

MINUTES OF THE REGULAR MEETING
OF THE COUNCIL OF THE CITY OF NANAIMO
HELD IN THE SHAW AUDITORIUM, 80 COMMERCIAL STREET, NANAIMO, BC
ON MONDAY, 2011-FEB-28 COMMENCING AT 7:00 P.M.

PRESENT: His Worship Mayor J. R. Ruttan, Chair

Members: Councillor W. J. Holdom
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor J. F. K. Pattje
Councillor L. J. Sherry
Councillor M. W. Unger

Absent: Councillor W. L. Bestwick

Staff: A. C. Kenning, City Manager
D. W. Holmes, Assistant City Manager and General Manager of
Corporate Services
E. C. Swabey, General Manager of Community Safety and Development
B. E. Clemens, Director of Finance
T. P. Seward, Director of Development
A. J. Tucker, Director of Planning
P. Kristensen, Director of Information Technology
C. Scott, E-Government / Communications Officer
J. E. Harrison, Manager of Legislative Services
K. King, Recording Secretary

1. CALL THE OPEN MEETING TO ORDER:

The Regular Meeting was called to order at 7:00 p.m.

2. INTRODUCTION OF LATE ITEMS:

- (a) Add Agenda Item 6 (d) – Delegations Pertaining to Agenda Items – Mr. Gord Fuller, re: DP650 at 190 Nicol Street.
- (b) Add Agenda Item 11 (b-1) – Staff Reports – DP650 – 190 Nicol Street
- (c) Delete Agenda Item 11 (g) – Staff Reports - Amendments to “ZONING BYLAW 1993 NO. 4000” – Containers.
- (d) Delete items (3), (5), (6) and (7) from Agenda Item 11 (i) Staff Reports – Unsightly Premises – 512 Selby Street, 355 Weaver Road, 1518 Estevan Road and 981 Millstone Avenue.

- (e) Delete Agenda Item 15 (b) – Introduction of Development Bylaws – “ZONING AMENDMENT BYLAW 2011 NO. 4000.500”

22111 It was moved and seconded that Ms. Marzena Banks be permitted to speak regarding DP650 at 190 Nicol Street, Ms. Janet Irvine be permitted to speak regarding the Advisory Committee on Environmental Sustainability (ACES) – 2011 Work Plan and that the Delegations Pertaining to Items Not on the Agenda be moved to follow Delegations Pertaining to Agenda Items. The motion carried.
Opposed: *Councillor Holdom*

3. ADOPTION OF AGENDA:

22211 It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

22311 It was moved and seconded that the Minutes of the Regular Meeting of the Council of the City of Nanaimo held in the Shaw Auditorium, 80 Commercial Street, Nanaimo, BC on Monday, 2011-FEB-14 at 7:00 p.m. be adopted as circulated. The motion carried unanimously.

5. PRESENTATIONS:

- (a) Ms. Debbie Trueman, General Manager, Nanaimo Museum, provided a presentation regarding the Nanaimo Museum’s “2010 Year in Review”.

6. DELEGATIONS PERTAINING TO AGENDA ITEMS:

- (a) Mr. Keith Brown, Keith Brown Associates Ltd., on behalf of the applicant, provided a presentation regarding DP650 for 190 Nicol Street, outlined the benefits of approving the application, such as employment and upgrading of streets and advised that his client does not agree with the South End Community Association request for reduced hours of operation for the 7-Eleven store.
- (c) Mr. Douglas Hardie, 32 Gillespie Street, Nanaimo, BC, on behalf of the South End Community Association, advised that the neighbourhood association has concerns regarding the hours of operation but hopes the issue can be resolved with 7-Eleven as the Association is not opposed the actual development at 190 Nicol Street.
- (d) Mr. Gord Fuller, 604 Nicol Street, Nanaimo, BC, advised of his concern regarding the hours of operation of the proposed 7-Eleven at 190 Nicol Street.
- (e) Ms. Marzena Banks, 1001 Moyse Crescent, Nanaimo, advised that she has been employed by 7-Eleven and has concerns for the safety of the employees if the proposed 7-Eleven store at 190 Nicol Street is open 24 hours a day.

