



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

MINUTES
REGULAR MEETING
OF MUNICIPAL COUNCIL
MONDAY, JULY 6, 2009

7:00 P.M.
COUNCIL CHAMBERS

PRESENT:

Mayor Barbara Desjardins
Councillor Bruce McIldoon
Councillor Alison Gaul
Councillor Donald Linge
Councillor Randall Garrison
Councillor Lynda Hundleby
Councillor Meagan Brame

STAFF:

L. Hurst, I/Chief Administrative Officer
G. Côté, Director of Engineering and Public Works
B. Snyder, Director of Development Services
D. McLean, OIC, West Division, Victoria Police Department
G. Anderson, Deputy Fire Chief
A. Katschor, Parks Manager
C. Evans, Manager of Corporate Services

1. **CALL TO ORDER**

Mayor Desjardins called the meeting to order at 7:00 p.m.

2. **LATE ITEMS**

Under Section 7 (3): related to the Paisley Restaurant's application for liquor licence amendment:

- (i) email from Bruce Cuthbert dated July 6, 2009
- (ii) email from Manjit S. Thandi dated July 6, 2009
- (iii) fax from Le Gers Properties Inc. dated July 6, 2009

Under Section 7 (6) related to Restriction of Hours for Convenience Stores and Fast Restaurants:

- (i) addendum to DEV Staff Report DEV-09-039

3. **APPROVAL OF THE AGENDA**

Moved by Councillor Brame, seconded by Councillor Hundleby that the agenda be approved as amended.

The motion **CARRIED**.

4. **PRESENTATION**

- (1) Mark Salter, Environmental Advisory Committee, Acknowledgement of the Township of Esquimalt's Pesticide Free Commitment

Mr. Salter, Vice-President of the Environmental Advisory Committee, gave certifications of appreciation to Mayor Barb Desjardins, all members of Council, Parks Manager and Director of Engineering and Public Works for leadership and innovation shown in 2009. Mr. Salter added that the Parks Department went above and beyond in the performance of its duties in the area of pesticide free initiatives.

- (2) Vancouver 2010 Torch Relay and DVD

Vicki Klyne, Parks and Recreation Department, gave a brief introduction on the Torch Relay that will be coming through Esquimalt on October 30, 2009. Esquimalt is one of 1,000 communities in Canada designated as an Official Route community. A five minute DVD was then shown.

- (3) Graeme Masterton and David Leather, BC Transit – Victoria Regional Rapid Transit

Mr. Masterton and Mr. Leather gave a power point presentation on the Victoria Regional Transit System Master Planning & Rapid Transit Development. The Provincial Transit Plan was released in January 2008 with focus on making transit more attractive and

easy to use, supporting a sustainable and affordable transit system, reducing greenhouse gas emissions and doubling transit ridership in BC by 2030.

It was noted that travel for non-work personal trips has increased and mid-day travel is up, indicating need for all-day, every-day service. BC Transit is currently developing alignment options, which includes stakeholder and public input. Future work will include selection of preferred corridor and mode, development of a business case in the Fall of 2009, and continuation of the public consultation process.

Mayor Desjardins thanked Mr. Masterton and Mr. Leather for their presentation.

5. MINUTES

(1) Minutes of the Regular Meeting of Council, June 15, 2009

The following changes were noted:

- a. P. 10 – Councillor McIldoon voted in favour of the main motion (was not opposed as written)
- b. P. 12: wording change in motion to read “And that the Township of Esquimalt mention the Township’s infrastructure funding application to upgrade the Archie Browning Sports Centre which is also of great regional significance.

Moved by Councillor Brame, seconded by Councillor Hundleby that the Minutes of the Regular Meeting of Council, June 15, 2009 be adopted with changes noted.

The motion **CARRIED**.

6. PUBLIC INPUT (On Items Listed on the Agenda)

Excluding items which are or have been the subject of a Public Hearing
Mayor Desjardins called for input from the public.

493-495 Grafton Street

Tony Gibb of 1381 Lyall Street spoke to the use of 493 – 495 Grafton Street, noting that residents were not advised this was on the agenda and it was only by circumstance he found out it was. He stressed the issue is strictly about land use and how the building is used in a residential area. The clientele is hard to work with and not the kind of business that the residents want in their neighbourhood. The services of food, lodging, support is more appropriate for a zone for a nursing home. He asked if an investigation had been carried out, had anyone looked at the books, was there a profit made. Mr. Gibb added it appears the other half of the duplex will be used by Neway as well. Mr. Gibb stated he hoped Council makes the right decision and denies the application.

Mayor Desjardins called a second time for public input.

