

MINUTES OF THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE CITY HALL BOARD ROOM, 455 WALLACE STREET, NANAIMO, BC,
ON TUESDAY, 2012-MAY-22, COMMENCING AT 2:00 P.M.

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

Members: Councillor G. Anderson (Arrived 2:22 p.m.)
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

Staff: D. W. Holmes, Assistant City Manager and General Manager of
Corporate Services
E. C. Swabey, General Manager of Community Safety and Development
T. M. Hickey, General Manager of Community Services
(Arrived 2:22 p.m.)
I. Howat, Director of Strategic Relationships
T. L. Hartley, Director of Human Resources and Organizational Planning
B. E. Clemens, Director of Finance
S. Clift, Director of Engineering and Public Works
B. Sims, Manager of Water Resources
T. Wilkinson, Recording Secretary

1. CALL THE OPEN MEETING TO ORDER:

The Special "In Camera" Meeting was called to order at 2:00 p.m.

2. PROCEDURAL MOTION:

08812 It was moved and seconded that the meeting be closed in order to deal with the following matters under the *Community Charter* Section 90(1):

- (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- (j) 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*; and,
- (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the municipality if they were held in public.

The motion carried unanimously.

3. ADOPTION OF AGENDA:

08912 It was moved and seconded that the Agenda be adopted. The motion carried unanimously.

4. PRESENTATIONS:

- (a) Dr. C. Stewart Vinnels, President and Mr. David Marshall, Director, Marine Operations, Island Ferry Services Ltd., and Mr. Andre Sullivan, Vice Chair, Nanaimo Economic Development Corporation, provided a presentation regarding a Fast Ferry.

5. STAFF REPORTS:

ADMINISTRATION:

- (a)

COMMUNITY SERVICES:

- (b) South Fork Water Treatment Plant – Property Clearing; Direct Award

09112 It was moved and seconded that Council award the clearing, grinding and residue removal from the water treatment plant site, to Snuneymuxw First Nation for the amount of \$132,890. The motion carried unanimously.

6. ADJOURNMENT:

09212 It was moved and seconded at 3:20 p.m. that the "In Camera" Meeting terminate. The motion carried unanimously.

09312 It was moved and seconded at 3:20 p.m. that the Regular Meeting terminate. The motion carried unanimously.

MAYOR

CERTIFIED CORRECT:

MANAGER,
LEGISLATIVE SERVICES

MINUTES OF THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE CITY HALL BOARD ROOM, 455 WALLACE STREET, NANAIMO, BC,
ON WEDNESDAY, 2012-MAY-30, COMMENCING AT 1:05 P.M.

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

Members: Councillor G. Anderson (Arrived 2:25 p.m.)
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

Staff: A. C. Kenning, City Manager
E. C. Swabey, General Manager of Community Safety and Development
T. L. Hartley, Director of Human Resources and Organizational Planning

1. CALL THE OPEN MEETING TO ORDER:

The Special "In Camera" Meeting was called to order at 1:05 p.m.

2. PROCEDURAL MOTION:

11212 It was moved and seconded that the meeting be closed in order to deal with the following matters under the *Community Charter* Section 90(1):

- (l) discussions with municipal officers and employees respecting municipal objectives, measures and progress reports for the purposes of preparing an annual report under section 98 [*annual municipal report*].

The motion carried unanimously.

3. ADOPTION OF AGENDA:

11312 It was moved and seconded that the Agenda be adopted. The motion carried unanimously.

4. OTHER BUSINESS:

(a) Strategic Planning

Mr. Ken Balmer and Ms. Brenda Clarke of RETHINK (West) Inc. facilitated the following discussions:

- Highlights from Advisory Workshops on Priorities
- Outcomes and Strategies for the "Taking Responsibility" priority

Councillor Bestwick vacated the Board Room at 2:55 p.m.

Mayor Ruttan vacated the Board Room at 3:35 p.m.

5. ADJOURNMENT:

11412 It was moved and seconded at 3:40 p.m. that the "In Camera" Meeting terminate. The motion carried unanimously.

11512 It was moved and seconded at 3:40 p.m. that the Regular Meeting terminate. The motion carried unanimously.

M A Y O R

CERTIFIED CORRECT:

MANAGER,
LEGISLATIVE SERVICES

AGENDA FOR THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
TO BE HELD IN THE CITY HALL BOARD ROOM,
455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-JUN-11, COMMENCING AT 1:00 P.M.

1. **INTRODUCTION OF LATE ITEMS:**

2. **ADOPTION OF AGENDA: (Pattje/Greves)**

3. **ADOPTION OF MINUTES: (Pattje/Greves)**

- (a) Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-MAY-28 at 1:00 p.m. in the City Hall Board Room. *Pg. 3-6*
- (b) Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-MAY-30 at 1:00 p.m. in the City Hall Board Room. *Pg. 7-8*

4. **PRESENTATIONS:**

- (a) Presentation from Superintendent N. McPhail regarding the RCMP quarterly report update.

5. **DELEGATIONS PERTAINING TO AGENDA ITEMS:**

6. **MAYOR'S REPORT:**

7. **ADMINISTRATION:**

NONE

8. **COMMUNITY SAFETY AND DEVELOPMENT**

(a) **Authorization to Seek Legal Action – 290 Woodhaven Drive**

Staff Recommendation: That Council authorize Staff, in conjunction with the City Solicitor, to take legal action against the owners and occupiers of the property located at 290 Woodhaven Drive,

Pg. 9-10

9. **CORPORATE SERVICES:**

NONE

10. **COMMUNITY SERVICES:**

NONE

11. **CORRESPONDENCE:**

12. **OTHER BUSINESS:**

13. **ADJOURNMENT OF THE SPECIAL "IN CAMERA" MEETING:**

14. **ADJOURNMENT OF THE SPECIAL MEETING:**

"IN CAMERA"

City of Nanaimo

REPORT TO COUNCIL

DATE OF MEETING: 2012-JUN-11

AUTHORED BY: RANDY CHURCHILL, MANAGER, BYLAW, REGULATION & SECURITY
COMMUNITY SAFETY & DEVELOPMENT

RE: AUTHORIZATION TO SEEK LEGAL ACTION – 290 WOODHAVEN DRIVE

STAFF RECOMMENDATION:

That Council authorize staff, in conjunction with the City Solicitor, to take legal action against the owners and occupiers of the property located at 290 Woodhaven Drive, Nanaimo, BC.

PURPOSE:

To obtain authorization to take legal action against the owners and occupiers of the above property to have two illegal suites removed.

BACKGROUND:

A complaint was received about two illegal suites constructed in the single family dwelling at the above address.

DISCUSSION:

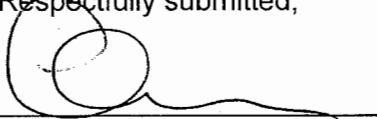
In 2010, the owner removed two unauthorized suites when requested by the Building Inspection Division. A complaint was received on 2011-Sep-12 that there were illegal suites in the dwelling. Two officers attended and observed two suites. The owner was present and refused entry to the property.

A search warrant was obtained to gain entry for an inspection. The inspection revealed two suites had been reinstated in the single family dwelling. The owner has been uncooperative in the past and Staff believes that an injunction is necessary to have the suite removed permanently.

As this report deals with a legal matter related to private property, Staff believes that it should not be brought forward to an open Council meeting.

Council
 Committee
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012 - JUN - 11

Respectfully submitted,

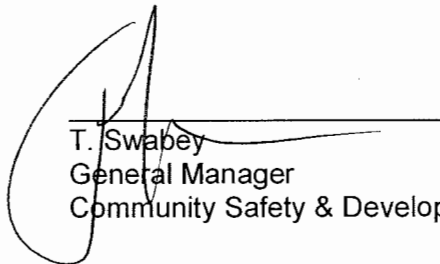


Randy Churchill
Manager, Bylaw, Regulation & Security
Community Safety & Development

Concurrence by:



A. Tucker
Director of Planning
Community Safety & Development



T. Swabey
General Manager
Community Safety & Development

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2012-Jun-04
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MINUTES OF THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE CITY HALL BOARD ROOM, 455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-JUN-11, COMMENCING AT 1:00 P.M.

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

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

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
T. M. Hickey, General Manager of Community Services
T. L. Hartley, Director of Human Resources and Organizational Planning
T. P. Seward, Director of Development
S. Clift, Director of Engineering and Public Works
A. J. Tucker, Director of Planning
R.J. Harding, Director of Parks, Recreation and Culture (arrived 1:23 p.m.)
B. Prokopenko, Senior Manager of Engineering
S. Graham, Manager, Financial Planning and Payroll
J. E. Harrison, Manager of Legislative Services
L. Dennis, Recording Secretary

1. CALL THE OPEN MEETING TO ORDER:

The Special "In Camera" Meeting was called to order at 1:07 p.m.

11612 It was moved and seconded that item (j) of *Community Charter* Section 90(1) be added to the Procedural Motion. The motion carried unanimously.

2. PROCEDURAL MOTION:

11712 It was moved and seconded that the meeting be closed in order to deal with the following matters under the *Community Charter* Section 90(1):

- (f) law enforcement, if the Council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment;
- (g) litigation or potential litigation affecting the municipality; and,
- (j) 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*.

The motion carried unanimously.

3. INTRODUCTION OF LATE ITEMS:

- (a) Delete Agenda Item 4 (a) – Presentation from Superintendent N. McPhail.
- (b) Add Agenda Item 12 (a) –
- (c) Add Agenda Item 12 (b) – Update on 6780 Dickinson Road, Proposed Community Plan Amendment.

11812 It was moved and seconded that Council move out of "In Camera." The motion carried unanimously.

Council moved out of "In Camera" at 1:10 p.m.

11912 It was moved and seconded that item (c) of *Community Charter* Section 90(1) "labour relations or employee negotiations" be added to the Procedural Motion. The motion carried unanimously.

Council moved into "In Camera" at 1:11 p.m.

4. ADOPTION OF AGENDA:

12012 It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

5. ADOPTION OF MINUTES:

12112 It was moved and seconded that the Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-MAY-28 at 1:00 p.m. in the City Hall Board Room, 455 Wallace Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

12212 It was moved and seconded that the Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-MAY-30 at 1:00 p.m. in the City Hall Board Room, 455 Wallace Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

6. COMMUNITY SAFETY AND DEVELOPMENT:

- (a) Authorization to Seek Legal Action – 290 Woodhaven Drive

12312 It was moved and seconded that Council authorize Staff, in conjunction with the City Solicitor, to take legal action against the owners and occupiers of the property located at 290 Woodhaven Drive. The motion carried unanimously.

7. OTHER BUSINESS:

Mr. A. C. Kenning, City Manager, vacated

Councillor Brennan vacated the Board Room at 1:16 p.m. on a conflict of interest, as her spouse is a School District 68 Trustee.

(b) Update on the Proposed Community Plan Amendment at 6780 Dickinson Road

Mr. A.C. Kenning, City Manager, informed Council that Staff were preparing to issue a press release regarding the Proposed Community Plan Amendment at 6780 Dickinson Road.

12412 It was moved and seconded that Council direct Staff to prepare a report on options to include the property at 6780 Dickinson Road in the Official Community Plan as park-designated property. The motion carried.

Opposed: *Mayor Ruttan, Councillors Anderson and Greves*

8. ADJOURNMENT:

12512 It was moved and seconded at 2:10 p.m. that the "In Camera" Meeting terminate. The motion carried unanimously.

12612 It was moved and seconded at 2:10 p.m. that the Regular Meeting terminate. The motion carried unanimously.

M A Y O R

CERTIFIED CORRECT:

MANAGER,
LEGISLATIVE SERVICES

AMENDED

AGENDA FOR THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
TO BE HELD IN THE CITY HALL BOARD ROOM,
455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-JUN-25, COMMENCING AT 1:00 P.M.

CHAIR: MAYOR RUTTAN

ACTING MAYOR: COUNCILLOR GREVES (2012-JUN-11 TO 2012-JUL-29)

1. **INTRODUCTION OF LATE ITEMS:**

- Replace pages 6-7 of Item 6 (a) - "In Camera" Minutes of the Strategic Planning Steering Committee meeting held 2012-MAY-08.

2. **ADOPTION OF AGENDA: (Greves/Anderson)**

3. **ADOPTION OF MINUTES: (Greves/Anderson)**

- (a) Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-JUN-11 at 1:00 p.m. in the City Hall Board Room. *Pg. 3-5*

4. **PRESENTATIONS:**

NONE

5. **MAYOR'S REPORT:**

6. **ADMINISTRATION:**

- (a) **Strategic Planning Steering Committee – Minutes of the "In Camera" Meeting held 2012-MAY-08** *Pg. 6-7*

Committee Recommendation: That Council receive the Minutes of the "In Camera" meeting of the Strategic Planning Steering Committee held 2012-MAY-08.

7. COMMUNITY SAFETY AND DEVELOPMENT

- (a) **Road Closure – Portion of Calinda Street West of 6085 Uplands Drive** *Pg. 8-10*

Staff Recommendation: That Council:

1. approve in principle, the sale of the proposed road closure area to Nanaimo Senior Village Holdings Ltd. for the sum of \$149,000; and
2. if approval in principle is received, direct Staff to prepare a report with an accompanying road closure bylaw for the next open Council agenda.

9. CORPORATE SERVICES:

NONE

10. COMMUNITY SERVICES:

NONE

11. CORRESPONDENCE:

NONE

12. OTHER BUSINESS:

13. ADJOURNMENT OF THE SPECIAL "IN CAMERA" MEETING:

14. ADJOURNMENT OF THE SPECIAL MEETING:

MINUTES OF THE CITY OF NANAIMO "IN-CAMERA"
STRATEGIC PLANNING STEERING COMMITTEE MEETING
HELD IN THE TRAINING ROOM, 238 FRANKLYN STREET
ON TUESDAY, 2012-MAY-08 COMMENCING AT 2:07 P.M.

PRESENT: Councillor J.A. Kipp, Chair

Committee Members: Councillor G. E. Greves
Councillor D. K. Johnstone

Staff: Al Kenning, City Manager
Terry Hartley, Director of Human Resources and Organizational Planning
Melanie Lefurgey, recording

Others: Ken Balmer, Rethink (West) Inc.
Brenda Clarke, Rethink (West) Inc.

1. CALL TO ORDER

The "In-Camera" meeting of the Strategic Planning Steering Committee was called to order at 2:07 p.m.

2. PROCEDURAL MOTION

It was moved and seconded that the meeting be closed in order to deal with the following matters under the *Community Charter* Section 90(1):

- (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
- and
- (l) discussions with municipal officers and employees respecting municipal objectives, measures and progress reports for the purposes of preparing an annual report under section 98 [*annual municipal report*].

The motion carried unanimously.

3. INTRODUCTION OF LATE ITEMS

None

4. ADOPTION OF AGENDA

It was moved and seconded that the agenda be adopted. The motion carried unanimously.

Council
 Committee
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-JUN-25

5. ADOPTION OF MINUTES

- (a) Minutes of the "In Camera" Meeting of the Strategic Planning Steering Committee meeting held in the Board Room, City Hall on Friday, 2012-FEB-03 at 9:10 a.m.

It was moved and seconded that minutes of the "In Camera" meeting of the Strategic Planning Steering Committee held on Friday 2012-FEB-03 at 9:10 a.m. in the be adopted as circulated. The motion carried unanimously.

6. OTHER BUSINESS:

- (a) Debriefing of Strategic Planning Council Workshops

Discussion was held regarding the Council workshops held Friday 2012-APR-27 and Monday 2012-MAY-07 including the six Strategic Priorities identified in those workshops as:

- Community Building Partnerships;
- Tangible Asset Management – infrastructure/Facility Stewardship;
- Taking Responsibility;
- Transportation and Mobility;
- Water; and
- Waterfront Enhancement.

- (b) Task Teams (Strategic Priority Advisory Workshops)

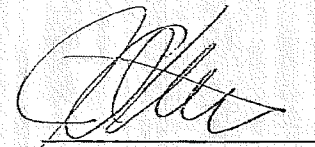
The Committee, in its review of the document "Strategic Priorities - Initial Review", identified the appropriate parties to be invited to attend strategic priority advisory workshops.

- (c) Identify Groups for Survey Outreach

It was moved and seconded that the next Strategic Planning survey not be sent to identified groups, but be advertised and that a link to the survey be included on the City's website. The motion carried unanimously.

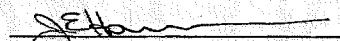
7. ADJOURNMENT

It was moved and seconded at 4:00 p.m. that the "In Camera" meeting terminate. The motion carried unanimously.



CHAIR

CERTIFIED CORRECT:



MANAGER,
LEGISLATIVE SERVICES

"IN CAMERA"

**City of Nanaimo
REPORT TO COUNCIL**

DATE OF MEETING: 2012-JUN-25

AUTHORED BY: BILL CORSAN, MANAGER, REAL ESTATE

RE: ROAD CLOSURE PORTION OF CALINDA STREET WEST OF 6085 UPLANDS DRIVE

STAFF RECOMMENDATION:

That Council:

1. approve in principle, the sale of the proposed road closure area to Nanaimo Senior Village Holdings Ltd. for the sum of \$149,000; and
2. if approval in principle is received, direct Staff to prepare a report with an accompanying road closure bylaw for the next open Council agenda.

PURPOSE:

The purpose of this report is to provide information to Council and seek approval in principle, to the sale of a portion of road right of way known as Calinda Street.

BACKGROUND:

Nanaimo Senior Village Holdings Ltd. (NSVH) has submitted a road closure application for the acquisition of part of Calinda Street. The road closure is required to create a parcel of sufficient size once consolidated to the adjacent lands to accommodate an additional long-term senior's care facility at 6085 Uplands Drive. NSVH has paid for an independent appraisal which estimates the market value of the road right of way to be \$149,000.00 and has submitted an Offer to Purchase on this basis.

The road closure area comprises of approximately 1,154.2 m² (12,424 sq. ft.) as shown on Attachment A. The proposed consolidation partner is the location of the Nanaimo Seniors Village complex located at 6085 Uplands Drive which is the phase one lands within strata plan VIS5833. The owner will have to amend their strata plan in order to consolidate the proposed closed road with their parcel.

Calinda Street is a local city street that has asphalt paved with concrete curbs and sidewalks and underground utility services. There are no utilities located within the proposed road closure area. Fortis BC, Telus, Shaw, BC Hydro and the Ministry of Transportation interests are unaffected by this application.

In addition to the \$500.00 fee for processing the road closure application, costs for legal, survey and advertising will be recovered from NSVH.

- Council
- Committee.....
- Open Meeting
- In-Camera Meeting

Meeting Date: 2012-JUN-25

DISCUSSION

Staff has reviewed the application in accordance with all City standards and can confirm the road area to be surplus to the City's needs.

As this report deals with land disposition Staff has brought the report to an In-camera meeting however if approval in principle for the disposal of the land is received a report will be prepared and brought forward to the next open Council agenda as part of a road closure bylaw.

Respectfully submitted,

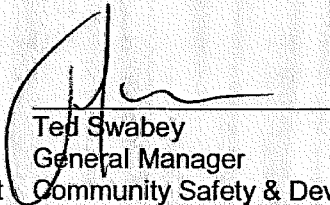


Bill Corsan
Manager, Real Estate
Community Safety & Development

Concurrence by:



Andrew Tucker
Director of Planning
Community Safety & Development

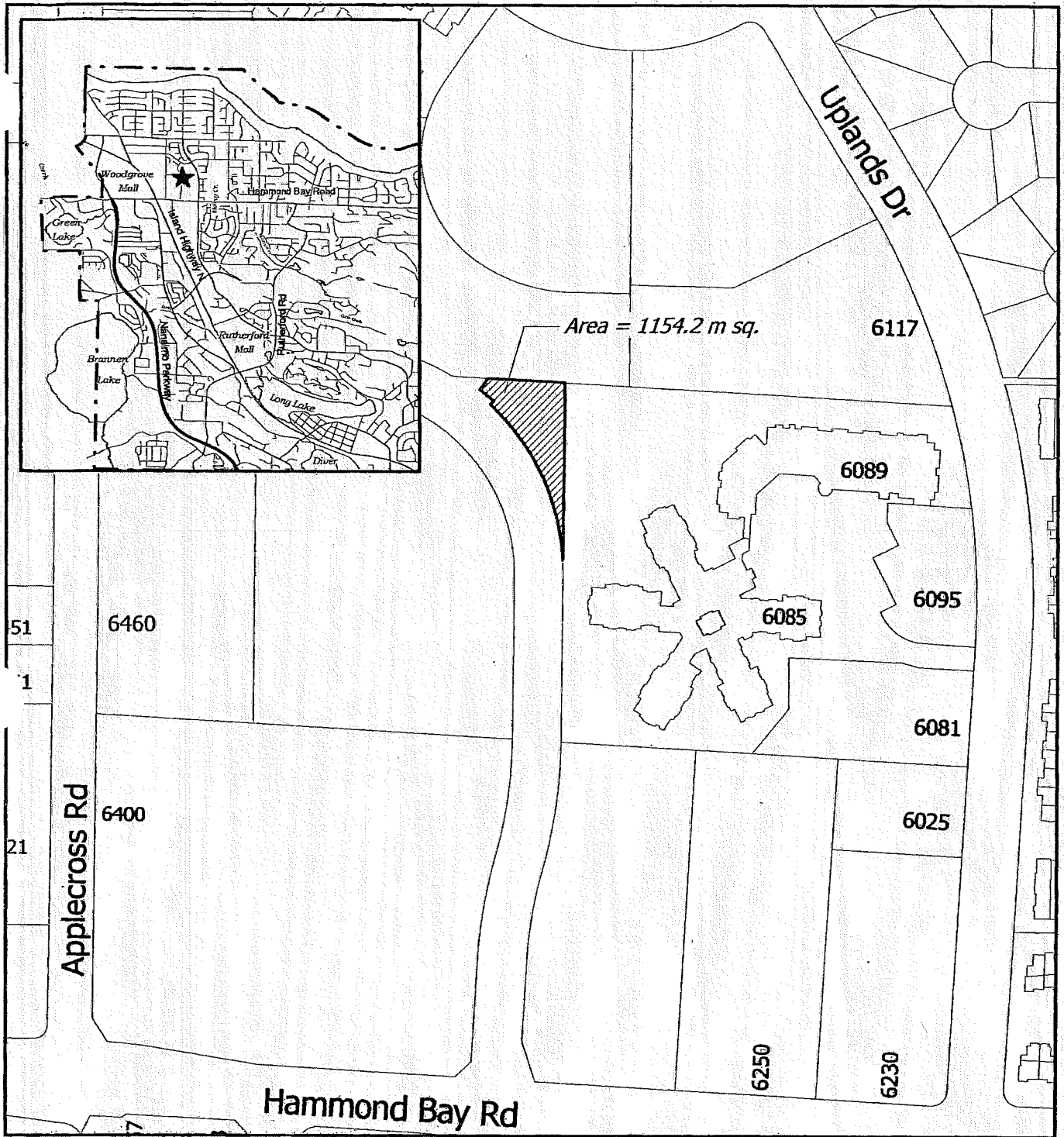


Ted Swabey
General Manager
Community Safety & Development


CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2012-JUNE-14
File LD002432
NP



LOCATION PLAN

 **Subject Property**

Road Closure over part of Plan VIP80896,
District Lot 48, Wellington District

MINUTES OF THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
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ON MONDAY, 2012-JUN-25, COMMENCING AT 1:00 P.M.

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

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor J. F. K. Pattje

Absent: Councillor W. B. McKay

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
T. M. Hickey, General Manager of Community Services
B. E. Clemens, Director of Finance
T. P. Seward, Director of Development
Chief R. Lambert, Nanaimo Fire Rescue (arrived 1:17 p.m.)
A. J. Tucker, Director of Planning
S. Samborski, Senior Manager, Recreation and Culture Services
E. Doherty, Labour Relations Manager (arrived 1:16 p.m.)
B. Corsan, Manager of Real Estate (vacated 1:47 p.m.)
J. E. Harrison, Manager of Legislative Services
L. Dennis, Recording Secretary

1. CALL THE OPEN MEETING TO ORDER:

The Special Meeting was called to order at 1:06 p.m.

2. PROCEDURAL MOTION:

12712 It was moved and seconded that the meeting be closed in order to deal with the following matters under the *Community Charter* Section 90(1):

- (c) labour relations or employee negotiations;
- (e) the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure might reasonably be expected to harm the interests of the municipality;
- (j) 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*,

- (n) the consideration of whether a Council meeting should be closed under a provision of this subsection or subsection (2); and,

Community Charter Section 90 (2):

- (b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party.

The motion carried unanimously.

3. INTRODUCTION OF LATE ITEMS:

- (a) Replace Agenda pages 6-7 of Item 6 (a) - "In Camera" Minutes of the Strategic Planning Steering Committee meeting held 2012-MAY-08.
- (b) Add Agenda Item 12 (a) – Other Business –
- (c) Add Agenda Item 12 (b) - Update on Dickinson Road property.
- (d) Add Agenda Item 12 (c) –
- (e) Add Agenda Item 12 (d) -

4. ADOPTION OF AGENDA:

12812 It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

5. ADOPTION OF MINUTES:

12912 It was moved and seconded that the Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-JUN-11 at 1:00 p.m. in the City Hall Board Room, 455 Wallace Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

6. ADMINISTRATION:

- (a) Strategic Planning Steering Committee – Minutes of the "In Camera" Meeting held 2012-MAY-08

13012 It was moved and seconded that Council receive the Minutes of the "In Camera" meeting of the Strategic Planning Steering Committee held 2012-MAY-08. The motion carried unanimously.

7. COMMUNITY SAFETY AND DEVELOPMENT:

(a) Road Closure – Portion of Calinda Street West of 6085 Uplands Drive

13112 It was moved and seconded that Council:

1. approve in principle, the sale of the proposed road closure area to Nanaimo Senior Village Holdings Ltd. for the sum of \$149,000; and
2. if approval in principle is received, direct Staff to prepare a report with an accompanying road closure bylaw for the next open Council agenda.

The motion carried unanimously.

8. OTHER BUSINESS:

(a)

Councillor Brennan vacated the Board Room at 1:38 p.m on a conflict of interest as her spouse is a School District No. 68 Trustee.

(b) Update on property at 6780 Dickinson Road

Mr. A. C. Kenning, City Manager, updated Council on the recent meeting between City Staff and School District No. 68 regarding the property at 6780 Dickinson Road. Staff recommended to the School Board not to proceed with the Official Community Plan amendment until they have completed a comprehensive plan which would include all surplus School Board properties.

Councillor Brennan returned to the Board Room at 1:48 p.m.

(c)

(d)

9. ADJOURNMENT:

13312 It was moved and seconded at 2:34 p.m. that the "In Camera" Meeting terminate.
The motion carried unanimously.

13412 It was moved and seconded at 2:34 p.m. that the Regular Meeting terminate. The
motion carried unanimously.

M A Y O R

CERTIFIED CORRECT:

CORPORATE OFFICER

AGENDA FOR THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
TO BE HELD IN THE CITY HALL BOARD ROOM,
455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-JUL-09, COMMENCING AT 1:00 P.M.

CHAIR: MAYOR RUTTAN

ACTING MAYOR: COUNCILLOR GREVES (2012-JUN-11 TO 2012-JUL-29)

1. **INTRODUCTION OF LATE ITEMS:**

2. **ADOPTION OF AGENDA: (Greves/Brennan)**

3. **ADOPTION OF MINUTES: (Greves/Brennan)**

- (a) Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-JUN-25 at 1:00 p.m. in the City Hall Board Room. *Pg. 3-6*

4. **PRESENTATIONS:**

NONE

5. **MAYOR'S REPORT:**

6. **ADMINISTRATION:**

7. **COMMUNITY SAFETY AND DEVELOPMENT**

NONE

8. **CORPORATE SERVICES:**

- (a) **E911 Call Answer Levy** *Pg. 16-17*

Staff Recommendation: That Council receive the report regarding E911 Call Answer Levy.

9. **COMMUNITY SERVICES:**

- (a) **Minutes of the Special "In Camera" Parks, Recreation and Culture Commission meeting held 2012-APR-18**

To be introduced by PRCC Chair, Councillor Johnstone.

Commission Recommendation: That Council receive the Minutes of the Special "In Camera" meeting of the Parks, Recreation and Culture Commission held 2012-APR-18

Pg. 18-19

- (b) **Minutes of the "In Camera" Parks, Recreation and Culture Commission meeting held 2012-APR-25**

To be introduced by PRCC Chair, Councillor Johnstone.

Commission Recommendation: That Council receive the Minutes of the "In Camera" meeting of the Parks, Recreation and Culture Commission held 2012-APR-25.

Pg. 20-23

10. **CORRESPONDENCE:**

NONE

11. **OTHER BUSINESS:**

- (a) Verbal report regarding the

- (b) Brief to Council regarding

Pg. 24-25

12. **ADJOURNMENT OF THE SPECIAL "IN CAMERA" MEETING:**

13. **ADJOURNMENT OF THE SPECIAL MEETING:**

"IN CAMERA" City of Nanaimo

REPORT TO COUNCIL

DATE OF MEETING: 2012-JUL-09

AUTHORED BY: PER KRISTENSEN, DIRECTOR, INFORMATION TECHNOLOGY

RE: E911 CALL ANSWER LEVY

STAFF RECOMMENDATION:

That Council receive this report for information.

PURPOSE:

This report provides an update regarding the legal challenge to the City's 911 Call Answer Levy Bylaw No. 7114, which attempts to require the Wireless Service Providers to participate in the funding of the 911 service.

BACKGROUND:

In November, 2010, Council adopted "911 CALL ANSWER LEVY BYLAW 2010 NO. 7114" a bylaw to provide for the recovery of costs of providing 911 service in the City of Nanaimo by means of a call answer levy. The purpose of this bylaw is to include the wireless service providers (i.e. cellular companies: Rogers, Telus Mobility and Bell Mobility) in the Call Answer Levy (CAL) which provides funding for the Central Island 911 Service. The landline (fixed location) telephone providers (i.e. Telus, Shaw) currently participate in the CAL as they are directed by the Canadian Radio and Telecommunications Commission (CRTC) to do so, but CRTC does not provide a similar directive for the Wireless Providers. To date, the Bylaw has not been implemented to collect the Call Answer Levy.

DISCUSSION:

In August 2011 the Wireless Service Providers (WSPs) initiated a court challenge to the City's Bylaw. This case was heard in the BC Supreme Court from 2012-MAY-28 to 2012-JUN-01. Initially three days were planned for the hearing, but this was extended to five days due to the amount of technical information that needed to be presented.

The case was heard by Judge only. The Court has not provided a date for when the ruling will be released, so we can expect to hear the results anytime between July and December, 2012.

Council
 Committee
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-JUL-09

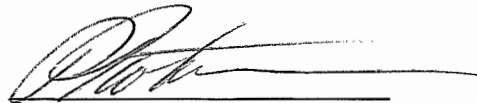
The Province had requested Intervener status in this case and was present at the hearing; however, their lawyer did not make any submission to the Court.

The arguments against the City's Bylaw is centered on the constitutional rights and that the proposed CAL fee is a tax. The constitutional challenge is that the City cannot direct the WSPs, which are incorporated under federal legislation. The question around the fee will be the determination if this is a tax or a regulatory charge.

The Judge has not provided any indication as to how he will rule on this matter.

Until this Court case has been resolved, there is no basis to move away from the current funding formula for the 911 Service. The cost of operating the 911 Service is \$1.5M per year, shared between the three partners. The funding comes from the existing landline CAL at \$0.47, raising approximately \$500,000/year, and the remainder coming from property taxes.

Respectfully submitted,

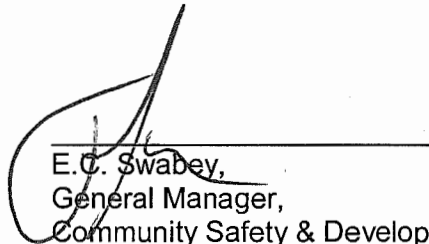


P. Kristensen,
Director, Information Technology

Concurrence by:



R. Lambert,
Fire Chief



E. C. Swabey,
General Manager,
Community Safety & Development

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2012-JUN-22

**MINUTES OF THE SPECIAL "IN CAMERA"
PARKS, RECREATION AND CULTURE COMMISSION MEETING
HELD IN THE BOWEN PARK COMPLEX CONFERENCE ROOM
ON WEDNESDAY, 2012-APR-18, COMMENCING AT 12:00 P.M.**

PRESENT: Commissioner D. Johnstone, Chair

Members: Commissioner F. Pattje
Commissioner T. Greves
Commissioner L. Avis
Commissioner K. Alden
Commissioner M. Beaudoin-Lobb
Commissioner H. Houle
Commissioner A. McPherson
Commissioner D. Rinald
Commissioner G. Savage
Commissioner I. Thorpe
Commissioner M. Young

Staff: S. Samborski J. Ritchie
C. Kuziw, recording

1. CALL THE SPECIAL "IN CAMERA" MEETING TO ORDER:

The Special "In Camera" Meeting was called to order at 12:08 p.m.

2. ADOPTION OF AGENDA:

It was moved and seconded that the "In Camera" Agenda, be adopted. The motion carried unanimously.

3. STAFF REPORTS: (Information Only)

(a) Seniors Advocacy (Verbal report)

A verbal report was given by Suzanne Samborski regarding the seniors advocacy services handled through the Nanaimo Harbour City Seniors (NHCS) and

that the City will not be continuing with the services of a senior's advocate through (NHCS).

17. ADJOURNMENT:

It was moved and seconded at 12:28 p.m. that the "In Camera" meeting adjourn, with the next "In Camera" Meeting of Commission to be held, Wednesday, 2012-APR-25, in the Bowen Park Complex Conference Room, prior to the regular Commission meeting.

The motion carried unanimously.

CERTIFIED CORRECT:



D. Johnstone, Chair
Parks, Recreation and Culture Commission

R. Harding, Director
Parks, Recreation and Culture

**MINUTES OF THE "IN CAMERA"
PARKS, RECREATION AND CULTURE COMMISSION MEETING
HELD IN THE BOWEN PARK COMPLEX CONFERENCE ROOM
ON WEDNESDAY, 2012-APR-25, COMMENCING AT 6:00 P.M.**

PRESENT: Commissioner D. Johnstone, Chair

Members: Commissioner T. Greves
Commissioner F. Pattje
Commissioner K. Alden
Commissioner M. Beaudoin-Lobb
Commissioner H. Houle (arrived at 6:09 p.m.)
Commissioner A. McPherson
Commissioner D. Rinald
Commissioner G. Savage
Commissioner I. Thorpe
Commissioner M. Young

Regrets: Commissioner L. Avis

Staff: R. Harding J. Ritchie
S. Samborski C. Kuziw, recording

1. **CALL THE "IN CAMERA" MEETING TO ORDER:**

The "In Camera" Meeting was called to order at 6:02 p.m.

2. **INTRODUCTION OF LATE ITEMS:**

- Add Item 15 (a) Maffeo Sutton Park Food Services Agreement (Verbal Report)

3. **ADOPTION OF AGENDA:**

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

4. **ADOPTION OF MINUTES:**

- (a) Minutes of the "In Camera" Parks, Recreation and Culture Commission Meeting held Wednesday, 2011-OCT-26 at 8:09 p.m. in the Bowen Park Complex Conference Room.

It was moved and seconded that the Minutes be adopted as circulated. The motion carried unanimously.

5. **DELEGATIONS:** (None)

6. **CHAIR'S REPORT:** (None)

Council
 Committee.....
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-JUL-09

7. **REPORTS OF ADVISORY BODIES:** (None)

8. **STAFF REPORTS (Action):**

It was moved and seconded that that Commissioner Lynda Avis' Committee choices be accepted by proxy. The motion carried.

Opposed: Commissioner Pattje, Commissioner Greves.

Commissioner Houle arrived at 6:09 p.m.

(a) **Members-at-Large Appointments to the Cultural Committee.**

Staff Recommendation: *That the Parks, Recreation and Culture Commission:*

- 1. in accordance with the Cultural Committee Terms of Reference (2010-OCT-18), select six members-at-large for three-year term appointments to the Cultural Committee; and,*
- 2. that these selections be confirmed by motion at the regular meeting following this "In Camera" meeting.*

“

It was moved and seconded that the following selections be confirmed by motion at the regular meeting following this "In Camera" meeting.

1. Julie Bevan
2. Geraldine Manson
3. Gerda Hofman
4. Wendy Smitka
5. Kim Smythe
6. Marianne Turley

The motion carried unanimously.

9. **APPOINTMENTS TO STANDING COMMITTEES:**

(a) **Parks Committee (5 Commission members to be selected)**

It was moved and seconded that the following individuals be appointed to the Parks Committee for the period of their current term of appointment to the Parks, Recreation and Culture Commission:

1. Maureen Young
2. Graham Savage
3. Don Rinald
4. Ian Thorpe
5. Diana Johnstone

(b) **Recreation Committee (5 Commission members to be selected)**

It was moved and seconded that the following individuals be appointed to the Recreation Committee for the period of their current term of appointment to the Parks, Recreation and Culture Commission:

1. Karen Alden
2. Ted Greves
3. Mercedes Beaudoin-Lobb
4. Lynda Avis
5. Diana Johnstone

(c) **Cultural Committee (4 Commission members to be selected)**

It was moved and seconded that the following individuals be appointed to the Cultural Committee for a three-year term:

1. Fred Pattje
2. Don Rinald
3. Alec McPherson
4. Howard Houle

10. **RECOMMENDATIONS TO COUNCIL FOR APPOINTMENTS TO CITY ADVISORY COMMITTEE:**

(a) **Grants Advisory Committee (2 members to be recommended)**

It was moved and seconded that Commissioner Lynda Avis and Commissioner Mercedes Beaudoin-Lobb be recommended to Council for appointment to the Grants Advisory Committee for the remainder of their current term of appointment to the Parks, Recreation and Culture Commission.

11. **SPORTS HALL OF FAME COMMITTEE:**

- (a) The Sports Hall of Fame Committee (1 member to be recommended)

It was moved and seconded that Commissioner I. Thorpe be recommended for appointment to the Sports Hall of Fame Committee for the period of their current term of appointment to the Parks, Recreation and Culture Commission.

It was moved and seconded that all the above listed Commissioners be approved to the chosen Committees for the period of their current term of appointment to the Parks, Recreation and Culture Commission. The motion carried unanimously.

12. **INFORMATION ONLY ITEMS** (Staff reports): (No Reports)

13. **CORRESPONDENCE (Action):** (None.)

CORRESPONDENCE (Information): (None.)

14. **NOTICE OF MOTION:** (None.)

15. **CONSIDERATION OF OTHER BUSINESS:**

- (a) Maffeo Sutton Park Food Services Agreement (Verbal Report)

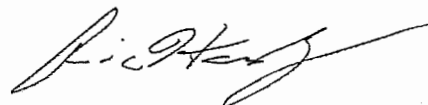
It was moved and seconded that the verbal report be received. The motion carried unanimously.

16. **QUESTION PERIOD:** (No questions.)

17. **ADJOURNMENT:**

It was moved and seconded at 6:57 p.m. that the "In Camera" meeting adjourn and the Commission commence the regular meeting. The motion carried unanimously.

CERTIFIED CORRECT:



D. Johnstone, Chair
Parks, Recreation and Culture Commission

R. Harding, Director
Parks, Recreation and Culture

MINUTES OF THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE CITY HALL BOARD ROOM, 455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-JUL-09, COMMENCING AT 1:00 P.M.

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

Members: Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

Absent: Councillor G. Anderson
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
T. M. Hickey, General Manager of Community Services
T. L. Hartley, Director of Human Resources and Organizational Planning
B. E. Clemens, Director of Finance
S. Clift, Director of Engineering and Public Works
Chief R. Lambert, Nanaimo Fire Rescue
A. J. Tucker, Director of Planning
R. J. Harding, Director of Parks, Recreation and Culture
P. Kristensen, Director of Information Technology
J. E. Harrison, Manager of Legislative Services
L. Dennis, Recording Secretary

1. CALL THE OPEN MEETING TO ORDER:

The Special "In Camera" Meeting was called to order at 1:03 p.m.

2. PROCEDURAL MOTION:

13512 It was moved and seconded that the meeting be closed in order to deal with the following matters under the *Community Charter* Section 90(1):

- (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
- (c) labour relations or employee negotiations;
- (g) litigation or potential litigation affecting the municipality;
- (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

- (j) 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*, and,
- (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the municipality if they were held in public.

The motion carried unanimously.

3. ADOPTION OF AGENDA:

13612 It was moved and seconded that the Agenda be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

13712 It was moved and seconded that the Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-JUN-25 at 1:00 p.m. in the City Hall Board Room, 455 Wallace Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

5. ADMINISTRATION:

(a)

6. CORPORATE SERVICES:

(a) E911 Call Answer Levy

13912 It was moved and seconded that Council receive the report regarding E911 Call Answer Levy. The motion carried unanimously.

7. COMMUNITY SERVICES:

(a) Minutes of the Special "In Camera" Parks, Recreation and Culture Commission meeting held 2012-APR-18

14012 It was moved and seconded that Council receive the Minutes of the Special "In Camera" meeting of the Parks, Recreation and Culture Commission held 2012-APR-18. The motion carried unanimously.

- (b) Minutes of the "In Camera" Parks, Recreation and Culture Commission meeting held 2012-APR-25
-

14112 It was moved and seconded that Council receive the Minutes of the "In Camera" meeting of the Parks, Recreation and Culture Commission held 2012-APR-25. The motion carried unanimously.