7. DELEGATIONS PERTAINING TO ITEMS NOT ON THE AGENDA:

- (a) Mr. Doug Walker, CEO, The Nature Trust of British Columbia, provided a presentation regarding the 2011 Brant Wildlife Festival.
- (b) Mr. Sigi Wolff, 4250 Hammond Bay Road, Nanaimo, requested that a bylaw be created to prohibit commercial radio frequency transmitting antenna (including cellular antennas) being installed within 500 metres of a primary or secondary school, measured horizontally from the school yard fence line.
- (c) Mr. Malvern Makuyana, 2349 Bowen Road, Nanaimo, BC, advised of the benefits of changing liquor licences at the Vancouver Island Conference Centre (VICC) from a food primary licence to a liquor primary licence and provided examples of how this would open up to more business and potentially generate more revenue for the VICC.

6. DELEGATIONS PERTAINING TO AGENDA ITEMS: Continued:

- (f) Ms. Janet Irvine, Nanaimo, provided information and advised of concerns regarding health issues related to open burning and wood smoke.

8. PROCLAMATIONS:

- (a) That the month of March is ‘COMMUNITY SOCIAL SERVICES AWARENESS MONTH’ in the City of Nanaimo.

9. COMMITTEE REPORTS:

- (a) Advisory Committee on Environmental Sustainability (ACES) – 2011 Work Plan

22411 It was moved and seconded that Council endorse the Advisory Committee on Environmental Sustainability work plan for 2011. The motion carried unanimously.

10. COMMISSION REPORTS:

- (a) Nanaimo Community Heritage Commission (NCHC) – 2011 Work Plan

22511 It was moved and seconded that Council endorse the Nanaimo Community Heritage Commission work plan for 2011. The motion carried unanimously.

11. STAFF REPORTS:

COMMUNITY SAFETY AND DEVELOPMENT:

(a) DP667 – 679 Terminal Avenue

22611 It was moved and seconded that Council issue Development Permit No. DP667 at 679 Terminal Avenue with the following variances:

- a rear yard variance of 7.72 metres (25.33 ft);
- a side yard variance (north property line) of 0.72 metres (2.4 ft);
- a side yard variance (south property line) of 2.09 metres (6.9 ft);
- a fence / retaining wall height variance of 2.37 metres (7.8 ft); and,
- a parking variance of 4 spaces.

The motion carried unanimously.

(b) DP702 – 6057 Doumont Road

22711 It was moved and seconded that Council issue Development Permit No. DP702 at 6057 Doumont Road with the following variances:

- a front yard variance of 2.8 metres (9.2 ft);
- a rear yard variance of 5.33 metres (17.49 ft);
- an amenity space variance of 195 square metres (2,099 ft²);
- a reduction in minimum size open space recreational area of 55 square metres (592 ft²);
- a parking variance of 4 parking spaces; and,
- a lot coverage variance of 7 percent.

The motion carried.

Opposed: *Councillors Sherry and Unger*

(c) DP650 – 190 Nicol Street

22811 It was moved and seconded that Council direct Staff to bring forward an amendment to the Business Licence Bylaw that would restrict the hours of operation of retail businesses in the South End Neighbourhood Nicol Street corridor. The motion carried unanimously.

22911 It was moved and seconded that Council refer Development Permit No. DP650 back to Staff until consideration of the amendment to the Business Licence Bylaw restricting the hours of operation of retail businesses in the South End Neighbourhood Nicol Street corridor has been completed. The motion was defeated.

Opposed: *Mayor Ruttan, Councillors Johnstone, Holdom, Pattje and Unger*

23011 It was moved and seconded that Council issue Development Permit No. DP650 with the following variances:

- front yard setback variance of 2.15 metres (7ft);
- flanking street yard setback of 5.5 metres (18.04 ft);
- rear yard setback variance of 1.25 metres (4.1 ft); and,
- a parking variance of 5 parking spaces.

The motion carried.