Invitation

Muriel Dunn of 1193 Old Esquimalt Road invited Council to the Esquimalt Public Market July 11 to September 12 from 10 am to 2 pm under the arches of the Archie Browning Sports Centre.

Mayor Desjardins called a third time for public input.

493-495 Grafton Street

Trisha Law of the Neway Recovery Program stated the model used at Neway is that of absolute abstinence from drugs and alcohol. Residents are given food and lodging only and are not referred for counseling. Ms. Law stated she has made a personal commitment that no profit is made.

Ms. Law stated the total abstinence model is not compatible with the model of harm reduction used by Vancouver Island Interior Health Authority, which works well for those in active addiction. She advised she is not continuing with the program on Grafton Street and will be moving to Surrey as of September 1st where programs like hers are accepted. In response to a question, she noted she is vacating the lease and there is no intention of leasing the other half of the building.

Sue Donaldson of 1377 Lyall Street urged Council to look at land use issues, not set precedent by permitting institutional use in a residential zone and to get legal advice.

Paisley Restaurant

Debbie Piggett, employee of the Greater Victoria School District 61 and manager for some of the Singer / Songwriters that attend the Paisley Restaurant stated the Paisley is one of the best venues that showcase local musicians because it is a family restaurant, is clean and respectful, event is professional, and enrich lives with beautiful music and conversation.

Terry Brennan of 608 Cornerstone Close stated he has been a singer/songwriter for the past 30 years. He doesn't fit into pubs and cabarets as he is a sole guitar play with a small sound system. Mr. Brennan stated there are few places like the Paisley Restaurant that provide a songwriter's night for non-professionals, offering passion, soul wrenching music, and are role models for the youth in a family atmosphere.

Mr. Brennan read a letter from Rebecca Boux, 16 year female performer who wrote in support of the Paisley application, stating the restaurant is warm and welcoming to local musicians to showcase their talents in a family atmosphere.

Restriction of Business Hours

Marlin stated it was not a good idea to close businesses after 11 pm.

Paisley Restaurant

Frank Taylor stated the Paisley benefits the middle-aged and seniors where the music is not loud and staff are friendly and courteous. He

invited Council down on a Thursday night to enjoy what Esquimalt has.

Restriction of Business Hours

Wendy DeCorte of 1165 Hadfield spoke against closing businesses early. She takes ballroom dance classes which end after 11 and likes to get a snack at the drive through after. She urged Council to seek creative solutions.

Paisley Restaurant

Resident of 1345 Craigflower stated the Paisley is a great place for families to go - it is affordable, staff are courteous and patient with children, has really good talent, no drunks – and it would be a real shame if the venue couldn't continue because of bureaucracy.

Aurora of 1209 Lyall Street stated she has worked for Paisley Restaurant for 3 years now on Thursday night. The Paisley reflects diverse neighbourhoods and feels like home; a 4 year old can come. She asked Council to make it easier for the small guy.

493 – 495 Grafton Street

Darrel Vanderhoek of 495 Grafton stated he is Trisha Law's partner and confirmed the Neway Program is not a profit venture. He has contributed his own money to keep the program afloat because he wants to make a difference. There was an Open House for residents and he only received one negative comment from a neighbour. Mr. Vanderhoek stated Surrey's bylaws are not as stringent as Esquimalt's and he wished there was more that could be done here to help women get a life. He stated the program will not cheapen property values and thanked Council for their consideration.

Restriction of Business Hours

Al Flanagan of 1149 Esquimalt Road stated he represented McDonalds and had received the Staff Report that morning. He stated he is willing to work with the community to come up with a solution that is equitable for all. He asked that a decision not be made by Council tonight.

Mayor Desjardins closed public input at 8:15 p.m.

7. STAFF REPORTS

Administration

- (1) Reappointment to Parks and Recreation Advisory Committee, Staff Report No. ADM-09-030

Moved by Councillor Linge, seconded by Councillor McIlldoon that Nick Brame be reappointed to the Parks and Recreation Committee as the Youth Liaison, with the term ending December 31, 2009.

The motion **CARRIED**.

- (2) Appointment to Environmental Advisory Committee, Staff Report No. ADM-09-032

Moved by Councillor McIldoon, seconded by Councillor Brame that Dianne Kleinman be appointed to the Environmental Advisory Committee due to the resignation of Committee member Jo-Lee Bertrand, with the term ending December 31, 2010.

Discussion

Councillor Garrison stated that the filling of vacancies on this Committee has resulted in the Committee losing the variety of people representing all environmental interests.