8. OTHER BUSINESS:

(a)

(b)

9. ADJOURNMENT:

14212 It was moved and seconded at 1:51 p.m. that the "In Camera" Meeting terminate. The motion carried unanimously.

14312 It was moved and seconded at 1:51 p.m. that the Regular Meeting terminate. The motion carried unanimously.

M A Y O R

CERTIFIED CORRECT:

CORPORATE OFFICER

AGENDA FOR THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
TO BE HELD IN THE CITY HALL BOARD ROOM,
455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-AUG-13, COMMENCING AT 1:00 P.M.

CHAIR: MAYOR RUTTAN

ACTING MAYOR: COUNCILLOR ANDERSON (2012-JUL-30 TO 2012-SEP-09)

1. **INTRODUCTION OF LATE ITEMS:**

2. **ADOPTION OF AGENDA: (Anderson/Brennan)**

3. **ADOPTION OF MINUTES: (Anderson/Brennan)**

- (a) Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-JUL-09 at 1:00 p.m. in the City Hall Board Room. *Pg. 4-6*

4. **PRESENTATIONS:**

NONE

5. **MAYOR'S REPORT:**

6. **ADMINISTRATION:**

(a)

Pg. 7-18

7. **COMMUNITY SAFETY AND DEVELOPMENT**

- (a) **Road Closure Portion of Calinda Street West of 6085 Uplands Drive** *Pg. 19-23*

Staff Recommendation: That Council receive the report regarding the road closure and disposition of a portion of Calinda Street.

8. **CORPORATE SERVICES:**

- (a) **City of Nanaimo Representative Vacancy on the Downtown Nanaimo Business Improvement Association (DNBIA)**

Request for Direction:

Pg. 24-28

- (b) **Quarterly Claims Report – Period Ending 2012-JUN-30**

Staff Recommendation: That Council receive the Quarterly Claims Report for the period ending 2012-JUN-30.

Pg. 29-34

9. **COMMUNITY SERVICES:**

- (a) **Minutes of the “In Camera” Parks, Recreation and Culture Commission Meeting held 2012-JUN-27**

To be introduced by PRCC Chair, Councillor Johnstone.

Commission Recommendation: That Council receive the Minutes of the “In Camera” Parks, Recreation and Culture Commission meeting held 2012-JUN-27.

Pg. 35-37

- (b) **Parks, Recreation and Culture Commission – Renaming of Forest Drive Park to Forest Drive Gyro Park**

To be introduced by PRCC Chair, Councillor Johnstone.

Commission Recommendation: That Council approve the name change of Forest Drive Park to Forest Drive Gyro Park.

Pg. 38-44

10. **CORRESPONDENCE:**

NONE

11. **OTHER BUSINESS:**

12. **ADJOURNMENT OF THE SPECIAL "IN CAMERA" MEETING:**

13. **ADJOURNMENT OF THE SPECIAL MEETING:**

“IN CAMERA”

**City of Nanaimo
REPORT TO COUNCIL**

DATE OF MEETING: 2012-AUG-13

AUTHORED BY: BILL CORSAN, MANAGER, REAL ESTATE

RE: ROAD CLOSURE PORTION OF CALINDA STREET WEST OF 6085 UPLANDS DRIVE

STAFF RECOMMENDATION:

That Council receive the report for information.

PURPOSE:

The purpose of this report is to inform Council that the Notice of Intent required for the road closure and disposition of a portion of road right of way, known as Calinda Street, to Nanaimo Seniors Village Holdings Ltd. (NSVH) has led to the submission of a competing offer from the adjoining property owner, Georgia View Village Ltd. (NORED).

On tonight's open Council agenda, staff have prepared a report recommending Council pass Third Reading of a bylaw to close a portion of Calinda Street

BACKGROUND:

At the 2012-JUL-09 Council meeting, the following motions were passed:

That Council:

1. receive the report pertaining to "HIGHWAY CLOSURE AND DEDICATION REMOVAL (PORTION OF CALINDA STREET ADJACENT TO 6085 UPLANDS DRIVE) BYLAW 2012 NO. 7151 " which is presented under the Bylaws section of the agenda;
2. authorize the transfer of the proposed road closure to the property owner of 6085 Uplands Drive, NSVH, and direct the Mayor and Corporate Officer to execute the conditional Contract of Purchase and Sale; and
3. direct Staff to proceed with public notice for the road closure of a portion of Calinda Street.

The road closure bylaw received first and second reading on 2012-JUL-09. Staff published a Notice of Intent for the road closure and disposition of the lands to NSVH. The bylaw will return on this evening's agenda for third reading. The road closure bylaw is scheduled to receive adoption on 2012-SEP-10, with a Staff report requesting disposition at the 2012-OCT-01 Council meeting.

Council
 Committee.....
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-AUG-13

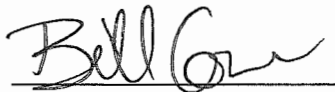
DISCUSSION:

NSVH submitted a road closure application to the City for the acquisition of part of Calinda Street. The road closure is required to create a parcel of sufficient size once consolidated to the adjacent lands to accommodate a proposed additional long-term senior's care facility at 6085 Uplands Drive. Vancouver Island Health Authority (VIHA) has requested proposals for a care facility complete with location and a development permit, but has not progressed to evaluations of the submissions at this time. NSVH has paid for an independent appraisal which estimates the market value of the road right of way to be \$149,000.00 and has submitted an Offer to Purchase on this basis.

Staff reviewed the application in accordance with all City standards and confirm the road area to be surplus to the City's needs.

Council provided first and second reading for the bylaw on 2012-JUL-09. After second reading, Staff posted a "Notice of Intent to Stop Up and Close, Remove Highway Dedication and Dispose of a Portion of Calinda Street" in the local newspaper, as required under the *Community Charter*. Also, the Notice advised that the City intended to sell the property to NSVH for \$149,000.00 (Attachment B).

Respectfully submitted,

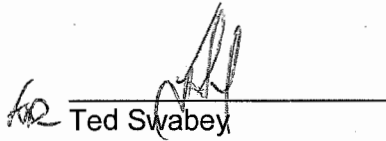


Bill Corsan
Manager, Real Estate
Community Safety & Development

Concurrence by:



Toby Seward
Director of Development
Community Safety & Development

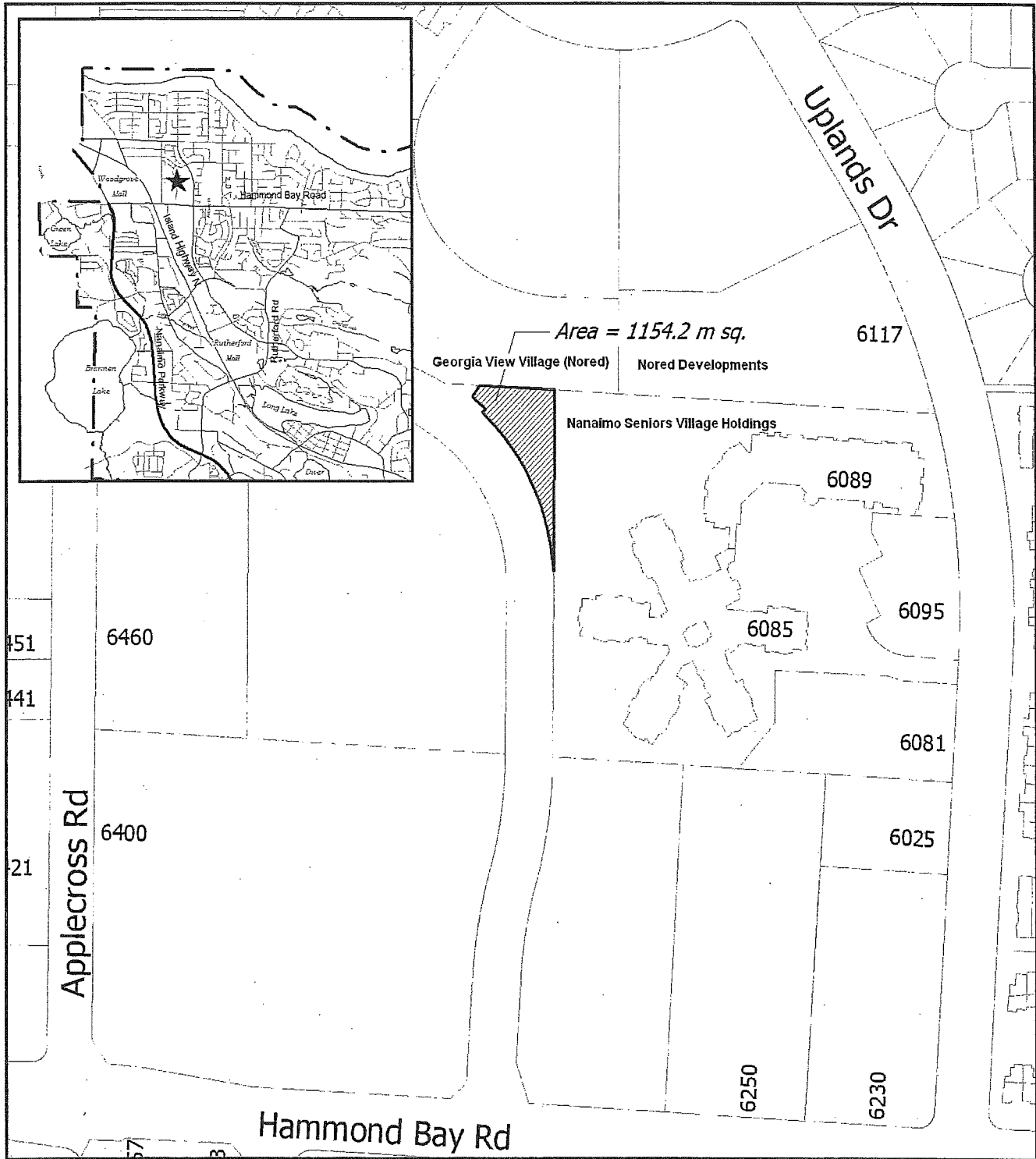


Ted Swabey
General Manager
Community Safety & Development

CITY MANAGER COMMENT:

I concur with the Staff recommendation.

Drafted: 2012-JUL-31
File: LD002432
BC/tl/hp



LOCATION PLAN

 **Subject Property**

Road Closure over part of Plan VIP80896,
District Lot 48, Wellington District

ATTACHMENT B



Notice of Intent To Stop Up and Close, Remove Highway Dedication and Dispose of a Portion of Calinda Street

TAKE NOTICE THAT, pursuant to Section 40(1) and 40(2) of the *Community Charter*, the Council of the City of Nanaimo intends to stop up, close to traffic, and remove highway dedication of a portion of Calinda Street, more particularly described as follows:

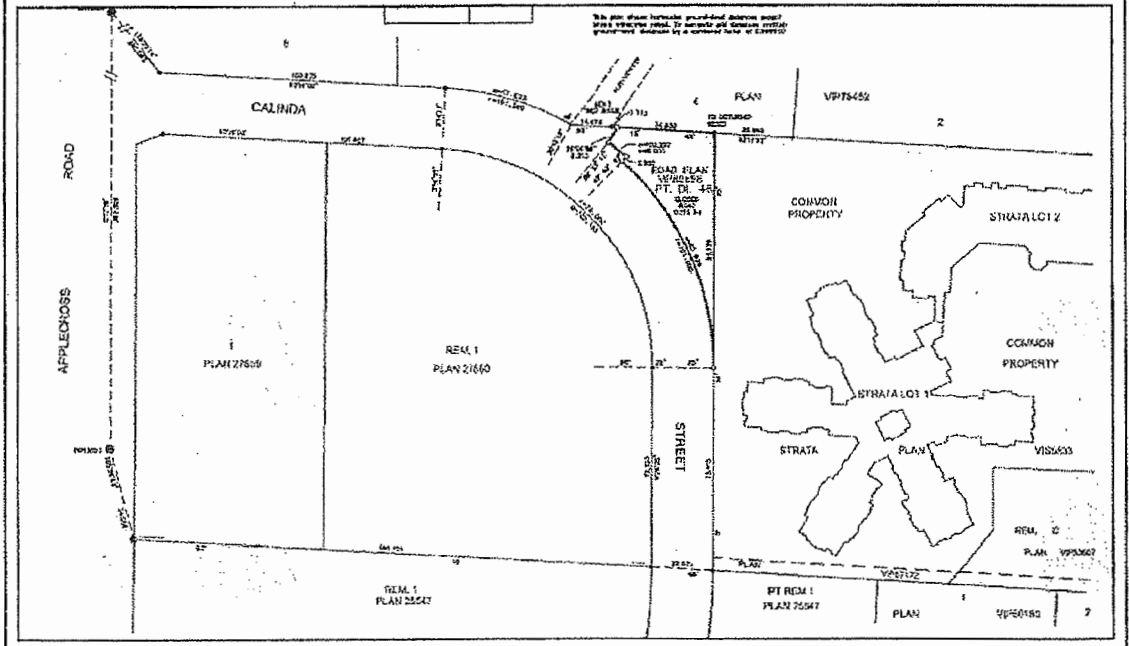
A portion of Calinda Street adjacent to 6085 Uplands Drive comprising of .115 ha, more or less, shown as "Closed Road" on plan EPP22094 prepared by David Wallace, B.C.L.S., a reduced copy of which is shown below.

FURTHERMORE, TAKE NOTICE THAT, pursuant to Sections 40(3) of the *Community Charter*, all persons who consider themselves affected by the proposed road closure as described in "HIGHWAY CLOSURE AND DEDICATION REMOVAL (PORTION OF CALINDA STREET ADJACENT TO 6085 UPLANDS DRIVE) BYLAW 2012 NO. 7151" are invited to address Council of the City of Nanaimo in writing, or in person at Council's meeting scheduled for 2012-AUG-13.

FURTHERMORE, TAKE NOTICE THAT, pursuant to Section 26 of the *Community Charter*, should final adoption be given to "HIGHWAY CLOSURE AND DEDICATION REMOVAL (PORTION OF CALINDA STREET ADJACENT TO 6085 UPLANDS DRIVE) BYLAW 2012 NO. 7151" Council intends to sell the Lands to the adjoining property owner, Nanaimo Seniors Village Holdings Ltd., 2900-550 Burrard Street, Vancouver BC, V6C 0A3, for the final sale price of ONE HUNDRED AND FORTY NINE-THOUSAND DOLLARS (\$149,000.00).

Copies of the proposed bylaw and plan and any enquires concerning this proposed disposition may be directed to and obtained from the Real Estate Section, City of Nanaimo, during office hours – 8:30 a.m. to 4:30 p.m., Monday to Friday, at 755-4426 or in person at 238 Franklyn Street, Nanaimo, B.C.

Community Safety & Development Division
Real Estate Section, City of Nanaimo, File: LD002432



**MINUTES OF THE "IN CAMERA"
PARKS, RECREATION AND CULTURE COMMISSION MEETING
HELD IN THE BOWEN PARK COMPLEX CONFERENCE ROOM
ON WEDNESDAY, 2012-JUN-27, COMMENCING AT 9:49 P.M.**

PRESENT: Commissioner D. Johnstone, Chair

Members: Commissioner T. Greves
Commissioner F. Pattje
Commissioner K. Alden
Commissioner L. Avis
Commissioner M. Beaudoin-Lobb
Commissioner H. Houle
Commissioner G. Savage
Commissioner I. Thorpe
Commissioner M. Young

Regrets: Commissioner A. McPherson
Commissioner D. Rinald

Staff: R. Harding J. Ritchie
S. Samborski R. Tweed, recording

1. CALL THE "IN CAMERA" MEETING TO ORDER:

The "In Camera" Meeting was called to order at 9:49 p.m.

2. INTRODUCTION OF LATE ITEMS: (None.)

3. ADOPTION OF AGENDA:

It was moved and seconded that the "In Camera" Agenda be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

(a) Minutes of the "In Camera" Parks, Recreation and Culture Commission meeting held Wednesday, 2012-APR-18 at 12:08 p.m. in the Bowen Complex Conference Room.

(b) Minutes of the "In Camera" Parks, Recreation and Culture Commission meeting held Wednesday, 2012-APR-25 at 6:02 p.m. in the Bowen Complex Conference Room.

It was moved and seconded that the Minutes of 2012-APR-18 and 2012-APR-25 be adopted as circulated. The motion carried unanimously.

5. PRESENTATIONS: (None.)

6. DELEGATIONS: (None.)

7. CHAIR'S REPORT:

- (a) Loyd Sherry – Recognition for 32 years of service to the City of Nanaimo. Discussion regarding dedication of naming the sports fields at Harewood Centennial Park to "Sherry Fields".

Commissioner Johnstone advised that this had been discussed with Loyd Sherry and he approved of this naming.

It was moved and seconded that the Parks, Recreation and Culture Commission recommend that Council approve the naming of the sports fields at Harewood Centennial Park to "Sherry Sports Fields". The motion carried unanimously.

8. REPORTS OF ADVISORY BODIES: (None.)

9. STAFF REPORTS (Action): (None.)

10. STAFF REPORTS (Information Only): (None.)

11. CORRESPONDENCE: (Action) (None.)

CORRESPONDENCE: (Information) (None.)

12. NOTICE OF MOTION: (None.)

13. CONSIDERATION OF OTHER BUSINESS: (None.)

14. BUSINESS ARISING FROM DELEGATIONS: (None.)

15. UNFINISHED BUSINESS:

- (a) Camela Tang – Sponsorship – Nanaimo Centre Stage – heating issues.

16. QUESTION PERIOD: (No questions.)

17. ADJOURNMENT:

It was moved and seconded at 9:54 p.m. that the "In Camera" meeting adjourn, with the next "In Camera" Meeting of Commission to be held, if required, Wednesday, 2012-JUL-25, in the Bowen Park Complex Conference Room, following adjournment of the regular Commission meeting. The motion carried unanimously.

CERTIFIED CORRECT:



D. Johnstone, Chair
Parks, Recreation and Culture Commission

R. Harding, Director
Parks, Recreation and Culture

2012-JUN-28
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“IN CAMERA”

REPORT TO: MAYOR & COUNCIL

**FROM: DIANA JOHNSTONE, CHAIR
PARKS, RECREATION AND CULTURE COMMISSION**

RE: RENAMING OF FOREST DRIVE PARK TO FOREST DRIVE GYRO PARK

RECOMMENDATION:

That Council approve a name change of Forest Drive Park to Forest Drive Gyro Park.

EXECUTIVE SUMMARY:

Forest Drive Park is located at 2035 Forest Drive. The community was approved to undertake park improvements under the Volunteers in Parks Program. The City allocated \$70,000 toward the project with the remaining funds being fundraised by the neighbourhood. Residents have contacted almost 50 businesses and many individuals seeking donations of money, materials, time and services.

As part of the private contribution, neighbourhood volunteers approached the Nanaimo Gyro Club to provide funds toward park development. The Nanaimo Gyro Club is willing to contribute funds to help complete the park but would like their Club to be recognized in the park name. Their contribution of \$12,500 will help to complete this project and will make a significant difference to the budget and neighbourhood fundraising.

At their meeting held on 2012-JUL-25, the Parks, Recreation and Culture Commission passed a motion that, the Parks Recreation and Culture Commission recommend that Council approve a name change of Forest Drive Park to Forest Drive Gyro Park.

BACKGROUND:

At their meeting of Wednesday, 2011-SEP-21, the Parks, Recreation and Culture Commission approved the community proposal to make improvements to Forest Drive Park. The Park was very outdated and not being used to its full potential. In addition, multi-family development in the area had increased and the park was a much needed green space for families.

Staff had already identified upgrades to this park under the five year capital plan and partnered with the neighbourhood under Volunteers in Parks to make their vision a reality.

A site concept was developed in the winter of 2011 (see Attachment A). This concept was developed by residents and facilitated by Staff. Playground equipment was installed by neighborhood volunteers in June 2012 and an update about the park improvements was presented to Commission at their meeting of Wednesday, 2012-JUN-27.

Council
 Committee.....
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-AUG-13

Funds spent to date:

- Drainage hookup and materials - \$5000
- Site preparation - largely donated
- Playground equipment - \$50,000
- Playground installation - donations
- Grading - \$3000
- Public art - \$3000

Outstanding Costs to finish project:

- Paving of trike trails and multi-purpose court - \$20,000
- Site furnishings - \$5000
- Landscaping (topsoil, grass and shade trees) - \$10,000
- Community garden - \$5000
- Gazebo - \$5000-\$20,000

The Parks Recreation and Culture Commission policy statement, "Naming Parks and Facilities" is attached for Council's information. Included in the Policy are previous examples of naming requests.

Respectfully submitted,



Diana Johnstone, Chair
Parks, Recreation and Culture Commission

Attachments

2012-JUL-31

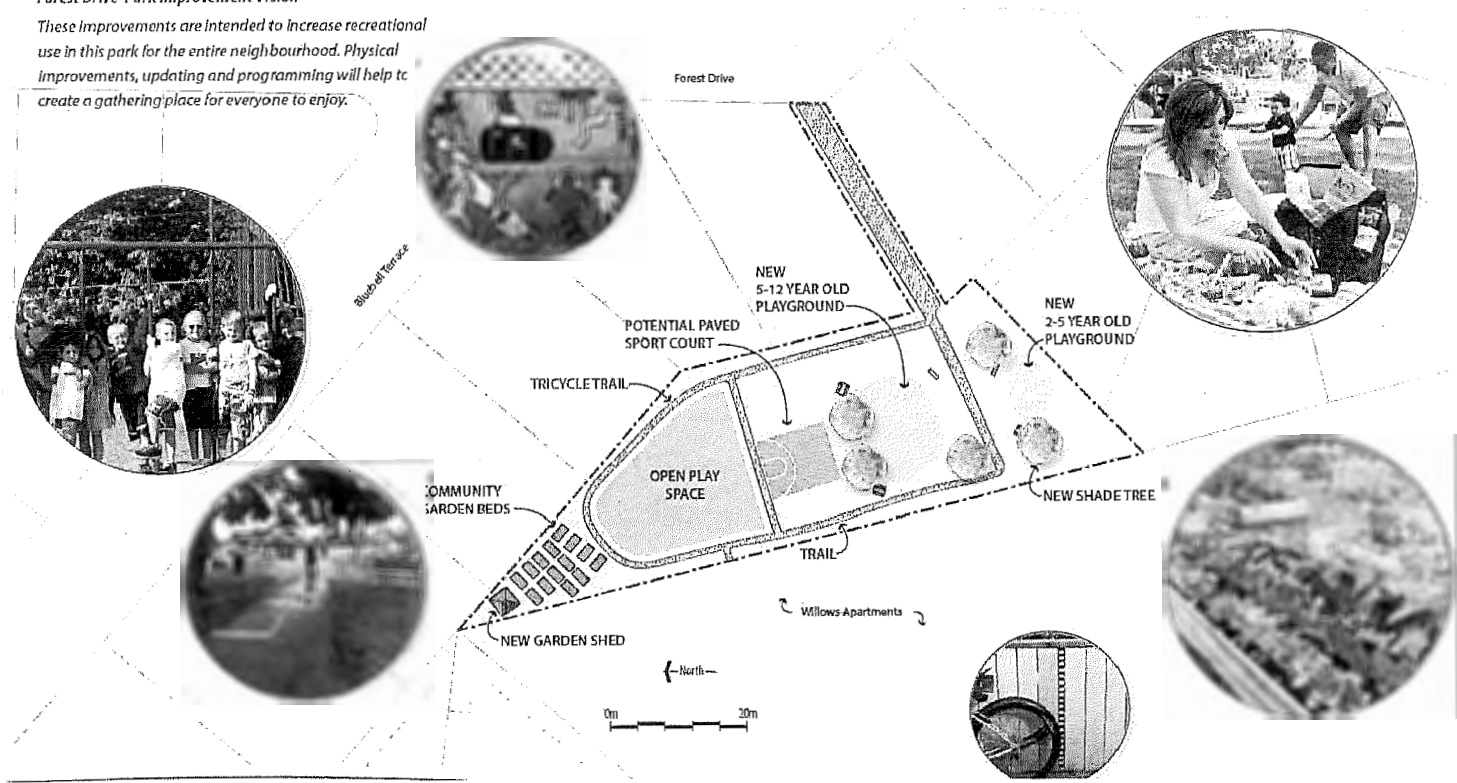
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Attachment A Site Plan for Park Improvements

Forest Drive Park Improvement Vision

These improvements are intended to increase recreational use in this park for the entire neighbourhood. Physical improvements, updating and programming will help to create a gathering place for everyone to enjoy.





PARKS, RECREATION AND CULTURE COMMISSION

COMMISSION POLICY STATEMENT

Pages: 1 of 1
Approval Date: 2007-OCT-24

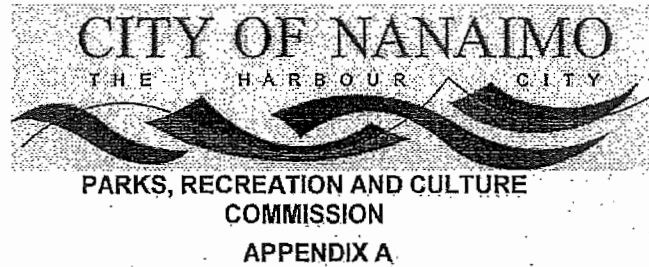
SECTION: PARKS, RECREATION AND CULTURE ADMINISTRATION
SUBJECT: Naming Parks and Facilities

The City has reserved the right to name parks and facilities based on contributions, either financial or otherwise to the community, from individuals or non-profit societies and organizations. Requests for naming are presented to the Parks Recreation and Culture Commission for consideration and then forwarded to Council.

The Parks, Recreation and Culture Commission, when reviewing requests for naming of parks and facilities and forwarding recommendations for Council's consideration, will reserve naming for individuals who have made special contributions to the community, or for clubs and organizations to recognize their contributions in the development of parks and facilities.

Previous Revision/s: None

Reference List: Appendix A – City of Nanaimo Park and Facility Naming Examples – Attached



Park or Facility Name	Origin of Park/Facility Name
Knowles Park	Named after the Knowles family who were long time residents of the south end of Nanaimo. Arthur Knowles passed away in 1992 and the park was renamed in his honour. Arthur Knowles also left a park and sport legacy to Nanaimo in the form of \$500,000.
Colliery Dam Park	<p>The Colliery Dams are a rare link with Nanaimo's industrial heritage. Built in 1910/11 by the Western Fuel Company to supply water for coal washing and for use by miners, mules and horses in the mines, the water system quickly developed an important secondary use. Homes near the pipeline were allowed to tap the line for domestic uses and eventually this water was carried to most of the homes in South Harewood.</p> <p>The Harewood Colliery Dams symbolize the important role the coal company played in the lives of early residents. The dams created an upper and lower reservoir, with a spillway at the eastern end to siphon off overflow.</p> <p>In the 1950s the land was sold by Canadian Collieries to the City of Nanaimo for use as a park.</p>
Barney Moriez	The name honours a fireman killed in the line of duty at the nearby Shell plant fire on September 7, 1977.
Jack Little Room	Named for former Councillor Jack Little in August 2006. Mr. Little was an advocate of constructing the Nanaimo Aquatic Centre in the south end of Nanaimo.
Merle Logan Field	In October 2005, Nanaimo and District Youth Soccer Association requested that the artificial turf field be named after Merle Logan, a long time soccer volunteer.
Naming of parks and facilities for Service Club contributions (i.e. Rotary Skate Park)	This is just one example of many for naming parks and facilities for contributions made by Service Clubs (in October 2003, the newly constructed skate park at May Richards Bennett Pioneer Park was named the Rotary Skate Park in recognition of the \$26,000 donation by the Rotary Clubs of Nanaimo).
Thrifty Foods Field House (McGirr Sports Complex)	In November 2004, Council approved recognizing the \$60,000 contribution of cash and product by Thrifty Foods by permitting their name and logo be displayed for ten years.

Park or Facility Name	Origin of Park/Facility Name
Piper Park	Piper Park was named after former alderman Philip J. Piper who was born in Nanaimo in 1891. Mr. Piper was instrumental in the purchase of Beban Park
Loudon Park	Named after Bill Loudon. Following WW I, Mr. Loudon purchased 700 acres of land in the Wellington area from the Dunsmuir's and he homesteaded and mined the land. The park was part of his land as was the Pioneer Cemetery off Wellington Road. Mr. Loudon gifted this land to the Wellington Improvement District and it became part of the City of Nanaimo's park system with the 1975 amalgamation.
Pioneer Square Park	<p>The Vancouver Coal Company gave the land to the City of Nanaimo in 1895 for a new fire hall. Once the hall was relocated in the 1960s, the park use expanded and the road intersections were redesigned. The park was landscaped in the 1980s.</p> <p>Pioneer Square was dedicated by the Nanaimo Pioneer's society on July 25, 1938</p> <p>A cairn was placed on this site stating "Erected to the Memory of our Pioneers 1938"</p>
Jack Point	The point is named after Jack Dolholt who resided on the point for 40 years (1819-1905).
Saxer Park	Named after the Saxer family who were long time residents of the Dover Road area. The grand opening of the park took place on Thursday, 2005-APR-14, 1:30 pm with Anna Saxer in attendance. She passed away shortly after.
Pipers Lagoon Park	<p>Pipers Lagoon was originally known as Page's Lagoon after landowner Louis Page. The Piper family came to Nanaimo and bought the 57 hectares of waterfront in 1917 from Louis Page.</p> <p>The Piper's used the property for a sheep farm but had to shut it down because cougars were eating the livestock. Hence the name "Cougar Headland" off the lagoon and spit.</p> <p>Parts of the lagoon were rented out in the 1930s for rustic cabins. Between 1948 and 1952, a sawmill also operated on the Pipers' land and a whaling station was across the bay (near what is now the Charlene Boat ramp).</p>
Molly's Marsh	The property was a gift to the City from the owner, far in excess of the 5% subdivision development required, and named after his ill daughter, Molly.

Park or Facility Name	Origin of Park/Facility Name
Elaine Hamilton Park	Renamed from Trofton Park to Elaine Hamilton Park in 2006 to honour Elaine Hamilton for her many years of community volunteer service, involvement with sports leagues (especially softball) and serving on the Parks, Recreation and Culture Commission.
Maffeo Sutton Park	Named for two individuals - Pete Maffeo and Joe Sutton. Pete Maffeo was a popular mayor and ice cream shop owner who was admired for community service and sport involvement. Joe Sutton was the caretaker of Deverill Square Park for many years.
McGregor Park	Dedicated to the McGregor family and Scottish pioneers who first settled in Nanaimo and operated the coal mines. McGregor was the first trained engineer to relocate to Nanaimo and work in the mines.
Beban Park	Named after the Beban family who lived on the 160 acres of land in the Beban Park area from the 1930s -1950s. Beban house was their home for over 20 years.
Bowen Park	Named after the Bowen brothers who managed the Western Fuel Company. Mayor McKenzie accepted the parkland from the Canadian Western Fuel Company in 1918.
Lion's Sport Pavilion	The field house at Beban Park was named the Lion's Sport Pavilion in July 2002, in recognition of the Hub City Lions Club who coordinated fundraising of almost \$100,000 in cash and in-kind for this project; in addition to applying for and receiving a Community Partners Provincial Grant in the amount of \$137,000.
Deverill Square	Deverill was the man who first surveyed Nanaimo. He designed the radial street pattern downtown and laid the street grid in the old city and south end.

2007-OCT-18
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MINUTES OF THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE CITY HALL BOARD ROOM, 455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-AUG-13, COMMENCING AT 1:00 P.M.

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

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

Staff: D. W. Holmes, Assistant City Manager and General Manager of
Corporate Services
E. C. Swabey, General Manager of Community Safety and Development
I. Howat, Director of Strategic Relationships
T. L. Hartley, Director of Human Resources and Organizational Planning
B. E. Clemens, Director of Finance
T. P. Seward, Director of Development
A. J. Tucker, Director of Planning
R. J. Harding, Director of Parks, Recreation and Culture
D. Lindsay, Manager of Building Inspection
B. Corsan, Manager of Real Estate
B. Prokopenko, Senior Manager of Engineering
K. King, Acting Manager of Legislative Services
L. Dennis, Recording Secretary

1. CALL THE OPEN MEETING TO ORDER:

The Special "In Camera" Meeting was called to order at 1:03 p.m.

2. PROCEDURAL MOTION:

14412 It was moved and seconded that the meeting be closed in order to deal with the following matters under the *Community Charter* Section 90(1):

- (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
- (e) the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure could reasonably be expected to harm the interests of the municipality;
- (g) litigation or potential litigation affecting the municipality; and,

- (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the municipality if they were held in public.

The motion carried unanimously.

3. ADOPTION OF AGENDA:

14512 It was moved and seconded that the Agenda be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

14612 It was moved and seconded that the Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-JUL-09 at 1:00 p.m. in the City Hall Board Room, 455 Wallace Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

5. ADMINISTRATION:

- (a)

6. COMMUNITY SAFETY AND DEVELOPMENT:

(a) Calinda Road Closure

14512 It was moved and seconded that Council receive the report regarding the road closure and disposition of a portion of Calinda Street. The motion carried unanimously.

7. CORPORATE SERVICES:

(a) City of Nanaimo Representative Vacancy on the Downtown Nanaimo Business Improvement Association (DNBIA)

14612 It was moved and seconded that Council direct Staff to contact Mr. Blake McGuffie to inquire whether or not he would be willing to serve as a City of Nanaimo representative on the DNBIA Board. The motion carried.

Opposed: *Councillors Bestwick, Kipp, McKay and Pattje*

Councillor Kipp vacated the Board Room at 2:22 p.m.

14712 It was moved and seconded that Council directed Staff to invite the DNBIA executive to attend a future "In Camera" Council meeting. The motion carried unanimously.

14812 It was moved and seconded that Motion #14612 regarding the appointment of Mr. Guffie as the City representative to the DNBIA be released from "In Camera". The motion carried unanimously.

(b) Quarterly Claims Report – Period Ending 2012-JUN-30

14912 It was moved and seconded that Council receive the Quarterly Claims Report for the period ending 2012-JUN-30. The motion carried unanimously.

8. COMMUNITY SERVICES:

(a) Minutes of the "In Camera" Parks, Recreation and Culture Commission Meeting held 2012-JUN-27

15012 It was moved and seconded that Council receive the Minutes of the "In Camera" Parks, Recreation and Culture Commission meeting held 2012-JUN-27. The motion carried unanimously.

(b) Parks, Recreation and Culture Commission – Renaming of Forest Drive Park to Forest Drive Gyro Park

15112 It was moved and seconded that Council approve the name change of Forest Drive Park to Forest Drive Gyro Park. The motion carried.

Opposed: *Councillor McKay*

15212 It was moved and seconded that Motion #15112 regarding the renaming of Forest Drive Park to Forest Drive Gyro Park be released from "In Camera". The motion carried unanimously.

9. ADJOURNMENT:

15312 It was moved and seconded at 2:28 p.m. that the "In Camera" Meeting terminate. The motion carried unanimously.

15412 It was moved and seconded at 2:28 p.m. that the Regular Meeting terminate. The motion carried unanimously.

M A Y O R

CERTIFIED CORRECT:

CORPORATE OFFICER

AGENDA FOR THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
TO BE HELD IN THE CITY HALL BOARD ROOM,
455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-SEP-10, COMMENCING AT 1:00 P.M.

CHAIR: MAYOR RUTTAN

ACTING MAYOR: COUNCILLOR BRENNAN (2012-SEP-10 TO 2012-OCT-21)

1. **INTRODUCTION OF LATE ITEMS:**

2. **ADOPTION OF AGENDA: (Brennan/McKay)**

3. **ADOPTION OF MINUTES: (Brennan/McKay)**

- (a) Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-AUG-13 at 1:00 p.m. in the City Hall Board Room. *Pg. 3-6*

4. **PRESENTATIONS:**

NONE

5. **MAYOR'S REPORT:**

6. **ADMINISTRATION:**

NONE

7. **COMMUNITY SAFETY AND DEVELOPMENT**

NONE

8. **CORPORATE SERVICES:**

(a) **Council Appointed Tax Sale Bidder**

Staff Recommendation: That Council authorize the Manager of Real Estate or designate to bid at the annual Tax Sale, *Pg. 7-9*

(b)

Pg. 10-13

9. **COMMUNITY SERVICES:**

NONE

10. **CORRESPONDENCE:**

NONE

11. **OTHER BUSINESS:**

- (a) Debrief regarding the Council to Council meeting held 2012-SEP-05 with Snuneymuxw First Nation.

12. **ADJOURNMENT OF THE SPECIAL "IN CAMERA" MEETING:**

13. **ADJOURNMENT OF THE SPECIAL MEETING:**

"IN CAMERA"

City of Nanaimo

REPORT TO COUNCIL

DATE OF MEETING: 2012-SEPT-10

AUTHORED BY: L. L. MERCER, MANAGER, REVENUE SERVICES

RE: COUNCIL APPOINTED TAX SALE BIDDER

STAFF RECOMMENDATION:

That Council authorize the Manager of Real Estate or designate to bid at the annual Tax Sale,

PURPOSE:

In order to avoid the complications associated with a third party bidder and give the current owner every opportunity available to extend the redemption period under the *Local Government Act*, Staff recommend that the City be an active bidder on each property at the annual Tax Sale,

To do this, a staff member must be authorized to act as bidder for the City, to a maximum amount. This is permitted under section 406 of the *Local Government Act*.

BACKGROUND:

The *Local Government Act* requires the City to sell, by public auction, all properties with delinquent taxes. The annual Tax Sale takes place on the last Monday of September of each year. The minimum bid must equal or be greater than the "Upset Price", which is the sum of all outstanding taxes, penalties, interest and administration costs. If there are no successful bidders, the property defaults to the City. The registered owner has one year after the property is sold at Tax Sale to pay the Upset Price plus interest to redeem the property.

Though the intent of the Tax Sale is to recover property taxes due, it is always done with the hope that people are not displaced or lose their home. When properties are purchased by the City, additional options are available to assist the current owner in redeeming their property. Additional time extensions are permitted under the *Local Government Act* when the municipality is the purchaser and there are improvements on the property. These extensions are not permitted when the properties are purchased by a third party.

Prior to Tax Sale, City staff makes many efforts to contact each owner to inform them of the process and urge them to make the necessary payments to avoid the sale. This is done by public announcements, letters and/or phone calls. Through these efforts, the list of properties is greatly reduced, ranging from 5 to 35 properties at the sale over the last 5 years.

Council
 Committee
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-SEP-10

DISCUSSION:

City Bidder at Tax Sale

Section 406 of the *Local Government Act* allows Council to authorize a person to bid at Tax Sale up to a maximum amount. Should Council adopt this recommendation, each property at the sale would be bought by the City (unless outbid).

Some of the rights of the current owner remain; they continue to occupy the property in the same manner as prior to the sale. A charge is added to their property at Land Titles which details that the property was sold at a Tax Sale. The purchaser still has 1 year to redeem the property.

With the municipality as the purchaser and providing that there are improvements on the property, additional time beyond the one year redemption period is permitted providing a 50% payment is made within that first year. This has happened several times in the past.

Even if there are no improvements on the property, Council can, by bylaw per section 417 (6) of the *Local Government Act*, extend the redemption period for an additional year. Council utilized this option in 2009 for the 2008 Tax Sale on a vacant property whose owner was out of the country since 2007. The owner returned in 2010 and contacted the City. Fortunately, with the time extension, the property was easily redeemed. This could only have occurred because the municipality was the purchaser. On another occasion, Council chose not to extend the redemption period and the owner managed to pay on time.

The purpose of this recommended policy is to discourage third party bidders. It will be applied to each property at the sale unless significant and relevant circumstances are brought to Council's attention prior to the sale. Council authorized a City bidder for the 2011 tax sale and Staff believes that the outcome was very successful.

Other municipalities have successfully utilized a City bidder. These municipalities include Victoria, Tofino and Coquitlam. In the case of properties in rural areas, there is no Tax Sale auction. After three years, the property is automatically deemed to be purchased by the Province without the opportunity for a third party bidder.

Interest

The interest rate paid to the purchaser of a Tax Sale property is currently 6% as prescribed by the Province of BC. Interest is charged on the purchase price and must be paid prior to redemption. This interest amount is then payable to the purchaser. The unintended consequence of this proposed policy is the interest amount payable could increase if there is a third party bidder who increases the bid over the upset price. Again, it would be the responsibility of the owner to pay this additional interest amount.

Valuation

The total general taxable assessment is made up of land value plus improvements (e.g. A house) :

Risk

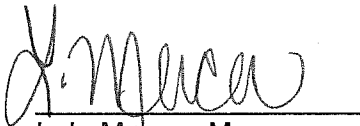
Many of the properties that go to Tax Sale have encumbrances upon them in addition to those of the City. These can be mortgages, liens, judgments and other claims. Upon sale, most of the encumbrances are forfeited. Those placed by the Crown remain attached to the property and become the responsibility of the buyer.

At risk is the possibility of acquiring a non-redeemed property with all its encumbrances. This is the same risk the City currently has as the default purchaser of properties. Usually, all properties sold at Tax Sale have been redeemed. In the event that a property is unredeemed and transfers to the City, the transaction would be funded from the Property Acquisition Reserve.

If the City purchases these properties at Tax Sale, there is the risk of becoming landlords to various renters. Steps may need to be taken to evict former occupants who have become our tenants. The properties the City acquires could be deemed "unsightly" or "nuisance" properties. The cost to restore these properties would be the responsibility of the City as the City would then be the owner. As noted above, the City already potentially has this risk as the default purchaser. There may be times when it could be preferable for the City not to bid and instead allow the property to transfer to a third party. Unfortunately these are always unique situations that cannot be covered by policy and may not be discovered until the last minute.

If there are any circumstances in which Council would not want the City to bid on a tax sale property, specific guidelines will need to be provided to Staff.

