delegation be **REFERRED** to staff for report.”

This report is prepared in response to the Council motion and examines regulatory authority and bylaw enforcement relating to a shark fin ban.

1.0 BACKGROUND

Shark finning is the practice of obtaining fins by cutting them from live sharks at sea and discarding the rest of the body back into the ocean. Estimates of the number of sharks finned annually are as high as 73 million. Shark finning is considered inhumane and is widely recognized to be putting unsustainable pressure on global shark populations, particularly for those shark species identified as endangered or threatened. The demand for shark fin is related primarily to its use in shark fin soup, a Chinese delicacy served at special occasions to

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demonstrate prestige and honour for the occasion and guests. The market for shark fin products is driven by global demand and high prices which provides profitable business for those involved in the shark fin trade.

2.0 SHARK FIN IN BURNABY

A review of local businesses was undertaken to determine the extent of shark fin trade in Burnaby. Five restaurants and five herbal stores were found to include shark fin in their trade. This represents less than 1% of both restaurants and retail stores in Burnaby. The extent of personal shark fin possession and use in the City is unknown. There has been no previous City involvement with shark fin and there is currently no city bylaw regulating or prohibiting the sale, possession of shark fin nor any other specific good.

3.0 CITY ROLE

In 2012, a number of B.C. cities adopted bylaws prohibiting shark fin. These cities include Port Moody, City of North Vancouver, Maple Ridge, Coquitlam, New Westminster, White Rock, Abbotsford and Nanaimo. This followed seven cities in Ontario which enacted similar bylaws in 2011. Toronto's bylaw has since been challenged and was struck down by the courts in 2012 November as being not within the City's jurisdiction. Council has received under separate cover, a legal opinion regarding City authority to enact a bylaw to prohibit the sale, possession and consumption of shark fins.

Administration of a shark fin bylaw would present a variety of challenges, particularly in cities where enforcement of a shark fin bylaw will be required. There is currently no provision in the Community Charter for city staff to seize products for analysis and verification. Seizure of product is necessary to identify it as shark fin which is typically skinned, dried, processed, fragmented, and cooked for its various uses. These treatments render the fin visually unidentifiable.

A laboratory process involving DNA analysis is required to determine if a specimen is shark and then the species of shark. The cost for this type of DNA analysis is approximately \$200 per sample with reduced rates for volumes. Success in identifying a sample is affected by the degradation of the DNA through the processing and cooking of the product and the ongoing development of the DNA reference library. This type of analytical service for shark samples is available in Guelph, Chicago and Miami. While DNA analysis continues to develop for identifying sharks, it may still lack the consistency needed for regulatory and legal use. Furthermore, the analysis cannot determine if the specimen is fin rather than some other shark part.

In a study of shark fin soup, the Vancouver Animal Defence League and CTV purchased 100 shark fin samples from Vancouver and Richmond restaurants this past fall. The samples were sent for identification at the Biodiversity Institute of Ontario at the University of Guelph, noted as a leader in DNA bar coding techniques. The analysis found that 59 samples were shark product with 45 of those samples confirmed as endangered or vulnerable sharks.

In a similar 2012 study, DNA analysis of 51 shark fin soup samples from across the United States was conducted by The Institute of Ocean Conservation Science at Stony Brook University in New York, the Field Museum of Chicago and the PEW Environmental Group, using “unprecedented scientific analysis”. The results identified 32 (63%) soup samples contained shark species including endangered and vulnerable species.

Enforcement of a bylaw banning shark fin will be ineffective due to a lack of local authority to seize samples, the current level of success in identifying shark with DNA analysis and the inability of the DNA analysis to identify fin. A bylaw would likely have some effect as an educational tool although any public expectations for enforcement could not be met.

4.0 PROVINCIAL ROLE

Two UBCM resolutions were considered at the 2012 UBCM Conference. Resolution B154 Shark Fin Harvesting from North Vancouver City was endorsed at the conference in association with Resolution C24 Ban on Possession, Sale, Trade & Distribution of Shark Fins from Port Moody. The endorsed resolution calls on the provincial government to implement a province-wide ban on the possession, sale and distribution of shark fin. It further resolves that the federal government ban the import of shark fin into Canada. UBCM has presented both senior levels of government with the resolution and responses are expected by mid year.

In the United States, several state governments have taken action to prohibit shark fins in their jurisdictions, including Washington, Oregon, California and Hawaii.

5.0 FEDERAL ROLE

Federal government authority relating to sharks and shark fins is extensive.

Canada is a member of The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) which was formed in 1975 by international agreement to ensure that global trade in wild animals and plants does not threaten their survival. There are currently 176 countries involved with CITES. Federal legislation known as the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (WAPPRIITA) was enacted to empower Canada, through Environment Canada, to meet its international obligations under CITES. Under this regulation, imported goods maybe seized and penalties for convictions can result in fines up to \$150,000 and/or 5 years in jail for individuals and fines of up to \$300,000 for businesses. The international trade of animals such as tigers, rhinos, elephants and some sharks (comb shark, whale shark, basking shark and white shark) is regulated in this way.

In 1994, the federal government banned shark finning in Canadian fisheries waters and with respect to Canadian licensed vessels fishing outside of Canada’s exclusive economic zone. This law is enforced by the Department of Fisheries and Oceans (DFO).

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The National Plan of Action for the Conservation and Management of Sharks was published in 2007 by DFO. This document presents Canada’s national plan for the conservation and management of sharks and their long term sustainable use.

Private members bills have been introduced into Parliament by MP Fin Donnelly (New Westminster – Coquitlam – Port Moody) in 2011 and MP Elizabeth May (Saanich – Gulf Islands) in 2012. The first bill would prohibit importation of shark fin into Canada and the second would establish labelling and importing laws to verify the imported species and where it was caught.

The Federation of Canadian Municipalities has received resolution proposals from Abbotsford and Victoria to support federal law to prohibit shark fin importation and possession. The FCM Board has determined the issue is not within municipal jurisdiction.

6.0 REGIONAL COORDINATION

The coordination of a collaborative bylaw initiative between Richmond, Vancouver and Burnaby is challenging. The primary issue is that City Council decisions cannot be pre-determined and each will consider factors specific to their communities. This is compounded by varying Council meeting schedules which precludes the reporting of staff recommendations from other cities.

7.0 CONCLUSION

Shark finning is considered inhumane and negatively impacting global shark populations, particularly those species designated as endangered or threatened. Despite this practice, the adoption of a City bylaw to prohibit the possession, sale and trade of shark fin is not recommended for the following authority and enforcement related reasons:

- Legal uncertainty relating to City authority to prohibit shark fin
- No City authority to seize alleged bylaw violations for verification
- Gaps in the shark fin verification process for regulation and enforcement

The Federal government holds responsibility for importation, fisheries and oceans. Canadian law prohibits shark finning in our waters and also protects wildlife globally. Two private members bills relating to shark fin regulation have been introduced to the Federal government. Provincial authority for shark fin regulation is less clear although state authorities in the U.S. are taking a lead with shark fin prohibitions for their jurisdictions. To effectively regulate shark fins and stem the market supplied by shark finning, senior levels of government will need to enact prohibiting legislation. It is recommended that local representatives of the federal and provincial governments be forwarded a copy of this report and encouraged to support this change.

Denise Jorgenson
DIRECTOR FINANCE
DJ:ab cc: City Solicitor