Moved by Councillor Garrison, seconded by Councillor Hundleby that Ms. Kleinman's term end December 31, 2009, and that advertisement be placed in the newspaper seeking applicants interested in serving on the Environmental Advisory Committee.

Discussion

It was noted that it was not fair and respectful to have an applicant sit on a Committee for only a few months before expiry of the term. Suggestion was made to review the Committee appointment process next year.

Question was called on the amendment to the motion to strike out 2010 and insert 2009, and to add that advertisement be placed in the newspaper seeking applicants interested in serving on the Environmental Advisory Committee.

The motion was **DEFEATED with Councillor Garrison opposed.**

Question was called on the main motion and **CARRIED.**

- (3) Request for Liquor Licence Amendment: Paisley Restaurant, Staff Report No. ADM-09-031

Mayor Desjardins and Councillor Linge declared themselves in a conflict of interest due to the nature of their relationship with the applicant and left Council Chambers. Acting Mayor Ali Gaul took the Chair.

Deputy Fire Chief Gord Anderson advised that the Paisley Restaurant is out of compliance with the BC Building Code in that the upgrade to the fire suppression system in the kitchen has been an outstanding issue since 2006. Deputy Chief Anderson added that the upgrade is a concern for safety and compliance reasons and does not meet underwriters certification. The Fire Department will continue to work with the applicant toward a process of compliance.

Darrell McLean, Inspector, OIC West Division noted there have been a number of complaints received regarding the Paisley Restaurant and these were referred to the Liquor Control and Licencing Branch.

Council noted the restaurant encourages youth and contributes positively to the community.

Moved by Councillor Brame, seconded by Councillor Hundleby that

1. The Council of the Township of Esquimalt recommends the issuance of the licence for the following reasons:
2. Council's comments on the prescribed considerations are as follows:
 - (a) The potential for noise if the application is approved (*provide comments*).
Council considered the potential for noise and has no issues or comment.
 - (b) The impact on the community if the application is approved (*provide comments*)
Council considered the impact on the community and has no issues or comment.
 - (c) Whether the amendment may result in the establishment being operated in a manner that is contrary to its primary purpose (*provide comments only if the application is from a food-primary licence for an extension of hours of service past midnight or the addition of patron participation entertainment*)
Council considered the operation of the establishment and has no issues or comment.
 - (d) The views of residents (*describe the views of residents, the method used to gather the views and provide comments and recommendations with respect to the views. If the views of residents were not gathered, provide reasons*).
Following Council Policy No. PLAN – 33 adopted November 17, 2003, the applicant was given a map of the area surrounding the Paisley Restaurant [radius 45 metres]. He submitted the responses and there were none in opposition. There was one school approximately 200 metres from the Restaurant, the Victor Brodeur School, and there was no opposition.

A number of letters in support of the application have been received.

3. Council recommends the amendment of the licence for the following reasons:

The Paisley Restaurant is supportive of song writing groups, children's entertainers, and musicians, and encourages local participation. It is a place where families and youth can come and enjoy quality entertainment. The Paisley positively contributes to the community.

The motion **CARRIED**.

RECESS

Council took a brief recess at 8:40 p.m.

RECONVENE

Council reconvened at 8:45 p.m.

Parks and Recreation

- (4) Japanese Garden in Esquimalt Gorge Park, Staff Report No. P&R-09-025

Moved by Councillor Linge, seconded by Councillor Hundleby that Council receive Staff Report No. P&R-09-024, "Japanese Garden in Esquimalt Gorge Park", as information.

The motion **CARRIED**.

Council commended Mr. Katschor for doing such a great job with this project.

Engineering and Public Works

- (5) Resource Recovery, Staff Report No. EPW-09-028

Moved by Councillor Hundleby, seconded by Councillor Garrison

1. That Council support the preparation of an infrastructure planning study to determine the feasibility of resource recovery from a potential sewage treatment facility including the reuse of reclaimed water and heat recovery; and
2. That Staff be authorized to submit an application for an Infrastructure Planning Grant.

Mayor Desjardins queried if staff recommendation would allow the Township to come back and have a closed looped system. Mr. Côté responded that this is a partial closed loop system and integrated in the sense it would be connected with the sewage treatment plant and would deliver a product that could be reused. The treatment plant would have small capacity and would provide effluent to the irrigation system and also make ice for the arena in the winter. The effluent may also be used to provide air conditioning in the summer. The system could be expanded in the future to include adjacent private development. Mr. Côté added it is difficult to reuse effluent on a consistent basis year round

because of seasonal variations in water demand.

Question was called on the motion and it **CARRIED**.