Opposed: *Councillors Kipp and Sherry*

(c) DVP166 – 2323 Arbot Road

Mayor Ruttan inquired if there was anyone wishing to speak to the report pertaining to DVP166.

Mr. Jack Anderson, Anderson Greenplan, on behalf of the applicant, provided a presentation regarding the Development Variance Permit application and advised of his efforts to keep area residents informed regarding the application.

Councillor Unger vacated the Shaw Auditorium at 9:55 p.m.

Mr. Robert Schade, owner of a mobile at #32 – 2323 Arbot Road, advised of his concerns regarding the size of the required setbacks as the lots in the development are very small and believes that the setbacks should be 1.5 metres; the same as the property owners on the west side of Resort on the Lake.

Councillor Unger returned to the Shaw Auditorium at 9:57 p.m.

Ms. Beverly McClay, #18 – 2323 Arbot Road, Nanaimo, advised that she and her husband are retired and have invested their savings in their home at Resort on the Lake. If the Development Variance Permit application is not approved it will have serious financial consequences for them.

Mr. Vince Forrester, #2 – 2323 Arbot Road, Nanaimo, purchased in Resort on the Lake in 1999 and expressed concerns regarding the proposed new lot lines within the park and advised that if they are approved they will cut right through his bedroom and bathroom.

Ms. Kathleen Russell, 2301 Arbot Road, Nanaimo, is opposed to the Development Variance Permit application. She advised that if the variance application resolved all the outstanding issues at Resort on the Lake, the area residents would support it. She requested that Council withhold the permit until all bylaw infractions can be rectified.

Mr. Fred Taylor, 204 Emery Way, Nanaimo, is opposed to the Development Variance Permit application and advised of concerns regarding Building Inspectors being able to inspect the construction of the additions in order to issue occupancy permits.

Ms. Sharon Kofoed, 2322 Panorama View Drive, Nanaimo, advised of her ongoing concerns regarding Resort of the Lake, her opposition to the Development Variance Permit application and requested that Council consider a moratorium to provide time to investigate all bylaw infractions.

Ms. Robin Winkler, 2238 Arbot Road, Nanaimo, is opposed to the Development Variance Permit application and provided history of ongoing area resident concerns regarding Resort on the Lake.

Mr. Ron Bolin, 3165 King Richard Drive, Nanaimo, advised of his liability concerns regarding building permits at Resort on the Lake.

Mr. Jim Russell, 2301 Arbot Road, Nanaimo, is opposed to the Development Variance Permit application and suggested that the application be put on hold until all issues regarding Resort on the Lake can be reviewed and resolved.

Mr. William Paterson, 304 South View Road, Nanaimo, is opposed to the Development Variance Permit application and outlined his concerns regarding Resort on the Lake.

Mr. Dan Brady, 2341 Arbot Road, Nanaimo, is opposed to the Development Variance Permit application and also opposed to the proposed trailway. He requested that the proposed trailway issue be referred back to Staff.

23111 It was moved and seconded that the Council meeting proceed past the hour of 11:00 p.m. The motion carried.

Opposed: Councillor Holdom

23211 It was moved and seconded that the Council postpone consideration of DVP166 for 2323 Arbot Road indefinitely. The motion was defeated.

Opposed: Councillors Johnstone, Kipp, Pattje, Sherry and Unger

23311 It was moved and seconded that Council deny Development Variance Permit No. DVP166 at 2323 Arbot Road. The motion carried unanimously.

(d) Expropriation of Part of 2161 Boxwood Road for Intersection Upgrades

23411 It was moved and seconded that Council adopt the following resolution approving the expropriation of part of 2161 Boxwood Road:

“WHEREAS the City of Nanaimo is carrying out a project to expand and improve the public highway known as Boxwood Road;

AND WHEREAS the City of Nanaimo requires for the project the fee simple interest in part of the lands located at 2161 Boxwood Road, which part the City of Nanaimo has been unable to obtain through negotiation;

AND WHEREAS the City of Nanaimo has authority under Section 31 of the *Community Charter* to expropriate real property;

NOW THEREFORE the Council of the City of Nanaimo in open meeting assembled resolves as follows:

1. The expropriation of that part of the lands located at 2161 Boxwood Road shown in the report as Attachment 1A is hereby approved; and,

2. The General Manager of Community Safety & Development and the Manager of Legislative Services are hereby authorized and approved to do all acts and things necessary to carry out the expropriation.”