Respectfully submitted,



L. L. Mercer, Manager
Revenue Services

Concurrence by:



B. E. Clemens,
Director of Finance



D. W. Holmes, Assistant City Manager /
General Manager, Corporate Services

CITY MANAGER COMMENT:

I concur with the staff recommendation.

MINUTES OF THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE CITY HALL BOARD ROOM, 455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-SEP-10, COMMENCING AT 1:00 P.M.

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

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

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
T. M. Hickey, General Manager of Community Services
I. Howat, Director of Strategic Relationships
T. L. Hartley, Director of Human Resources and Organizational Planning
B. E. Clemens, Director of Finance
T. P. Seward, Director of Development
A. J. Tucker, Director of Planning
D. Lindsay, Manager, Building Inspections (arrived 1:47 p.m.)
P. Cooper, Communications Manager
L. Mercer, Manager, Revenue Services (vacated 1:17 p.m.)
K. King, Acting Manager of Legislative Services
L. Dennis, Recording Secretary

1. CALL THE OPEN MEETING TO ORDER:

The Special "In Camera" Meeting was called to order at 1:05 p.m.

2. PROCEDURAL MOTION:

15512 It was moved and seconded that the meeting be closed in order to deal with the following matters under the *Community Charter* Section 90(1):

- (e) the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure could reasonably be expected to harm the interests of the municipality;
- (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the municipality if they were held in public.

The motion carried unanimously.

3. ADOPTION OF AGENDA:

15612 It was moved and seconded that the Agenda be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

15712 It was moved and seconded that the Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-SEP-10 at 1:00 p.m. in the City Hall Board Room, 455 Wallace Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

5. CORPORATE SERVICES:

(a) Council Appointed Tax Sale Bidder

15812 It was moved and seconded that Council authorize the Manager of Real Estate or designate to bid at the annual Tax Sale,
The motion carried unanimously.

(b)

6. OTHER BUSINESS:

(a)

7. ADJOURNMENT:

16112 It was moved and seconded at 2:22 p.m. that the "In Camera" Meeting terminate. The motion carried unanimously.

16212 It was moved and seconded at 2:22 p.m. that the Regular Meeting terminate. The motion carried unanimously.

M A Y O R

CERTIFIED CORRECT:

CORPORATE OFFICER

AMENDED

AGENDA FOR THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
TO BE HELD IN THE CITY HALL BOARD ROOM,
455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-OCT-01, COMMENCING AT 1:00 P.M.

CHAIR: MAYOR RUTTAN

ACTING MAYOR: COUNCILLOR BRENNAN (2012-SEP-10 TO 2012-OCT-21)

1. **INTRODUCTION OF LATE ITEMS:**

- Add Item 11 (b) – Other Business – Mr. Bernie Dumas, Nanaimo Port Authority, regarding marina development project.

2. **ADOPTION OF AGENDA: (Brennan/McKay)**

3. **ADOPTION OF MINUTES: (Brennan/McKay)**

- (a) Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-SEP-10 at 1:00 p.m. in the City Hall Board Room. *Pg. 4-6*

4. **PRESENTATIONS:**

- (a) Representatives from the Downtown Nanaimo Business Improvement Association (DNBIA).

5. **MAYOR'S REPORT:**

6. **ADMINISTRATION:**

NONE

7. **COMMUNITY SAFETY AND DEVELOPMENT**

(a) **Response Performance**

To be introduced by Chief R. Lambert, Nanaimo Fire Rescue.

Staff Recommendation: That Council direct Staff:

Pg. 7-10

1. to update the Standard of Response Coverage Study to reflect current conditions and to best meet the standard of the "first engine on scene within 6 minutes, 90% of the time"; and,

2. prepare a report for a future open Council meeting to correct response time information that was provided in the 2011 Annual Report and to release to the public the significant elements of this report.

(b) **Responses to Request for Offers – 1621 Dufferin Crescent**

Staff Recommendation: That Council:

Pg. 11-16

1. approve in principle the disposition of 1621 Dufferin Crescent to R.W. (Bob) Wall Ltd.; and,
2. direct Staff to return to an open Council meeting once a purchase and sale agreement has been executed.

(c) **Acquisition of a Portion of Canadian Pacific Railway Company Lands Located at 7 Port Drive**

Staff Recommendation: That Council:

Pg. 17-23

1. approve the acquisition of approximately 7.9 ha (24 acres) of land and water located at 7 Port Drive for a price of \$3,400,000 subject to the City's conditions precedent being met;
2. authorize the Mayor and the Corporate Officer to execute the Purchase and Sales Agreement (PSA) and necessary documents to effect the transaction once the conditions precedent have been met;
3. direct Staff to provide a further report to Council when the conditions precedent have been met; and,
4. direct Staff to advise our strategic partners and prepare a press release regarding the agreement once the PSA is executed.

(d) **Enforcement of Business Licence Bylaw in Relation to Trade, Sale or Distribution of Shark Fins**

Staff Recommendation: That Council receive the report regarding the enforcement of the business licence bylaw in relation to the trade, sale or distribution of shark fins.

Pg. 24-26

8. **CORPORATE SERVICES:**

NONE

9. **COMMUNITY SERVICES:**

NONE

10. **CORRESPONDENCE:**

NONE

11. **OTHER BUSINESS:**

(a) Verbal report regarding foot ferry service.

Pg. 27-28

(b) Mr. Bernie Dumas, Nanaimo Port Authority, regarding marina development project.

12. **ADJOURNMENT OF THE SPECIAL "IN CAMERA" MEETING:**

13. **ADJOURNMENT OF THE SPECIAL MEETING:**

“IN CAMERA”
City of Nanaimo
REPORT TO COUNCIL

DATE OF MEETING: 2012-OCT-01

AUTHORED BY: RON LAMBERT, FIRE CHIEF

RE: RESPONSE PERFORMANCE

STAFF RECOMMENDATION:

That Council direct Staff to:

1. update the Standard of Response Coverage Study to reflect current conditions and to best meet the standard of the ‘first engine on scene within 6 minutes, 90% of the time’; and
2. prepare a report for a future open Council meeting to correct response time information that was provided in the 2011 Annual Report and to release to the public the significant elements of this report.

PURPOSE:

This report provides a brief summary for Council as to the factors associated with response performance that did not meet Council’s target for the first engine on scene within 6 minutes, 90% of the time in 2011. Also, this report provides revised response times that were incorrectly stated on the 2011 Annual Report. This report will be supplemented by a PowerPoint presentation on the topic. The presentation follows the fundamentals and components of the standards of response coverage approach and includes dispatch time, turnout time, travel time, aggregated response time, unit availability and reliability.

BACKGROUND:

At the 2012-JUN-25 “In Camera” meeting, Council directed Staff to prepare a report on why Fire Rescue services are not meeting the 90% response standards as included in the 2011 Annual Report; what needs to be done to meet those standards; and to include a statistical comparison to neighbour and peer communities.

It has been approximately eight years since the Standard of Response Coverage Study was conducted and an implementation period with performance measures adopted by Council. Population and demand has increased since that time, affecting the Department’s capacity.

DISCUSSION:

Because of abnormalities in the data, staff performed a detailed review to determine the accuracy of actual response times. The Captain of Informatics and Communications and the

Council
 Committee.....
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-09-01

Administrative Assistant performed a manual seven-day audit of the entire 6,494 incident responses with specific attention to the 2,176 emergency responses not meeting the performance objectives. The Information Technology Department (IT) also provided technical support as required.

Their work identified two errors in previous data compilation:

- The first conflict affected the way dispatch time was generated. The aggregation counted all apparatus that responded, instead of the actual call dispatched, skewing the reported number at 76.46% in 2011. Once corrected, the adjusted performance was 89.13%, as noted on the following table.
- The second conflict was in aggregate response time, which incorrectly included all incidents in the CI 9-1-1 system. This resulted in aggregate response time reported at 54.26%, instead of the actual of 73.27%.

Measure	2011	2010	2009	2008	2007
Dispatch within 60 seconds	*89.13%	*89.15%	*89.25%	*89.57%	*90.26%
Turnout within 60 seconds / 80 seconds	53.52% 53.13%	41.31%	32.62%	32.30%	17.55%
Travel time within 4 minutes	67.37%	67.75%	65.99%	67.18%	68.71%
Arrival of first-due Engine within 6 minutes (aggregate)	73.27%	64.32%	65.39%	63.34%	60.32%

The manual audit also produced the following summary of both system and user issues that affected response time, including those areas outside of what would be the normal 6 minute response, and those within. These incident responses were encumbered by long dispatch time, extended turnout time or extended travel time as summarized below:

Dispatch Time

Dispatch performance target is to *process emergency incidents within 60 seconds, 90% of the time*. Dispatch time includes the period between when the FireComm phone rings to notification of crews. Initially the Annual Report had 76.46% as the measure. After the audit and correction to the reporting system, the actual recorded performance was determined to be 89.1%.

There were 360 emergency incidents that did not meet the performance objective.

- Approximately 30% of those exceeding the objective involved motor vehicle incidents that required additional questions to appropriately dispatch the correct resources.
- Over 50% of all incidents are reported on cell phones. Frequently, callers do not know their precise location and additional communication is required to identify the correct apparatus for response.
- A sample review revealed that information validation was the leading cause to not meeting the performance standard.
- During peak periods, multiple calls at one time may distract or delay alerting resources.
- Less experienced dispatchers demonstrated poorer dispatch performance overall.

Conclusion: Dispatch time has been consistent and was within 1% of target figure for the past five years.

Turnout Time

Turnout performance is the time from when the crew is alerted, to the time of initiation of the apparatus travel to the incident. The standard is *60 seconds for medical incidents and 80 seconds for fires and other emergencies* requiring the donning of personal protective equipment. The actual recorded performance was determined to be 53.52 and 53.13% respectively, unchanged from the initial report. Extended turnout time is the single, largest cause for not meeting response performance objectives. Of those incidents not meeting the turnout target, the audit identified the following:

- The largest single turnout delay of 44% came from incidents occurring between the hours of 2200 hours and 0700 hours.
- In 2.5% (of incidents not meeting the target), crews were training within their area and time was extended to become ready for response.
- Turnout is extended where the crew is performing fire safety inspections in buildings.

Conclusion: During the past five years, considerable progress has been made in this area, although additional work is planned to improve turnout time.

Travel Time

The travel time performance target is 4 minutes. When aggregated with dispatch and turnout components, the objective is for the *first-due engine to be on scene within 6 minutes*. While the initial report indicated performance at 54.62%, the actual performance was determined to be 73.27%. The audit determined that extended travel time of the apparatus contributed to not meeting the performance objective 211 times. The following observations were made:

- In 8%, apparatus was previously committed and responded to a subsequent incident. This is an apparatus availability issue requiring a distant apparatus to respond.
- In 3%, crews were training outside their response district, slowing response.
- In 4%, apparatus was either staged by police, unable to find an address or delayed due to road conditions such as snow/ice.

Approximately 69% had no explanation. Peripheral areas such as Hammond Bay, northern Jingle Pot area, Westwood, and Duke Point have travel times from the current station distribution that exceed 4 minutes. Further, the four mutual aid and regional highway rescue incidents will not meet the performance target. Other causes include:

- response from opposite ends of the assigned response district;
- maintenance and repair of apparatus and equipment often shift the resources outside of response districts; and
- peak traffic periods and the overall transportation network.

Conclusion: Travel time has remained consistent over the past five years. More study is required to address ways to improve travel time.

Review of Other Communities

Comparison to other similar communities was difficult as each has different standards. Kamloops uses a 7 minute response performance target, achieving it 87% of the time. Kelowna only uses apparatus travel time and reported 59% performance, based on 4 minute response time target. This includes response of volunteer engines. Geographic and other factors will also adversely impact objective comparison. Prince George does not have performance objectives, nor does it report performance. The collection of data is used internally at what appears to be a rudimentary level. In contrast, Nanaimo's system follows 'best practice' within the fire industry.

In regard to neighbouring departments, all are volunteer and will experience high turnout times. FireComm data indicated that Lantzville met the 6 minute standard 0%, while North Cedar achieved 1.5%.

For some time, Staff has been working to improve response performance, and this work continues. The Standard of Response Coverage Study identified both technical and human behavioral issues specific to improving response performance. Technical examples include pre-alert on incident commitment in CAD, automated station door openers, 'Rip and Run' printers and Mobile CAD on apparatus. In addition, focus toward human aspects such as turnout, maintaining coverage and data accuracy have been emphasized. Greater accountability has been built into the Department's operations, with improved performance.

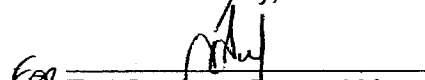
Staff believes that there are a number of additional opportunities within operational strategies and resourcing that will positively impact response performance in the future. While Station 6 in the Hammond Bay area is the final step in the 12-year plan, there are a number of other issues that have evolved, given population growth and increased demand. It must be emphasized that the initial Standard of Response Coverage Study was based on data from the early 2000's. To provide the best possible service to the community, it is now necessary to review recent trends in greater detail. Staff is seeking Council's endorsement to view such opportunities to best meet the target performance measures and develop a business case that will be sustainable in the years to come. Ultimately, this would serve as an update to the current plan and provide the City with strategic direction for fire and rescue services.

Respectfully submitted,



Ron Lambert,
Fire Chief

Concurrence by,



Ted Swabey, General Manager,
Community Safety & Development

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2012-SEP-25

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"In Camera"

City of Nanaimo

REPORT TO COUNCIL

DATE OF MEETING: 2012-OCT-01

AUTHORED BY: BILL CORSAN, MANAGER OF REAL ESTATE

RE: RESPONSES TO REQUEST FOR OFFERS - 1621 DUFFERIN CRESCENT

STAFF RECOMMENDATION:

That Council:

1. approve in principle the disposition of 1621 Dufferin Crescent to R.W. (Bob) Wall Ltd.; and
2. direct Staff to return to an open Council meeting once a purchase and sale agreement has been executed.

PURPOSE:

At the 2012-AUG-13 Council meeting, Staff was directed to report back to Council on the responses that were received through the Request for Offers process for the City-owned land at 1621 Dufferin Crescent (Attachment A). A report has been prepared for Council's consideration which contains an evaluation and summary of the responses and recommends that the land be sold to the highest bidder.

BACKGROUND:

At the 2012-AUG-13 Council meeting, the following resolutions were passed:

That Council:

1. direct Staff to post a Request for Offers for the sale of City-owned property at 1621 Dufferin Crescent; and
2. direct Staff to report back with an evaluation and summary report for Council's consideration.

Staff issued the Request for Offers and received three responses by the closing date of 2012-Sept-14. Through the process, the highest bid was submitted by R.W. (Bob) Wall Ltd. with an offer of \$1,012,001.01. Staff recommends that this offer be accepted and a purchase and sale agreement be prepared.

- Council
- Committee
- Open Meeting
- In-Camera Meeting

Meeting Date: 2012-OCT-01

DISCUSSION:

About the Site

The subject property is located at 1621 Dufferin Crescent situated within the Hospital Urban Node, kitty-corner to Nanaimo Regional General Hospital. Beaufort Shopping Center and a medical office complex are located across Boundary Crescent. Wellington Medical Clinic is located across Dufferin Crescent. Uses extending west along Dufferin Crescent are a mix of newer residential condominium and older apartment blocks. Uses extending south along Boundary Avenue are a mix of older apartment blocks transitioning to single family residential. Bordering the subject property will be a 40-unit supportive housing project.

The subject property is 0.4 ha (1 acre) in size. It is rectangular in shape with frontage to Dufferin Crescent of approximately 77.79 m (242 ft), frontage to Boundary Avenue and Boundary Crescent of approximately 51.62 m (169 ft). The subject property is currently vegetated with bush and mature Douglas Fir trees. The site slopes upwards from the corner of Dufferin Crescent and Boundary at 83 m towards a high point of 92 m at the south west corner of the site. Slope grade is estimated to be approximately 11%.

The subject property will be fully serviced by the City stemming from its involvement with the adjacent supportive housing project to the south. As part of the City's MOU with BC Housing, the City is obligated to extend services and undertake road and sidewalk upgrades for the supportive housing project. Works by the City are expected to take place in late 2012.

Development Opportunities

Recognizing that 1621 Dufferin Crescent would become surplus to City needs following the creation of the parcel for the supportive housing project, Staff engaged Cunningham and Rivard Appraisals Ltd. in March of 2011 to provide advice on the highest and best use for the subject property and to estimate the land value if subdivided and sold. The highest and best use is identified as a strata titled medical and professional office (with ancillary retail) development. The appraisal was updated (2012-JUL-30) to reflect the amended parcel size and the inclusion of the value of the works and services provided by the City. The appraisal estimated that the front portion of the property could be worth \$20 per sq ft, or roughly \$870,000 if rezoned to Hospital Urban Centre (CC5).

Request for Offers

An advertisement to notify the public of a Request for Offers was issued on 2012-AUG-20. The Request for Offers set an asking price of \$870,000 conditional upon a successful rezoning application by the purchaser.

The closing date for submissions was 2012-SEP-14. The Request for Offers was posted on the City website, BC Bid, the local newspapers and was distributed to commercial real estate brokers.

Agents who brought an offer to the City were entitled to a 3% commission if the offer was accepted by Council.

A copy of the Request for Offers as advertised in the Daily News is provided as Attachment B.

Three submissions were received by the closing date of 2012-Sept-14:

- Windley Developments Ltd. or nominee, subject to re-zoning & 60 days due diligence as to feasibility. (no agent involvement)
- EastGate Developments Ltd., subject to re-zoning & 60 days due diligence as to feasibility. (agent involvement)

- R.W. (Bob) Wall Ltd., subject to rezoning & 45 days due diligence as to feasibility. (no agent involvement)

All three offers were at a price of \$910,000.00 Each of the three companies have good reputations and have experience with medical office projects. It would have been difficult to determine a successful proponent without appearing to be subjective. Consequently, Staff proposed breaking the 3-way tie by allowing each of the proponents an opportunity to increase the amount of its offer. The three proponents agreed and submitted amended offers as follows:

R.W. (Bob) Wall Ltd.....\$1,012,001.01

Next Steps

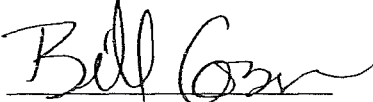
Following approval from Council, the next steps are:

- Staff will prepare a purchase and sale agreement for consideration by R.W. (Bob) Wall Ltd.
- R.W.(Bob) Wall Ltd. will have 45 days to undertake a preliminary due diligence investigation regarding environmental, geotechnical and architectural matters.
- Staff will return to Council in an open meeting with an update on the disposition and to confirm that the conditions precedent have been met.
- R.W.(Bob) Wall Ltd. will submit an application for rezoning to Hospital Urban Node (CC5).
- The sale will complete if the re-zoning by-law is adopted by Council.

Strategic Plan Considerations

Community Building Partnerships – proceeds from the sale of the land will be placed in the Property Sales Reserve Fund. Council can then direct those funds to be used to acquire land, improvements or other assets of a capital nature.

Respectfully submitted,

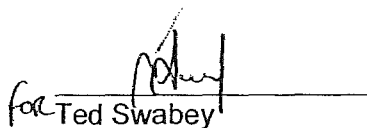


Bill Corsan
MANAGER
REAL ESTATE

Concurrence by:



Andrew Tucker
DIRECTOR
PLANNING



Ted Swabey
GENERAL MANAGER
COMMUNITY SAFETY AND DEVELOPMENT

CITY MANAGER COMMENT:

I concur with the Staff recommendation.

Chronology

At the 2012-JAN-14 “In Camera” Council meeting, the following resolutions were passed:

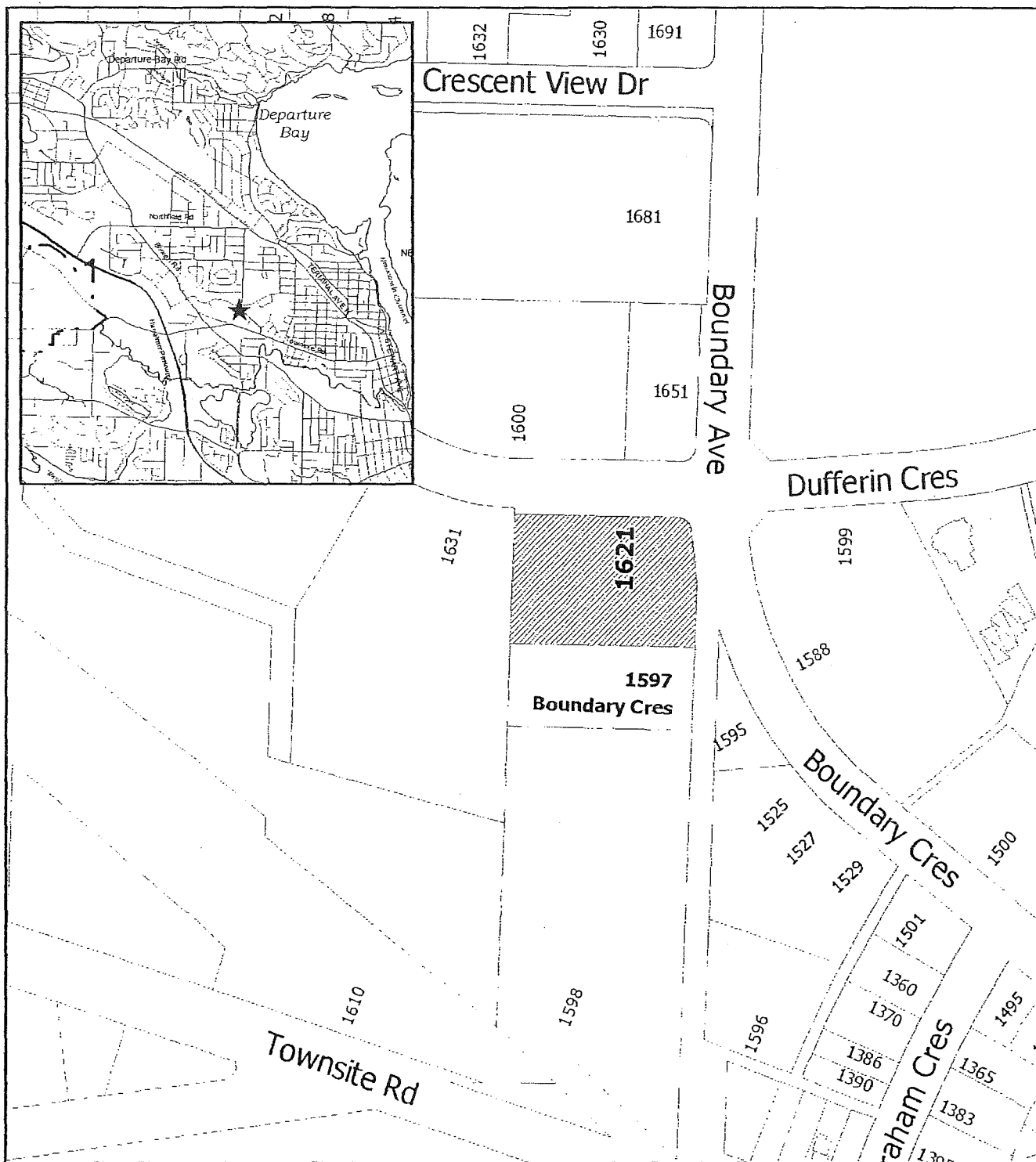
That Council:

1. approve in principle the disposition of a portion of 1621 Dufferin Crescent by way of sale;
2. direct Staff to begin the necessary work to dispose of a portion of 1621 Dufferin Crescent and to report back to Council seeking approval at key stages as the project progresses; and
3. direct Staff to bring this matter to open Council in the week prior to advertising.

At the 2012-AUG-13 Council meeting, the following resolutions were passed:

That Council:

1. direct Staff to post a Request for Offers for the sale of City-owned property at 1621 Dufferin Crescent; and
2. direct Staff to report back with an evaluation and summary report for Council's consideration.



LOCATION PLAN

 **Subject Property**

Civic: 1621 Dufferin Crescent

ATTACHMENT B

910 **Legal and Landings**

CITY OF NANAIMO
THE HARBOUR CITY

REQUEST FOR OFFER
No. 1362

**SALE OF 1621 DUFFERIN
CRESCENT NANAIMO, BC**

The City of Nanaimo is offering for sale a 1-Acre Commercial Development Site located at 1621 Dufferin Crescent, Nanaimo, BC.

Documents related to this Request for Offer are available on the City of Nanaimo website at: www.nanaimo.ca/business/bid_opportunities, or at the City of Nanaimo Purchasing Department, 2020 Labieux Road, Nanaimo, BC.

All questions regarding the sale shall be directed in writing to City of Nanaimo Real Estate Section, email address: realestate@nanaimo.ca

The City requests that offers be submitted by 3:00 p.m. Pacific Time on Friday, September 14, 2012 to the following location:

City of Nanaimo Purchasing Department
2020 Labieux Road
Nanaimo, BC V9T 6J9

Offers via Email:
purchasinginfo@nanaimo.ca
(max email size 8MB)

Offers via Facsimile: 250-756-5327

"In Camera"

**City of Nanaimo
REPORT TO COUNCIL**

DATE OF MEETING: 2012-OCT-01

AUTHORED BY: BILL CORSAN, MANAGER OF REAL ESTATE

RE: ACQUISITION OF A PORTION OF CANADIAN PACIFIC RAILWAY COMPANY LANDS
LOCATED AT 7 PORT DRIVE

STAFF RECOMMENDATION:

That Council:

1. approve the acquisition of approximately 7.9 ha (24 acres) of land and water located at 7 Port Drive for a price of \$3,400,000 subject to the City's conditions precedent being met;
2. authorize the Mayor and Corporate Officer to execute the Purchase and Sales Agreement (PSA) and necessary documents to effect the transaction once the conditions precedent have been met;
3. direct staff to provide a further report to Council when the conditions precedent have been met; and
4. direct staff to advise our strategic partners and prepare a press release regarding the agreement once the PSA is executed.

PURPOSE:

Staff requests Council approval to acquire 7.9 ha (24 acres) of land and water from Canadian Pacific Railway Company (CP Rail) for a purchase price of \$3,400,000. The Regional District of Nanaimo (RDN) have advised that they will partner with the City on this acquisition to secure land for a transit exchange. The RDN has advised that they have allocated up to \$2,000,000 for acquisition of the land and \$700,000 to construct the exchange.

SUMMARY:

The CP Rail Wellcox Yard is strategically located on the waterfront, south of the downtown core. The OCP identifies the property as Urban Node, envisioning the property will transition from its traditional use as a railyard and industrial area towards more urban uses. CP Rail listed the property for sale in January 2011 and have been unsuccessful in finding a purchaser due to the complexities of the site which include environmental contamination, perpetual rights of way to SeaSpan International and Island Corridor Foundation. The requirements for works and services through subdivision, including the replacement of the existing wooden trestle, have also been prohibitive for prospective buyers.

Council
 Committee.....
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-09-01

Staff approached CP Rail to discuss the possibility of acquiring the northern 7.9 ha (24 acres) of the property which runs from the trestle in the south to the Gabriola Ferry to the north (Attachment A). A purchase price of \$3,400,000 has been agreed upon by both parties.

The property meets a number of objectives in the 2012-2015 Strategic Plan, including the facilitation of a transit node, securing waterfront for a waterfront trail and taking responsibility for the future redevelopment of this key area of the City. Approximately 2.1 ha (5.22 acres) of the proposed acquisition is unencumbered, while the remaining 7.6 ha (18.78 acres) is encumbered with perpetual rights of way which currently limits the development potential of the property. Over time, as rail and shipping activities decline, the City will have the ability to work with the users to reduce or eliminate the rights of way, freeing up prime waterfront land for redevelopment.

BACKGROUND:

Overview

In January 2011, CP Rail listed 7 Port Drive (CP Wellcox Rail Lands) through Colliers International for a price of \$7.9 million. Numerous parties have shown interest in the property, but all have declined to complete a deal due to the myriad of issues associated with the property including environmental issues, perpetual rights of way, and the costs associated with subdivision.

The parent parcel is 21.6 ha (53.3 acres) in size and split-zoned 1-4 and P-4. The parcel is roughly rectangular in shape, running from the northern property line with the Gabriola Ferry, south to the border of Snuneymuxw First Nation Reserve #1. The land is largely flat and built on filled foreshore that dates back to the founding of the city. The land is bordered to the east by the Nanaimo Port Authority (NPA) Assembly Wharf property and to the west by Front Street and Esplanade Street.

Staff approached CP Rail to determine if there was a possibility of selling the northern portion of the property to the City of Nanaimo. CP Rail have agreed to sell 7.9 ha (24 acres) to the City (Attachment A). CP Rail will retain the southern 11.3 ha (28 acre) parcel for future development.

The land north of the trestle bridge contains 7.06 ha (17.45 acres) of upland and 2.65 ha (6.55 acres) of water.

Currently 3.9 acres of the land is unencumbered and 1.3 acres of waterlot is unencumbered. The encumbrances limit the current development potential of the land. SeaSpan International has a right of way which runs in perpetuity over 6.27 ha (15.5 acres) of the parcel. Island Corridor Foundation has a perpetual right of way covering a 1.3 ha (3.3 acres) of the site (Attachment B).

The unencumbered portion of the land has two leases in place with GADD Marine and Island Pallet Solutions. Both leases can be terminated within a short time frame.

The majority of the parcel was created through filling of the harbour using coal slag. The historical industrial use of the property may also raise some concerns about its environmental condition. CP Rail has completed numerous environmental audits which need to be reviewed as part of due diligence.

Staff commissioned an appraisal which valued the 9.7 ha (24 acres) at \$4,000,000 “as is” with the existing encumbrances. Without encumbrances, the land has a value of \$9,800,000. Through negotiations, Staff were able to reduce the purchase price to \$3,400,000 which is considered to be a fair value for the property.

DISCUSSION:

Rationale for Acquisition

The following rationale is provided for the acquisition of the parcel:

- Access – at present access across the wooden trestle to the lands east of the railway tracks and the NPA Assembly Wharf lands is through a right of way agreement that does not grant public access. By the City owning the land, a public road can be dedicated which will ensure that the NPA has proper legal access. The City can work with the NPA to partner on the rebuilding of the existing bridge and internal road network.
- Transit Exchange – the RDN and City have identified this area as the preferred location for the multi-modal transit exchange. The RDN has advised that they have up to \$2,000,000 in funding available to acquire the unencumbered lands adjacent to Front Street for the transit exchange. Given the fast ferries proposal, and a need to relocate the inter-city bus service, this site has great potential to become a transportation hub.
- Master Plan – once the lands are under City ownership, a master planning process can be undertaken to identify the community’s vision, which may include waterfront walkway, park space, multi-family and commercial development. The master plan will also provide certainty over servicing provision, road standards and phasing of development which will enable CP to redevelop its lands south of the trestle.
- Long Term Hold – the site must be viewed as a long term strategic hold given the major encumbrances. Staff will work with the existing holders of the rights of way to determine if the rights of way can be reduced. Once the lands are unencumbered, the City could consider options to sell or develop a portion of the site. The City is in the best position to address the long-term encumbrances.

Funding

Funding for this acquisition is from the Property Acquisition Reserve Fund (\$2,600,000) and the Property Sales Reserve Fund (\$800,000). The RDN have advised that they have allocated up to \$2,000,000 for the land associated with the transit exchange. This money will be placed back into the Sales Reserve Fund.

Purchase & Sale Agreement and Conditions Precedent

A Purchase and Sale Agreement has been prepared by CP Rail and reviewed by the City’s legal counsel. The key elements of the deal include the following:

Lands:	Approximately 7.9 ha (24 acres) of the Wellcox Railyard as outlined in City of Nanimo Letter of Intent dated 2012-JUL-19
Purchase Price	\$3,400,000
Deposit	\$170,000
Closing Date	2013-MAR-31
Condition of Lands	“As Is”

CP Conditions Precedent

- Senior Management Approval

City of Nanaimo Conditions Precedent

- City of Nanaimo to review the following documents to its satisfaction: all leases, licences, rights of way, environmental and geotechnical reports, site assessments, audits, studies, investigations, permits, approvals and records in possession of CP with respect to the lands;
- City of Nanaimo to obtain an environmental assessment of the land;
- City of Nanaimo to review, to its sole satisfaction, the State of Title Certificate of the Lands and the existing encumbrances; and
- City Council approval.

Other Key Items for Consideration

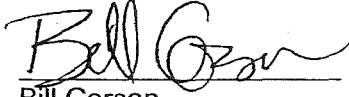
- CP Rail will dedicate upwards of 25 metres for road dedication from the CP Trestle to the Nanaimo Port Authority “Banana” parcel to the south. Exact width to be determined through a master plan;
- City of Nanaimo to take responsibility and liability for the existing wooden trestle;
- City of Nanaimo to undertake a master planning exercise in 2013 for the Wellcox Railyard; and
- City of Nanaimo Staff to support rezoning applications to Council that are consistent with the master plan

Strategic Plan Considerations

The acquisition of this parcel of land meets a number of the key priorities identified in the 2012-2015 Strategic Plan, including;


Strategy	
Waterfront Enhancement	<p>Outcomes Desired</p> <ul style="list-style-type: none"> • Enhanced public access and use. • A continuous, uninterrupted and accessible waterfront trail/ connection from Departure Bay Beach to Nanaimo River Estuary. • A working waterfront that supports business, marine industries, transportation, connectivity, entertainment and tourism.
Transportation and Mobility	<p>Potential Strategies and/or Initiatives</p> <ul style="list-style-type: none"> • Work with RDN, NEDC, Chamber of Commerce, Nanaimo Port Authority, BC Ferries, BC Transit, Airport Authority, Island Corridor Foundation, advocates for and supports improvement of external connections: inter-city bus, ferries, fast foot ferry to downtown Vancouver, float planes, enhanced air connections. • Work with RDN on downtown transit exchange options that support overall outcomes, enhance waterfront connections, link to inter-city public transit options and support downtown development.
Taking Responsibility	<p>Potential Strategies and/or Initiatives</p> <ul style="list-style-type: none"> • Continuing to facilitate change and overall development consistent with vision and plans; taking action steps to be a catalyst or investment in the City’s future.

Respectfully submitted,




Bill Corsan
MANAGER
REAL ESTATE

Concurrence by:

for  _____

Andrew Tucker
DIRECTOR
PLANNING

for  _____

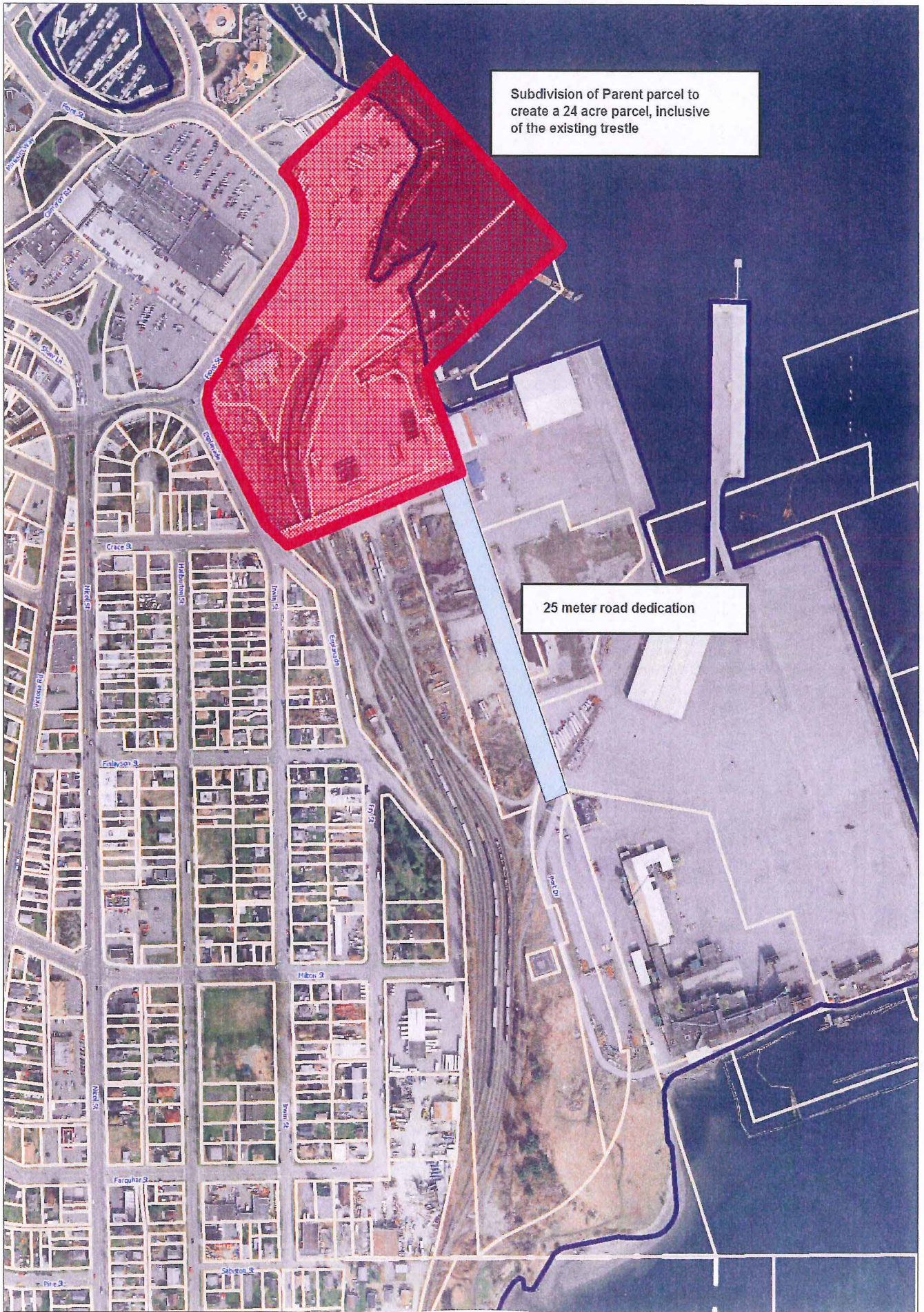
Ted Swabey
GENERAL MANAGER
COMMUNITY SAFETY & DEVELOPMENT

CITY MANAGER COMMENT:

I concur with the Staff recommendation.

Drafted: 2012-SEP-25
CIL00325
BC/tl/hp

ATTACHMENT A



Subdivision of Parent parcel to create a 24 acre parcel, inclusive of the existing trestle

25 meter road dedication

ATTACHMENT B



“IN CAMERA”
City of Nanaimo
REPORT TO COUNCIL

DATE OF MEETING: 2012-OCT-01

AUTHORED BY: NELDA RICHARDSON, MANAGER, DEVELOPMENT SUPPORT
SERVICES & BUSINESS LICENCING

RE: ENFORCEMENT OF BUSINESS LICENCE BYLAW IN RELATION TO TRADE, SALE
OR DISTRIBUTION OF SHARK FINS

STAFF RECOMMENDATION:

That Council receive this report for information.

PURPOSE:

To provide Council with an update on challenges associated with bylaws and enforcement related to trade, sale or distribution of shark fins.

BACKGROUND:

On tonight's open agenda, there are two reports pertaining to trade, sale or distribution of shark fins:

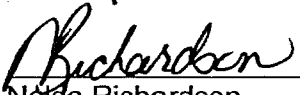
1. adoption of a bylaw to ban the trade, sale or distribution of shark fins; and
2. a proposal to amend the Business Licence Bylaw to increase the maximum fine in the bylaw from \$2,000 to \$10,000.

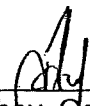
DISCUSSION:

At previous meetings, Council Members requested information regarding the enforcement process when a bylaw violation is identified and processes available to increase penalties if businesses in Nanaimo were found to be selling shark fin soup. Staff have provided a breakdown of various steps in the enforcement process (Attachment A).

Also, staff have reviewed issues regarding bylaws and enforcement related to the trade, sale, or distribution of shark fins with the City Solicitor, who has provided the following information:

Respectfully submitted,


Nelda Richardson,
Manager, Development Support Services
& Business Licencing

Concurrence by,

For Ted Swabey, General Manager,
Community Safety & Development

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2012-SEP-25
G:\devpermit\reports\shark fin Oct2012
NR/hp

ATTACHMENT 'A'

PROCESS FOR ENFORCEMENT RELATING TO VIOLATIONS OF CITY BYLAWS

Verbal or written warning from City staff if owner/operator is not aware of the regulations defined in the applicable bylaw.



If the owner/operator is aware of the regulations being contravened a ticket is issued with a fine of \$100.



If the offence continues a second ticket is issued within specified timeframe. One day or one week depending on the issue.



If the offence continues the following two options can be applied:

- 1) Proceed to Provincial Court to seek penalties to a maximum of \$2,000 / \$10,000 or six months in jail. This option does not require Council endorsement.
- 2) Proceed to Supreme Court to seek injunctive relief to stop further violation and seek damages. Council endorsement is required. Option 2 would be used in more extreme violations.



End result

Compliance achieved through enforcement steps:

- 1) The offender complies. Or,
- 2) Compliance is achieved by a Court Order.

MINUTES OF THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE CITY HALL BOARD ROOM, 455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-OCT-01, COMMENCING AT 1:00 P.M.

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

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor M. D. Brennan (vacated 3:30 p.m.)
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp (vacated 2:56 p.m.)
Councillor J. F. K. Pattje

Absent: Councillor W. B. McKay

Others: Downtown Nanaimo Improvement Association representatives:
Ms. Corry Hostetter, Mr. Bill Carter, Ms. Louise Kellow, Ms. Shari,
Molchan, Mr. John Cooper, Mr. Blake McGuffie, Mr. Warren Cook,
Ms. Judy Stephan, Mr. Thomas Robertshaw and Mr. Jerry Hong
(arrived 1:20 p.m., vacated 2:18 p.m.)