Development Services

- (6) Restriction of Hours for Convenience Stores and Fast Food Restaurants, Staff Report No. DEV-09-039

Development Services Director Barb Snyder referred to the Addendum which provided comments from the police department. Ms. Snyder stated that A&W closes at midnight and MacDonald's is the only fast food drive-thru restaurant of concern as large numbers of youth gather at various times during the night. Comments from the Police Department show that drug trafficking and drug use in the Head/Esquimalt area have actually decreased over the past few years and is not as huge a problem as anticipated in the beginning.

I/Chief Administrative Officer Hurst noted that the staff report is provided for Council information only and not for Council's decision to regulate businesses, which would require staff time and resources to develop a plan, time line and strategy.

Council noted that the representative from MacDonald's is willing to discuss the concerns of youth congregating at MacDonald's during the night and the resulting impacts of noise and litter and work with Council towards a solution. Council noted time was needed to sort these issues out first before looking at the broader business community.

Comment was made that Council needs to show respect for residents and businesses by ensuring that they be given an opportunity to give their input on any matter that concerns them before Council makes a decision, and also to provide a forum so that Council can work with businesses and the community to find creative solutions to remedy issues.

Comment was made that it is beyond the jurisdiction of Council to control what is sold in stores and the issues at MacDonald's created by being open 24 hours need to be addressed first. Question was raised on what options Council has to discourage the sale of items that are not healthy in a community, such as drug paraphernalia. Request was made to look at bylaws in other municipalities to get ideas.

Moved by Councillor Linge, seconded by Councillor Hundley that Staff Report DEV-09-039, Restriction of Hours for Convenience Stores and Fast Food Restaurants, and Addendum, be received. The motion **CARRIED with Councillor Garrison opposed**.

Moved by Councillor Gaul, seconded by Councillor Brame that the information in Staff Report No. DEV-09-039 and Addendum regarding restriction of hours for convenience and fast food restaurants be communicated to the Esquimalt Chamber of Commerce, the Esquimalt Community Policing Committee, local businesses and, in particular, those businesses impacted, and that any feedback be brought back to an upcoming Committee of the Whole meeting.

Discussion

Discussion ensued on the perception of Esquimalt not being open for business and potential for job loss. Council recognized the information in the staff reports is valuable, however, Council expressed concern that sending only the reports could be misconstrued and taken out of context. Comment was made that this is a good issue to discuss at a Committee of the Whole and there is no urgency to involve the business community now when Council has not had an opportunity to discuss the much broader issue of how Council wants to be open for business and where Council wants to go.

The Question was called on the motion and declared **DEFEATED with Councillor Gaul voting in the affirmative.**

Moved by Councillor Linge, seconded by Councillor McIlldoon that the report be tabled and all the material received relating to the issues be brought forward to the first Committee of the Whole meeting in September for discussion.

The motion **CARRIED with Councillor Garrison opposed.**

- (7) Use of 493 – 495 Grafton Street, Staff Report No. DEV-09-042

Moved by Councillor Garrison, seconded by Councillor Brame that staff prepare a definition to cover the operation of half-way houses and recovery programs for possible inclusion in the Official Community Plan, and that staff suggest appropriate zonings to include this land use.

The motion **CARRIED.**

Moved by Councillor Linge, seconded by Councillor Garrison, that this item be tabled to the first meeting in September.

The motion **CARRIED.**

- (8) PMD [Pacific Mobile Depot] Recycling at 800 Viewfield Road, Staff Report No. DEV-09-044

Moved by Councillor Brame, seconded by Councillor Hundleby that Staff Report No. DEV-09-044, "PMD [Pacific Mobile Depot] Recycling at 800 Viewfield Rd." be received,

And that the list of calls to the recycling site be included in the next Quarterly Report from the Police Department.
The motion **CARRIED**.

8. MAYOR'S AND COUNCILLORS' REPORTS

- (1) Report from Councillor Brame, Activities for April - June

Moved by Councillor Brame, seconded by Councillor Gaul that the report from Councillor Brame, Activities for April – June 2009, be received.

The motion **CARRIED**.

9. REPORTS FROM COMMITTEES

- (1) Minutes of the Centennial Select Committee meeting, May 26, 2009.

Moved by Councillor Linge, seconded by Councillor Hundleby that the Minutes of the Centennial Select Committee meeting, May 26, 2009, be received.

The motion **CARRIED**.

- (2) Minutes of the Environmental Advisory Committee meeting, May 28, 2009

Moved by Councillor Linge, seconded by Councillor Hundleby that the Minutes of the Environmental Advisory Committee meeting, May 28, 2009, be received.

The motion **CARRIED**.