The motion carried.

Opposed: *Councillor Sherry*

- (e) Expropriation of Rights of Way to Accommodate Relocation of Hydro Poles at 1601 and 1602 Bowen Road

23511 It was moved and seconded that Council adopt the following resolution authorizing and approving the expropriation of a right of way across part of 1601 Bowen Road:

“WHEREAS the City of Nanaimo is carrying out a project to expand and improve the public highway known as Bowen Road;

AND WHEREAS the City of Nanaimo requires for the project, a right of way for Hydro Electric purposes across part of the lands located at 1601 Bowen Road, which right of way the City of Nanaimo has been unable to obtain through negotiation;

AND WHEREAS the City of Nanaimo has authority under Section 31 of the *Community Charter* to expropriate real property;

NOW THEREFORE the Council of the City of Nanaimo in open meeting assembled resolves as follows:

- (a) The expropriation of a limited estate in the land in the nature of a perpetual right of way located at 1601 Bowen Road as described and shown in the report as Attachment 1A is hereby authorized and approved; and,
- (b) The General Manager of Community Safety & Development, and the Manager of Legislative Services are hereby authorized and approved to do all acts and things necessary to carry out the expropriation.”

The motion carried

Opposed: *Councillor Sherry*

23611 It was moved and seconded that Council adopt the following resolution authorizing and approving the expropriation of a right of way across part of 1602 Bowen Road:

“WHEREAS the City of Nanaimo is carrying out a project to expand and improve the public highway known as Bowen Road;

AND WHEREAS the City of Nanaimo requires for the project, a right of way for Hydro Electric purposes across part of the lands located at 1602 Bowen Road, which right of way the City of Nanaimo has been unable to obtain through negotiation;

AND WHEREAS the City of Nanaimo has authority under Section 31 of the *Community Charter* to expropriate real property;

NOW THEREFORE the Council of the City of Nanaimo in open meeting assembled resolves as follows:

- (a) The expropriation of a limited estate in the land in the nature of a perpetual right of way located at 1602 Bowen Road as described and shown in the report as Attachment 2A is hereby authorized and approved; and,
- (b) The General Manager of Community Safety & Development, and the Manager of Legislative Services are hereby authorized and approved to do all acts and things necessary to carry out the expropriation.”

The motion carried

Opposed: *Councillor Sherry*

(f) Heritage Façade Grant Application – Palace Hotel

23711 It was moved and seconded that Council approve a \$10,000 heritage façade grant for the exterior rehabilitation of the Palace Hotel located at 275 Skinner Street, subject to the conditions specified in the report. The motion carried unanimously.

(g) RA261 – 6001 Pine Ridge

23811 It was moved and seconded that Council:

- 1. receive the report pertaining to “ZONING AMENDMENT BYLAW 2011 NO. 4000.497”; and,
- 2. direct Staff to secure the following, prior to adoption of the bylaw, should Council support the bylaw at third reading:
 - (a) road dedication; and,
 - (b) community contribution.

The motion unanimously.

(h) Unightly Premises

Mayor Ruttan inquired if there was anyone wishing to speak to the report pertaining to unsightly premises for the properties listed below.

No one in attendance wished to make a presentation with respect to this matter.

23911 It was moved and seconded that Council, pursuant to “PROPERTY MAINTENANCE BYLAW 1990 NO. 3704”, direct the owners of the following properties to remove the material as listed below from the premises within fourteen (14) days or the work will be done by the City or its agents at the owner’s cost:

- (1) 571 Albert Street – household garbage, paint cans, tires, and wood;
- (2) 515 Milton Street – discarded tree branches, wood, cardboard, plastic, and miscellaneous debris
- (3) 511 Milton Street – discarded wood, plastic, branches, and miscellaneous debris;

- (4) 1357 Fielding Road – old mattresses, garbage, bed frames, car parts, bike parts, and miscellaneous debris;
- (5) 830 Beaufort Drive – derelict white vehicle, a derelict semi-tarped vehicle, household garbage, discarded wood and miscellaneous debris.