Mr. Bernie Dumas, Nanaimo Port Authority (arrived 3:34 p.m., vacated
3:49 p.m.)

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
T. M. Hickey, General Manager of Community Services
I. Howat, Director of Strategic Relationships
T. L. Hartley, Director of Human Resources and Organizational Planning
B. E. Clemens, Director of Finance
T. P. Seward, Director of Development
Chief R. Lambert, Nanaimo Fire Rescue
C. Richardson, Deputy Chief Operations (vacated 3:11 p.m.)
A. J. Tucker, Director of Planning
R. J. Harding, Director of Parks, Recreation and Culture
P. Cooper, Communications Manager (vacated 2:02 p.m.)
P. Kristensen, Director of Information Technology (vacated 3:11 p.m.)
R. Churchill, Manager of Bylaw, Regulation and Security (arrived 1:47 p.m.)
K. King, Acting Manager of Legislative Services
L. Dennis, Recording Secretary

1. CALL THE OPEN MEETING TO ORDER:

The Special "In Camera" Meeting was called to order at 1:08 p.m.

2. PROCEDURAL MOTION:

16312 It was moved and seconded that the meeting be closed in order to deal with the following matters under the *Community Charter* Section 90(1):

- (c) labour relations or other employee relations;
- (e) the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure could reasonably be expected to harm the interests of the municipality;
- (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- (j) 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*, and,

Section 90(2):

- (b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party.

The motion carried unanimously.

3. INTRODUCTION OF LATE ITEMS:

- (a) Add Item 11 (b) – Other Business –

4. ADOPTION OF AGENDA:

16412 It was moved and seconded that the Agenda, as amended, be adopted. The motion carried.

Opposed: Councillor Kipp

5. ADOPTION OF MINUTES:

16512 It was moved and seconded that the Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-SEP-10 at 1:00 p.m. in the City Hall Board Room, 455 Wallace Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

The delegation from the Downtown Nanaimo Business Improvement Association (DNBIA) entered the Board Room at 1:20 p.m.

6. PRESENTATIONS:

- (a) Representatives from the Downtown Nanaimo Business Improvement Association (DNBIA) gave Council an update on DNBIA activities and relations with the DNBIA electorate.

The DNBIA representatives vacated the Board Room at 2:18 p.m.

7. COMMUNITY SAFETY AND DEVELOPMENT:

- (a) Response Performance

Chief Lambert, Nanaimo Fire Rescue, gave a PowerPoint presentation on how response time data is collected and reported, some data errors regarding the 6-minute response time as reported in the 2011 Annual Report, and the plan to correct future response time information.

Mayor Ruttan vacated the Board Room at 2:28 p.m.

Councillor Brennan assumed the Chair at 2:28 p.m.

Mayor Ruttan resumed the Chair at 2:32 p.m.

16612 It was moved and seconded that Council direct Staff:

1. to update the Standard of Response Coverage Study to reflect current conditions and to best meet the standard of the "first engine on scene within 6 minutes, 90 percent of the time"; and,
2. prepare a report for a future open Council meeting to correct response time information that was provided in the 2011 Annual Report and to release to the public the significant elements of this report.

The motion carried.

Opposed: *Councillor Bestwick.*

Councillor Anderson vacated the Board Room at 3:16 p.m.

- (b) Responses to Request for Offers – 1621 Dufferin Crescent

16712 It was moved and seconded that Council:

1. approve in principle the disposition of 1621 Dufferin Crescent to R.W. (Bob) Wall Ltd.; and,
2. direct Staff to return to an open Council meeting once a purchase and sale agreement has been executed.

The motion carried unanimously.

Councillor Anderson returned to the Board Room at 3:18 p.m.

(c) Acquisition of a Portion of Canadian Pacific Railway Company Lands Located at 7 Port Drive

16812 It was moved and seconded that Council:

1. approve the acquisition of approximately 9.7 ha (24 acres) of land and water located at 7 Port Drive for a price of \$3,400,000 subject to the City's conditions precedent being met;
2. authorize the Mayor and the Corporate Officer to execute the Purchase and Sales Agreement (PSA) and necessary documents to effect the transaction once the conditions precedent have been met;
3. direct Staff to provide a further report to Council when the conditions precedent have been met; and,
4. direct Staff to advise our strategic partners and prepare a press release regarding the agreement once the PSA is executed.

The motion carried unanimously.

Councillor Brennan vacated the Board Room at 3:30 p.m.

(d) Enforcement of Business Licence Bylaw in Relation to Trade, Sale or Distribution of Shark Fins

16912 It was moved and seconded that Council receive the report regarding the enforcement of the business licence bylaw in relation to the trade, sale or distribution of shark fins. The motion carried unanimously.

17012 It was moved and seconded that Council hear from _____ prior to considering Agenda Item 14 (a). The motion carried unanimously.

Mr. Dumas entered the Board Room at 3:34 p.m.

9. OTHER BUSINESS:

(a)

vacated the Board Room at 3:49 p.m.

(b) Mr. A.C. Kenning, City Manager, gave a verbal update regarding

10. ADJOURNMENT:

17212 It was moved and seconded at 4:09 p.m. that the "In Camera" Meeting terminate.
The motion carried unanimously.

17312 It was moved and seconded at 4:09 p.m. that the Regular Meeting terminate. The
motion carried unanimously.

M A Y O R

CERTIFIED CORRECT:

CORPORATE OFFICER

MINUTES OF THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE CITY HALL BOARD ROOM, 455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-OCT-15, COMMENCING AT 8:30 A. M.

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

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

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
T. M. Hickey, General Manager of Community Services
I. Howat, Director of Strategic Relationships
T. L. Hartley, Director of Human Resources and Organizational Planning
L. Coates, Acting Director, Finance
T. P. Seward, Director of Development
A. J. Tucker, Director of Planning (arrived 8:46 a.m.)
R. J. Harding, Director of Parks, Recreation and Culture
P. Cooper, Communications Manager
K. King, Acting Manager of Legislative Services
L. Dennis, Recording Secretary

1. CALL THE OPEN MEETING TO ORDER:

The Special "In Camera" Meeting was called to order at 8:34 a.m.

2. PROCEDURAL MOTION:

17412 It was moved and seconded that the meeting be closed in order to deal with the following matters under the *Community Charter* Section 90(1):

- (j) 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*, and,
- (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the municipality if they were held in public.

The motion carried unanimously.

3. ADOPTION OF AGENDA:

17512 It was moved and seconded that the Agenda be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

17612 It was moved and seconded that the Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-OCT-01 at 1:00 p.m. in the City Hall Board Room, 455 Wallace Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

5. ADMINISTRATION:

(a)

6. ADJOURNMENT:

17812 It was moved and seconded at 8:56 p.m. that the "In Camera" Meeting terminate. The motion carried unanimously.

17912 It was moved and seconded at 8:56 a.m. that the Regular Meeting terminate. The motion carried unanimously.

MAYOR

CERTIFIED CORRECT:

CORPORATE OFFICER

MINUTES OF THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE CITY HALL BOARD ROOM, 455 WALLACE STREET, NANAIMO, BC,
ON WEDNESDAY, 2012-OCT-24, COMMENCING AT 8:30 A.M.

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

Members: Councillor G. Anderson (arrived 8:48 a.m., vacated 11:23 a.m.)
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp (arrived 8:38 a.m.)
Councillor W. B. McKay
Councillor J. F. K. Pattje

Others: Mr. Sasha Angus, CEO, Nanaimo Economic Development Corp.

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
I. Howat, Director of Strategic Relationships
T. L. Hartley, Director of Human Resources and Organizational Planning
K. King, Acting Manager of Legislative Services

1. CALL THE OPEN MEETING TO ORDER:

The Special "In Camera" Meeting was called to order at 8:34 a.m.

2. PROCEDURAL MOTION:

18012 It was moved and seconded that the meeting be closed in order to deal with the following matters under the *Community Charter* Section 90(1):

- (j) 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*, and,
- (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the municipality if they were held in public.

The motion carried unanimously.

3. ADOPTION OF AGENDA:

18112 It was moved and seconded that the Agenda be adopted. The motion carried unanimously.

4. PRESENTATIONS:

(a) Representatives from _____ gave a presentation regarding Vancouver Island Conference Centre Hotel Site Located at 100 Gordon Street.

(b) Representatives from _____ gave a presentation regarding Vancouver Island Conference Centre Hotel Site Located at 100 Gordon Street.

Councillor Anderson vacated the Board Room at 11:23 a.m.

5. ADJOURNMENT:

18212 It was moved and seconded at 11:56 a.m. that the "In Camera" Meeting terminate. The motion carried unanimously.

18312 It was moved and seconded at 11:56 a.m. that the Regular Meeting terminate. The motion carried unanimously.

M A Y O R

CERTIFIED CORRECT:

CORPORATE OFFICER

AGENDA FOR THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
TO BE HELD IN THE CITY HALL BOARD ROOM,
455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-OCT-29, COMMENCING AT 1:00 P.M.

CHAIR: MAYOR RUTTAN

ACTING MAYOR: COUNCILLOR MCKAY (2012-OCT-22 TO 2012-DEC-02)

1. **INTRODUCTION OF LATE ITEMS:**

2. **ADOPTION OF AGENDA: (McKay/Bestwick)**

3. **ADOPTION OF MINUTES: (McKay/Bestwick)**

- (a) Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-OCT-15 at 8:30 a.m. in the City Hall Board Room. *Pg. 3-4*

4. **PRESENTATIONS:**

NONE

5. **MAYOR'S REPORT:**

6. **ADMINISTRATION:**

NONE

7. **COMMUNITY SAFETY AND DEVELOPMENT**

NONE

8. **CORPORATE SERVICES:**

NONE

9. **COMMUNITY SERVICES:**

NONE

10. **CORRESPONDENCE:**

NONE

11. **OTHER BUSINESS:**

(a) Update on hotel.

(b) Verbal report regarding Collier Dam Emergency Action Plan.

12. **ADJOURNMENT OF THE SPECIAL "IN CAMERA" MEETING:**

13. **ADJOURNMENT OF THE SPECIAL MEETING:**

MINUTES OF THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE CITY HALL BOARD ROOM, 455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-OCT-29, COMMENCING AT 1:00 P.M.

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

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

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
T. M. Hickey, General Manager of Community Services
I. Howat, Director of Strategic Relationships
T. L. Hartley, Director of Human Resources and Organizational Planning
B. E. Clemens, Director of Finance
T. P. Seward, Director of Development
Chief R. Lambert, Nanaimo Fire Rescue
A. J. Tucker, Director of Planning
P. Cooper, Communications Manager
K. Lindsay, Emergency Coordinator
K. King, Acting Manager of Legislative Services
L. Dennis, Steno
H. Davidson, Recording Secretary
S. Snelgrove, Acting Steno

1. CALL THE OPEN MEETING TO ORDER:

The Special "In Camera" Meeting was called to order at 1:06 p.m.

2. PROCEDURAL MOTION:

18412 It was moved and seconded that the meeting be closed in order to deal with the following matters under the *Community Charter* Section 90(1):

(g) litigation or potential litigation affecting the municipality;

- (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose; and,
- (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the municipality if they were held in public.

The motion carried unanimously.

2. ADOPTION OF AGENDA:

18512 It was moved and seconded that the Agenda be adopted. The motion carried unanimously.

3. ADOPTION OF MINUTES:

18612 It was moved and seconded that the Minutes of the Special “In Camera” Meeting of Council held Monday, 2012-OCT-15 at 8:30 a.m. in the City Hall Board Room, 455 Wallace Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

4. OTHER BUSINESS:

(a) Update on Hotel

Mr. Ian Howat provided an update

Councillor Bestwick vacated the Board Room at 2:34 p.m.

(b) Verbal Report Regarding Colliery Dam Emergency Action Plan

Chief R. Lambert provided a PowerPoint presentation regarding the Colliery Dam Emergency Action Plan.

5. ADJOURNMENT:

18912 It was moved and seconded at 3:05 p.m. that the "In Camera" Meeting terminate.
 The motion carried unanimously.

19012 It was moved and seconded at 3:05 p.m. that the Regular Meeting terminate.
 The motion carried unanimously.

M A Y O R

CERTIFIED CORRECT:

CORPORATE OFFICER

AGENDA FOR THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
TO BE HELD IN THE CITY HALL BOARD ROOM,
455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-NOV-19, COMMENCING AT 1:00 P.M.

CHAIR: MAYOR RUTTAN

ACTING MAYOR: COUNCILLOR McKay (2012-OCT-22 TO 2012-DEC-02)

1. **INTRODUCTION OF LATE ITEMS:**

2. **ADOPTION OF AGENDA: (McKay/Bestwick)**

3. **ADOPTION OF MINUTES: (McKay/Bestwick)**

- (a) Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-OCT-24 at 8:30 a.m. in the City Hall Board Room. *Pg. 4-5*

4. **PRESENTATIONS:**

- (a) Mr. Mike Kandert, as the City Representative to the Airport Commission, to introduce himself and provide an update regarding the Airport Commission operations.

5. **MAYOR'S REPORT:**

NONE

6. **ADMINISTRATION:**

NONE

7. **COMMUNITY SAFETY AND DEVELOPMENT**

NONE

8. **CORPORATE SERVICES:**

- (a) **Legal Action – BC Ferries Assessment Appeal**

Staff Recommendation: That Council:

Pg. 6-9

1. confirm the filing of the City of Nanaimo's appeal in conjunction with the District of North Saanich (and District of Delta, if applicable) in the matter of BC Ferry Services Inc. v. Area 08 (BC Assessment Authority); and,

2. approve the attached press release subject to review by legal counsel and the District of North Saanich.

9. **COMMUNITY SERVICES:**

(a) **Nanaimo Centre Stage - 25 Victoria Road**

Staff Recommendation: That Council:

Pg. 10-106

1. receive the report and direct Staff to modify the report for presentation at the next open Council Meeting for public information; and,
2. direct Staff to include this matter for consideration during the 2013-2017 budget process along with other asset management needs and priorities.

10. **CORRESPONDENCE:**

NONE

11. **OTHER BUSINESS:**

- (a) Verbal Update Re: Madill Property

12. **ADJOURNMENT OF THE SPECIAL "IN CAMERA" MEETING:**

13. **ADJOURNMENT OF THE SPECIAL MEETING:**

"IN CAMERA"

City of Nanaimo REPORT TO COUNCIL

DATE OF MEETING: 2012-NOV-19

AUTHORED BY: B. E. CLEMENS, DIRECTOR OF FINANCE

RE: LEGAL ACTION – B.C. FERRIES ASSESSMENT APPEAL

STAFF RECOMENDATION: That:

1. Council confirm the filing of the City of Nanaimo's appeal in conjunction with the District of North Saanich (and District of Delta, if applicable) in the matter of B.C. Ferry Services Inc. v. Area 08 (BC Assessment Authority), and;
2. Council approve the attached press release subject to review by legal counsel and the District of North Saanich.

PURPOSE:

To provide Council with information on BC Ferries' appeal of their assessment at the Horseshoe Bay terminal and its potential impact on Nanaimo, and to get Council's direction on what level of legal action (if any) the City of Nanaimo should take.

BACKGROUND:

On 2012-OCT-29, the Property Assessment Appeal Board (PAAB) released a decision on an appeal made by B.C. Ferries on the land and improvements that comprise the Horseshoe Bay ferry terminal. This decision relates only to the upland portion of land and improvements and does not affect the value of the marine improvements and water lots.

The PAAB held that, given the restricted use of the property and the lack of profitability of BC Ferries, there is no market for this property and therefore its value is zero. As this appeal was for taxation years 2010, 2011 and 2012, West Vancouver will be required to refund approximately \$750,000 in property taxes.

BC Ferries has not appealed their assessment in Nanaimo or any other major municipality with a terminal. Staff believe that they were using West Vancouver as a test case, and we can now expect an appeal of all three terminals in Nanaimo in 2013. As the appeal only affected the upland portion, we don't know exactly what impact a successful appeal would have in Nanaimo, but we have asked BC Assessment to provide an estimate of the risk to the assessment of our terminals. The total amount of property taxes paid by BC Ferries in Nanaimo for the three terminal properties in 2012 was about \$660,000 for municipal purposes (\$1.1 million including all agencies – school, RDN, hospital, etc.)

Council
 Committee.....
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-NOV-19.

DISCUSSION:

Since hearing of this decision last week, Staff have been in regular contact with BC Assessment, our lawyers, and other potentially affected municipalities.

There are 21 days from the date of the decision for any affected party to file an appeal of the PAAB decision (more correctly referred to as a "Stated Case"). Any appeal must be based on points of law and may not introduce new facts. BC Assessment has already filed their appeal. The District of West Vancouver has indicated that they will also be filing an appeal.

City Staff participated in a conference call on 2012-NOV-13 with representatives from most of the municipalities that have ferry terminals and with the lawyers who are representing the District of West Vancouver. The purpose of the call was to hear what actions West Vancouver was considering and to have some discussion of what options were available to other municipalities. Following that call, Staff contacted our own solicitor for further discussion regarding the benefits of each option.

There are essentially three legal options for Council to consider:

1. File our own appeal of the decision by the PAAB;
2. Apply for intervenor status in the appeal already filed by BC Assessment;
3. Do nothing.

Our solicitor has advised us that it may be possible for Nanaimo to appeal this decision even

The District of North Saanich has indicated that they are interested in partnering with the City of Nanaimo to file an appeal. We would be represented by the same legal counsel and share the costs of the legal process. The costs of an appeal would depend on how long the trial lasts, but are probably in the order of magnitude of \$10,000 (total). The District of Delta is in a similar position and may wish to join Nanaimo and North Saanich in this appeal.

Staff are recommending that the City of Nanaimo file an appeal in conjunction with the District of North Saanich (and District of Delta, if applicable). Due to the short deadline, Staff have instructed the solicitor to proceed with the paperwork. If Council does not support this recommendation, the appeal can be withdrawn.

In addition to the legal options outlined above, there are legislative and political strategies that the City may consider taking, either separately or in conjunction with other affected municipalities (potentially through UBCM). These options can be considered at a future Council meeting.

Respectfully submitted,



B. E. Clemens
DIRECTOR OF FINANCE

Concurrence by:



D. W. Holmes
ASSISTANT CITY MANAGER /
GENERAL MANAGER OF CORPORATE SERVICES

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2012-NOV-14
BC/tw

DRAFT PRESS RELEASE PENDING REVIEW BY LEGAL COUNSEL AND NORTH SAANICH

CITY OF NANAIMO AND DISTRICT OF NORTH SAANICH JOIN CHALLENGE OF RULING ON BC FERRIES ASSESSMENT IN HORSESHOE BAY

Nanaimo City Council today endorsed a recommendation to appeal a recent decision of the Property Assessment Appeal Board regarding the Horseshoe Bay terminal in West Vancouver. This decision reduced the assessed values of the upland (non-maritime) property from more than \$47 million in 2012 to only \$20.00. This will result in the District of West Vancouver having to pay back more than \$750,000 for the 2010, 2011 and 2012 taxation years.

Although this decision will not immediately impact the City of Nanaimo, it previews what could happen should BC Ferries appeal the assessments of their terminals in Nanaimo. In 2012, BC Ferries paid approximately \$1.1 million in property taxes on the three terminals in Nanaimo.

It is unusual for one municipality to appeal an assessment ruling in another jurisdiction. In this case, Council believes that being a participant in the process is the best way to protect the interests of all Nanaimo citizens. It is also a way to support BC Assessment and the District of West Vancouver, who have already filed their own appeals of the Property Assessment Appeal Board decision. Nanaimo and North Saanich will participate jointly in this appeal, sharing legal resources and costs.

Mayor John Ruttan says "Council believes that it is important that every property bear its fair share of the cost of the services that are provided by local government. We think that this is the best way to ensure this outcome in this instance."

City of Nanaimo

“IN CAMERA” REPORT TO COUNCIL

DATE OF MEETING: 2012-NOV-19

AUTHORED BY: J.W. RITCHIE, SENIOR MANAGER
PARKS AND CIVIC FACILITIES

RE: NANAIMO CENTRE STAGE - 25 VICTORIA ROAD

STAFF RECOMMENDATION:

That Council:

1. receive the report and direct Staff to modify the report for presentation at the next open Council Meeting for public information; and,
2. direct Staff to include this matter for consideration during the 2013-2017 budget process along with other asset management needs and priorities.

PURPOSE:

Council requested a report on alternative uses for the building and as part of the City's focus on Asset Management this report outlines options to deal with the recent condition assessment completed on the City building at 25 Victoria Road.

BACKGROUND:

At the 'In Camera' meeting held on 2011-FEB-14, Council made the following motions:

02011 It was moved and seconded that Council direct Staff to provide more information on fund-raising naming as a sponsorship benefit for the Nanaimo Centre Stage facility at 25 Victoria Road, as well as options for future uses of the building. The motion carried.

Opposed: Mayor Ruttan, Councillors Holdom and Johnstone

02111 It was moved and seconded that Ms. Camela Tang be advised of Council's decision to refer the report on sponsorship naming fund-raising back to Staff for more information. The motion carried unanimously.

After this meeting, Centre of the Arts withdrew their sponsorship and naming request until further along in their planning for the building upgrades.

In regards to alternative uses of the building, staff included the building assessment review to see how sound the building is prior to looking at alternative uses. The majority of this report will focus on the condition of the building.

Purpose and Use of the Building

Council purchased this building for the sole purpose of providing a small performing arts theatre in the downtown area. This purchase was determined by a business plan provided by the then DNP (attached as Schedule A for your review). Based on the purpose for purchase and the condition of the building, Staff do not see any alternative civic uses for the building. Either it remains as a Community Theatre and space or Council considers selling it.

Existing Use and Improvements Since Purchase

The Nanaimo Centre of the Arts Society operates the "Nanaimo Centre Stage" under a licence of use agreement from the City.

For Council's information, attached as Schedule B is a summary of Centre of Arts activity for Nanaimo Centre Stage (25 Victoria Road). The stage has seen steady increase in use over the last two years.

The summary also includes improvements made to the building since purchase.

Although the stage has seen increased use the Centre still does not meet expenses and Nanaimo Centre of Arts Society has indicated they will be seeking a \$6,000.00 operating grant for 2013 as a higher service level request.

Asset Management and Condition Assessment of the Building

One of the short-term strategic priorities identified in the City's strategic planning process was Asset Management. The purpose of Asset Management is to develop a plan which identifies the City's assets, assesses their condition, develops a risk management plan, and creates maintenance and replacement schedules to ensure the asset maximizes its useful life.

One of these facilities is the building at 25 Victoria Road. This building was purchased by the City in May 2008 for \$460,000. An additional 50,000 was provided for upgrades to the building from the City and the Centre of the Arts also provided funding for upgrades as illustrated in Schedule B.

Earlier this year, staff as part of their condition assessment review of City facilities, engaged Read, Jones, Christoffersen Ltd. (RJC) Consulting Engineers to conduct a Building Envelope Condition Assessment on the building at 25 Victoria Road. This building is a three-story commercial building estimated to be over 50 years old. A copy of this report is attached as Schedule C.

Based on their findings RJC recommend the following remediation work be completed:

No.	Description	Cost
A	Replace the stucco wall cladding on the South, East and North elevations with a rain screen exterior insulated wall system.	\$450,000.00
B	Replace all windows with thermally broken aluminum framed windows.	\$10,000.00
C	Replace glass block feature windows with aluminum framed window (frosting optional).	\$5,000.00
D	Reroof sloped roof area; install plywood, membrane, insulation, and metal roof.	\$100,000.00
E	Replace low slope roof perimeter flashing.	\$5,000.00
F	Install roof drain grates and proper downspouts at all drains.	\$5,000.00
G	Re-point exposed chimney; replace missing bricks.	\$5,000.00
H	Remove the parapet cap flashing and install a self-adhered membrane. Replace the existing cap flashing with new cap flashings, sloped to drain.	\$5,000.00
I	Perform assessment of existing structural systems.	\$15,000.00
Total Construction Costs		\$600,000.00
Engineering & Contingency		\$200,000.00
TOTAL		\$800,000.00

As a follow-up to the original report, staff asked RJC to outline any life-safety items requiring short-term remedial action:

- Stucco Cladding – the stucco cladding on the Nicol Street side of the building has delaminated from the structure in several areas and is hanging by the wire mesh lathing.

- Brick Veneer – This brick veneer along the Nicol Street side at street level needs replacing.
- Brick Chimney – bricks need replacing.

This summary is attached as Schedule D.

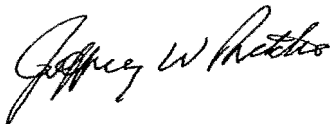
The cost for this work that will need to be scheduled early in 2013 is estimated at \$150,000.00.

Options for Council's Consideration:

The building is in need of repair and Staff do not see any non-profit organizations or major grant opportunities available to fund the required work. Therefore, two options are presented for consideration:

1. Undertake a phased-in approach to the required upgrades to the building as outlined in RJC reports and direct staff to add to the 2013-2017 Capital Plan for consideration. Staff recommend the building will require \$160,000 per year for at least 5 years to bring the building up to an acceptable standard. Investing in the building will also indicate support for the current use and Council will receive an operating grant request for \$6,000 from the Society in 2013.
2. If funding the upgrade of this building is determined not to be Council's highest priority among other Asset Management needs, Council can direct Staff to sell the property. This would include cancelling the licence agreement with the Centre of Arts Society.

Respectfully submitted,




J.W. Ritchie
SENIOR MANAGER, PARKS & CIVIC FACILITIES
PARKS, RECREATION AND CULTURE

Concurrence by:



Richard Harding
DIRECTOR
PARKS, RECREATION AND CULTURE



Tom Hickey
GENERAL MANAGER
COMMUNITY SERVICES

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Attachments

SCHEDULE A

DNP BUSINESS PLAN – 25 VICTORIA ROAD

COMMUNITY INVESTMENT OPPORTUNITY

**BUSINESS PLAN FOR A SMALL VENUE
PERFORMING ARTS CENTRE**

**REHEARSAL, WORKSHOP, OFFICE, PERFORMANCE SPACE
AT**

25 VICTORIA ROAD

**Presented by
CVI Centre for the Arts Nanaimo
Downtown Nanaimo Partnership Society**

March 31, 2008

SUMMARY OF SALIENT INFORMATION

Legal Description: LOT 4, NANAIMO DISTRICT, PLAN 584, BLK AA, SEC 1, EXCEPT PARCEL A [DD9405N] AND PARCEL B [11647N] OF SAID LOT

Land Description: 1,362 square feet having frontage on both Nicol Street (50 ft.) and Victoria Road (51 ft.)

Building Description: Zero lot line, three level woodframe structure with a gross building area of about 3,600 square feet and a usable area of about 1,300 square feet on the main floor, 1,300 square feet on the lower floor, and 1,000 square feet on the upper floor.

Zoning: C11 (Core Area Commercial)

Approximate Value: Land 200,000
Improvements 350,000
Total 550,000

2007 Gross Taxes Not on the tax registry

2007 Listed Price: \$569,000

2008 Accepted Offer \$465,000

2008 Assessed Value: No Assessment is available

Our Estimate of Current Value: \$550,000

Projected Revenue – First Year: \$ 70,700

Operating Expenses – First Year: \$ 70,120

Purchase Price: \$465,000

Necessary Renovations: \$115,000

Necessary Equipment: \$ 50,000

Transaction Costs: \$ 10,000

Contingency: \$ 50,000

Land 84,400
Bldg 312,000
\$ 396,400

3

3

EXECUTIVE SUMMARY

Performing Arts Centre Concept:

The secret is out—Culture is important to the economic success of every community and every region. The City of Nanaimo has done a wonderful job in the last decade building professional scale facilities—Port Theatre, Museum and Conference Centre—as anchors to attract shows and audiences as well as businesses and residents who chose to live and work in a progressive community.

It is also a known fact that as urban centres begin to experience revitalization success, the very culture that contributes to that success gets squeezed out because of affordability issues. This is why the Nanaimo Arts Centre is so important. None of the seven arts organizations with offices in that building could afford market rate office space in our downtown now that lease rates are improving. The same is already true relative to performance and rehearsal space. If we don't secure affordable space to be used by the performance organizations in our community, we will lose the cultural foundation on which the success of our larger facilities is built. They cannot afford to continue without access to affordable space.

Audiences for larger more expensive shows are built at the grassroots level as people in the community experience smaller, local, affordable shows. Many conference visitors will certainly attend performances of touring shows at the Port Theatre and visit our museum. They will also be attracted to intimate and unique local productions by Crimson Coast Dance and Western Edge Theatre.

Situational Analysis:

Dedicated, affordable, small-venue rehearsal, workshop and performance space in our downtown is critical to the survival of the performance organizations resident in our community. The economic and social ripple effect is incalculable given the implications of opportunity for professional employment and overall attractiveness of the community that drives tourism, business and residential investment.

Do we need this?

- The community need has been documented for at least seven years. We have less affordable rehearsal and performance space for small productions than we had five years ago. We are presently at risk of losing several key performing arts organizations because of affordability issues;
- TheatreOne has cancelled the second half of their 2008 season because they can't afford to rent large space for small productions;
- Western Edge has suspended operations because they no longer have access to affordable rehearsal and performance space;
- TheatreBC has made Nanaimo its home but is being courted by several communities who are offering space to expand their programs. Without this facility it is very likely that Nanaimo will lose the 9-day Mainstage event that brings more than 400 participants to our downtown every three years;

- The City's Cultural Strategy identifies "facilitating the growth of the downtown cultural district" and "taking advantage of acquiring cultural spaces" as strategies in its Facilities Goal;
- City Council approved the DNP initiative for the Caprice Theatre three years ago. Nothing has changed except that the need is even more acute.

But, isn't the Port Theatre building something?

- The Port Theatre is fully supportive of this project as it fills a need for affordable rehearsals, workshops, and small local experimental 'Off Broadway' style productions that would never be met by the main theatre or the proposed studio theatre at the Port;
- The facility at 25 Victoria Road would actually help the Port's studio theatre by incubating local companies and productions that might grow into the Port Theatre facilities;
- Even if the Port Theatre had full approval to build the studio facility, it would take at least three years to raise the money and complete construction. By that time our community may well have lost several performing arts companies because of the lack of affordable facilities;
- Worst case, the Port's studio theatre is built in three-five years and makes 25 Victoria Road redundant—In the meantime, the City has helped the arts community flourish and helped the struggling Nob Hill neighbourhood improve, while the City's real estate investment has increased in value.

Will the arts community ever be appeased?

Is the athletic community ever satisfied? Is the business community ever satisfied? Is there ever an end to the communities cry for more health, social, transportation, educational services and lower taxes? Do the police or fire departments ever not need more money?

Nanaimo is a growing thriving community with plenty of opportunity and at least as many challenges. The City's decision to purchase this facility to be used as an affordable small venue performance and rehearsal space is a decision aligned with the City's Cultural Strategy and Downtown Revitalization Strategy. It addresses a critical need in our arts community with important implications to our continued economic development. And, it helps bring some much needed vibrancy to a neighbourhood with historically difficult social challenges.

Will the arts community identify other needs and desires in the future? Absolutely. Will this facility fill a critical need aligned with the City's plans and help ensure that the 'arts' remain in the 'Arts District'? Absolutely.

Key Success Factors:

- Confirming a long-term facility management contract between City Parks Department and the Centre for the Arts Nanaimo;
- Confirming a long-term (5 years) resident tenant to provide foundational lease revenue and a basis for coordinating use of technical equipment in the facility;

- Establishing fee schedules and facility usage agreements that maintain affordability for user groups while generating sufficient revenue to cover operational expenses and contribute towards a capital reserve.

Financial Overview:

The capital plan is based on four commitments totaling \$690,000:

1. that the City of Nanaimo will provide \$525,000 (\$465,000 for the purchase of the property and \$60,000 for other expenses, e.g. transaction costs, upgrades identified by the City's building inspector, systems testing and other minor improvements;
2. that the Downtown Nanaimo Partnership Society will provide \$100,000 for renovations and repairs, including, but not limited to roof replacement, heating and air conditioning system replacement, and accessibility remediation;
3. that the primary tenant will raise capital funds estimated at \$50,000 to purchase and install technical equipment such as theatrical lighting, sound system and staging, and to pay for any user-specific leasehold improvements;
4. that the Centre for the Arts Nanaimo (CAN) will provide \$15,000 from the 150 Commercial Street capital reserves for exterior improvements, e.g. clean up, painting, signage and lighting.

The operational plan is based on known and projected revenue and expense for the first 28 months in three segments—the first four months, the first fiscal year, and the second fiscal year.

1. It is assumed that the City will take possession of the facility April 30, 2008 and that all essential renovations such as roof replacement, HVAC replacement, wheelchair accessibility and safety remediation, systems testing and other identified improvements and repairs will be completed during the first four months (May-August);
2. It is known that several performing groups would wish to use the rehearsal and performing space on a daily/weekly basis during the first four months. This need would be accommodated as much as possible during renovations. However, the primary tenant would not occupy the space for their office use until September 1st;
3. September 1st would start the first fiscal year of operations as this coincides with the fiscal year for the facility management organization, CAN, and allows for a clean operational start once renovations are complete;
4. The first fiscal year will be September 1, 2008-August 31, 2009 and the second will be September 1, 2009-August 31, 2010.

COMMUNITY, CULTURAL & ECONOMIC DEVELOPMENT OPPORTUNITIES

The 2007 Draft Review of the "Nanaimo Cultural Strategy" outlines the importance placed by the City of Nanaimo on the "necessity" of cultural facilities to help drive economic development. Three of the strategies listed under the primary "Facilities" goal are to:

1. "Continue to work to facilitate the growth of the downtown 'cultural district'... by locating new facilities, or redeveloping facilities suited for cultural purposes;"
2. "explore innovative solutions to accommodate building uses that include the arts and artists;"
3. and to "be proactive with regards to taking advantage of acquiring cultural spaces that may become available."

Consistent with this Cultural Strategy accepted by City Council in 2001, the 10-Year Plan of the Parks, Recreation and Culture Commission in January 2005 included a recommendation to convert the Caprice Theatre (now the privately owned Nanaimo Entertainment Centre) to meet the growing needs of the performing arts community.

The Downtown Nanaimo Partnership had also identified development a small venue performance and rehearsal arts centre as one of its top priorities. By October 2005 City Council had approved that the DNP purchase the Caprice Theatre on the City's behalf for \$300,000. Unfortunately, the deal could not be consummated.

Three years later, the community need for an affordable, small rehearsal and performance space has only intensified. Western Edge Theatre, no longer able to rehearse and perform at the Bay Theatre suspended programming in 2007. TheatreOne, struggling to justify the costs of a large professional space for small productions has had to cancel half of its 2008 season.

The additional opportunities to establish an active cultural anchor in the socially challenged Nob Hill area and to add attractive and diverse evening entertainment options for Vancouver Island Conference Centre visitors further enhance the community and economic development appeal of this project.

On January 23, 2008, TheatreBC with assistance from the Downtown Nanaimo Partnership and Centre for the Arts Nanaimo, hosted an introductory meeting and tour of the 25 Victoria Road with 30 people representing 18 arts organizations. This business plan includes this broad base of user groups in our community and revenue analysis of the opportunity.

DESCRIPTION OF LAND & IMPROVEMENTS

The land underlying 25 Victoria Road has an area of approximately 1,362 square feet and is a relatively square lot. Fronting Nicol Street to the East, it also adjoins Victoria Road to the West. The property does not include on-site parking, however, the City of Nanaimo Parking Lot on Cavan Street is directly across Victoria Road from the property. The property is zoned Core Area Commercial (C11) and the building use has been for assembly since constructed approximately 116 years ago. The building is not on the heritage registry but is one of the older buildings in our community.

The original woodframe building was constructed in 1892 as St. Albons Anglican Church. It was added to in about 1920 and again in about 1950. The building has a total usable area of approximately 3,600 square feet split 40/40/20 between the three floors. The building is in generally good operating condition and will require immediate capital investment to replace the combination asphalt shingle and flat roof, remove and replace heating system, and install ramp for wheelchair accessibility. According to an assessment provided by Art Crape of Hazelton Contracting, the roof will need to be replaced at an estimated cost of \$20,000 and the central heating system will need to be replaced at an estimated cost of \$50,000. Since the building is in sound structural condition (Herold Engineering Ltd. report February 2008) and since tenancy will be for assembly purposes in a building already zoned for Assembly, no seismic upgrading will be required.

On March 28, 2008, a City Building Inspector conducted a thorough tour of the building, and while several points of minor remediation were noted (see accompanying report), his closing comment was: "I am pleasantly surprised at the excellent condition of the building. We are fortunate that the current owners have taken such good care of the facility."

The building is centrally located in downtown Nanaimo and enjoys unusual prominence because of its location. Highly visible to north and southbound vehicular traffic on both Nicol Street and Victoria Road, the location is ideal for marquee advertising. Grade level entry is available to the main floor of the building from Victoria Road and to the basement floor from Nicol Street. The property also benefits from proximity to ample on street parking and City-owned parking lots within a two-block radius.

TERMS OF ACQUISITION

The original terms of acquisition negotiated under the auspices of TheatreBC include a 90-day period of due diligence (expiry March 31, 2008) with a refundable deposit of \$10,000 provided by the Downtown Nanaimo Partnership Society. The terms also allow for up to an additional 90 days of due diligence at a cost of \$5,000 of non-refundable deposit for each 30-day increment (April 30, May 31, June 30). All deposit money will be credited toward the purchase price.

As of March 29, 2008, the DNPS has provided an additional \$5,000 for deposit to extend the due diligence period until April 30, 2008. The lawyer working pro bono on our (TheatreBC and DNPS) has additionally confirmed with the vendor that they will approve a transfer of all terms of acquisition to a second party. This second party (the City) has not yet been revealed to the vendor or the vendor's representative.

The City investment of \$525,000 plus the DNPS contribution of \$100,000 will provide sufficient funds to purchase the building and complete the scheduled renovations for occupancy. Any monies from this \$625,000 not needed to complete the purchase

and renovations would remain in a facility fund to be managed by the Centre for the Arts Nanaimo (CAN) to be used to address any early stage operational shortfalls and/or any unexpected renovations and repairs.

With the City's endorsement, the DNPS will pursue finding a naming donor for a contribution of \$100,000. Assuming such a donor is found, the donor contribution will reimburse the DNPS capital budget to be directed to other capital priorities in our downtown.

REQUIRED RENOVATIONS & TECHNICAL EQUIPMENT

Renovation and equipment estimates have been prepared with assistance from Art Crane of Hazelton Contracting, Mike Herold of Herold Engineering and Bruce Halliday, Executive Director for the Port Theatre. These estimates are based on sound industry experience and on the known needs of the user groups. It is also anticipated that some renovation expenses have potential to attract private financial and in-kind contributions.

The four washrooms have been renovated within the last 6-8 years. Carpet is 75% new. Much of the interior has been painted within the last few years.

<p>HVAC...heating / ventilation & air conditioning Remove and replace existing old and inadequate system with roof-top and some baseboard units.</p>	<p>\$50,000.00</p>
<p>Roof...Combination pitched and flat roof is aged and in need of replacement. There is no evidence of water damage and it would be prudent to replace the roof at the time of HVAC installation and prior to full-time occupancy.</p>	<p>\$20,000.00</p>
<p>Entrance, Exit, and Safety Remediation The City's Building Inspector noted several minor safety issues in need of attention. These include adjusting some stair elevations, installing hand rails, improving balcony railings, replacing entrance and exit doors, testing emergency lighting and sprinkler systems, etc.</p>	<p>\$35,000.00</p>
<p>Exterior Improvements While these improvements are not critical to occupancy, the exterior siding needs to be cleaned and painted and signage will be needed on both building facades.</p>	<p>\$15,000.00</p>
<p>Interior Décor Ready for full occupancy with a minimum of cleaning and repair Defer any cosmetic work.</p>	<p>-nil-</p>
<p>Audience Service / Lobby Install ramp for wheelchair accessibility and reconfigure box office Area.</p>	<p>\$ 5,000.00</p>
<p>Acoustics</p>	<p>-nil-</p>

Defer any consideration of acoustic work

Dressing Room(s) -nil-
 Defer any purpose-built changes

Lower Floor Washrooms -nil-
 Defer reinstallation until a future date. The plumbing infrastructure is in place for future reconfiguration of existing kitchen and previously existing washrooms.

Interior and Exterior Renovation of Nicol Street Storefront -nil-
 Potential exists to rehabilitate the groundfloor face to Nicol Street that presently includes three windows that are blocked off and an emergency exit. Rehabilitation of this building face is beyond the scope of this budget but certainly within the scope of enhanced use of the facility in the future.

Staging \$ 5,000.00
 Need only add a doorway and add portable extensions
 Materials \$2,000.00
 Labour \$3,000.00

Stage Drapery \$ 5,000.00
 Backdrops and minimal masking

Lighting Systems \$15,000.00
 Light bars, dimmer system and lights to be purchased
 And installed. (Single phase service to be upgraded to triple phase long-term.)

Dimmer rack..48 channel \$10,000.00
 Circuit distribution, soca pex
 Controller
 Fixtures
 Installation \$ 5,000.00

Audio systems \$ 5,000.00
 8-12 ch console
 2 powered speakers
 CD player
 Mics...minimal
 Cabling and snakes
 Installation

Power Distribution / Electrical \$ 2,000.00
 Minimal to get started
 Dimmer racks .. breakers, tie in etc,
 Audio distribution

10

Stage distribution	
Other Leasehold Costs	\$ 8,000.00
Transaction Costs	\$ 10,000.00
Contingency	\$ 50,000.00
Total	\$225,000.00

TENANTS & BUILDING OPERATION

Numerous tenants, each having a common interest in the continuing development of the Arts District in our revitalizing downtown and in the availability of affordable small rehearsal and performance space have expressed their interest and commitment to regularly book this space for auditions, rehearsals and performances. Each of these prospective tenants has also indicated that the availability of such a facility would likely spur additional programming from their organizations. The business plan shows specific rates for booking the space, known annual bookings, anticipated additional bookings, etc. Thus, the operational plan outlines operational expenses and revenue.

