

Ministry of Community, Sport and Cultural Development
BRIEFING NOTE FOR MINISTER

Ref #: 151644

FOR INFORMATION

Date: October 4, 2012

Title: Proposed mountain resort municipality (MRM) for Jumbo resort development.

Issue: Update on status of possible incorporation of an MRM.

Background: Under the *Local Government Act* the minister may recommend incorporation of an MRM to Cabinet if a master development agreement (MDA) has been entered into for the area. That statutory precondition (signing of the MDA) was satisfied in March 2012 following an extensive First Nations consultation process.

Despite the signing of the MDA and its associated consultation process, the Province still has a duty to consult First Nations on the proposed incorporation.

Familles First Considerations: N/A

First Nations Considerations: See below

Discussion:

Update on consultation process

The Shuswap Indian Band (SIB) is on record as supporting the resort development and the incorporation of an MRM and has a benefits agreement with the developer. The Ktunaxa Nation (KN) remains strongly opposed to the resort development and the incorporation. The Ministry began engaging with the SIB and the KN in June, 2012. Ministry staff have provided each of the First Nations with the Province's:

- understanding of their Aboriginal interests;
- assessment of the strength of their respective claims;
- assessment of the differences between regional district and municipal governance structures;
- views on potential impacts on First Nations associated with an MRM, and
- proposed approaches to mitigate the impacts of incorporation of an MRM.

Since June 2012, Ministry staff have

S13, S16

letter dated September 26, 2012, the KN indicated that it disagrees with the Province's

In a

S13, S16

assessment of impacts of incorporation but is not prepared to discuss different approaches to mitigate impacts of incorporation at this time.

In the September 26 letter, the KN indicated that it plans to file an application for judicial review of the MDA decision and may wish to discuss incorporation of an MRM with the Ministry after that matter has been decided by the court. Ministry staff have prepared a response (draft attached) that will likely conclude discussions.

S13, S16

Direction Required

In addition to the basic questions of whether the Province is ready to proceed with the incorporation, two other issues require direction from the Minister:

a) Nature of Accommodation

Despite the unwillingness of KN to engage on the proposed incorporation, the latest letter received from them indicates

S16

S16

S13, S16

b) Process if decision to incorporate is made

If a decision is made to recommend incorporation of an MRM to Cabinet, consideration will need to be given to the most appropriate Cabinet approval process for the incorporation OIC (Cabinet meeting or corridor order). The Ministry had previously been granted approval for a corridor order without formally presenting the OIC to Cabinet. If a decision is made to incorporate an MRM, an interim administrator will need to be appointed by the minister and consideration will need to be given to recruitment of council members, also to be appointed by the minister. These matters can be dealt with after issuance of the letters patent.

Readiness of OIC materials

Ministry staff have prepared draft OIC materials (including draft letters patent) should the decision be made to proceed with incorporation. Some minor amendments will be required to adjust the dates specified in the draft letters patent, and additional changes may be required if consultation with the KNC results in additional accommodation. The OIC materials could be ready for a November Cabinet date, subject to the availability of legislative counsel to finalize the draft letters patent and the number of changes to be made. A corridor order could likely be signed later in October.

Ministry staff will provide a separate briefing on the OIC package including the content of the draft letters patent at a subsequent meeting.

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