The motion carried unanimously.

(i) Unresolved Building Deficiencies – Notice on Title (Section 57)

Mayor Ruttan inquired if there was anyone wishing to speak to the report pertaining to unresolved building deficiencies/illegal suites for the properties listed below.

No one in attendance wished to make a presentation with respect to this matter.

24011 It was moved and seconded that Council, by resolution, instruct the Manager of Legislative Services to file a Bylaw Contravention Notice respecting the properties listed below at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter*.

- (1) 1072 Silver Mountain Drive – illegal construction / roof over rear deck;
- (2) 6657 Valley View Drive – illegal construction / incomplete inspections;
- (3) 526 Prideaux Street – illegal construction / triplex conversion;
- (4) 3116 Barons Road – illegal construction / finished basement to include a secondary suite;
- (5) 3118 Barons Road – illegal construction / finished basement to include a secondary suite.

The motion carried unanimously.

12. INFORMATION ONLY ITEMS:

- (a) Report from Mr. J. Holm, Manager, Planning Section re: Draft New Zoning Bylaw – Open House Update.
- (b) Report from Mr. R. Kroeker, Manager, Occupational Health & Safety re: Safety and Wellness Perception Survey.

13. INTRODUCTION OF DEVELOPMENT BYLAWS:

- (a) “ZONING AMENDMENT BYLAW 2011 NO. 4000.497” (RA261 – to rezone the subject property from RS-1 to RM-1 in order to facilitate subdivision of the land to accommodate two duplex lots at 6001 Pine Ridge Crescent).

24111 It was moved and seconded that “ZONING AMENDMENT BYLAW 2011 NO. 4000.497” pass first reading. The motion carried unanimously.

24211 It was moved and seconded that “ZONING AMENDMENT BYLAW 2011 NO. 4000.497” pass second reading. The motion carried unanimously.

14. CORRESPONDENCE:

- (a) Letter dated 2011-FEB-07 from the Honourable Peter Kent, P.C. M. P., Minister of Environment, responding to the City's inquiry (copy attached) regarding potential use of a weather station at Departure Bay and advising that there is a wind vane at Departure Bay, however, there is no weather station and that Environment Canada has no current plan to locate a weather station there.
- (b) E-mail dated 2011-FEB-18 from Ms. Odette Laramée, Manager, Nanaimo Arts Council, requesting a letter of support from Council for its proposal for the development and operation of a "Youth Multimedia Center" and advising that the deadline for the letter of support is 2011-MAR-02.

24311 It was moved and seconded that Council direct Staff to provide a letter of support for the Nanaimo Arts Council's proposal for the development and operation of a "Youth Multimedia Center". The motion carried unanimously.

- (c) Letter dated 2011-FEB-24 from Ms. Tami Fur, Manager, Brownfield Implementation, Ministry of Natural Resource Operations, advising that the City of Nanaimo has been selected to host the two-day brownfield redevelopment planning charette focusing on former service stations.

15. OTHER BUSINESS:

- (a) Councillor Unger advised that the City has no plan to convert the old Mt. Benson School property to affordable or low barrier housing.

16. NOTICE OF MOTION:

- (a) Councillor Holdom provided notice that he would be bringing forward the following motion for Council's consideration at the Regular Meeting of Council to be held 2011-MAR-14:

"That Council direct Staff to pursue a liquor primary licence for the Vancouver Island Conference Centre."

17. QUESTION PERIOD:

Mr. Fred Taylor – liquor licensing, antennas

18. ADJOURNMENT:

24411 It was moved and seconded at 11:17 p.m. that the meeting terminate. The motion carried unanimously.

M A Y O R

CERTIFIED CORRECT:

MANAGER,
LEGISLATIVE SERVICES