Building Management – It is confirmed that the Centre for the Arts Nanaimo (CAN) is prepared to manage the facility on behalf of the City of Nanaimo. While the contractual details are to be determined between City Parks, Recreation & Culture and CAN, it is anticipated that an arrangement similar to that developed between the City and CAN for the on-going management and maintenance of the Nanaimo Arts Centre would make sense. Building on six years of successful experience with the Nanaimo Arts Centre, plenty of experience can be brought together to implement the plan for the renovation, management and maintenance of the facility. It is fortunate that CAN, with its broad membership and experience, is in position to provide management for the facility the City's behalf and that primary tenants such as TheatreBC are eager to provide day-to-day technical coordination.

To date, TheatreBC, CAN and DNPS have been in communication with numerous potential users:

- TheatreBC
- TheatreOne
- Nanaimo Theatre Group
- Western Edge Theatre
- Crimson Coast Dance
- HarbourDancecentre
- Pacific Stage
- Vancouver Island International Children's Festival
- Red Room Studio

- Nanaimo Conservatory of Music
- Nanaimo Concert Band
- Malaspina Choir
- Nanaimo Blues Society

In addition, numerous other community groups will wish to use space for rehearsals, student performances of theatre, dance, music. It is well-established that numerous arts organizations are looking for regular access to rehearsal and small performance space. The challenge is that these potential users generally have limited capacity to pay for the use of such space. The significant and growing need for small, affordable rehearsal and performance space is a void that the City could fill by owning this building. The building would see considerable regular usage by a variety of arts groups and would provide the anchor necessary for keeping a provincial arts organization, TheatreBC, in Nanaimo, securing the TheatreBC Mainstage event for Nanaimo on a three-year rotation (Several other BC communities are currently vying to take this annual 9-day event), and attracting touring TheatreBC productions from communities province-wide.

It is known that organizations such as TheatreOne, TheatreBC, Western Edge Theatre, Nanaimo Concert Band, Nanaimo Theatre Group, Nanaimo Blues Festival Society and others would use the facility for rehearsals, workshops and performances.

The building is laid out such that myriad activities can occur simultaneously. A show can be rehearsing in the basement while a performance is booked on the main floor. There is also ample room for small workshops and offices with spacious up-to-date washrooms on two levels.

In brief, it is conservatively estimated that annual revenue from space rental to various arts and culture organizations will be 60,000 to 70,000 in the first 2 years and gradually increasing thereafter.

BUILDING OPERATIONS

Operating Revenue Projections:

25 Victoria	2008	08/09	09/10
Office Tenancy	00	12,000	12,000
Rehearsals	3,100	17,100	19,700
Performances	3,900	20,900	27,900
Workshops	3,500	10,200	10,200
Meetings			
Total:	10,500	60,200	69,800

Operating Expenses:

25 Victoria	2008	08/09	09/10
Accounting	400	2,500	3,000
Bank	100	120	120
Facility Management	4,000	22,000	25,000
Telephone/Internet	500	2,500	2,500
Janitorial	1,000	6,000	6,000
Administration	1,000	1,500	1,500
Repairs & Maintenance	500	10,000	10,000
Utilities	3,000	15,000	16,000
Total:	10,500	59,620	64,120
NET:	0	580	5,680
Capital Reserve:	0	0	4,000

Background:

The vendor has provided historical utility costs for 2006 and 2007. In that the present occupant has only operated 3.5 days per week and very little at night time, these numbers provide only a base point from which to extrapolate anticipated expenses. Centre for the Arts Nanaimo has provided historical costs for comparison and estimating.

25 Victoria	2006	2007	08/09
Heat (gas)	2,100	2,400	3,000
Hydro	2,700	3,200	10,800
Insurance*	2,500	2,900	00
Water	900	1,100	1,200
Total:	8,200	9,600	15,000

150 Commercial

Heat (gas)	2,446
Hydro	12,673
Insurance*	00
Water	853
Total:	15,972

*It is assumed that as is the case with the CIBC Arts Centre, this City-owned asset would be insured within the comprehensive insurance for all City properties. Therefore, insurance would not be budgeted as an operating expense.

Building Management:

An outline of revenue and expenses has been forecasted for the first four months commencing in 2008 and projected for two years. The revenue will include proposed rent from the prospective users assuming that the building would be managed by a third party in a model similar to that used for managing the Nanaimo Arts Centre.

Maintenance and operating expenses have been estimated based on current information available for operation of this property, on the five-year history of the Nanaimo Arts Centre operations, including estimated insurance premiums provided by the City's Risk Manager, on normal operating expenses for buildings of similar size located in Downtown Nanaimo, and on the operating history of similar facilities elsewhere in the province. In addition to expenses, an annual amount will be budgeted for capital improvements to the building. The intention will be that the annual capital reserve as proposed will be sufficient to complete anticipated improvements over a 10-year period and to provide a cushion should the unexpected arise. The Nanaimo Art Centre has been operating in this manner and has built up a cash reserve \$93,000 in six years while still investing in regular repairs and maintenance. However, should some items require attention sooner than anticipated, monies would need to be borrowed in the short term. It should be noted that the Downtown Nanaimo Partnership is prepared to put aside monies in a Capital Reserve for 'Performing Art Centre Contingency' and is committed to adding \$5,000 per year (2008-2012) to this reserve, assuming the City reinstates the DNPS Capital Budget.

It is also worth noting that just as the operational success and financial stability of the Nanaimo Arts Centre is partially due to the fact that the DNPS pays market rates for their rent thus making lease rates affordable for other tenants, TheatreBC is prepared to make this facility their permanent home paying rent for office space and regular facility usage, and TheatreOne, a local professional company, is fully prepared to become a major, permanent user of the rehearsal space paying market rates. Because of several high-volume users, this venture is operationally viable providing permanent capacity of rehearsal, workshop and performance space to the community at affordable rates. We also have strong indication that organizations would begin to explore additional programming made possible by the addition of this facility.

ESTIMATE OF CURRENT MARKET VALUE

It is difficult to accurately estimate the current market value of this property owing to the single purpose design and cost that would be assumed by a commercial investor for renovations and/or conversion to other uses. However, it is safe to say that a comparable facility built new would cost between \$1.1 and \$1.4 million.

The 2007 listed price for the property was \$569,000. The property was purchased for \$279,000 in 2004 and has received numerous upgrades including renovated

washrooms and carpeting. There is no assessment of the property because, as a church, it has not been in the tax registry. The property also has not been appraised. Our estimate of the property value is \$550,000 based on recent upgrades to the building and on the fact that commercial property values have been steadily increasing for the last four years. For comparison, the former Owen's Business Machine location on Victoria Crescent was purchased in February 2008 for \$615,000 – an inferior building of similar size in a more commercially viable location.

It can be assumed that with the 2008 opening of the Port of Nanaimo Centre and other major downtown developments, assessed land values in this neighbourhood will steadily improve during the next decade and that this property will see continued appreciation in land value in the foreseeable future. Assuming a total estimated renovated and equipped cost of \$650,000, this amenity will be added to the City's cultural inventory at a fraction of the cost of new construction.

FINANCIAL PLAN

Structure of Purchase:

The following terms have been negotiated with the vendor:

Purchaser:	City of Nanaimo
Purchase Price:	\$465,000
Proposed Closing Date:	April 30, 2008
Other	The closing date can be extended to June 30, 2008 at a cost of \$5,000 deposit per 30-day increment (non-refundable if sale is not completed but credited towards the purchase price).

Once Council approves this business plan, the next course of action will be for the City to be identified to the vendor as the purchaser so as to execute closure of the offer to purchase and to secure a favourable possession date.

CAN and DNPS will work with the various City departments and arts groups with a timeline to begin implementation of the business plan coordinated with taking possession of the facility.

Funding Opportunities & Assumptions:

Recognition: The DNPS will pursue finding a naming sponsor for a contribution of \$100,000 to reimburse the DNPS capital reserves.

Capital Formula: \$690,000 is needed to purchase, renovate and equip the facility. The City will purchase the property for \$465,000 and provide \$60,000 for costs of transaction and improvements. The DNPS will contribute the \$100,000 from its capital reserves for renovations. The primary tenant(s) will qualify for gaming monies to pay for technical equipment and installation estimated at \$50,000. CAN will contribute up to \$15,000 from the 150 Commercial Street capital reserves to be used for improvements to the building exterior, if necessary.

Operating Formula: The long-term, operating lease will account for 18% of the annual operating budget while scheduled booking of rehearsal, workshop and performance space will account for 82%. Centre for the Arts Nanaimo will manage the building under contract with the City and will negotiate lease agreements and ensuring day-to-day coordination of booking activity and maintenance of affordable usage rates.

Property Taxes: Like the Nanaimo Arts Centre, this will be a City-owned facility used by not-for-profit groups exempt from property taxes.

Profit & Loss Projection:

It is anticipated that the facility will operate at a break even in the first 16 months and that in the second fiscal year the facility will generate a small surplus and continue operating with a modest annual contribution to a capital reserve thereafter. The potential debilitating capital costs are accounted for in the start up renovations. Thus, short of a major disaster, no large expenses are anticipated in the first 5-10 years.

Cash Flow Projection:

First fiscal year monthly projections range from \$3,475 to \$7,275 with second year projections ranging from \$3,475 to \$9,075. Initially, there may well be some tight

squeezes where payables may out-strip receivables. The City and CAN should develop a plan for providing an operational cushion for the early stages of facility management.

BENEFIT TO THE COMMUNITY

The revitalization of Downtown Nanaimo is a significant benefit to all of the residents of Nanaimo. The acquisition of this property will facilitate partial fulfillment of the 10-Year Plan of the Parks, Recreation and Culture Commission and the facilities goal of the City's "Cultural Strategy." The project will represent further progress on the Mainstreet recommendations for downtown revitalization, and will respond to the broad-based and documented interests of the arts and cultural community for small, affordable performance and rehearsal space. Thus, development of this facility as a public cultural amenity will actualize a priority identified by the City, the arts community and the Downtown Nanaimo Partnership Society.

"A small, affordable performance space in the Arts District, Downtown Nanaimo"

The acquisition is consistent with the endorsement of City Council, City Staff, Parks, Recreation and Culture Commission and the Downtown Nanaimo Partnership to purchase the Caprice Theatre building for the same purpose in 2005. The only changes since then are that the needs have grown and the prices have increased.

By providing flexible accommodation for community cultural needs presently not met, this property will help to not only improve the efficiency of each of these groups through sharing of resources but will also provide incentive for them to work closely together towards the common goal of revitalizing Downtown Nanaimo, as has been demonstrated over the last 5 years in the Nanaimo Arts Centre.

Why? Why? Why? Why? Why?

1. Why this when a Studio Theatre is proposed at the Port? This serves a completely different need that will never be accommodated in the Port Theatre project—affordable space for experimental and developmental local productions. Both are needed. The Port Theatre supports the development of this facility as a complementary 'feeder' to the proposed Studio Theatre;
2. This facility will serve as a cultural anchor in the struggling Nicol Street/Nob Hill area and provide vital staff, volunteer and audience activity in the neighbourhood night and day seven days a week;
3. There is a crying need in our community for affordable rehearsal and small performance space. There are few suitable 'assembly' spaces in existence, and fewer all the time, e.g. Caprice and Bay Theatres. With prices continuing

to increase, it will soon be impossible for our performing arts community to find a permanent home in our downtown—The 'arts' are being priced out of our 'Arts District';

4. The lack of affordable space is at the root of the well-documented struggles of Western Edge Theatre and TheatreOne and is THE barrier to more local companies emerging with more original and experimental productions. The lack of available space is causing TheatreBC to seriously consider moving its programs and operations to another community;
5. Conference attendees will be looking for things to do in the evening. 'Cultural Tourism' is one of the largest and most lucrative markets in the world. With no movie theatre and only the Port Theatre and a few bars offering live entertainment, we need more options downtown in order to fully capture the spin-off entertainment dollars being attracted by City of Nanaimo Destination and Conference Centre Marketing.

In addition, there are two purely financial benefits to the Community of Nanaimo:

- This could be an excellent real estate investment for the City. Being only two blocks from the Port of Nanaimo Centre, this property is sure to increase in value over the next number of years. At the same time, anticipating increasing downtown property values, now is the opportune time to invest to create this amenity while such property is still affordable for the arts community. It has been shown in numerous other urban centres that have undergone revitalization, that if sufficient arts facilities are not procured before dramatic increase in property values occur, the arts community is forced to locate elsewhere. This results in loss of the very cultural diversity that contributed substantially to the appeal of downtown in the first place. This is why it is essential that the three-prong strategy for downtown revitalization (Business Attraction, Residential Development, and Arts, Culture, Entertainment) be realized.
- Further, the Community efforts to revitalize Downtown will positively impact the value of this and surrounding properties towards the south end of our downtown. This combination of an initial low investment coupled with a direct opportunity to influence future value growth in the southern gateway area of our city represents an ideal investment opportunity for the community. The City, by investing in this property and enabling the birth of this small Performing Arts Centre, will, in effect, be spurring neighbourhood vitality and thereby growing the south end tax base.

RISKS & LOST OPPORTUNITY COSTS:

The business plan identifies the risks and lost opportunity costs associated with the purchase of 25 Victoria Road:

1. Stability of Revenue: This will be an obvious concern considering the nature of the proposed users for the property. In an attempt to quantify this, we have

attached a 'risk factor' to the revenue from each of the tenants. In the worst case scenario, all of these risk factors would converge and the income would be reduced as outlined.

2. **Loss of Tax Revenue:** The current owner, Eagle Mountain Church, does not pay property taxes. Thus, by the community using this City-owned facility, the City will not be losing tax revenue; it will simply be foregoing the potential for tax revenue that could come from commercial ownership. Foregoing the potential for tax revenue from 25 Victoria Road will help to improve the prospects of tax revenue growth from other Downtown properties that will benefit by neighbourhood improvements resulting from this project.
3. **Unknown Capital Improvement Requirements:** It is possible that there are some unforeseen requirements for capital improvement or replacement. The Downtown Nanaimo Partnership has sought to mitigate this possibility by obtaining condition reports from Herold Engineering Limited and Hazelton Contracting and by touring through the facility with a City Building Inspector. With newly renovated washrooms, new carpeting, a new roof and new HVAC system installed, it is presumed that it would be a least a decade before any significant repair work would be required. If unexpected capital requirements should emerge before an operating surplus can accrue, monies from other sources would be needed to address the shortfall.

CONCLUSION

In this report, the Centre for the Arts – Nanaimo (CAN) and the Downtown Nanaimo Partnership Society (DNPS) have endeavored to address questions regarding the purchase of 25 Victoria Road and to provide Council with a pragmatic assessment of the value to the Community of Nanaimo. We believe, based on available information, that the purchase and renovation of this property according to the proposed terms represents an excellent Community investment on the condition that the City take a long-term view regarding the community benefits, increasing property value and the extraordinarily low cost to purchase, equip and renovate.

CAN and DNPS believe that because of the sound condition of the building, which means that, in all likelihood, no substantial capital costs will be incurred in the first 10 years beyond those outlined previously, not only would municipal ownership of the building help accomplish and enable actions identified by the Parks, Recreation and Culture Commission, Mainstreet report and by the long-term planning of the Partnership, it is likely a prudent investment in financial terms that has potential to provide long-term benefit to the Community.

We encourage Council to approve purchase of this property as outlined in this plan so that an affordable rehearsal and performance facility can be added as a

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significant feature to the Nob Hill neighbourhood and to the cultural future of our City.

Converting this building to an active performing arts hub of activity would be a strong cultural 'anchor' for the struggling Victoria Crescent, Nicol Street, Nob Hill neighbourhood. The project has high potential for shortening the timeframe for revitalization of the southern portion of our downtown while providing a much needed arts incubator and permanent home for performing arts organizations.

Respectfully Prepared for City Council by:

Centre for the Arts Nanaimo – Camela Tang, Chair
Downtown Nanaimo Partnership Society – George Hanson, Managing Director
TheatreBC – Robb Mowbray, Executive Director

With kind assistance from:

Jon Lampman, Principle, Ramsay, Lampman, Rhodes
Bob Moss, Principle, DTZ Barnicke
Art Crape, Principle, Hazelwood Holdings
Mike Herold, Principle, Herold Engineering

Attachments include:

- CAN – 5 year Statement of Operations for Nanaimo Arts Centre
- CAN – Resolutions re: Business Plan and contribution from the Centre for the Arts Capital Reserve
- A Cultural Strategy for Nanaimo – Draft: 2007 Review
- Hazelwood Holdings – Site Supervision
- Herold Engineering – January 21, 2008
- TheatreBC – Letter March 28, 2008
- Cash Flow Projections – 2008, 2008/2009, 2009/2010

NOTICE OF INTENTION TO AMEND COUNCIL PROCEDURE BYLAW 2007 NO. 7060

In accordance with Section 124(3) of the *Community Charter*, notice is hereby given that the Council of the City of Nanaimo intends to consider an amendment to "COUNCIL PROCEDURE BYLAW 2007 NO 7060" at the April 28, 2008 Regular Council meeting which commences at 7:00 p.m. in the Regional District of Nanaimo Boardroom at 6300 Hammond Bay Road.

An amendment is required in order for the Council Procedure Bylaw to reflect changes in the Location of Meetings:

Time and Location of Meetings This section has been updated to amend the location of Council meetings from the Regional District of Nanaimo Board Chambers or Committee Room, to the Shaw Auditorium or Douglas Rispin Room at the Port of Nanaimo Centre. Open meetings of Council will be held in the Shaw Auditorium starting May 26, 2008.

Copies of COUNCIL PROCEDURE BYLAW AMENDMENT BYLAW 2008 NO. 7060.01 are available for review in the City of Nanaimo Legislative Services Department at 455 Wallace Street, Nanaimo, Monday through Friday, except Statutory Holidays, between the hours of 8:30 a.m. and 4:30 p.m.

Joan Harrison
Manager of Legislative Services

REVENUE CHART 2008

2008	MAY	JUN	JUL	AUG	TOTAL
OFFICE USE					
TheatreBC					
TheatreOne					
REHEARSAL					
TheatreBC			1,000		1,000
TheatreOne				500	500
Western Edge				1,000	1,000
Crimson Coast					
Blues Society					
Pacific Stage					
NTG					
Concert Band	150	150	150	150	600
PERFORMANCE					
TheatreBC			2,000		2,000
TheatreOne					
Western Edge					
Crimson Coast					
Blues Society		500			
Children's Fest			900	500	
NTG					
Conservatory					
Pacific Stage					
Red Room					
Schmooze					
WORKSHOP					
TheatreBC			1,500		1,500
TheatreOne					
Western Edge					
Crimson Coast					
Blues Society					
Red Room					
NTG					
Children's Fest			1,000	1,000	2,000
Conservatory					
TOTAL:	150	650	6,550	3,150	10,500

REVENUE CHART 2008-2009

2008/09	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	TOTAL
<u>OFFICE USE</u>													
TheatreBC	500	500	500	500	500	500	500	500	500	500	500	500	6,000
TheatreOne	500	500	500	500	500	500	500	500	500	500	500	500	6,000
<u>REHEARSAL</u>													
TheatreBC								2,500					2,500
TheatreOne													
Western Edge			1,000			1,000			1,000			1,000	4,000
Crimson Coast													
Blues Society													
Pacific Stage	1,000		1,000		1,000		1,000				1,000		5,000
NTG			1,300					1,300				1,200	3,800
Concert Band	150	150	150	150	150	150	150	150	150	150	150	150	1,800
<u>PERFORMANCE</u>													
TheatreBC													
TheatreOne													
Western Edge	500			500			500			500			2,000
Crimson Coast	125	125	125	125	125	125	125	125	125	125	125	125	1,500
Blues Society	300		300	300	300	300		300					1,800
Children's Fest													
NTG													
Conservatory	300	300	300	300	300	300	300	300	300	300			3,000
Pacific Stage		1,000		1,000		1,000		1,000				1,000	5,000
Red Room		1,500		1,500			1,500		1,500				6,000
Schmooze	400		400			400			400				1,600

REVENUE CHART 2008-2009

2008/09	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	TOTAL
<u>WORKSHOP</u>													
TheatreBC	100	100	100	100	100	100	100	100	100	100	100	100	1,200
TheatreOne													
Western Edge													
Crimson Coast													
Blues Society													
Red Room	500	500	500	500	500	500	500	500	500	500	500	500	6,000
NTG													
Children's Fest							1,000				1,000	1,000	3,000
Conservatory													
TOTAL:	4,375	4,675	6,175	5,475	3,475	4,875	6,175	7,275	5,075	2,675	3,875	6,075	60,200

REVENUE CHART 2009-2010

2009/2010	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	TOTAL
OFFICE USE													
TheatreBC	500	500	500	500	500	500	500	500	500	500	500	500	6,000
TheatreOne	500	500	500	500	500	500	500	500	500	500	500	500	6,000
REHEARSAL													
TheatreBC									3,000				3,000
TheatreOne			500			500		500				500	2,000
Western Edge			1,000			1,000			1,000			1,000	4,000
Crimson Coast													
Blues Society													
Pacific Stage	1,000		1,000		1,000		1,000				1,000		5,000
NTG			1,300					1,300				1,300	3,900
Concert Band	150	150	150	150	150	150	150	150	150	150	150	150	1,800
PERFORMANCE													
TheatreBC										1,000	1,000	1,000	3,000
TheatreOne	1,000			1,000			1,000		1,000				4,000
Western Edge	500			500			500			500			2,000
Crimson Coast	125	125	125	125	125	125	125	125	125	125	125	125	1,500
Blues Society	300		300	300	300	300		300					1,800
Children's Fest													
NTG													
Conservatory	300	300	300	300	300	300	300	300	300	300			3,000
Pacific Stage		1,000		1,000		1,000		1,000				1,000	5,000
Red Room		1,500		1,500			1,500		1,500				6,000
Schmooze	400		400			400			400				1,600

REVENUE CHART 2009-2010

2009/2010	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	TOTAL
WORKSHOP													
TheatreBC	100	100	100	100	100	100	100	100	100	100	100	100	1,200
TheatreOne													
Western Edge													
Crimson Coast													
Blues Society													
Red Room	500	500	500	500	500	500	500	500	500	500	500	500	6,000
NTG													
Children's Fest							1,000				1,000	1,000	3,000
Conservatory													
TOTAL:	5,375	4,875	6,675	6,475	3,475	5,375	7,175	5,275	9,075	3,675	4,875	7,675	69,800



**C.V.I. Centre for the Arts — Nanaimo
 Building Account**

STATEMENT OF OPERATIONS

	<u>2002-2003</u>	<u>2003-2004</u>	<u>2004-2005</u>	<u>2005-2006</u>	<u>2006-2007</u>
REVENUES					
Rental	78,105.	78,453.	78,800.	77,134.	73,959.
Interest	—	725.	970.	1,979.	2,797.
Total Income	78,105.	79,178.	79,770.	79,113.	76,756.
EXPENSES					
Accounting and Audit	1,000.	1,710.	1,499.	2,279.	2,540.
Advertising and Promotion	—	—	—	1,933.	—
Bank Charges and Interest	400.	—	—	—	—
Building Co-ordination	4,000.	5,200.	5,600.	6,000.	6,250.
Building Promotion	—	—	2,256.	—	—
Internet	5,746.	1,304.	—	—	—
Janitorial	5,086.	4,829.	5,323.	4,852.	6,782.
Management Fees	8,000.	8,000.	8,400.	9,000.	9,500.
Office and Miscellaneous	541.	1,275.	1,699.	1,347.	1,322.
Repairs and Maintenance	12,408.	6,764.	11,075.	43,280.	36,604.
Telephone	1,281.	1,750.	1,924.	1,992.	2,044.
Utilities	14,415.	11,887.	13,603.	12,692.	13,526.
	52,877.	42,719.	51,379.	83,375.	78,568.
Excess (deficiency) of revenues over expenses, for the year	25,228.	36,459.	28,391.	(4,262.)	(1,812.)
Net Assets, beginning of year	10,281.	35,509.	71,968.	100,359.	96,097.
Net assets, end of year	35,509.	71,968.	100,359.	96,097.	94,285.



**C.V.I. Centre for the Arts — Nanaimo
 Building Account**

STATEMENT OF FINANCIAL POSITION

	<u>2002-2003</u>	<u>2003-2004</u>	<u>2004-2005</u>	<u>2005-2006</u>	<u>2006-2007</u>
ASSETS					
Cash	25,708.	24,545.	22,281.	9,143.	18,412.
Term Deposits	19,000.	46,425.	79,695.	83,484.	77,842.
Accounts Receivable	524.	1,167.	—	685.	—
Prepaid Expenses	—	—	—	3,259.	171.
Due from Administration Fund	5,055.	5,000.	3,980.	4,100.	2,617.
Total Income	50,287.	77,137.	105,956.	100,671.	99,042.
LIABILITIES					
Accounts Payable	8,258.	1,000.	1,315.	1,090.	1,500.
GST Payable	3,245.	894.	1,007.	409.	182.
Total Current Liabilities	11,503.	1,894.	2,322.	1,499.	1,682.
Rental Deposits	3,275.	3,275.	3,275.	3,075.	3,075.
Total Liabilities	14,778.	5,169.	5,597.	4,574.	4,757.
NET ASSETS					
Unrestricted	35,509.	25,243.	20,664.	12,613.	16,443.
Building Acquisition Reserve	—	—	—	—	7,676.
Capital Reserve	—	46,725.	79,695.	83,484.	70,166.
Total Net Assets	35,509.	71,968.	100,359.	96,097.	94,285.
	50,287.	77,137.	105,956.	100,671.	99,042.



March 31, 2008

Resolution

The Board of Directors of CVI Centre for the Arts - Nanaimo (CAN) hereby approves the Business Plan for a small venue performing arts centre at 25 Victoria Road, Nanaimo, as presented by CVI Centre for the Arts - Arts and the Downtown Nanaimo Partnership Society, dated March 31, 2008.

The Board also agrees to use up to \$15,000 from the CAN Capital Reserve towards this project, only if required.

Moved: Gerda Hofman

Seconded: Camela Tang

Carried

A handwritten signature in cursive script, reading 'Camela Tang', is written over a horizontal line.

Camela Tang, President
C.V.I. Centre for the Arts — Nanaimo

A handwritten signature in cursive script, reading 'G. Hofman', is written over a horizontal line.

Gerda Hofman, Secretary
C.V.I. Centre for the Arts — Nanaimo

2007-JAN-28

DRAFT: 2007 REVIEW

A CULTURAL STRATEGY FOR NANAIMO

INTRODUCTION AND TERMS OF REFERENCE

In the early 90s Nanaimo began a process of cultural development. The Nanaimo Cultural Committee was formed to advise the Parks, Recreation and Culture (hereafter PRC) Commission and City Council on arts and cultural Development. The City has been committed to a coordinated and concerted effort to develop common goals and civic strategies for future cultural development in our community, therefore, in June 2001; a "Nanaimo Cultural Strategy" was adopted by Council as a guideline for cultural development in Nanaimo.

Cultural Development is widely recognized across Canada and in Nanaimo, to be of vital importance to the quality of community life and for its economic and social benefits. Cultural planning and development is an important role local government must play in the growth of our community to ensure that we have a creative and livable city. Cultural planning and development requires that the City be commitment to integrating cultural development into overall city planning through collaboration from all City Departments and partners, in particular:

1. Planning and Development (Plan Nanaimo and the Official Community Plan)
2. The Economic Development Office (Cultural industries, such as film and video, cultural tourism and destination marketing etc. and the Economic Development Strategy)
3. Engineering and Public Works (integrating public art and ensuring an aesthetic City infrastructure)
4. Tourism Nanaimo
5. The Downtown Nanaimo Partnership Society
6. Private Partners

The City also actively seeks input from the cultural sector, business and citizens. Cultural planning in Nanaimo should not happen in isolation but be a collaboration of efforts. All partners need a clear understanding of why public investments are made towards cultural development. The cultural sector provides more than economic prosperity to Nanaimo; it defines who we are as a society and community.

Nanaimo is maturing as a city and it is clear from the recent Parks, Recreation and Culture Master Plan, that residents desire more opportunities for recreation, sport and for cultural expression and experience.

As our community's cultural resources grow and mature, the impact on our city increases dramatically. Cultural organizations, in partnership with the City, will be instrumental in further developing the aesthetic environment and cultural activities which people are demanding of the community in which they live or visit. A coordinated effort aspiring to common goals will help to realize some of the hopes and dreams of a vibrant place to live.

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This cultural strategy for Nanaimo sets community vision and direction for future cultural planning and development.

Cultural planning is very important for creating a livable city and for realizing the cultural amenities that attract a vibrant workforce to live, work and play in our community. Nanaimo is moving from a resource-based to an information-based economy and creativity is becoming one of the most sought after commodities. The City is recognizing that what were once "amenities" are now "necessities" and that culture and creativity is an essential part of sustainable municipal planning.

The diversity of Nanaimo's cultural activities and organizations have driven the need for effective cultural policy, goals and strategies to direct future cultural development.

The City's response to these needs has resulted in significant additions to Nanaimo's cultural scene such as:

1. The Nanaimo Cultural Strategy
2. The adoption of the "Art in Public Places Guidelines and Procedures"
3. The creation of an "Arts District" in the downtown core
4. Notable increases in funding to arts organizations
5. Increased cultural activities and new and expanded festivals
6. Significant budget allocation to public art
7. Expanded arts and cultural programming

Municipal cultural amenities have grown to include:

1. 800 seat Port Theatre
2. New Nanaimo Museum
3. Harbourfront Plaza
4. Harbourfront Walkway
5. Lion's Pavilion
6. Pioneer Plaza
7. CIBC Nanaimo Arts Centre
8. Public Art: Public Murals; Frank Ney Statue; Nanaimo Banner Festival (commissioned hand painted street banners); Tozan Mural in the Nanaimo Aquatic Centre; "Generations" sculpture honouring women; Bronze Busts of Mark Bate (first Nanaimo Mayor) and Coal Tye (First Nations Chief who found coal) and the "Pacific Sails" project.

The City is collaborating with businesses, neighbourhoods and various organizations, cultural and otherwise, to develop the cultural component of major events such as:

1. Marine Festival
2. Symphony In the Harbour
3. Upper Island Music Festival
4. Empire Days
5. Canada Day
6. Dragon Boat Festival
7. Festival du Sucre D' Érable
8. International Children's Festival

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9. Cadillac Van Isle 360
10. Nanaimo Blues Festival
11. Nanaimo Arts Festival,
12. Festival of Banners
13. InFrinGinG Dance Festival
14. Theatre BC Mainstage

The City's continuing investment in arts and cultural organizations will ensure their stability and growth in the community.

Purpose and Scope of The Cultural Strategy:

The purpose of the Cultural Strategy is to direct planning for cultural development in Nanaimo. The Cultural Strategy will include Vision, Cultural Policies, Goals, and Strategies for identified key areas of cultural development.

The Cultural Strategy for Nanaimo includes the following components:

1. Administration
2. Investment
3. Art in Public Places
4. Facilities
5. Marketing
6. Cultural Tourism
7. Economic Development
8. Programming/Education

CITY OF NANAIMO COMMUNITY VISION

"Nanaimo will be a community that respects people. It will hold neighbourhoods as the building blocks of the city. Nanaimo will be safe and supportive for people of all ages and all income levels. It will be an attractive place to live with the historic downtown core forming the 'heart' of the city. Change in the city will be based on the foundation of community participation. Nanaimo will be a community that respects and preserves the environment and one that is pedestrian friendly. It will be a city of social and economic opportunity that has a diverse economy and a wide range of social, recreational, cultural and artistic amenities and services" (from "Imagine Nanaimo" and the "Official Community Plan").

It is the intent of the Nanaimo Cultural Strategy to work in collaboration with other community initiatives to achieve the Community Vision.

A COMMUNITY VISION FOR NANAIMO'S CULTURAL DEVELOPMENT

1. Arts and culture will be widely recognized as a significant contributor to the life and soul of our community.

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2. Artists will come to live, create and sell their work in Nanaimo.
3. Nanaimo citizens and visitors will encounter art in public places as part of their daily experiences of our City.
4. A variety of programs, activities, events, festivals, attractions, entertainment, arts and craft products and displays will be available year round for residents and visitors to enjoy.
5. Conferences, conventions, trade shows and other major events will select Nanaimo because of its uniqueness, cultural attractions and its natural beauty.
6. Residents of all ages and abilities will be able to explore their individual creativity through a wide variety of arts and cultural opportunities.
7. Cultural organizations will have excellent facilities and meaningful funding based on identified community needs and long range plans.
8. Our heritage will be preserved and presented in an engaging and informative manner for residents and visitors to experience and enjoy.
9. Nanaimo will grow as a popular cultural tourism destination.
10. Arts and culture will be a valuable marketing tool for Nanaimo's economic development strategy.
11. Nanaimo will have a strong and vibrant culture which evolves with a coordinated and collaborative effort leading to greater popularity as a place to visit, live, work and play.

CITY OF NANAIMO

CULTURAL POLICY STATEMENT

The City of Nanaimo recognizes the integral contribution generated by arts and cultural activities to the City's social and economic progress, and the value of artistic and cultural expression and enjoyment by its citizens.

The City of Nanaimo affirms its ongoing commitment to encourage and support an active and successful arts and culture sector within the community.

ADMINISTRATION

GOAL ONE:

To develop an effective and efficient administrative structure that will foster cultural development.

Strategies

The City will:

1. Ensure an effective relationship between Council, the Parks, Recreation and Culture Commission (PRC) and the Cultural Committee.

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2. Receive recommendations from the Cultural Committee through the PRC Commission regarding Nanaimo's Cultural Strategy, as reflected in the mandate for the Cultural Committee (see 2.2).

2.1 Policy

The Cultural Committee is a Committee of the PRC Commission and will be comprised of nine members as follows:

- 2.1.1 Three members appointed by the PRC Commission.
- 2.1.2 Six Members At Large selected and recommended from applications submitted to the PRC Commission.

2.2 The Cultural Committee is responsible for coordinating the City's Arts and Culture Initiatives by:

- 2.2.1 Overseeing the implementation of cultural strategy and conducting regular cultural strategy reviews (every three years).
- 2.2.2 Advising the Commission and Council on cultural issues.
- 2.2.3 Reviewing all applications for funding and making recommendations to the PRC Commission, based on criteria and guidelines established regarding the distribution of cultural operating grants and arts and cultural event grants (see Investment Section).
- 2.2.4 Investigating all sources of funds available to the City of Nanaimo for the purpose of supporting arts and cultural organizations and cultural planning, development and infrastructure initiatives.
- 2.2.5 Developing new cultural initiatives for Nanaimo's cultural development in close cooperation with all City Departments, Nanaimo's cultural groups, businesses, School District 68 and Tourism Nanaimo.
- 2.2.6 Developing and maintaining a current awareness of artistic and economic trends, opportunities and status regarding Arts and Culture both locally and in other municipalities, and recommending initiatives which could be of value to Nanaimo economically, socially and aesthetically.
- 2.2.7 Ensuring a close cooperation, more formal networking and sharing of resources among all Nanaimo Cultural groups in pursuing the aims and objectives of this strategy.
- 2.2.8 Promoting public awareness of cultural organizations and cultural activities in our community, and maintaining an annual cultural awards program.
- 2.2.9 Identifying gaps or overlaps in City support programs that relate to arts and culture.
- 2.2.10 Maintaining an ongoing liaison with Federal, Provincial and Regional agencies relating to arts and culture including groups such as The BC Arts Council, Canadian Heritage and the Creative City Network.
- 2.2.11 Commissioning and purchasing works of art for display in municipal public spaces and buildings.
- 2.2.12 Helping cultural organizations and individual artists become strong and / or effective.
- 2.2.13 Sponsoring annual educational opportunities for arts and cultural organizations.

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GOAL TWO:

To ensure that the Nanaimo Cultural Strategy is implemented and reviewed regularly.

Strategies

The City will:

1. Develop and distribute information regarding the Nanaimo Cultural Strategy and the process for providing feedback and suggestions regarding cultural development to the City.
2. Carry out a regular review (at least every three years) of Nanaimo's Cultural Strategy, to ensure its effectiveness, efficiency, integration with all City departments and the evolving needs of the community.
3. Develop specific objectives and action plans that will be instrumental in accomplishing the goals of the Nanaimo Cultural Strategy.

GOAL THREE:

To move towards the creation of a "Cultural Division" of the Parks, Recreation and Culture Department.

Strategies

The City will:

1. Hire a new full time "Supervisor of Arts and Culture Development" who will oversee all arts and cultural planning, development and programming for the city in cooperation with arts and cultural organizations.

INVESTMENT

There are practical examples of success in Nanaimo and other communities as well as academic research (e.g. Dr. Richard Florida "The Rise of the Creative Class") that have convinced municipalities that it pays to invest in arts and cultural development and make it an essential part of its core business. Investing in arts and culture will strengthen our economic base, improve quality of life for residents and visitors and enhance community identity and reputation.

GOAL ONE

To stimulate cultural and economic growth through increased investment.

Strategies

The City will:

1. Identify cultural planning and development priorities to facilitate the growth and economic impact of arts and culture in Nanaimo.

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2. Provide, through municipal operating grants to cultural groups, the annual financial investment of two dollars per capita (based on Provincial statistics). This investment is intended to facilitate funding from other government and private sources which in turn will provide net financial benefit to the community.
3. Provide annual funding to assist groups in the production and growth of arts and cultural events.
4. Refer all applications for cultural operating and event funding to the Cultural Committee of the PRC Commission for recommendations to the Commission and Council for the distribution of municipal grants.
5. Encourage good financial management and accountability within cultural organizations and maximize a variety of revenue sources including grants, donations, sponsorships and earned revenue.
6. Facilitate the financial support from other levels of government, foundations and corporate donors.
7. Increase funding levels when appropriate to ensure that the goals of this strategy are being realized and make recommendations to the PRC Commission in that regard.
8. Review extraordinary funding requests and make recommendations to the PRC Commission.

GUIDELINES FOR ARTS AND CULTURAL EVENT GRANTS

1. The City of Nanaimo will work with community groups on the production of arts and cultural events that attract both residents and visitors.
2. Annual funding will be available to assist groups with the cost of producing arts and cultural events.
3. All applications to this fund will be evaluated based on established criteria. Events must showcase local arts and cultural talent and have good economic impact potential. Preference will be given to annual or ongoing events that provide a good long term investment for the city.

GUIDELINES FOR MUNICIPAL CULTURAL OPERATING GRANTS

1. **Established Organizations:** The City will allocate operating grants to cultural organizations based on their merit, how well they fulfill the City's Cultural Strategy, the criteria for cultural funding and on their demonstrated ability to contribute to the local economy and community. Amounts invested in each organization will be determined by the number of applications, amounts requested, use of funds, cultural benefit to the community and potential return on the investment.
2. **Three Year Core Funding to Professional Groups** is available to established not-for-profit professional arts organizations that have been in existence for at least four (4) years. Applicants must have received at least one annual grant through the City of Nanaimo's Cultural Funding Program, have an arts mandate and be recognized for excellence in their artistic discipline and programming. They must also demonstrate long-range financial stability and be able to articulate long-term artistic visioning and planning.
3. **New and Emerging Cultural Organizations** requiring seed money.

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4. Projects that relate directly to arts and culture in the area of collaborative marketing, partnerships and arts programming and / or education.

These are guidelines for the awarding of cultural operating grants and will be adjusted to meet the needs of the city and the cultural sector.

ART IN PUBLIC PLACES

For the purposes of the Nanaimo Cultural Strategy, public art is defined as: two and three-dimensional work such as sculptures, murals, paintings, environmental and infrastructure art.

GOAL ONE

To make Nanaimo a place where citizens and visitors will encounter various forms of visual arts as part of their daily experience.

Strategies

The City will:

1. Strive to integrate public art into city infrastructure where feasible and consult the Cultural Committee regarding all projects where it would be appropriate to include art in public places.
2. Follow the City of Nanaimo's "Art in Public Places Guidelines and Procedures" document.
3. Use art to enhance public spaces and plazas as active and attractive people-friendly places.
4. Review and revise the "Art in Public Places Guidelines and Procedures" document (in consultation with artists, other city departments and the cultural sector) at least every three years.

GOAL TWO

To administer a Public Art Reserve Fund for the purpose of purchasing and/or commissioning and staging public art.

Strategies

The City will:

1. Maintain a "public art reserve fund" to be used to purchase and/or commission, maintain, document and catalogue works of public art for display in municipal and/or public places.

Policy

A minimum of \$100,000 will be added to the Public Art Reserve Fund on an annual basis from the Parks, Recreation and Culture Budget.

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GOAL THREE

To encourage public art in appropriate private developments within the City.

Strategies

The City will:

1. Encourage private contributions to public art.

FACILITIES

Arts and cultural facilities (including redeveloping old buildings for new creative uses) bring economic prosperity and revitalization to neighbourhoods and in particular the downtown core.

GOAL ONE:

To ensure that excellent facilities are available for the creation, preservation and presentation of arts and culture within the City.

Strategies

The City will:

1. Conduct a cultural facilities needs assessment every three years.
2. Create and maintain a cultural facilities development plan to be integrated into the Parks, Recreation and Culture Department Five Year Capital Plan.
3. Maintain and keep current a Cultural Facilities Resources Inventory.
4. Continue to work to facilitate the growth of the downtown "Cultural District". This will be accomplished by locating new facilities, or re-developing facilities suited for cultural purposes.
5. Explore innovative solutions to accommodate building uses that include the arts and artists.
6. Be proactive with regards to taking advantage of acquiring cultural spaces that may become available.