- (3) Minutes of the Town Hall meeting, June 2, 2009

Moved by Councillor Linge, seconded by Councillor Hundleby that the Minutes of the Town Hall meeting, June 2, 2009, be received.

The motion **CARRIED**.

- (3) Draft Minutes of the Esquimalt Parks and Recreation Advisory Committee meeting, June 18, 2009

Moved by Councillor Linge, seconded by Councillor Hundleby that the Draft Minutes of the Esquimalt Parks and Recreation Advisory Committee meeting, June 18, 2009, be received.

The motion **CARRIED**.

10. COMMUNICATIONS

- (1) Letter from the Honorable Jim Karygiannis, MP, dated May, 2009, Re: Bill C-319 An Act to Amend the Motor Vehicle Safety Act (Speed Limiters)

Moved by Councillor Hundleby, seconded by Councillor Brame that Council endorse the initiative of Bill C-319 that will amend the Motor Vehicle Safety Act to include prohibitions against the manufacture, importation, sale, lease, operation and release after repair of motor vehicles manufactured after January 1, 2010, if they are not equipped with a speed limiter that is engaged and set to a maximum speed that is not greater than 150 kilometres per hour.
The motion **CARRIED with Councillor Garrison opposed.**

- (2) Letter from Mayor Derek R Corrigan, City of Burnaby, dated June 4, 2009, Re: Local Government Liability in Building Construction Regulation

Moved by Councillor Hundleby, seconded by Councillor Garrison that the letter from Mayor Derek R Corrigan, City of Burnaby, dated June 4, 2009, Re: Local Government Liability in Building Construction Regulation be received.
The motion **CARRIED.**

- (3) Letter from the Greater Victoria Bike to Work Society, dated June 16, 2009, Re: Letter of Appreciation for Bike to Work Week Sponsor Partnership

Moved by Councillor Garrison, seconded by Councillor Hundleby that the letter from the Greater Victoria Bike to Work Society, dated June 16, 2009, Re: Letter of Appreciation for Bike to Work Week Sponsor Partnership be received.
The motion **CARRIED.**

- (4) Letter from the Capital Regional District, dated June 18, 2009, Re: CRD Bylaw No. 3616, Arts and Culture Support Service Establishment Bylaw No. 1, 2001, Amendment Bylaw No. 2, 2009

Moved by Councillor Hundleby, seconded by Councillor McIlldoon that the letter from the Capital Regional District, dated June 18, 2009, Re: CRD Bylaw No. 3616, Arts and Culture Support Service Establishment Bylaw No. 1, 2001, Amendment Bylaw No. 2, 2009, be received;

And that Council consents to the adoption of CRD Bylaw No. 3616, *Arts and Culture Support Service Establishment Bylaw No. 1, 2001, Amendment Bylaw No. 2, 2009* that will include the Town of Sidney as a participant in the service.
The motion **CARRIED.**

- (5) Letter from the Capital Regional District, dated June 24, 2009, Re: Regional Parks' Land Acquisition Fund – Summary of 2008 Acquisitions

Moved by Councillor Garrison, seconded by Councillor Hundleby that the letter from the Capital Regional District, dated June 24, 2009, Re: Regional Parks' Land Acquisition Fund – Summary of 2008 Acquisitions, be received.

The motion **CARRIED**.

- (6) Letter from the Union of British Columbia Municipalities, dated June 29, 2009, Re: Local Government House Officially Opens

Moved by Councillor Garrison, seconded by Councillor Hundleby that the letter from the Union of British Columbia Municipalities, dated June 29, 2009, Re: Local Government House Officially Opens, be received.

The motion **CARRIED**.

11. **PUBLIC QUESTION AND COMMENT PERIOD**

Excluding items which are or have been the subject of a Public Hearing.

There were no questions or comments from the public.

12. **MOTION TO GO IN CAMERA**

- (1) Moved by Councillor Brame, seconded by Councillor Hundleby, that Council go *In Camera* pursuant to Section 90 of the *Community Charter* to discuss the receipt of advice that is subject to solicitor-client privilege and information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the *Freedom of Information and Protection of Privacy Act*, pursuant to Section 90 (1) (l) and (j) and that the general public be excluded.

The motion **CARRIED**.

13. **ADJOURNMENT**

Moved by Councillor Brame, seconded by Councillor Garrison that the meeting be adjourned at 9:55 p.m.

The motion **CARRIED**.

MAYOR OF THE CORPORATION OF THE
TOWNSHIP OF ESQUIMALT
THIS 17TH DAY OF AUGUST, 2009

CERTIFIED CORRECT:

CAROLLYNE EVANS
CORPORATE ADMINISTRATOR