GOAL TWO:

To encourage live / work spaces for artists in the city with an emphasis on the downtown core.

Strategies

The City will:

1. Actively encourage property owners and developers to include artist live / work spaces in the Downtown core.

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2. Develop partnerships with the private and non-profit sectors and with other levels of government to develop artist live / work spaces.

MARKETING

The City and the cultural sector will work collaboratively to develop a coordinated marketing strategy that will ensure the best exposure possible for cultural programs and services in our community.

GOAL ONE

To develop coordinated marketing strategies that will increase exposure for cultural organizations, programs and services.

Strategies

The City will:

1. Assist local cultural organizations in developing collaborative strategies to increase marketing efficiencies, audience awareness and participation in cultural activities.
2. Maintain the Cultural Resources Inventory and Information Service. This will be updated regularly with information on all cultural organizations and facilities available online and in printed form.
3. Maintain a current "Community Media Guide" online and in print form.
4. Work cooperatively with relevant organizations to maintain a comprehensive arts and cultural calendar of events.
5. Encourage all cultural groups to promote their programs and services through "at cost" ads in the Parks, Recreation and Culture "Leisure Guide".
6. Maintain an annual Cultural Awards program.
 - 6.1 "Excellence in Culture Award" recognizes deserving individuals and groups for their artistic excellence.
 - 6.2 "Honour in Culture Award" recognizes individuals, groups or corporations for outstanding service, dedication or support to the development of arts and culture.

CULTURAL TOURISM

Tourism based around arts and cultural events, festivals, museums, art galleries and heritage attractions has a profound economic impact on the community.

GOAL ONE

To develop Nanaimo as a cultural tourism destination.

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Strategies

The City will:

1. Develop a wider coordinated marketing strategy for increased tourism potential by facilitating community partnerships between the City (Destination Marketing), arts and cultural groups, business and Tourism Nanaimo.

GOAL TWO

To encourage arts and cultural organizations to plan events and festivals by removing barriers and providing financial investment and other support.

Strategies

The City will:

1. Maintain an Arts and Cultural Event Fund (\$24,000 in 2007) for the purpose of assisting groups in the planning and running of events and for providing seed money for new events. The amount of this fund should be reviewed annually with recommendations for increases based on needs.
2. Maintain a Festivals Fund separate from a Tournament Fund for the purpose of assisting groups in planning and running of arts and cultural festivals. The amount of this fund should be reviewed annually with recommendations based on needs.
3. Provide support by the way of logistics, equipment (Community Event Equipment Loan / Rental Program), administration, and information support to event and festival organizers (The City and Tourism Nanaimo).
4. Update and maintain a "Community Events Resource Manual" online and in print form.

GOAL THREE

To determine what is unique and special about Nanaimo's culture and heritage, and market these experiences to potential cultural tourists.

Strategies

The City will:

1. Preserve, maintain and celebrate Nanaimo's heritage assets (in compliance with the Nanaimo Heritage Strategy and the Nanaimo Heritage Action Plan).
2. Develop a cultural map of Nanaimo's cultural assets including human resources, physical resources and written history. The map will be used to draw attention to the existence and importance of cultural resources and prepare the ground for effective cultural planning.
3. Actively promote and celebrate our city through festivals, cultural celebrations, and arts and cultural activities.

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ECONOMIC DEVELOPMENT

"Cities will attract new business and investment, and see job growth if 'creativity' is a component of economic and strategic plans. Creativity is the engine of the new economy" (Creative City News, Special Edition # 1).

"Cultural industries create job growth, turn ordinary cities into 'destination cities,' create interconnections between arts and business, revitalize urban areas, attract skilled workers and create spin-off businesses." (Creative City Network of Canada, 2005; Culture as an Economic Engine, Making the Case for Culture).

GOAL ONE

To develop a process which educates the community and funders as to the value of arts and culture as a driver for the City's economic prosperity.

Strategies

The City will:

1. Recognize and measure the economic impact of investing in cultural planning and development in the City of Nanaimo by conducting an economic impact study.
2. Foster closer ties between local business and the arts in order to generate profitable arts and cultural industries and beneficial partnerships.
3. Promote the benefits of investing in arts and culture through the City's website, workshops, forums, and press releases.

GOAL TWO

To include cultural facilities, cultural spaces, arts and cultural programming and public art in neighbourhood and downtown revitalization strategies.

Strategies

The City will:

1. Include arts, culture and heritage in Nanaimo's planning (The Official Community Plan) and economic strategies.

PROGRAMMING / EDUCATION

GOAL ONE

To promote and develop opportunities for all Nanaimo residents and visitors to become involved in a wide range of cultural programs, courses, activities and special events.

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Strategies

The City will:

1. Co-ordinate the provision of educational and recreational cultural programs and activities to ensure that a full range of opportunities are reasonably available at all stages of a person's life, regardless of socio-economic status, in accordance with community needs and initiatives.
2. Maintain a staff position (Arts and Cultural Coordinator) that would be responsible for arts and cultural programming/community development and liaising with arts and cultural groups.
3. Develop community arts programs (arts, crafts, dance, music, theatre) that engage youth, build self esteem, facilitate learning and leadership development opportunities, and provide positive use of leisure time for youth.
4. Actively promote partnerships with community and business groups in the development of cultural programs and services.
5. Encourage and support both new and established festivals that promote the celebration of civic identity and pride and the awareness of cultural diversity.

GOAL TWO

To promote awareness about the benefits derived from a vibrant arts and culture aspect to the community.

Strategies

The City will:

1. Affirm the importance of the provision of art and cultural programming and education at all levels.
2. Inform and educate the community about the benefits of participation in the arts (including recreational arts).

APPENDIX A

DEFINITIONS

The following terms are defined for the purposes of this document

CULTURE (CULTURAL):

Culture is the artistic, intellectual and spiritual characteristics that reflect the heritage of our community.

ART:

Art, in its broadest meaning, is the expression of creativity or imagination, and is a reflection of our society.

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Art stimulates an individual's thoughts, emotions, beliefs or ideas. (e.g. Fine or applied art, music, drama, literature and dance).

RECREATIONAL ART:

Recreational art is any creative endeavour that people participate in for lifelong learning, social networking and leisure, and not for financial gain.

PUBLIC ART:

Public art is art such as sculptures, murals, paintings, environmental and infrastructure art that is encountered by the public free of charge

CULTURAL POLICY OR POLICY STATEMENTS:

Cultural Policy is a statement that defines the course and methods of action selected to guide and determine present and future decisions or practices regarding cultural development in Nanaimo.

CULTURAL DISTRICT:

For the purpose of this document "The Nanaimo Cultural District" includes the "Arts District", the "Old City Quarter", the Harbourfront Walkway, and the areas encompassing the "Downtown Heritage Walk".

GOALS:

Goals are statements of what the City wants to achieve regarding cultural development. Goals precede strategies.

STRATEGIES:

Strategies are actions or means to be used to attain goals.

OBJECTIVES:

Objectives are specific tasks or projects intended to be accomplished by a specified date. Objectives must be measurable and are used to implement strategies and accomplish goals.

HAZELWOOD HOLDINGS Ltd.
General Contracting
Project Management – Site Supervision

January 17, 2008

Robb Mobray
Executive Director
Theatre BC
PO Box 2031
Nanaimo, B.C.
V9R 6X6

Telephone: (250) 714-0203
Facsimile: (250) 714-0213
Cellular: (250) 713-0232

Dear Rob:

This letter is a report on a walk through of the building containing Eagle Mountain Church at 25 Victoria Road, with Mike Herold of Herold Engineering Ltd.

The section of the structure on the south side has a high vaulted ceiling and was built somewhere around 1920, the section on the north end has a flat roof & was believed to have been built in the 1950's. Records are very sketchy.

The older part of the building is slab on grade and has concrete walls below grade and 2x6 wood frame walls above grade. I was able to see inside the wall on the Nichol Street side and it contains no insulation, so I would assume that none of the walls are insulated. The interior ceilings were added at some unknown date and by climbing up inside the Nichol Street wall I could not see any insulation in the ceiling space.

In the basement I noted that there is an existing 400 amp single phase electrical power supply into the building. This is adequate power supply for a building of this size. Also in the basement is an old oil fired boiler and a hot water radiant heat system that the building owners will not guarantee that it works. The boiler is also covered with what I believe to be asbestos. If it is asbestos it is not a large enough amount to be a serious problem. If the radiant heat system were to be maintained the old boiler would have to be removed, the system would have to be flushed and a new gas fired boiler installed.

On the roof there is a tower that seems to have no function and should be removed. Both the flat roof and the pitched roof should be replaced. There is an air conditioning unit on the flat roof that might be able to have a heating unit added to it which would be a much better heat source for the building.

There is an existing sprinkler system in the building which does not meet today's code but it would not require an extensive upgrade.

As I have noted there are some problems with the building just because of its age, but it has a tremendous amount of character and could be made into something very nice. At this point I would be hesitant to put a number to what it would cost to do a proper renovation to make the building functional for your type of use.

If it would be advantageous to help you make your final decision I would be happy to walk through the building with you.

Attached is a copy of the report from Herold Engineering Ltd.

I hope this information helps you make your decision.



Yours Truly
Art Crape
Project Manager
Hazelwood Holdings Ltd.



January 21, 2008

492-009/02

Via fax: 716-1941

Hazlewood Construction Ltd.
1940 Bollinger Road
Nanaimo, BC V9S 5W4

Attn: Art Crape

**Re: Eagle Mountain Church
25 Victoria Road
Nanaimo, BC**

Dear Art:

At your request, the undersigned completed an on-site inspection at the above building on January 17, 2008. Present during the inspection were you and Bill Leynard from the church. The purpose of the inspection was to review the existing structural condition of the building and to comment on its re-use as an Assembly Occupancy building for Theatre BC.

Building Description

It is our understanding that the building was originally constructed as a church in the 1920's and remained in that use and had an addition on the north side prior to becoming a night club in 1975. The change to the night club included new floor areas and a stage. The building subsequently changed back to the current church use and no structural renovations have taken place since.

The building is of wood frame construction and is believed to be constructed on concrete foundations. The plan area of the building is approximately 3,800 ft². There is a basement area that exits at Nicol Street, a main floor level with access at Victoria Road, and a partial upper floor area.

Site Inspection

Our site inspection included a visual walk-through of the building including an inspection of the ceiling area above the main chapel and stage and an inspection of the flat roof area of the addition to the north of the original building. No wall, floor or ceiling finishes were removed to reveal the structural components of the building. Some exterior wall areas were exposed as well as the ceiling space above the chapel and there did not appear to be any insulation in the exterior wall. There was some indication of ceiling insulation in the original chapel roof in one location, but it could not be confirmed if this was consistent throughout the church.

.../2

H:\Projects\0492-009 25 Victoria Road\025 Correspondence\Hazlewood Jan 21, 2008.doc

3701 Shenton Road, Nanaimo, BC V9T 2H1 Telephone: (250) 751-8558 Facsimile: (250) 751-8559
e-mail: mail@heroldengineering.com

Art Crape
Hazlewood Construction Ltd.
January 21, 2008

Page 2

Our inspection of the flat roof area of the north addition indicated a roof that appeared to be in poor condition with deteriorated roofing and standing water on the roof. We did not, however, see any indication of water ingress on any ceiling finishes below this area.

The basement floor appeared to be of concrete slab-on-grade construction.

Our visual site inspection did not indicate any signs of structural distress and the wood floor systems appeared to be fairly stiff.

Conclusion

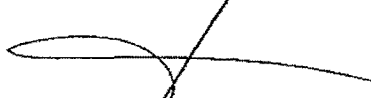
The building structure appears to be in reasonable condition for its age, and changing from current church use to Assembly Occupancy for Theatre BC will not trigger a seismic upgrade by the City of Nanaimo. Due to the type of wood frame construction using shiplap for roof, wall and floor assemblies, it is our opinion that the existing building would not withstand current seismic loading. A detailed seismic assessment would be required to determine what capacity the existing structure has to safely support current seismic loading.

The design live loading on the floors of 4.8 kPa (100 lbs/ft²) would not change from church use to theatre use and therefore upgrading of the floors would not be mandated by Code.

We trust the foregoing is sufficient for your needs at this time. Please contact the undersigned if you have any questions regarding this report.

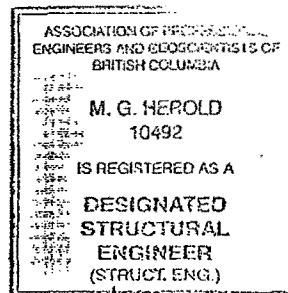
Yours truly,

HEROLD ENGINEERING LIMITED



Mike Herold, P.Eng., Struct.Eng., M.I.Struct.E.

MGH/emb



Jan 23/08



Theatre BC
at the CIBC Nanaimo Arts Centre
street: #4 - 150 Commercial St, Nanaimo, BC V9R 5G6
mailing: PO Box 2031, Nanaimo, BC, V9R 6X6
Phone: 250.714.0203 Fax: 250.714.0213
www.theatrebc.org email: info@theatrebc.org



Hi, George.
Greetings from Theatre BC.

Re: Acquisition of Eagle Mountain Church Building, 25 Victoria Road:

I am writing to express my complete support for the City of Nanaimo's purchase of the Eagle Mountain Church Building at 25 Victoria Road. Obviously, Theatre BC has a keen interest in this building, being the party that made the offer on the property. However, realistically, Theatre BC will not be in a position to purchase the building at this time, but we do believe that this purchase is vital to Nanaimo's arts & culture scene.

We also support the Port Theatre's goal to build a 165-200 seat Black Box studio as part of the Port Theatre complex. There is huge need for an affordable small to mid-sized performance space, but this only solves part of the problem and is still, at best case scenario, three years away; more likely four to five years away. It is clear that this venue would have no trouble filling bookings for performances by a variety of local and regional arts groups and companies, BUT, there is and still would be the desperate need for rehearsal space, a niche that the Eagle Mountain Church building could fill immediately and ongoing, even if and when the Black Box studio is completed. Both buildings would go along way to supporting Nanaimo's growing and diverse arts industry.

In the meantime, we are on the verge of losing companies such as TheatreOne, a fixture in the city for over twenty-five years, and Western Edge Theatre, a fairly new company which has built itself in small, but financially responsible strides. These companies are facing collapse for one primary reason – a lack of an affordable, accessible, small to mid-sized venue in the community. Another community theatre group, Schmooze Productions (Dean & Diane Chadwick, founders) is not currently producing because of a lack of an affordable, accessible venue. And these are just a few of the companies, some of which would certainly not survive for three to five years, waiting for one new venue. I cannot stress enough that the need is immediate and dire!

The performance groups in this city need rehearsal, workshop, and performance space. The Eagle Mountain Church building, with a main-floor performance hall and lower-floor studio, as well as at least one classroom, could go a long way to filling this void. We believe this facility could be rented continually throughout the year. Theatre BC alone could provide a significant amount of rentals/use for workshops, touring community theatre productions and regional and provincial theatre events including Theatre BC's North and South Island Zone Festivals (regional), Theatre BC's New Play Festival (national), ACToberfest One Act Festival (provincial), CanWest PlayFest (Western Canada) and Theatre BC's Mainstage (provincial). Our Mainstage Festival, which has in recent years returned to Nanaimo every three years, will likely not return to Nanaimo following the 2008 season, because of a lack of such a facility in the downtown core.

Since bringing attention to the availability of the Eagle Mountain Church building, it has become clear to our organization that there would be plenty of support in terms of user groups for the facility, including potential regular rentals from groups including:

TheatreOne

Western Edge Theatre

Nanaimo Theatre Group (yes, even this group, which owns and operates the Bailey Studio on Rosstown Road, still needs to rent rehearsal space for three to four productions each year...30-50 nights per year)

Red Room Studios (children's theatre training and performances)

Nanaimo Blues Festival Society

...cont'd/



The British Columbia Drama Association / Theatre BC

-2-

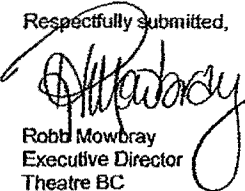
Schmooze Productions
Pacific Coast Stage Company (new)
Multiple choir groups in the city
Nanaimo Concert Band
Nanaimo Conservatory of Music
And, of course, Theatre BC

We have also had interest from other Societies for meeting space rentals. Once the building is established as an arts space, we are confident that there would be much more demand, as well.

The current state of the building means that rentals could begin immediately, especially for rehearsal space and low-tech performances. The current need for rehearsal space in our city is dramatic. TheatreOne, for its most recent production, had to move three times (four different spaces) for rehearsals over a two-week period. The cost rose with each move. Having a stable, dedicated venue for rehearsal space for the performance groups in Nanaimo is reaching a very critical state. If the City does indeed endorse the downtown core as the "Arts District", then the Eagle Mountain Church building represents a wonderful opportunity to build that image. I believe it is vital to the success of the Conference Centre that we ensure that entertainment and cultural activities thrive in the surrounding area. It can only enhance Nanaimo's reputation as a conference destination.

Theatre BC would be pleased to continue to play a role in the establishment of the 25 Victoria Road building as an arts space. We look forward to seeing this become a reality.

Respectfully submitted,



Robb Mowbray
Executive Director
Theatre BC

The British Columbia Drama Association / Theatre BC

SCHEDULE B

SUMMARY OF CENTRE OF ARTS ACTIVITY FOR NANAIMO CENTRE STAGE (25 VICTORIA ROAD)



CVI Centre For The Arts – Nanaimo P: 250.754.2264 -
www.Centrefortheartsnanaimo.org
CIBC Nanaimo Arts Centre - 150 Commercial Street, Nanaimo, BC V9R 5G6
Nanaimo Centre Stage – 25 Victoria Road, Nanaimo, BC V9R 4N9 -
www.nanaimocentrestage.org

MONTHLY RECURRING EVENTS Fall 2011 & Spring 2012

- Schmooze Improv Classes; every 2nd Tuesday
- Schmooze Acting Classes; every 2nd Tuesday

FALL 2011

- Sept 7-11 Fringetastic Theatre Festival
- Sept 17&18, 21-25 – Copper Thunderbird; Western Edge Theatre; Live Theatre Production
- Sept 29 – Housewarming Party; Schmooze Productions

- Oct 27&28 – Rocky Horror Picture Show (Film); Schmooze Productions
- Oct 29 – Burlesque Halloween Party; Naughty and Spice Burlesque Troupe

- Nov 2 - David Francey, Juno Award Winning Folk Musician
- Nov 3 – Professional Employees Association – Annual Union Meeting
- Nov 4 – The Tron Show; TopMen Band; Local Musicians
- Nov 6 to Dec 3 – All the Great Books, Abridged; Schmooze Productions; Live Theatre Production

- Dec 3&4 – 13th Annual Nanaimo Art Walk; 12 artists exhibiting at NCS location.
- Dec 6 – VIU Status of Women Group; Day of Protest against Violence Against Women.
- Dec 31 – New Year's Eve Dance Party

SPRING 2012

- January 13; Carolyn Mark & Blue Sparrow Concert; Juno Award Nominee
- January 15; Art Jam (open mic day and art creation gathering)
- January 21; Schmooze Productions Make-up and Performance Event

- February 3-5; Speeding Bullet Festival; Schmooze Productions
- February 7-11, 17-19; The Glass Menagerie; Western Edge; Live Theatre Production
- February 24-26; Vancouver Island Chamber Music Festival; Nanaimo Conservatory of Music

- March 7; Vancouver Island Health Authority; Youth Advisory Activity Event
- March 21-24, 30-Apr 2; Dry the Rain; Western Edge Theatre; Live Theatre Production

- April 3; 40 Days at Base Camp Documentary Screening; Dianne Whelan; Gemini Award Nominee
- April 17-June 12; Nanaimo Family Life Association; LifeWorks Youth Program
- April 19-May 12; The Full Monty; Schmooze Productions; Live Theatre Production

- May 18&19; HerART Festival; Nanaimo Women's Resource Centre
- May 28-May 30; Speech Arts Provincial Recitals; Upper Island Music Festival

CONFIRMED SUMMER BOOKINGS:

- June 9; Naughty and Spice Burlesque Troupe; Spring/Summer Event
- June 23&24; 1st Annual Nanaimo Summer Artwalk; 11 artists exhibiting at NCS location.
- July 12; Valley Youth Fiddlers; Fiddle History of Canada
- July 21; Bathtub Weekend Dance Party

UPCOMING 2012/2013 SEASON (runs from September 2012 to June 2013):

- We are expecting a return of both of our live theatre producers, Schmooze Productions and Western Edge Theatre.
- A new live theatre producer, In Other Words Theatre, is now our second resident theatre company occupying the building.
- We will have a film and television acting academy hosting regular workshops twice weekly at the facility.
- The following organizations have indicated they will return for smaller festivals and events:
 - Nanaimo Conservatory of Music
 - Nanaimo Family Life Association
 - Nanaimo Women's Resource Society
- 87/108 operating days through September to December 2012 are reserved.
- Bookings for Fall 2012 is at 81% capacity.
- Additional dates are also reserved for Spring 2013.
- We operate 7 days per week.

The rehearsal dates for the live shows by our season producers Schmooze Productions and Western Edge Theatre are not listed above, and neither are any rehearsal times booked by other companies or groups. These times are either billed separately or as part of the season package.

Dated: Sept. 1, 2012

July 24, 2010

CONFIDENTIAL

For reference use only.

CVI Centre for the Arts – Nanaimo

Nanaimo Centre Stage

Renovation Cost Review

Receipts:

City of Nanaimo	525,000	
DNPS	<u>100,000</u>	
		625,000.00
Less: Purchase of 25 Victoria Cres.	460,000.00	
Closing Extension Fee	5,000.00	
Legal & Disbursements	1,141.25	
Plus User Rates – Vendor	(142.78)	
Due Diligence – fees	1,000.00	
(Art Crape & Harold Engineering)	<u> </u>	
		<u>466,998.47</u>
Balance to Centre for the Arts – Nanaimo for Renovations		<u>158,001.53</u>

Expenses:

Renovation Costs Billed	196,754.00	
Shortfall (Cost overrun)		<u>(38,752.00)</u>

NCS renovation costs review continued....

Projected Payment Plan for Construction Costs Overrun:

CVI Centre for the Arts – Nanaimo – Building Acquisition Fund	15,000.00
Loan from 150 Commercial Street – Building Reserve	<u>23,752.00</u>
Total from CAN	<u>38,752.00</u>

Overruns:

Architect fees	4,127	Plan revisions & sprinkler system plan
Extras due to changes in Lower Floor	4,474	Labour
& Stage & City Bldg. Dept. requirements	4,925	Demolition, framing
	4,940	Doors, hardware
	11,056	Drywall, stage, ramps and painting
	4,230	Electrical & Mechanical with up-grade for SOCA cables & plugs
	5,000	Closing extension fee
Total overruns	<u>38,752</u>	

Costs covered by CAN to meet **construction bills and operating expenses** from June 1st to December 31, 2008:

Building Acquisition Fund	15,000.00
Loan for construction overruns	<u>23,752.00</u>
	<u>38,752.00</u>

SCHEDULE C

**READ, JONES, CHRISTOFFERSEN LTD. (RJC) CONSULTING ENGINEERS
RAPID BUILDING ENVELOPE CONDITION ASSESSMENT – 25 VICTORIA ROAD**



25 Victoria Road
Rapid Building Envelope Condition Assessment
25 Victoria Road
Nanaimo, BC



Prepared for:

City of Nanaimo
98 Prideaux Street
Nanaimo, BC

Attention: Ian Blackwood

Prepared by:

Read Jones Christoffersen Ltd.
301 - 155 Skinner Street
Nanaimo, BC V9R 5E8

December 20, 2011
RJC No.: NAN.104759.0001

Rapid Building Envelope Condition Assessment
25 Victoria Road, Nanaimo, BC

December 20, 2011
RJC No.: NAN.1047590001

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APPENDICES

Appendix A - Drawings

Appendix B - Photographs

Appendix C - Opinions of Probable Cost

1.0 INTRODUCTION

1.1 Terms of Reference

.1 Engagement

Read Jones Christoffersen Ltd. (RJC) was engaged by Mr. Ian Blackwood on behalf of the City of Nanaimo to conduct a Rapid Building Envelope Condition Assessment of the three storey commercial building located at 25 Victoria Road in Nanaimo, BC.

The intent of the evaluation was to assess the current performance and condition of the building envelope. RJC's investigation included exterior and interior reviews of the North, East, and West elevations, review of known problem areas, roof and attic areas, and site grading/drainage features. As the South elevation is abutted by another commercial building with only a marginal air space between them, an interior only review was performed for this elevation.

This report documents the current condition of the building envelope and has been prepared in accordance with generally accepted engineering practices. No warranties, either expressed or implied, are made as to the professional services provided under the terms of our scope of work and included in this report.

.2 Disclaimers

Structural comments are provided where applicable, but are limited to the condition of the structural members only. A structural design review was not conducted as it was beyond RJC's scope of work. Review of seismic aspects, mechanical, electrical, and fire safety systems, means of egress, and identification of mould-like substances were also beyond RJC's scope of work.

Neither RJC, nor any company with which it is affiliated, nor any of their respective directors, employees, agents, servants or representatives shall in any way be liable for any claim, whether in contract or in tort including negligence, arising out of or relating in any way to mould, mildew or other fungus, including the actual, alleged or threatened existence, effects, ingestion, inhalation, abatement, testing, monitoring, remediation, enclosure, decontamination, repair, or removal, or the actual or alleged failure to detect mould, mildew or other fungus.

1.2 Site and Building Description

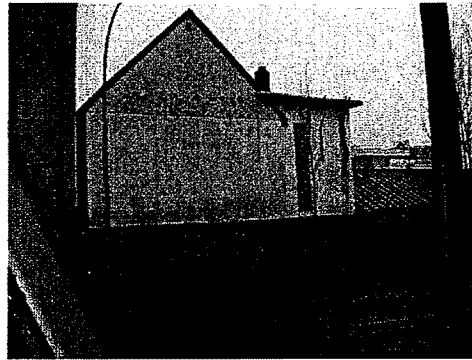
.1 Site Description

The site layout at 25 Victoria Road provides nominal protection for the structure from exposure to wind driven rain at the North, West, and East elevations. An adjacent structure located along the South elevation shelters this side of the building. Nicol Street and Victoria

Road run generally North-South and front the building on the East and West sides, respectively.

.2 Building Description

25 Victoria Road is a three storey commercial building estimated to be over 50 years old, currently occupied by Nanaimo Center Stage. The building structural elements are primarily comprised of concrete foundations forming the lower level walls and wood framing for the upper levels. Exterior finishes are stucco and painted concrete on the North and South elevations, and stucco and brick veneer over concrete on the East elevation. The West elevation exterior finishes is comprised of board and batten, painted plywood, and stone masonry. Windows located on the second and third floors of the North elevation are single-pane non-thermally broken aluminum framed. Windows located on the first floor of the North and East elevations have been infilled with plywood. The main roof over this building is a sloped roof with asphalt shingles, joining smaller flat roof areas waterproofed with bituminous membranes that are drained with nominal slopes. A wood framed ship-lapped clad tower extends up from the West flat roof area several feet above the peak of the gable roof.



25 Victoria Road Building between Nicol St (East) and Victoria Road (West)

2.0 ASSESSMENT OF BUILDING ENVELOPE CONDITION AND PERFORMANCE (REFER TO APPENDIX B - PHOTOGRAPHS)

2.1 Wall Assemblies

.1 Stucco-Clad Walls

The stucco cladding on this building is effectively a face-sealed system. This assembly anticipates the control of the majority of the exterior moisture at the exterior cladding. It has been well documented that these assemblies have a history of poor performance in moderate to high exposure wind driven rain commonly encountered in British Columbia's west coast climate. If water penetrates past the cladding, there is no provision for drainage in the wall assembly. The result is often storage of water in the wall and floor assembly components that will deteriorate when exposed to moisture for extended periods of time.

Visual review of the stucco-clad areas on the North and East elevations show significant signs of deterioration, including extensive cracking and delamination from the underlying wood substrate. Significant cracking can lead to increased moisture ingress and cause deterioration to the underlying structural system (see Photos 1 and 2).

The delaminating areas pose a safety risk to the public on the Nicol Street side of the building as it overhangs the sidewalk and hangs from corroded fasteners that were not designed to resist eccentric loads of this type. The stucco will likely continue to deteriorate and may dislodge from the wall if left unattended. It is recommended that these areas be repaired in the short term to address this life safety hazard.

Two exploratory recesses were cut on the East elevation at the South and North ends, approximately mid-height of the main level. The South recess (see Photos 3 and 4) was cut through stucco which had delaminated from the building substrate. The single ply of building paper was noted to be well deteriorated but the underlying horizontal sheathing boards appeared to be devoid of deterioration, with a moisture content of 17%. The resultant air gap behind the stucco due to delamination has likely contributed to the preservation of the underlying wood substrate, as inadvertent continuous air flow and drainage would have provided drying of the wall components. The North recess (see Photo 5 through 7) was not delaminated and showed both deteriorated building paper and discolored substrate. The moisture content at this location was measured to be 21%. No recesses were cut into the South or North elevations due to inaccessibility.

Moisture content readings were taken using a Protimeter Surveymaster moisture meter. This moisture meter measures the moisture content scale for wood.

For the purpose of this report we have classified moisture content readings into three categories:

- Less than 19% (below 7% - DRY)
- Between 19% and 28%
- Greater than 28% - FS (Fibre Saturation)

Wood elements with moisture content of less than 19% are considered unable to sustain fungal growth. Between 19% and 28%, fungal growth may be sustained but not initiated. At approximately 28%, germination and growth of fungal spores can be expected. Above 28%, a substantial increase in fungal growth and associated wood rot can be expected. The range between "Dry" and "FS" are recorded with an estimated accuracy of +/- 2%.

Interior review of the East elevation wall showed a lack of air/vapour barrier as well as a lack of insulation in an existing exposed wall cavity (see Photo 8). This condition was not confirmed at other areas of the interior as no destructive testing was undertaken. It is recommended that if a building envelope remediation is undertaken, an examination of the wall components be identified and a thermal performance evaluation of all exterior walls be completed.

.2 Brick/Masonry Veneer

There are two areas of brick and masonry veneer; brick veneer is along the basement level on the East elevation and a combination of brick and stone masonry clad the North-West corner of the main level. The East elevation brick veneer is out-of-plumb along the top edge, most accentuated at the South end (see Photo 9). Two structural steel plates have been installed on the outside face of the veneer at this corner to restrain the brick from falling off the face of the building. A poorly detailed transition flashing from the stucco to the brick is also contributing to the delamination of the stucco (see Photo 10). The out-of-plumb brick veneer also poses a life safety risk to the public and should be addressed in the short term.

The brick and masonry veneer in the North-West corner of the building appears to be in fair condition; a small entry roof overhang provides nominal protection of the masonry from the weather (see Photo 11).

.3 Plywood Sheathing

The West elevation second level is clad with painted quarter inch butt-jointed plywood. This is not considered to be an effective exterior cladding material and shows signs of deterioration across the whole elevation (see Photos 12 through 15). The plywood butt-joints and the lack of flashings or caulking at transitions to other building elements allows for greater ease of water penetration to the interior. The paint on the plywood is peeling and this can lead to further degradation of the plywood. There is a wood architectural horizontal reveal face-mounted to the plywood which is also showing signs of damage and contributes to the decay of the plywood due to the lack of any transition detailing between these components. Moisture content probes of the plywood ranged between 18% and 22%.

.4 Board and Batten

The board and batten wood cladding on the East elevation main floor is sheltered by a small sloped metal-clad roof overhang and appears to be in fair condition. Moisture content readings were below 15% (see Photos 16). It should be noted that the board and batten cladding extends to the concrete entry and walkway without proper base of wall transition flashing; this can lead to absorption of surface water from the concrete into the cladding and potentially cause deterioration.

.5 Concrete Foundation Walls

Both the North and South elevations at the basement level have exposed concrete foundation walls that have been painted. This is a mass-wall system that relies solely on the integrity of the paint as an effective water-shedding surface. Irregularities in the concrete exterior surface and cracking due to shrinkage or settlement can all contribute to an ineffective envelope and allow for water ingress to the interior. Due to the proximity of the adjacent buildings at this level, there does not appear to be any significant issues with the exposed foundation walls (See Photo 17).

Table 1 - Recommendations for Remediation	
A	Replace the existing wall claddings with rain screen cladding systems.

2.2 Window Assemblies

This building has inset windows on each level of the North elevation, glass block feature "windows" at the stairwells on the East and West elevations, and some inset basement windows on the East elevation (See Photos 18 through 25). All basement windows appear to have been removed and the openings in-filled with painted plywood on the exterior. The interiors have either been refinished or boarded over with plywood. The plywood infills do not effectively prevent any water ingress along the edges of the openings as no detailing has been provided to properly divert wind-driven rain. Some second and third floor windows on the North elevation have also been boarded over from the interior. Water staining and wood rotted framing members at the interior side of these windows are indicative of long term water ingress and material deterioration. The remaining functional windows on the North elevation are single-paned non-thermally broken aluminum framed; these are extremely energy inefficient are not effective at mitigating incidental water infiltration.

The East elevation glass block feature window appears to have unpainted wood jambs exposed to the exterior; this allows for direct water ingress into the structural system. The mortar joints at the jambs have receded and exterior light is visible from the interior. This also allows for water ingress to the interior. The West elevation glass block feature window is within the alcove entrance; however the unpainted wood sill frame bears directly on concrete and has concrete topping sloped up against it. This allows for surficial water to be absorbed by the wood sill and can cause deterioration of the member (See Photos 26 through 30).

Table 2 - Recommendations for Remediation	
B	Replace all windows. Openings not currently intended for this use could be detailed with proper temporary infills that could be changed to windows if required.
C	Replace glass block feature windows.

2.3 Roof Assemblies

The building's gable roof is clad in asphalt shingles which show signs of patching and heavy moss growth on the South and North sides. The adjacent low sloped roofs have bituminous waterproofing membranes; slopes are nominal and ponding on both levels was observed. None of the roof drains had dome grates to prevent roof debris from clogging or entering the drain pipes. Heavy staining and loss of stucco sections at the drain pipe penetrations of the eaves is indicative of past roof drainage issues. Water staining of some ceiling boards on the second floor is also indicative of past drainage issues from the flat roof(s). Perimeter roof flashing is sloped outwards which causes water overflow to cascade down the face of the building. Water staining on the plywood of the West elevation shows that this has been an issue in the past (see Photos 31 through 37).

A continuous vent strip along the low slope roof overhang was noted; however the sloped roof eave at the South elevation did not have any visible ventilation (See Photo 38).

Review of the attic space of the peaked roof area showed a layer of batt insulation along the ceiling finish; most batts were displaced or in disarray. An air/vapour barrier was not noted in our review (see Photos 39 and 40). It is recommended that the roof systems be reviewed in greater detail to determine the remaining service life of the roofs and effective thermal performance.

There is a roof tower directly adjacent to the peaked roof on the North side at the West elevation. This tower provides access to the roof at its base, the remainder of the tower appears to be decorative. This tower is clad with a painted wood ship-lap finish over structural wood framing members. Although the structural members are generally in fair condition, the significant extent of peeling paint and high moisture contents (21 to 24%) suggests that material deterioration will continue if regular maintenance and repair is not undertaken. The tower also presents a significant source of energy loss as there is no effective air barrier between the tower interior and the exterior (see Photos 41 through 46).

A brick chimney, presumably for the oil burning furnace, projects through the low-sloped roof at the East elevation (see Photo 47). There is significant deterioration of the mortar between the brick joints. The exposed chimney section should be re-pointed at all joints.

Mechanical vents at the flat roof area show cracking and deterioration of the waterproofing membrane at their curb mounts (see Photo 48). These mounts should be repaired to prevent water ingress to the interior.

D	A new roof is recommended for the gable section of the building.
E	Perimeter roof flashings should be replaced to slope inwards.
F	Roof drains should be properly grated to mitigate drainage issues.
G	Re-point chimney mortar joints.
H	Repair curb mount waterproofing membranes.

2.4 General Observations

.1 Site Drainage

25 Victoria site slopes down from South to North and from West to East. The main entrance at the North-West corner of the building has had some concrete levelling installed to allow for wheel-chair access; this allows for water run-off to be directed towards the base of the building in this area. A small shed roof overhangs this area which has no eaves trough to manage rainwater run-off; this can contribute to increased water at the base of wall.

There are several downspouts along the North elevation of the building which have at some point become disconnected from the building perimeter drainage system. Water staining along the exterior wall at these locations shows that this has been an ongoing issue. Lack of effective

drainage can cause deterioration of the building envelope. Proper drainage of all roofs and perimeter systems should be installed and/or repaired (see Photos 45 through 50).

.2 Wall Penetrations

Wall penetrations on all elevations were observed; none having proper detailing to prevent water ingress at those locations. Wall penetrations can cause long term localized deterioration of the wall system if not properly detailed to mitigate water infiltration (see Photos 51 through 54).

.3 Architectural Considerations

The condition of the building envelope of this building necessitates an overall replacement of the cladding, which provides an opportunity to incorporate a new contemporary architectural appearance to the building exterior. As the main use of this building would be categorized as an "Assembly Occupancy" in building codes, a review of the general safety issues with respect to exiting and fire rating requirements should be considered. Also, we recommend that alternative wall systems be considered at the design phase to reduce heat loss and reduce energy consumption for the heating or cooling of this facility.

.4 Structural Considerations

One of the primary functions of the building envelope is to protect the structural framing elements of the walls and the roof from the elements. The apparent deterioration and damage to the structural framing observed in the exploratory recesses may be widespread and would be revealed in an overall retrofit project. Apparent structural conditions observed that are of concern and need to be addressed, by structural review and/or remediation, are:

- Identification and replacement of all deteriorated structural framing elements
- Drift snow on roofs from adjacent structures that are positioned closely to the roofs of 25 Victoria Road and that are significantly higher; particularly the clear span roof across the main assembly area of this building.
- Brick chimney and a tower structure that are protruding above the roof without lateral supports or anchorage.
- Brick veneer cladding that is dislodged along a public sidewalk.
- Review of structural seismic provisions.

3.0 RECOMMENDATIONS AND OPINIONS OF PROBABLE COST

3.1 Summary of Remediation Recommendations

Based on our findings, RJC recommends the following remediation work be completed at 25 Victoria Road. It is recommended that the work be completed in the near future as moisture ingress will continue and restoration costs will increase if delayed. If restoration of the building envelope is deferred beyond a period of six months, we recommend that the exterior recesses be repaired.

A	Replace the existing wall claddings with rain screen cladding systems. Architectural features and highlights can be incorporated to recreate existing finishes.
B	Replace all windows. Openings not currently intended for this use could be detailed with proper temporary infills that could be changed to windows if required.
C	Replace glass block feature windows.
D	A new roof is recommended for the gable section of the building.
E	Perimeter roof flashings should be replaced to slope inwards.
F	Roof drains should be properly grated and proper downspouts installed to mitigate drainage issues.
G	Re-point chimney mortar joints.
H	Repair curb mount waterproofing membranes.
I	Structural building assessment per items noted in Structural Considerations (Item 2.4.4).

3.2 Opinions of Probable Cost

The Opinions of Probable Cost are presented by RJC to provide an expectation as to the magnitude of costs expected to complete the recommended remediation work. The opinions provided are based on conceptual repair methods, recently obtained broad Unit rates, and past experience with similar projects. A detailed *estimate* of costs has not been provided, as it would require the preparation of plans, details, specifications and schedules to achieve a quantified summary of estimated costs.

Opinions of Probable Costs are based on RJC's review of the present condition of the building and are given in first quarter 2012 dollars. Deferral of the work will result in increased repair costs. Recent pricing forecasts received from Contractors as well as government agencies suggest budgeting for a 3% to 5% increase in labour and material costs per year. Please note that the cost of remediation could vary greatly depending upon the materials chosen and wood deterioration uncovered during the remediation work.

The Opinion of Probable Cost to complete the Recommendations for Remediation is approximately \$925,000 plus HST. Please refer to Appendix C for an itemization of the recommendations and associated opinions of probable cost. For budgeting purposes, an allowance for contingency fees has been assumed to be in the order of 20% of construction costs. A contingency should be included in all remediation construction budgets to allow for variation in estimated unit prices due to competitive bidding, repair work resulting from additional wood rot, and additional work required to repair any damage to electrical or mechanical systems caused by or discovered during construction.

4.0 CLOSING COMMENTS

Due to the age of the building, prior to any remediation being undertaken, it is highly recommended that a Hazardous Materials Assessment be completed to identify any deleterious building material that would require removal or abatement.

Rapid Building Envelope Condition Assessment
25 Victoria Road, Nanaimo, BC

December 20, 2011
RJC No.: NAN104759.0001

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This Report was prepared for the City of Nanaimo. It is not for the use or benefit of, nor may it be relied upon, by any other person or entity, without written permission of RJC.

We trust the information contained within this report satisfies your current requirements. Should you have any comments, questions or concerns, please do not hesitate to contact the undersigned.

Read Jones Christoffersen Ltd.

Prepared by:



Donovan Campbell, EIT
Design Engineer
Building Science and Restoration

Reviewed by:

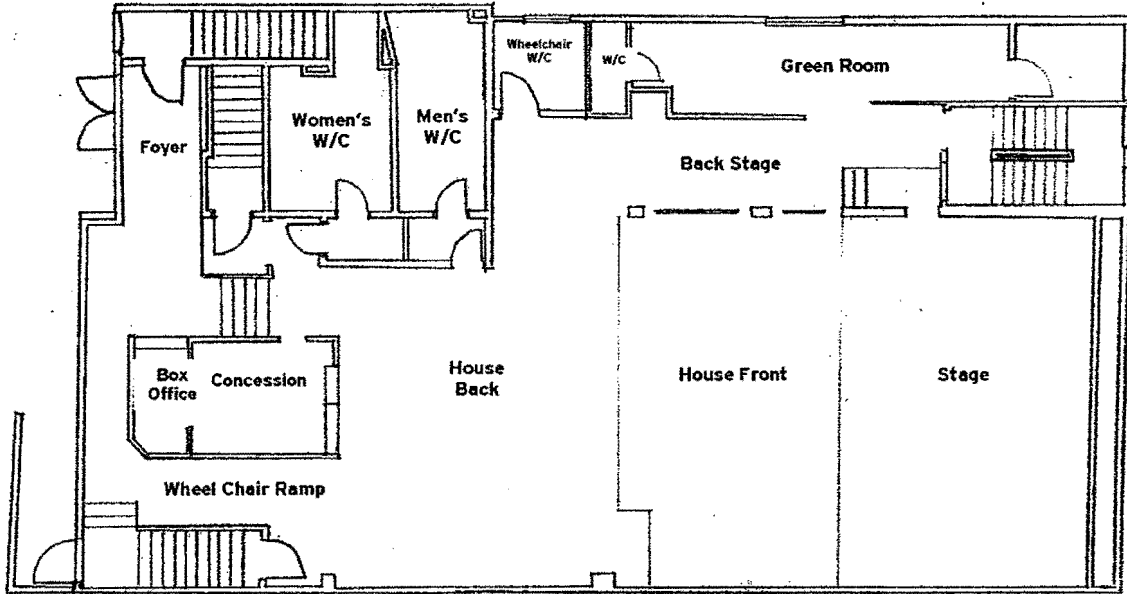


Kevin Picwick, P.Eng.
Project Engineer
Building Science and Restoration

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APPENDIX A

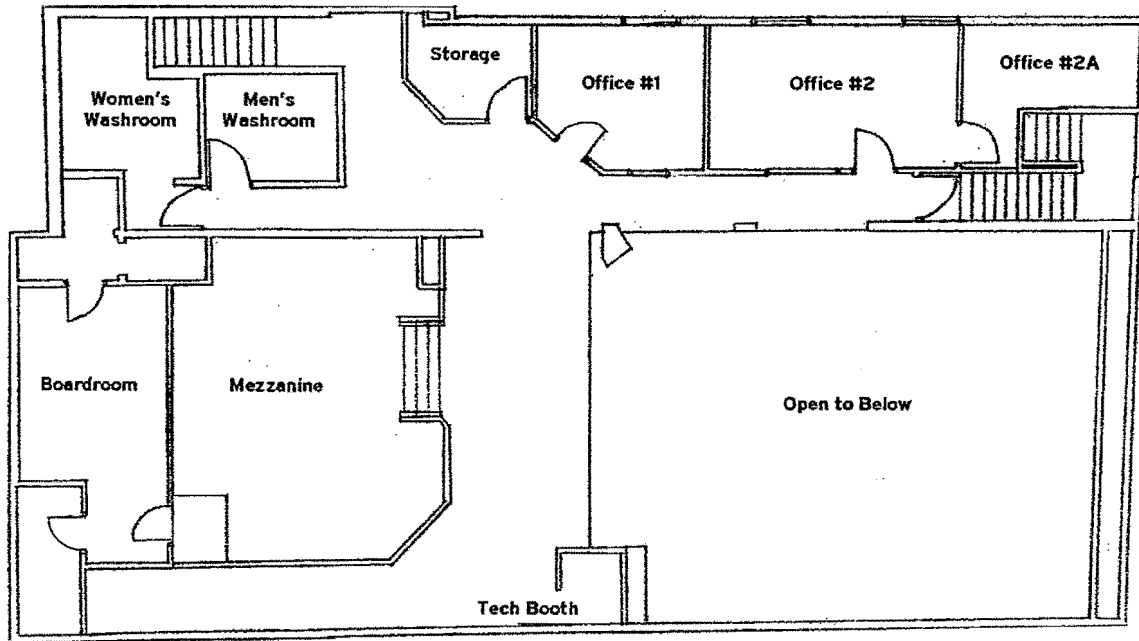
DRAWINGS



25 Victoria Road, Nanaimo, BC

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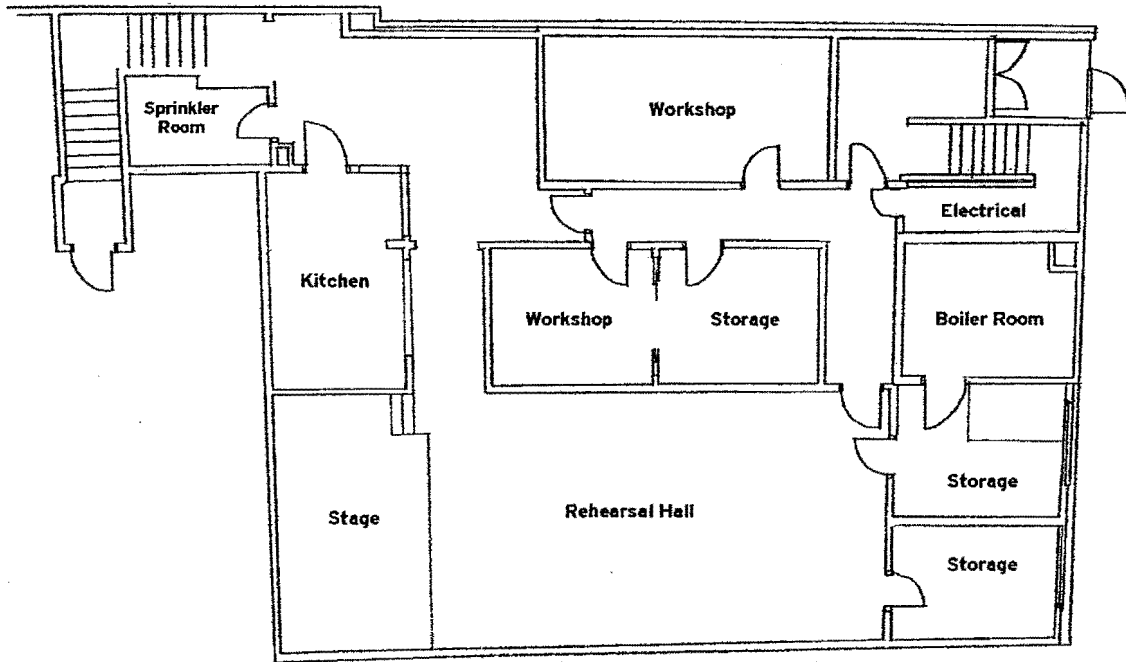
NTS 07 - Nov - 2011 NAN104759-0001 Main Floor Plan --
Scale Date Project No. Sheet Number Rev



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NTS	07 - Nov - 2011	NAN 10-0759 0001	Second Floor Plan	
Scale	Date	Project No.	Sketch Number	Rev.



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NTS 02-Nov-2011 HAN-104759-0001 Basement Plan

Scale Date Project No. Sheet Number Rev.

APPENDIX B
PHOTOGRAPHS

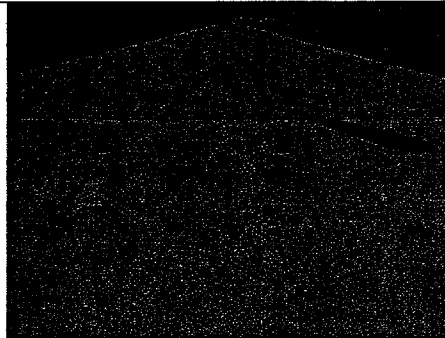
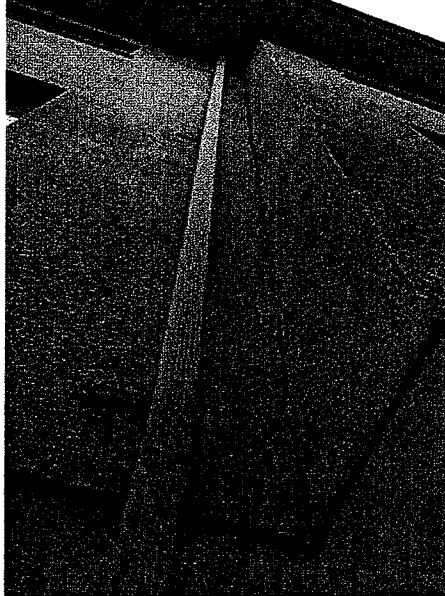
Table B – Photographs and Description of Findings	
<p>Paint peeling and cracks on the stucco finish increases potential for water infiltration to the underlying substrate and wall structural system.</p>	 <p>Photo 1 - East Elevation</p>
<p>Significant cracks in the face-sealed stucco allows for water penetration to the underlying wall system.</p>	 <p>Photo 2 - North Elevation</p>


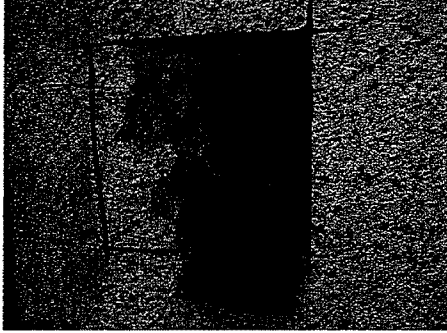

Table B – Photographs and Description of Findings	
<p>Stucco recess location; see below.</p>	 <p>Photo 3 - East Elevation, South Side</p>
<p>Stucco recess reveals that building envelope system has only a single layer of building paper, which was significantly deteriorated at this location.</p>	 <p>Photo 4 - Stucco Recess</p>
<p>Stucco recess location; see below.</p>	 <p>Photo 5 - East Elevation, North Side</p>


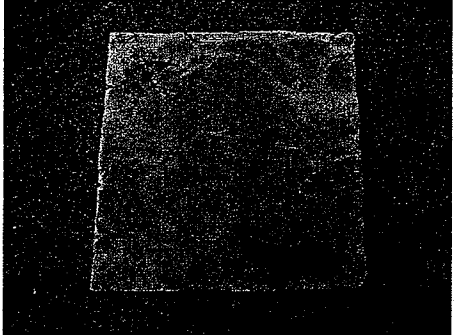

Table B – Photographs and Description of Findings	
<p>Stucco recess showed significant organic growth on the wood substrate and highly deteriorated building paper.</p>	 <p>Photo 6 - Stucco Recess</p>
<p>The back of the stucco at the recess also showed organic growth and significant corrosion of the stucco wire mesh.</p>	 <p>Photo 7 - Back of Stucco at Recess</p>
<p>Interior recess was dry; however, no insulation or air/vapour barrier was noted at that location.</p>	 <p>Photo 8 - Interior Recess</p>

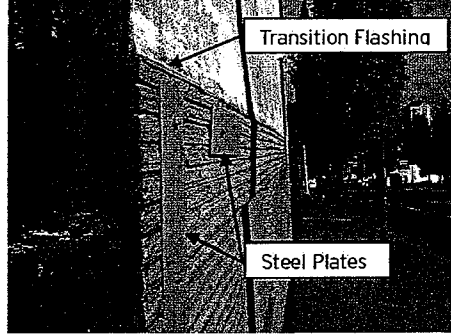


Table B - Photographs and Description of Findings	
<p>Ground floor brick veneer is out-of-plumb and leaning away from the building foundation wall. Note that there are two steel plates bolted through to the concrete foundation wall, attempting to stabilize the brick. Also note the transition flashing from stucco to brick which is effectively pulling the stucco off the wall with the brick veneer.</p>	 <p style="text-align: center;">Photo 9 - East Elevation, Looking North</p>
<p>The vertical upper leg of the transition flashing lies behind the stucco and the drip edge of the lower leg is hooked over the outside face of the brick veneer. This causes the two cladding elements to be linked at this location; thus as the brick moves away from the building face so does the stucco.</p>	 <p style="text-align: center;">Photo 10 - Transition Flashing</p>
<p>Stone masonry and brick veneers at North-East corner of the building are sheltered by a small roof overhang; location is also in the leeward side of the prevailing wind direction.</p>	 <p style="text-align: center;">Photo 11 - West Elevation, North Side</p>

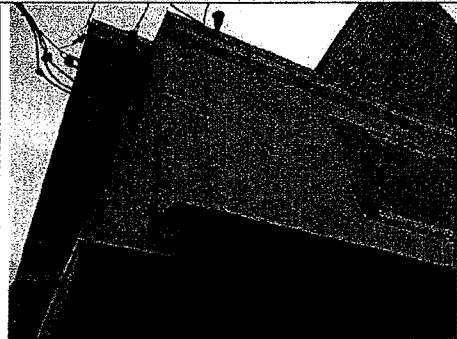

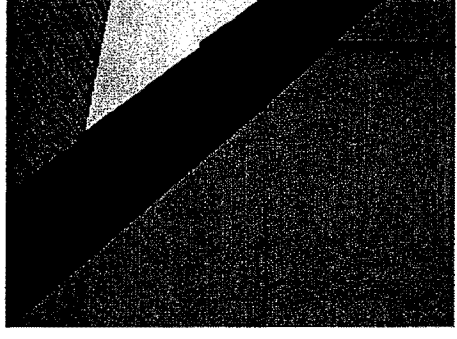
Table B – Photographs and Description of Findings	
<p>Plywood sheathing is not an effective wall cladding material. This plywood is face-sealed with a painted finish which is experiencing widespread peeling.</p>	 <p>Photo 12 - West Elevation, Plywood Cladding</p>
<p>A horizontal architectural reveal without flashing along the top edge provides for build-up of organic growth and allows for water to remain, and eventually enter into the wall assembly which increases the chances of deteriorating the exterior finishes.</p>	 <p>Photo 13 - Plywood Cladding</p>
<p>Butt-joints between panels and at panel ends allows for wind-driven rain to pass through to the underlying substrate.</p>	 <p>Photo 14 - Plywood Cladding</p>

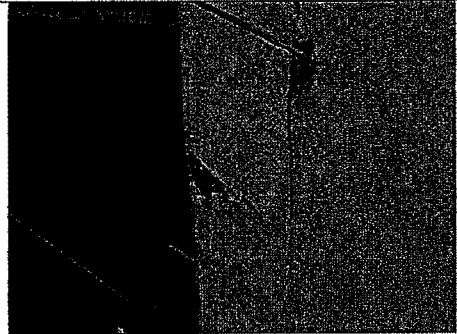
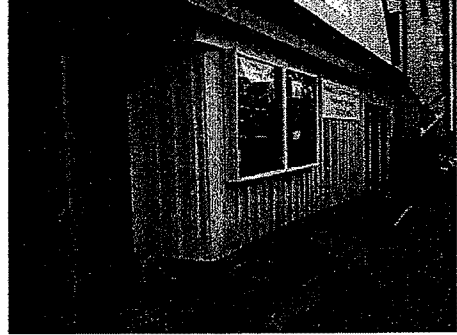

Table B – Photographs and Description of Findings	
<p>Local areas of wood decay, plywood delamination, and damage are common along this area of wall. The cladding has exceeded its serviceable lifespan.</p>	 <p>Photo 15 - Plywood Cladding</p>
<p>The board and batten cladding appears to be in good condition; however, the bottom edge is not flashed and comes into contact with the concrete slab in some areas. This can lead to water absorption and long term localized deterioration of the wood finish.</p>	 <p>Photo 16 - West Elevation, Board and Baton Cladding</p>
<p>The concrete foundation wall appears to be in good condition; no significant cracks or other issues were noted.</p>	 <p>Photo 17 - North Elevation, Concrete Foundation Wall</p>

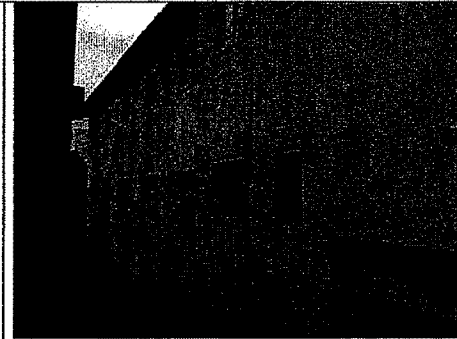
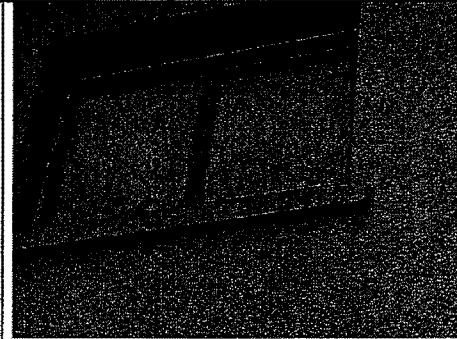

Table B - Photographs and Description of Findings	
<p>Window assemblies are generally on the North and East elevations. Glass brick feature windows are on the East and West elevations.</p>	 <p>Photo 18 - North Elevation, Windows</p>
<p>The windows are single glazed non-thermally broken aluminum framed. These are highly energy inefficient and have no effective water drainage system. This will cause water ingress to the interior.</p>	 <p>Photo 19 - Typical Window, North Elevation</p>
<p>All windows on the ground floor level have been boarded over at the interior and exterior.</p>	 <p>Photo 20 - Boarded over ground level window</p>

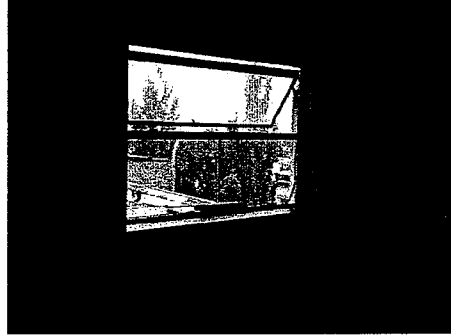
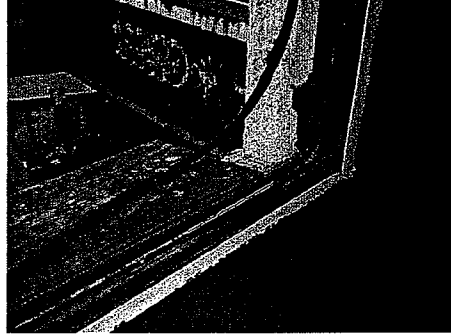
Table B - Photographs and Description of Findings	
<p>Some windows on the North elevation at the main and second floors remain functional, others have been boarded over from the interior which makes maintenance and detection of issues difficult to complete.</p>	 <p>Photo 21 - Functional window, North Elevation</p>
<p>In general, all windows showed some level of disrepair, including water staining at the jambs and sills and build-up of dirt.</p>	 <p>Photo 22 - Window in disrepair</p>

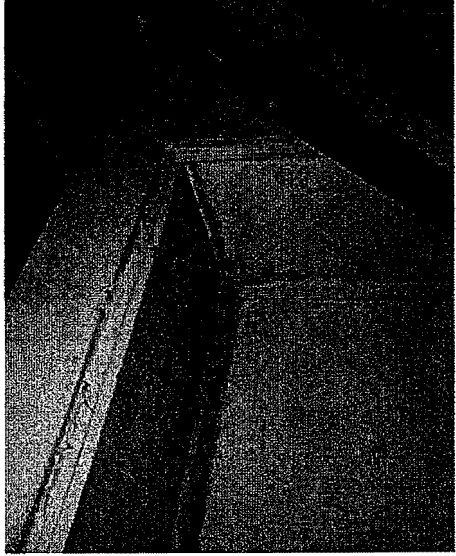
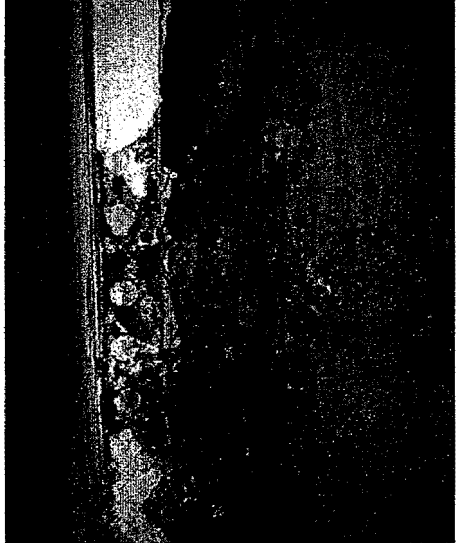
Table B - Photographs and Description of Findings	
<p>Water ingress at windows is a common building envelope failure.</p>	 A black and white photograph showing a close-up of a window frame. The frame is made of wood and shows significant water staining, particularly along the top edge where the frame meets the wall. The staining is dark and irregular, indicating moisture damage.
<p>Excessive water ingress can cause deterioration of the structural framing members, as is shown here.</p>	 A black and white photograph showing a close-up of a window frame. The frame is made of wood and shows significant wood rot, particularly along the top edge where the frame meets the wall. The wood is dark, crumbly, and appears to be falling apart, indicating severe structural damage.

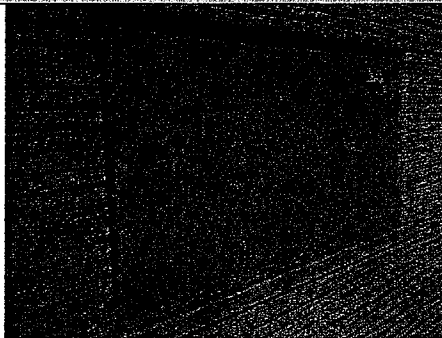

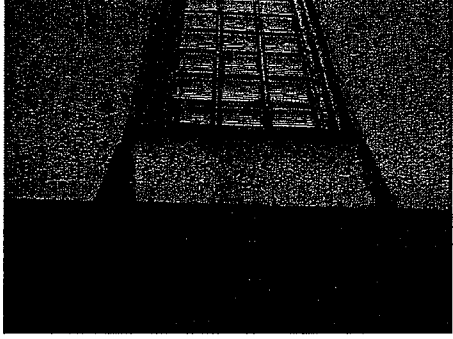
Table B - Photographs and Description of Findings	
<p>Plywood infill at window openings is not recommended. Jamb and sills have not been properly detailed to prevent water ingress to the interior.</p>	 <p>Photo 25 - Plywood infill at ground level windows</p>
<p>The glass block feature windows have mortar joints between blocks and between the sub-framing of the wall opening. These joints are subject to shrinkage, due to the nature of the cementitious material, and allow for air leakage and water ingress.</p>	 <p>Photo 26 - Glass Block Feature Window</p>
<p>The sub-framing for the East elevation glass block is exposed. These structural members do not appear to be pressure-treated and will likely experience accelerated deterioration without proper water-proofing. Also note the heavy water staining below the window sill corners; as there is no sill flashing, water drains along the wall surface instead of being directed off the face of the sill.</p>	 <p>Photo 27 - Exposed sub-framing at jambs</p>

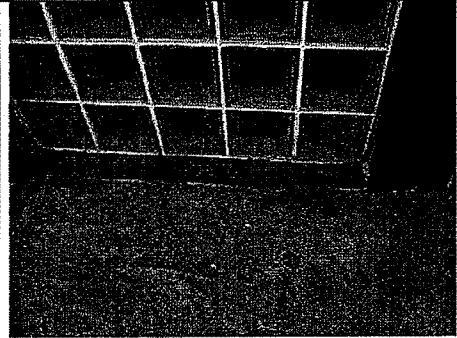
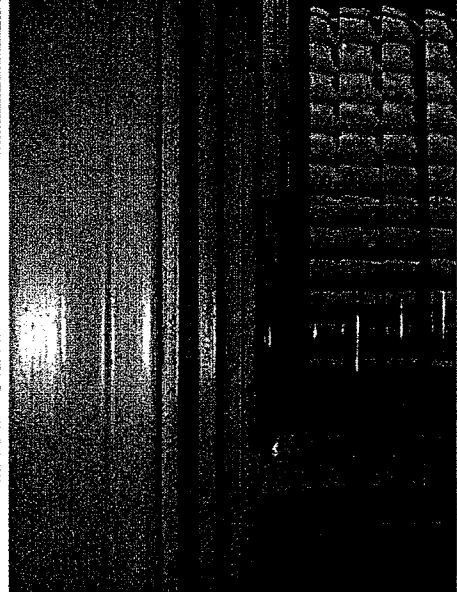
Table B - Photographs and Description of Findings	
<p>The West elevation sill is at finished grade level. Concrete topping, used to achieve wheelchair access slopes comes in direct contact with this wood member. This allows for surface water to be absorbed by the sill and then into the building.</p>	 <p>Photo 28 - Wood sill in contact with concrete</p>
<p>Shrinkage cracks at the block to jamb interface causes air leakage and water ingress.</p>	 <p>Photo 29 - Air Gap at jambs, typical</p>


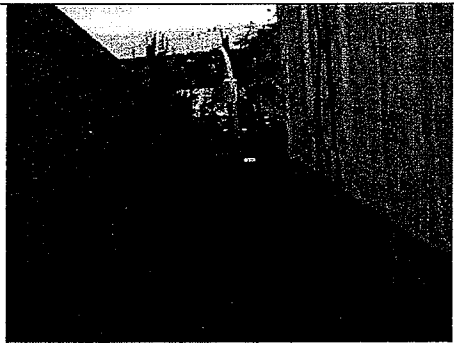
Table B - Photographs and Description of Findings	
<p>Lack of flashings at the head and sill of both glass block features creates inadequate water management at critical intersections of building components and can lead to greater water ingress issues.</p>	 <p>Photo 30 - Lack of flashings at heads (and sills)</p>
<p>Heavy moss growth on the sloped roof can lead to prolonged moisture retention and sustained moss growth. This can lead to degranulation of the roof shingles and UV degradation of the underlying bitumen layer.</p>	 <p>Photo 31 - Sloped Roof, South Elevation</p>




Table B - Photographs and Description of Findings	
<p>The roof peak flashing is rusting and deformed along its entire length. Large roof patches have been applied to the sloped roof area. As a roof begins to require more repairs than maintenance, its useful life nears the end and complete replacement will be required.</p>	 <p style="text-align: center;">Photo 32 - Sloped Roof, North Elevation</p>
<p>Significant ponding on flat roofs is indicative of inadequate drainage slope or clogged drains. Either issue can lead to prolonged water exposure which allows for any defects in the membrane to be exposed.</p>	 <p style="text-align: center;">Photo 33 - Upper Flat Roof</p>
<p>The perimeter roof flashing at the low sloped roofs is sloped outwards. This leads to overflow water pouring down the exterior wall surface, which will stain finishes on wall surfaces and can lead to extended water exposure to cladding elements.</p>	 <p style="text-align: center;">Photo 34 - Perimeter Flashing</p>


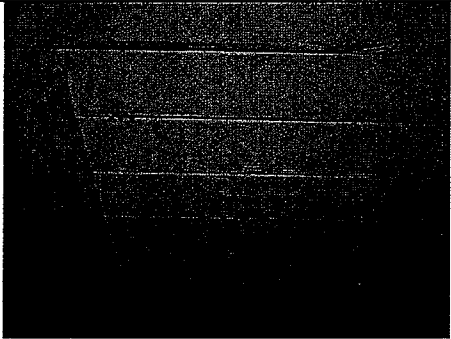

Table B - Photographs and Description of Findings	
<p>None of the reviewed roof drains had dome grates. Lack of proper grates can allow for roof debris to run into the drainage system or clog the roof drains.</p>	 <p>Photo 35 - Main Flat Roof</p>
<p>Water staining at the second floor ceiling under the flat roof area is indicative of past water ingress issues related to the roof.</p>	 <p>Photo 36 - Ceiling at Flat Roof Area</p>
<p>Significant damage to the stucco and underlying lathes at the roof eaves around the roof drains indicates past water issues related to drainage. As noted in Photo 37, a light gauge drain pipe may be inadequate for the roof drainage volume. Commercial drain pipes are recommended.</p>	 <p>Photo 37 - Damaged Stucco at Roof Drains</p>




Table B - Photographs and Description of Findings	
<p>There does not appear to be any ventilation provided along the eaves of the South elevation sloped roof.</p>	 <p>Photo 38 - No venting at South Eave</p>
<p>The roof attic space had inadequate or no insulation. An air/vapour barrier was not identifiable during field review.</p>	 <p>Photo 39 - Roof Attic Space</p>
<p>The roof tower is located on the West Elevation, directly adjacent to the sloped roof area. The tower does not appear to provide any other function than roof access.</p>	 <p>Photo 40 - Roof Tower, West Elevation</p>

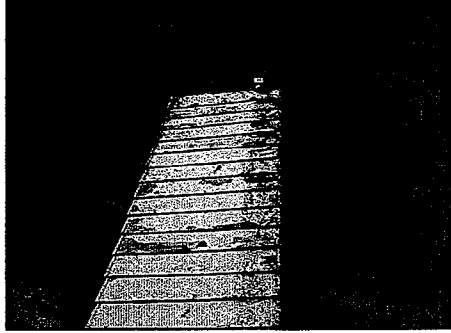
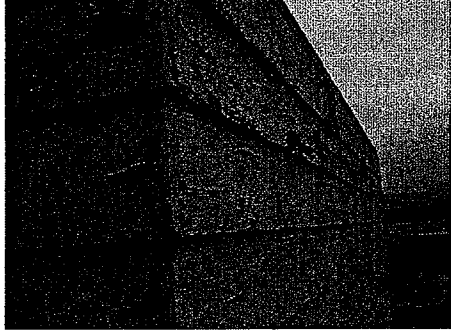

Table B - Photographs and Description of Findings	
<p>The tower has a flat roof which is not accessible except by man-lift or other device. This makes it difficult to maintain and can lead to drainage issues if the roof scupper becomes clogged. As can be noted, the scupper is not connected to a drainage pipe and significant deterioration of the siding paint is a result of water pouring down from the tower roof.</p>	 <p>Photo 41 - Roof Tower</p>
<p>The tower siding paint is peeling on all elevations and exposing the underlying wood. This will lead to deterioration of the tower components.</p>	 <p>Photo 42 - Roof Tower</p>
<p>The mortar joints of the brick chimney are deteriorated and cracking. Some uppermost bricks are missing. Continued disrepair could lead to collapse of the exterior portion of the chimney.</p>	 <p>Photo 43 - Brick Chimney - East Elevation</p>



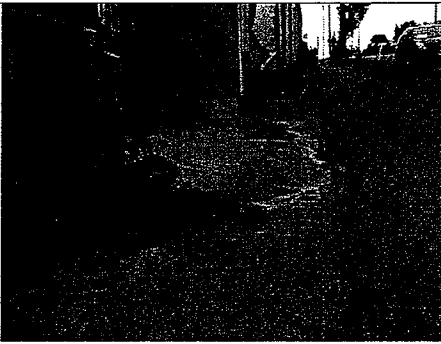
Table B – Photographs and Description of Findings	
<p>Roof vent curbs were noted to have cracked membrane. Exposed bitumen is sensitive to UV degradation. All curbs should be repaired or replaced.</p>	 <p>Photo 44 - Roof Mechanical Vent Curb</p>
<p>Concrete topping sloped to the entrance can allow for surface water to discharge into the building.</p>	 <p>Photo 45 - West Entrance</p>
<p>The site drains South to North and West to East. Inadequate site drainage detailing can expose the West elevation to surface run-off.</p>	 <p>Photo 46 - West Elevation, Site Drainage</p>

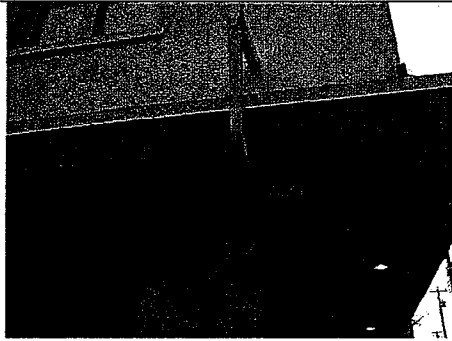
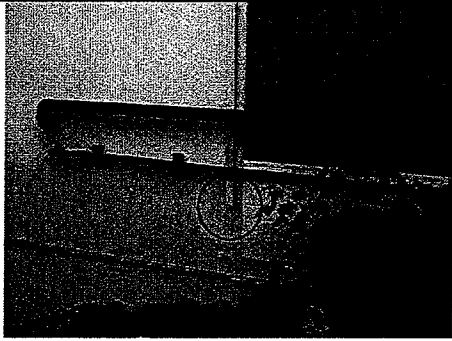

Table B - Photographs and Description of Findings	
<p>Upper and perimeter roof drain pipes terminate well above ground level; water from both pipes are directed onto the wall which increases the likelihood of water ingress to the interior.</p>	 <p>Photo 47 - Drainage Issues, North West Corner</p>
<p>Roof drain pipe does not extend to a perimeter ground drainage system.</p>	 <p>Photo 48 - Drainage Issues, North Elevation</p>
<p>Roof drain pipe is missing.</p>	 <p>Photo 49 - Drainage Issues, North Elevation</p>



Table B - Photographs and Description of Findings	
<p>Drain pipe is not connected to perimeter drainage system.</p>	
<p>Upper and perimeter roof drain pipes terminate well above ground level; water from both pipes are directed onto the wall which increases the likelihood of water ingress to the interior.</p>	

Photo 50 - Drainage Issues, North Elevation

Photo 51 - Mechanical/Electrical Penetrations


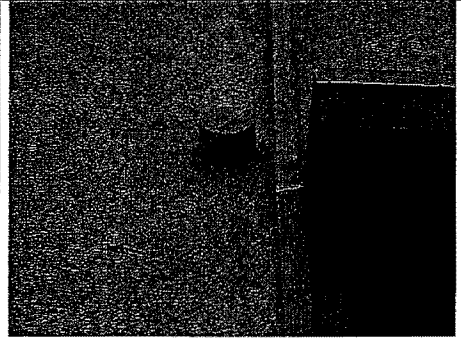


Table B - Photographs and Description of Findings	
<p>Mechanical and electrical penetrations through the building envelope are generally unavoidable; however, with proper detailing the risk of water infiltration can be successfully mitigated. The adjacent photo shows several electrical penetrations without any water management detailing.</p>	 <p>Photo 52 - Mechanical/Electrical Penetrations</p>
<p>Disabled penetrations should be properly capped to prevent water ingress. This penetration appears to have been infilled with a plastic bucket which has since cracked. Noted that the perimeter gap has not been caulked.</p>	 <p>Photo 53 - Mechanical/Electrical Penetrations</p>
<p>Mechanical penetrations through stucco; no supplementary caulking has been provided around the rough opening, allowing for free flow of water into the wall assembly.</p>	 <p>Photo 54 - Mechanical/Electrical Penetrations</p>

Table B - Photographs and Description of Findings	
<p>On a final note; energy efficiency is a significant operating cost saving and ill-fitted openings, including mechanical/electrical penetrations, windows, and doors can severely impact the energy performance of a building. The East entry doors were noted to have a significant air gap between the underside of door and the floor. All doors and windows should be weather-stripped to mitigate air leakage.</p>	
	<p>Photo 55 - East Entry Door</p>

APPENDIX C
OPINIONS OF PROBABLE COST

Table C-1 - Opinions of Probable Cost		
No.	Description	Cost
A	Replace the stucco wall cladding on the South, East, and North elevations with a rainscreen exterior insulated wall system.	\$ 450,000.00
B	Replace all windows with thermally broken aluminum framed windows.	\$ 10,000.00
C	Replace glass block feature windows with aluminum framed window (frosting optional).	\$ 5,000.00
D	Reroof sloped roof area; install plywood, membrane, insulation, and metal roof.	\$ 100,000.00
E	Replace low slope roof perimeter flashing.	\$ 5,000.00
F	Install roof drain grates and proper downspouts at all drains.	\$ 5,000.00
G	Re-point exposed chimney; replace missing bricks.	\$ 2,000.00
H	Remove the parapet cap flashing and install a self-adhered membrane. Replace the existing cap flashing with new cap flashings, sloped to drain.	\$ 5,000.00
I	Perform assessment of existing structural systems.	\$ 15,000.00
	Opinions of Probable Cost SUBTOTAL	\$ 597,000.00
	Contingency Allowance (20%)	\$119,400.00
	Probable Construction Cost SUBTOTAL	\$ 716,400.00
	Consultant Fees (15%)	\$107,460.00
	SUBTOTAL	\$ 823,860.00
	HST (12% of SUBTOTAL)	\$98,863.20
	TOTAL PROBABLE COST	\$ 922,723.20

Read Jones Christoffersen

SCHEDULE D

READ, JONES, CHRISTOFFERSEN LTD. (RJC) CONSULTING ENGINEERS SHORT-TERM REMEDIAL ACTION SUMMARY – 25 VICTORIA ROAD



Read Jones Christoffersen
Consulting Engineers

Suite 301
155 Skinner Street
Nanaimo, BC V9R 5E8
Canada

250 716-1550
Fax 250 716-1520
www.rjc.ca

Memo/Transmittal

<input checked="" type="checkbox"/> Memo	<input type="checkbox"/> Transmittal	<input type="checkbox"/> Mail	<input type="checkbox"/> Fax	<input type="checkbox"/> Courier	<input checked="" type="checkbox"/> Email	Job Number	NAN.104759.0001
Date						July 25, 2012	Page 1 of 3
<input type="checkbox"/> For your review	<input checked="" type="checkbox"/> As requested	<input type="checkbox"/> For prompt reply	<input type="checkbox"/>				
From		Re					
Donovan Campbell		25 Victoria - Life Safety Remediation Items					
To	cc	Attention	Company	Email			
✓		Ian Blackwood	City of Nanaimo	ian.blackwood@nanaimo.ca			
✓		Jason Kinch	Read Jones Christoffersen Ltd.	jkinch@rjc.ca			

Ian,

Per your request, RJC has outlined the recommended life safety items requiring short term remedial action at the 25 Victoria Road building. These items are described in greater detail in our report "25 Victoria Road - Rapid Building Envelope Condition Assessment", dated December 20, 2011.

Please refer to the attached Opinions of Probable Cost (OPC) Table C-1 for a general description of the work and associated construction costs (estimated).

Life Safety Items:

1. Stucco Cladding - The stucco cladding on the Nicol Street side of the building has delaminated from the substrate in several areas and is hanging by the wire mesh lathing. This stucco finish is at the second and third floor exterior wall. As replacement of the wall cladding would affect all wall penetrations on this elevation, it is recommended that the replacement of the glass brick feature window be considered at the same time. Refer to OPC Items A and C.
2. Brick Veneer - The brick veneer along the Nicol Street side of the building is at street level. The veneer has been previously pinned back to the substrate with some structural steel plates; however, the extent of out-of-plumb brick exceeds the current limit of restraint. Refer to OPC Item A.
3. Brick Chimney - The boiler chimney is located near the edge of roof on the Nicol Street side. The mortar joints of the brick are deteriorated and a number of bricks are missing along the top course. Refer to OPC Item G.

The OPC costing for the replacement of the stucco and brick veneer at the Nicol Street side would be approximately \$175,000 of the \$450,000 noted in Table C-1. The OPC's for the glass brick feature window and chimney are unchanged at \$5,000 and \$2,000, respectively.

This message is intended solely for the named addressee. Dissemination of this communication or its contents is strictly prohibited. If you receive this in error, please notify the sender immediately and destroy the original fax.

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Innovative thinking.

Practical results.



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Consulting Engineers

Memo/Transmittal

From Donovan Campbell

Page 2 of 3

Re 25 Victoria - Life Safety Remediation **Date** July 25, 2012

RJC No. NAN.104759.0001

Items

As noted in our report, there are a number of long-term life safety items that should be taken into account with respect to a seismic event. In particular, the lateral load resisting system of the building and the lateral load and connection of the "tower", located on the Victoria Road side, are both elements of concern and require further investigation.

We trust this meets your current requirements. RJC remains available to assist you with any of the recommendations and options presented in this summary and our report. Please contact the undersigned should you have any questions.

Read Jones Christoffersen Ltd.

A handwritten signature in black ink, appearing to read 'Donovan Campbell', written over a horizontal line.

Donovan Campbell
Design Engineer
Building Science and Restoration



Read Jones Christoffersen
 Consulting Engineers

Memo/Transmittal

From Donovan Campbell

Page 3 of 3

Re 25 Victoria - Life Safety Remediation **Date** July 25, 2012

RJC No. NAN.104759.0001

Items

Table C-1 - Opinions of Probable Cost		
No.	Description	Cost
A	Replace the stucco wall cladding on the South, East, and North elevations with a rainscreen exterior insulated wall system.	\$ 450,000.00
B	Replace all windows with thermally broken aluminum framed windows.	\$ 10,000.00
C	Replace glass block feature windows with aluminum framed window (frosting optional).	\$ 5,000.00
D	Reroof sloped roof area; install plywood, membrane, insulation, and metal roof.	\$ 100,000.00
E	Replace low slope roof perimeter flashing.	\$ 5,000.00
F	Install roof drain grates and proper downspouts at all drains.	\$ 5,000.00
G	Re-point exposed chimney; replace missing bricks.	\$ 2,000.00
H	Remove the parapet cap flashing and install a self-adhered membrane. Replace the existing cap flashing with new cap flashings, sloped to drain.	\$ 5,000.00
I	Perform assessment of existing structural systems.	\$ 15,000.00
	Opinions of Probable Cost SUBTOTAL	\$ 597,000.00
	Contingency Allowance (20%)	\$119,400.00
	Probable Construction Cost SUBTOTAL	\$ 716,400.00
	Consultant Fees (15%)	\$107,460.00
	SUBTOTAL	\$ 823,860.00
	HST (12% of SUBTOTAL)	\$98,863.20
	TOTAL PROBABLE COST	\$ 922,723.20

MINUTES OF THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE CITY HALL BOARD ROOM, 455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-NOV-19, COMMENCING AT 1:00 P.M.

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

Members: Councillor G. Anderson (arrived 1:08 p.m.)
Councillor W. L. Bestwick (arrived 1:05 p.m.)
Councillor M. D. Brennan
Councillor G. E. Greves (arrived 1:09 p.m.)
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

Others: Mr. Mike Kandert, City Representative to the Airport Commission
(entered 1:10 p.m., vacated 1:26 p.m.)

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
T. M. Hickey, General Manager of Community Services
T. L. Hartley, Director of Human Resources and Organizational Planning
(arrived 1:07 p.m.)
B. E. Clemens, Director of Finance
T. P. Seward, Director of Development
S. Clift, Director of Engineering and Public Works
A. J. Tucker, Director of Planning
R. J. Harding, Director of Parks, Recreation and Culture
B. Prokopenko, Senior Manager of Engineering
R. Churchill, Manager of Bylaw, Regulation and Security.
I. Blackwood, Manager Facility Maintenance and Construction
P. Cooper, Communications Manager (arrived 1:08 p.m.)
K. King, Acting Manager of Legislative Services
S. Snelgrove, Recording Secretary

1. CALL THE OPEN MEETING TO ORDER:

The Special "In Camera" Meeting was called to order at 1:00 p.m.

2. PROCEDURAL MOTION:

19112 It was moved and seconded that the meeting be closed in order to deal with the following matters under the *Community Charter* Section 90 (1)

- (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
- (e) the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure could reasonably be expected to harm the interests of the municipality.
- (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

The motion carried unanimously.

3. ADOPTION OF AGENDA:

19212 It was moved and seconded that the Agenda be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

19312 It was moved and seconded that the Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-OCT-24 at 8:30 a.m. in the City Hall Board Room, 455 Wallace Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

5. PRESENTATIONS:

Mr. Mike Kandert entered the Board Room at 1:10 p.m.

- (a) Mr. Mike Kandert, as the City Representative to the Airport Commission, introduced himself and provided an update regarding Airport Commission operations.

Mr. Mike Kandert vacated the Board Room at 1:26 p.m.

Councillor McKay vacated the Board Room at 1:47 p.m.

Councillor McKay returned to the Board Room at 1:48 p.m.

6. CORPORATE SERVICES:

(a) Legal Action – BC Ferries Assessment Appeal

19412 It was moved and seconded that Council:

1. confirm the filing of the City of Nanaimo's appeal in conjunction with the District of North Saanich (and District of Delta, if applicable) in the matter of BC Ferry Services Inc. v. Area 08 (BC Assessment Authority); and,
2. approve the attached press release subject to review by legal counsel and the District of North Saanich.

The motion carried unanimously.

Councillor Bestwick vacated the Board Room at 2:07 p.m.
Councillor Bestwick returned to the Board Room at 2:09 p.m.

7. COMMUNITY SERVICES:

(a) Nanaimo Centre Stage – 25 Victoria Road

19512 It was moved and seconded that Council:

1. receive the report and direct Staff to modify the report for presentation at the next open Council Meeting for public information; and,
2. direct Staff to include this matter for consideration during the 2013-2017 budget process along with other asset management needs and priorities.

The motion carried unanimously.

8. OTHER BUSINESS:

- (a) Verbal Update Re: Madill Property.

9. ADJOURNMENT:

19612 It was moved and seconded at 2:36 p.m. that the "In Camera" Meeting terminate.
The motion carried unanimously.

19712 It was moved and seconded at 2:36 p.m. that the Regular Meeting terminate. The motion carried unanimously.

M A Y O R

CERTIFIED CORRECT:

CORPORATE OFFICER

AGENDA FOR THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
TO BE HELD IN THE CITY HALL BOARD ROOM,
455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-DEC-03, COMMENCING AT 1:00 P.M.

CHAIR: COUNCILLOR BESTWICK

1. **INTRODUCTION OF LATE ITEMS:**

2. **ADOPTION OF AGENDA: (Bestwick/Johnstone)**

3. **ADOPTION OF MINUTES: (Bestwick/Johnstone)**

- (a) Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-NOV-19 at 1:00 p.m. in the City Hall Board Room. *Pg. 5-8*

4. **PRESENTATIONS:**

- (a) Mr. Merv Unger, City Representative on the Nanaimo Port Authority (NPA) Board, to provide a presentation regarding the NPA Operations.

5. **MAYOR'S REPORT:**

NONE

6. **ADMINISTRATION:**

NONE

7. **COMMUNITY SAFETY AND DEVELOPMENT**

(a) **Acquisition of 295 and 299 Selby Street**

Commission Recommendation: That Council:

Pg. 9-14

1. approve the acquisition of 295 and 299 Selby Street subject to the City's conditions precedent being met;
2. authorize the Mayor and Corporate Officer to execute the Purchase and Sale Agreement (PSA) and necessary documents to effect the transfer once the conditions precedent have been met; and,
3. direct Staff to provide a further report to open Council when the conditions precedent have been met.

(b) **Proposed Land Exchange Between School District 68 and City of Nanaimo**

Staff Recommendation: That Council:

Pg. 15-32

1. approve in principle the land exchange concept outlined in this Staff report;
2. direct Staff to prepare a formal Land Exchange Agreement with School District 68;
3. direct Staff to issue a joint press release with School District 68 regarding the matter; and
4. direct Staff to provide a further report to open Council when the Land Exchange Agreement is finalized.

(c) **Disposition of 238 Franklyn Street – City Hall Annex**

Staff Recommendation: That Council:

Pg. 33-63

1. approve the disposition of 238 Franklyn Street to Tectonica Management Inc.;
2. direct the Mayor and Corporate Officer to execute the necessary documents to effect the transfer;
3. direct Staff to return to the next open Council meeting with an "Information Only" Report;
4. direct Staff to issue a Press Release relating to the matter at the next open Council meeting; and
5. Direct Staff to issue a Notice of Disposition as required under Section 26 and 94 of the *Community Charter* following the open Council Meeting.

(d) **Road Closure Portion of Meredith Road Adjacent to 1720 Meredith Road**

Staff Recommendation: That Council:

Pg. 64-66

1. approve in principle, the sale of the proposed road closure area to Nanaimo Church of Christ ("NCC") for the sum of \$139,500; and,
2. if approval in principle is received, direct Staff to prepare a report with an accompanying road closure bylaw for the next open Council agenda.

(e) **Acquisition of 310 Park Street**

Staff Recommendation: That Council:

Pg. 67-69

1. approve the acquisition of 310 Park Street for a price of up to ; and,
2. authorize the Mayor and Corporate Officer to execute the necessary documents to effect the transaction.

8. **CORPORATE SERVICES:**

(a) **Water Servicing Agreement to Indian Reserve Nanaimo River #2**

Staff Recommendation: That Council approve the attached Water Servicing Agreement to Indian Reserve Nanaimo River #2 and authorize the Mayor and Corporate Officer to execute the agreement.

Pg. 70-81

9. **COMMUNITY SERVICES:**

NONE

10. **CORRESPONDENCE:**

NONE

11. **OTHER BUSINESS:**

NONE

12. **ADJOURNMENT OF THE SPECIAL "IN CAMERA" MEETING:**

13. **ADJOURNMENT OF THE SPECIAL MEETING:**

“In Camera”
City of Nanaimo
REPORT TO COUNCIL

DATE OF MEETING: 2012-DEC-03

AUTHORED BY: BILL CORSAN, MANAGER OF REAL ESTATE

RE: ACQUISITION OF 295 AND 299 SELBY STREET

STAFF RECOMMENDATION:

That Council:

1. approve the acquisition of 295 & 299 Selby Street subject to the City's conditions precedent being met;
2. authorize the Mayor and Corporate Officer to execute the Purchase and Sale Agreement (PSA) and necessary documents to effect the transfer once the conditions precedent have been met; and
3. direct Staff to provide a further report to open Council when the conditions precedent have been met.

PURPOSE:

The purpose of this Staff report is to request Council approval to acquire 295 and 299 Selby Street (Attachment A) from Longwood Station Ltd. The acquired lands could be used by the City for public parking to help address the shortage of parking in the Old City Quarter. This transaction does not involve the transfer of cash, but requires the City to design and construct Linley Valley Drive to the western boundary of 6033 Nelson Road by 2014-DEC-31.

SUMMARY:

Longwood Station Ltd. (a subsidiary of Insight Holdings Ltd.) has offered to transfer 295 and 299 Selby Street to the City of Nanaimo. These two vacant lots are 1,565 m² (0.38 acre) in size and could be used to address the parking shortage in the Old City Quarter.

In exchange for the two parcels of land, Longwood Station Ltd. have requested that the City commit to building Linley Valley Drive from Turner Road to 6033 Nelson Road. The estimated cost of completing the road is \$950,000. There is \$395,000 of funding currently in place. The remaining \$555,000 would be drawn from DCC project R65. The road would be constructed by 2014-DEC-31.

Council
 Committee.....
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-DEC-03

The construction of the road will facilitate the School District 68 (SD68) and City of Nanaimo Land Exchange Agreement associated with the property at 5101 Rutherford Road. Insight Holdings Ltd. have also indicated that the construction of the road will encourage the development of their adjacent lands.

BACKGROUND:

Overview

The City of Nanaimo and SD68 are currently working collaboratively to finalize a mutually beneficial Land Exchange Agreement.

As part of the negotiations around the SD68-owned parcel at 5101 Rutherford Road, Staff initiated a discussion with Insight Holdings Ltd. to ascertain its level of interest in acquiring SD68's proposed 6-acre residential parcel at 5101 Rutherford Road.

Insight Holdings Ltd. representatives indicated that they are interested in purchasing the property from SD68 but require the City to design and build Linley Valley Drive to its ultimate standard to ensure the proposed 6-acre parcel has access. Insight Holdings Ltd. also indicated that the construction of the road will likely act as a catalyst to bring forward its lands for development (Attachment B). The funding for the completion of the road is already in place.

In exchange for building the road, Insight Holdings Ltd. offered the City two parcels of land at 285 and 299 Selby Street held by their subsidiary Longwood Station Ltd. These parcels were recently rezoned to build a brewery. The site is vacant land with no improvements. An independent appraisal of these lands places the value at

The two properties will transfer to the City upon construction of Linley Valley Drive which will be no later than 2014-DEC-31. The proposed short term use of the Selby lands is for parking to help offset the deficiency of parking in the Old City Quarter. Longwood Station Ltd. will issue a License of Use to the City for the lands at a nominal rate until the transaction is complete.

DISCUSSION:

Rationale for Acquisition

The following rationale is provided for the acquisition of these parcels:

- Increased Parking Within Old City Quarter– there is a recognized shortage of parking within the Old City Quarter. Staff have been working with DNBA to find additional parking to support the businesses and residents in the area. The acquisition of 295 and 299 Selby could provide an additional 40 parking stalls in the neighbourhood.
- Facilitation of Development on Linley Valley Drive – Insight Holdings Ltd. own the lands on both sides of Linley Valley Drive. While the road is dedicated at this time, it has not been constructed. Until the road is built, there is little incentive for Insight Holdings Ltd. to bring forward development proposals. The completion of Linley Valley Drive to 6033 Nelson Road will provide a catalyst for development in the neighbourhood.
- Assistance with School District 68 and City of Nanaimo Land Exchange – the proposed land exchange between SD68 and the City requires the development potential of 5101 Rutherford Road to be realized. This includes the creation of a 6-acre residential

parcel with 1.5 acres dedicated for the future extension of Linley Valley Drive through to Rutherford Road and 13.5 acres added to Oliver Woods as park. The proposed 6-acre residential development parcel requires access from Linley Valley Road to be marketable.

Funding

Total funding commitment to build this section of the road is estimated to be \$950,000 with \$395,000 already secured from Insight Holdings Ltd. Funding for the remaining \$555,000 is available under DCC R65 which is 100% funded. There is currently \$3.6 million in this fund.

Purchase and Sale Agreement and Conditions Precedent

A Purchase and Sale Agreement has been prepared by the City's legal counsel and agreed upon by Longwood Station Ltd. The key elements of the deal include the following:

Lands: 295 Selby Street (PID 008-778—752) 647 m²
 299 Selby Street (PID 008-777-411 and 008-777-446) 918 m²
 Purchase Price \$0
 Closing Date No later than 2014-DEC-31
 Condition of Lands "As Is"

Longwood Station Ltd. Conditions Precedent

- None

City of Nanaimo Conditions Precedent

- City of Nanaimo to obtain an environmental assessment of the land;
- City of Nanaimo to review, to its sole satisfaction, the State of Title Certificate of the Lands and the existing encumbrances; and
- City Council approval.

Other Key Items for Consideration

- City of Nanaimo to take responsibility for the design and completion of Linley Valley Drive to 6033 Nelson Road by 2014-DEC-31.

Strategic Plan Considerations

The acquisition of these parcels of land meets one of the key priorities identified in the 2012-2015 Strategic Plan, including;

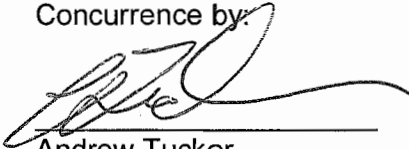
Strategy	
Taking Responsibility	<p>Potential Strategies and/or Initiatives</p> <ul style="list-style-type: none"> • Continuing to facilitate change and overall development consistent with vision and plans; taking action steps to be a catalyst or investment in the City's future.

Respectfully submitted,

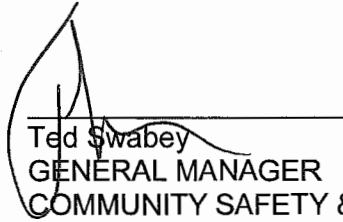


Bill Corsan
MANAGER
REAL ESTATE

Concurrence by:



Andrew Tucker
DIRECTOR
PLANNING

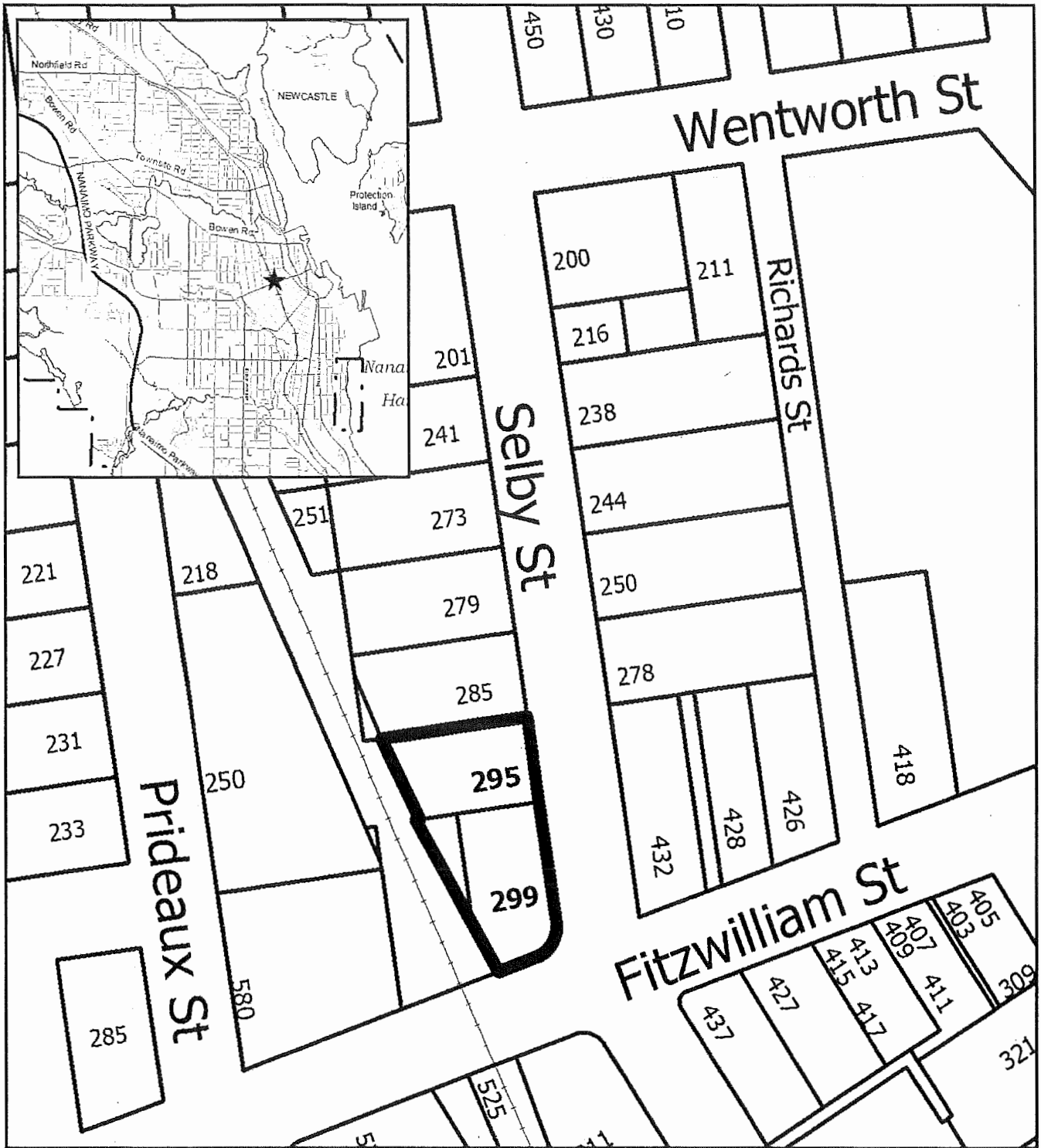


Ted Swabey
GENERAL MANAGER
COMMUNITY SAFETY & DEVELOPMENT

CITY MANAGER COMMENT:

I concur with the Staff recommendation.

Drafted: 2012-NOV-28
LD002616
BC/tl



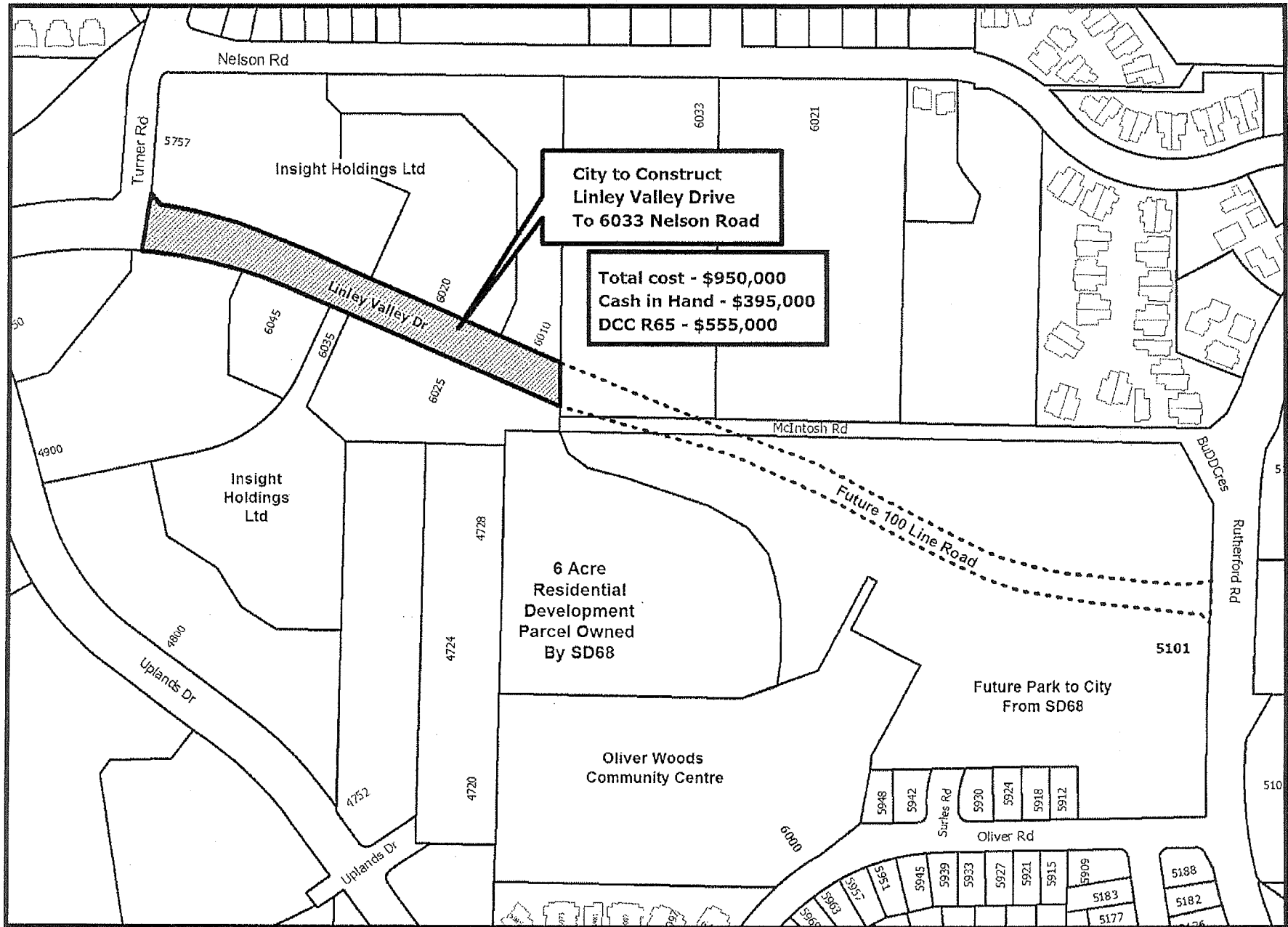
LOCATION PLAN

Civic: 295 and 299 Selby Street



 Subject Property

ATTACHMENT B



14

“In Camera”
City of Nanaimo
REPORT TO COUNCIL

DATE OF MEETING: 2012-DEC-03

AUTHORED BY: BILL CORSAN, MANAGER OF REAL ESTATE

RE: PROPOSED LAND EXCHANGE BETWEEN SCHOOL DISTRICT 68 AND CITY OF NANAIMO

STAFF RECOMMENDATION:

That Council:

1. approve in principle the land exchange concept outlined in this Staff report;
2. direct Staff to prepare a formal Land Exchange Agreement with School District 68;
3. direct Staff to issue a joint press release with School District 68 regarding the matter; and
4. direct Staff to provide a further report to open Council when the Land Exchange Agreement is finalized.

PURPOSE:

The purpose of this Staff report is to request Council approval in principle to enter into a Land Exchange Agreement with School District 68 (SD68) that is mutually beneficial to both parties. A Letter of Intent (LOI) has been prepared by SD68 and the City (Attachment A) which forms the basis of the proposed land exchange.

SUMMARY:

Staff from SD68 and the City of Nanaimo have been working on a mutually beneficial land exchange agreement which would see each party trade surplus lands to the other party to better align with their respective strategic priorities.

A draft LOI has been prepared which will form the basis of the formal Land Exchange Agreement.

Once approval in principle is granted, City Staff will work with SD68 representatives to formalize the Land Exchange Agreement. A joint press release from the City and SD68 will be issued following this meeting. Staff will return to an upcoming open Council meeting for approval of the Land Exchange Agreement.

- Council
- Committee.....
- Open Meeting
- In-Camera Meeting

Meeting Date: 2012-DEC-03

BACKGROUND:**Overview**

In early 2012, SD68 approached the City to gauge the level of interest in acquiring surplus SD68 properties. SD68 also expressed an interest in acquiring some properties that are used for SD68 purposes but are held under the name of the City of Nanaimo on title.

A joint collaboration process was initiated to find an approach that would bring benefits to both parties. The resulting land exchange concept clears up the issues associated with historical land ownership, assists both organizations with asset management and repurposes many properties into higher and better uses.

City Ownership of School Board Properties

Historically, a school district was unable to hold title to land under its name. Land was vested in the name of the local municipality. This was the case with the Quennell Square lands that were purchased under the name of the City in 1898. Lands were also held in duplicate title as is the case with Bayview School, Princess Royal School and a portion of Pauline Haarer School. While the City has had its name on title, SD68 has actively managed these properties.

Recent changes to the *School Act* enable the School District to dispose of surplus lands that are held under the name of the School District. Approval of the disposition requires a bylaw to be passed by the School Board as well as consent from the Minister of Education. Lands held by the Province of BC cannot be disposed of by the School Board.

DISCUSSION:**Land Exchange Concept**

The key parcels of land involved in the land exchange proposal are summarized below:

To City from SD68	To SD68 from City
<ul style="list-style-type: none"> • Harewood Field 	<ul style="list-style-type: none"> • Quennell Square
<ul style="list-style-type: none"> • 5101 Rutherford - 13.5 acres for park and 1.5 acres for road dedication 	<ul style="list-style-type: none"> • 5101 Rutherford Road – ability to create 6-acre development parcel
<ul style="list-style-type: none"> • Northfield School 	<ul style="list-style-type: none"> • Princess Royal School
<ul style="list-style-type: none"> • Pioneer Park 	<ul style="list-style-type: none"> • Bayview School
	<ul style="list-style-type: none"> • Pauline Haarer School

Properties to Be Acquired by the City*Harewood Field (502 Howard) Attachment A of LOI*

Harewood Field is a 1 ha (2.5 acre) playing field located on the corner of 5th Street and Howard Avenue. The playing field is in poor shape and not well used by the community. Under City ownership there is an opportunity to turn this into an upgraded playing field and community park for the Harewood Neighbourhood. The timing of the acquisition fits well with the Harewood Neighbourhood Planning process that is under way.

Oliver Road (5101 Rutherford) Attachment B of LOI

This surplus 8.5 ha (21 acre) parcel of land owned by SD68 has remained vacant since it was acquired in 2000 for school purposes. SD68 has attempted to sell the parcel over the years but the economics of developing the site have not been favourable due to the City's requirement for the construction of the 100 Line Road as part of the associated works and services with subdivision. Under the land exchange proposal, SD68 will subdivide the land into two parcels. A 2.4 ha (6 acre) residential parcel will be created on the west of the site with access from Linley Valley Drive. The future alignment of the 100 Line Road will be dedicated and the remaining 5.5 ha (13.5 acres) will be dedicated to the City as park.

Northfield School (2249 Northfield) Attachment C of LOI

This 0.4 ha (1 acre) parcel of land is located at the corner of Boxwood Road and Northfield Road. The site is a former school house that is currently licensed by SD68 to a private daycare. Staff are currently working on plans for the Boxwood Connector Project and the upgrade of Northfield Road west of Bowen Road. Significant portions of this site are required for road widening. There are also plans to complete the laneway that parallels Northfield Road through the site. SD68 has requested the City acquire the entire property, rather than solely purchase the lands needed for the road works. Once the project is complete, Staff recommends rezoning the site to a commercial use and disposing of the land through a Request for Offers. The land is estimated to have a value of \$600,000.

Pioneer Park (6780 Dickinson Road) Attachment D of LOI

This 3.4 ha (8.3 acre) parcel of land is located adjacent to May Richards Bennett Pioneer Park which is one of the largest parks in the north end of Nanaimo. The City currently has a License of Use Agreement with SD68 to use the land as a dog walking park. The site is zoned Residential (R1) and SD68 had hoped to sell the property which has an estimated value of \$2,400,000. There has been considerable public backlash to that proposal. Through the acquisition of this property the City would be able to own the property outright and undertake a long term vision for the parcel.

Properties to be Provided to SD 68*Quennel Square – Attachment E of LOI*

The City has held 10 lots, totaling 0.6 ha (1.485 acres) of land in Quennel Square since 1898. SD68's Franklyn Street Gymnasium is situated on 8 of the lots off Franklyn Street. The former school building is located on the 2 City-owned lots off Selby Street. The remainder of the lots that comprise the block are under the ownership of the BC Transportation Finance Authority (BCTFA). SD68 has a letter from BCTFA agreeing to transfer the lands to SD68. SD68 plans to use the lands as part of an educational campus, including a new School Board Office.

Princess Royal (260 Irwin Street) Attachment F of LOI

The City has held the 3 lots, totalling 0.24 ha (0.6 acres) since 1942. The land is in duplicate title with SD68. Princess Royal School is located on the lands. SD68 plans on selling the parcel to VIHA or another party after the land exchange process closes.

Pauline Haarer (400 Campbell and portion of 445 Comox) Attachment G of LOI

Pauline Haarer School is partially located in the middle of Comox Park, on dedicated park land that does not have title. As part of this process, the existing school property would be subdivided from Comox Park and ownership transferred to SD68. The City will relinquish this property which will enable SD68 to consolidate the lands under one title. The existing laneway on the eastern boundary of the property would become dedicated through this process. The City will retain ownership of the football field, change rooms, Scout hut and play equipment.

Bayview Elementary (140 View) Attachment H of LOI

Bayview Elementary is comprised of 23 lots and a developed laneway, which comprise 0.83 ha (2.05 acres) in size. Through the road closure process, the City will close the laneway and transfer title of the lands to SD68. SD68 can then consolidate the lands into one parcel. SD68 intends to continue to use this property as a school.

Commitments from the City

The LOI sets out a number of commitments that the City will need to address to complete the land exchange successfully.

- The City will provide road access and sewer and water services to 5101 Rutherford Road from Turner Road by 2014-DEC-31. This project will be facilitated through the land acquisition of 295 and 299 Selby Street from Longwood Holdings Inc.
- The City will not require the construction of the 100 Line Road as a condition of subdivision of 5101 Rutherford Road and will request a Development Variance Permit from Council to vary the Subdivision Control Bylaw.
- The City will be responsible for the subdivision of Pauline Haarer property to create two parcels of land. This will require a referendum or Alternative Approval Process as the land is dedicated park. The parcel also has no title at this point in time as it is dedicated park. The subdivision plan will be similar to what is shown in Attachment G.
- The City will be responsible for the OCP Amendment and Rezoning of the new parcel created for Pauline Haarer.
- The City will undertake a road closing process and raise title for the unused laneway which runs through Bayview School as shown on Attachment H. This will enable SD68 to consolidate the various parcels into one parcel.

Commitments from SD68

Under the LOI, SD68 will undertake a number of commitments to complete the land exchange successfully:

- SD68 will provide a dedicated lane along the east side of the property at 400 Campbell Street as shown in Attachment G.
- SD68 will be responsible for the subdivision of 5101 Rutherford to create a roughly 6-acre development parcel. The subdivision plans will include roughly 1.5 acres of road dedication for the future alignment of the 100 Line Road and 13.5 acres to be dedicated as park. The subdivision will be similar to the layout shown in Attachment B.
- SD68 will be responsible for the rezoning of the roughly 6-acre development parcel shown in Attachment B.

Conditions Precedent

The land exchange is subject to each party undertaking due diligence and receiving approvals from Council, the School Board and Minister of Education. Transfer of the lands to either party requires approval of all OCP and rezoning amendments and subdivision approvals.

Closing Date

Closing date is tentatively set for 2013-DEC-31.

Funding

Each party will transfer \$1 as part of the land exchange agreement. The City will incur expenses associated with the legal costs, survey work, AAP processes, OCP and Rezoning Amendments and road closure process. Staff estimate roughly \$70,000 will be required for this work.

Strategic Plan Considerations

The acquisition of strategically significant parcels of land in exchange for the disposition of underutilized assets meets two of the key priorities identified in the 2012-2015 Strategic Plan, including:

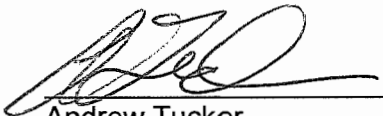
Strategy	
Taking Responsibility	<p>Potential Strategies and/or Initiatives</p> <ul style="list-style-type: none"> Continuing to facilitate change and overall development consistent with vision and plans; taking action steps to be a catalyst or investment in the City's future.
Community Building Partnerships	<ul style="list-style-type: none"> Alliances are essential when issues or challenges raised by the public extend far beyond traditional local government mandates.

Respectfully submitted,

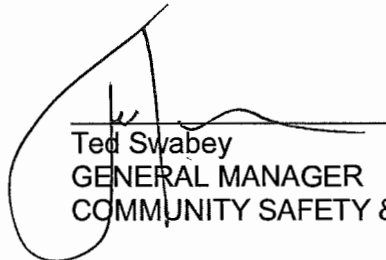


Bill Corsan
MANAGER
REAL ESTATE

Concurrence by:



Andrew Tucker
DIRECTOR
PLANNING



Ted Swabey
GENERAL MANAGER
COMMUNITY SAFETY & DEVELOPMENT

CITY MANAGER COMMENT:

I concur with the Staff recommendation.

Drafted: 2012-NOV-28
CIL00348
BC/ll



November 28, 2012

BOARD OF EDUCATION SCHOOL DISTRICT 68 (NANAIMO LADYSMITH)
395 Wakesiah Avenue
Nanaimo, BC V9R 3K6

Attention: Phil Turin, Secretary-Treasurer, Business and Operational Services Department

Re: Letter of Intent to Enter into Land Exchange Agreement

This Letter of Intent establishes the basic terms under which the City of Nanaimo (the "City") and the Board of Education School District 68 (Nanaimo Ladysmith) ("SD68") intend to enter into an agreement for the exchange of certain lands in Nanaimo, B.C. (the "Land Exchange Agreement"). The parties intend to trade surplus properties for lands better aligned to meet the goals of their respective strategic plans.

The following outlines the principal terms and conditions of the transaction:

1. **SD68 Transfer** – SD68 intends to transfer the following lands (together, the "SD68 Lands") to the City:

Harewood Field (502 Howard) Attachment A

PID: 008-734-437

Legal Description: Section 25, Range 7, of Section 1, Nanaimo District, Plan 630, Except Part in Plan 5935

Parcel Size: 2.5 acres

Oliver Road (5101 Rutherford) Attachment B

PID: 001-839-471

Legal Description: Lot 1, District Lot 14, Wellington District, Plan 12840, Except Part in Plan 42599 and 45812

Parcel Size: 13.5 acres for Park and 1.5 acres for Road Dedication

Northfield School (2249 Northfield) Attachment C

PID: 006-632-351

Legal Description: Lot 16, Block 2, Section 17, Range 7, Mountain District, Plan 526

Parcel Size: 1 acre

Pioneer Park (6780 Dickinson Road) Attachment D

PID: 023-982-608

Legal Description: Lot A, District Lot 53, Wellington District, Plan VIP66439

Parcel Size: 8.3 acres

2. **City Transfer** – The City intends to transfer the following lands (together, the “City Lands”) to SD68:

Quennel Square – Attachment E

PID: 008-819-785; 008-819-793; 008-819-807; 008-822-263; 008-822-280; 008-822-336; 008-822-361; 008-822-549; 008-793-662; and 008-793-719

Legal Description: Lots 16-23, Block Bullock, Section 1 Nanaimo District, Plan 584 and Amended Lot 16 (DD77733N) and Lot 17, Block 22, Section 1, Nanaimo District, Plan 584

Parcel Size: 1.485 acres

Princess Royal (260 Irwin Street) Attachment F

PID: 008—825-785; 008-825-807; 008-825-793

Legal Description: Lot 11, 12, and 13, Block 6, Section 1, Nanaimo District, Plan 584

Parcel Size: 0.6 acres

Pauline Haarer (400 Campbell and portion of 445 Comox) Attachment G

PID: 008-813-345, 008-813-353, 008-813-370

Legal Description: Lots 1-3, Block 44, Section 1, Nanaimo District, Plan 584 and Park Dedicated by Plan 584

Parcel Size: Roughly 2 acres

Bayview Elementary (140 View) Attachment H

PID: 007-113-846, 007-113-854, 007-113-871, 007-113-919, 007-113-935, 007-113-951, 007-113-978, 007-114-001, 007-114-028, 007-114-044, 007-114-079, 007-114-109, 007-114-125, 007-114-184, 007-114-214, 007-114-249, 007-114-273, 007-114-281, 007-114-311, 007-114-338, 007-114-401, 007-121-059, 007-121-067

Legal Description: Lot 29-51, Block 7, Section 1, Nanaimo District, Plan 1662

Parcel Size: 2.05 acres

3. **Purchase Price**

- a) The purchase price for each legal parcel comprising the SD68 Lands will be \$1.00.
- b) The purchase price for each legal parcel comprising the City Lands will be \$1.00.

4. **Commitments from the City** – The City will be responsible at its own cost for:

- a) subdivision of the 5101 Rutherford Road lands to create multiple lots including roughly 1.5 acres of road dedication for the future alignment of the 100 Line Road, roughly 13.5 acres to be dedicated as park, and a roughly 6 acre development parcel (herein, the “6 acre Parcel”), all approximately as shown on Attachment B, and to provide legal access to the 6 acre Parcel as well as engineering and construction of road access and sewer and water services to the 6 acre Parcel;

- b) requesting a Development Variance Permit from Council to vary the Works and Services Bylaw so that construction of the 100 Line Road is not required as a condition of subdividing 5101 Rutherford Road;
- c) subdivision of the Pauline Haarer property to create two parcels of land approximately as shown on Attachment G. The parties acknowledge that subdivision approval will require a referendum or Alternative Approval Process as the land is dedicated park. The parcel also has no title at this point in time as it is dedicated park. The existing sports field and lands fronting Comox Road will remain with the City. The existing school building will sit on its own portion of titled property, which will be transferred to SD68;
- d) applying to Council for an OCP Amendment and Rezoning to CS1 of the new parcel to be created for Pauline Haarer beside the new school building lot and to be owned by SD68;
- e) requesting that Council close the unused laneway which runs through Bayview School as shown on Attachment H, and remove its dedication as road. This will enable SD68 to consolidate the various parcels into one parcel;
- f) assisting SD68 as reasonably required to facilitate the transfer by the Ministry of Forests, Lands and Natural Resource Operations to SD68 of certain lands located at 420 Selby Street, Nanaimo, BC. and legally described as Lots 18-22, Block 22, Section 1, Nanaimo District, Plan 584.

5. Commitments from SD68 – SD68 will be responsible at its own cost for:

- a) dedicating the lane along the east side of the property at 400 Campbell Street as shown in Attachment G;
- b) approving and signing documents as registered owner of the relevant SD68 Lands required in connection with the various subdivisions and re-zonings described herein;
- c) after transfer of title of the City Lands to SD68, consolidating the City Lands with any adjacent lands owned by SD68;
- d) obtaining the transfer by the Ministry of Forests, Lands and Natural Resource Operations to SD68 of the aforementioned lands located at 420 Selby Street, Nanaimo.

6. Timing of Land Exchanges – The parties will complete all land exchanges contemplated herein within 30 days of satisfaction of the last of the conditions precedent in paragraph 7.

7. Conditions Precedent – The following will be conditions precedent to the City's obligation to transfer the City Lands and acquire the SD68 Lands, and SD68's obligation to transfer the SD68 Lands and acquire the City Lands:

- a) Both parties must fully disclose all existing leases and licences, environmental and geotechnical reports, site assessments, audits, studies, investigations, permits, approvals, licences and records in possession or control with respect to their respective lands described herein and relating to contaminants, environmental laws and geotechnical soil conditions.

- b) Each party, to its sole satisfaction, will review all information supplied to it by the other party as listed above.
- c) Each party to review, to its sole satisfaction, the state of title certificate of the lands of which they are to receive title, and the existing encumbrances.
- d) The City must receive City of Nanaimo Council approval to proceed with the transfer of the City Lands in exchange for the SD68 Lands in accordance with the terms of the Land Exchange Agreement.
- e) The City of Nanaimo Council must have adopted all required zoning and OCP amendment bylaws.
- f) The City of Nanaimo Council must have adopted all required road closure bylaws and park dedication / removal bylaws.
- g) The City's Approving Officer must have approved all required subdivision plans.
- h) Disposal of the SD68 Lands must follow SD68 Policy 4011 and Procedure 4011 (Disposal of Property) which require the passing of a bylaw in accordance with section 65(5) of the *School Act*, at a meeting of the Board. This requires approval of the Minister of Education pursuant to the Disposal of Land or Improvements Order M193/08.
- i) SD68 must have received title to 420 Selby Street, Nanaimo from the Ministry of Forests, Lands and Natural Resource Operations.
- j) The City completes construction of Linley Valley Drive and thereby provides road access to the 6 acre Parcel, and the City completes sewer and water services to the 6 acre Parcel, to SD68 satisfaction, acting reasonably. (The City advises that it intends to complete construction of Linley Valley Drive by December 31, 2014).

8. Preparation of Land Exchange Document

- a) The City and SD68 will jointly prepare a formal Land Exchange Agreement based on the terms and conditions contained in this Letter of Intent.
- b) The Land Exchange Agreement shall be prepared by legal counsel with each party responsible for the legal fees and expenses of their own legal advisor.

9. Closing Date

The intention of both parties is for the parties to use commercial best efforts to:

- a) settle, approve, execute and deliver the Land Exchange Agreement by January 31, 2013;
- b) satisfy all the conditions precedent in Section 7 by December 31, 2014.

10. Letter of Intent Only

The City and SD68 agree that this letter does not constitute an agreement for the exchange of the City Lands and the SD68 Lands, nor is it legally binding on either the City or SD68. This letter is not intended to be relied upon by the parties as constituting a binding agreement for such sale and purchase and no legal obligations shall arise between the City and SD68 as a result of this letter until negotiations have been concluded and the parties have executed and delivered a formal Land Exchange Agreement or one party delivers to another party notice that it no longer wishes to pursue the land exchanges contemplated herein.

This Letter is open for acceptance by you before Noon, December 5, 2012. Please confirm your agreement on the intentions set out herein by signing and returning the enclosed copy of this Letter on or before such time.

Yours truly,

CITY OF NANAIMO

By: _____
Mayor

By: _____
Corporate Officer

The undersigned hereby confirms its agreement to the intentions set out above this ____ day of _____, 2012.

Yours truly,

BOARD OF EDUCATION SCHOOL DISTRICT 68 (NANAIMO LADYSMITH)

By: _____
Board Chair

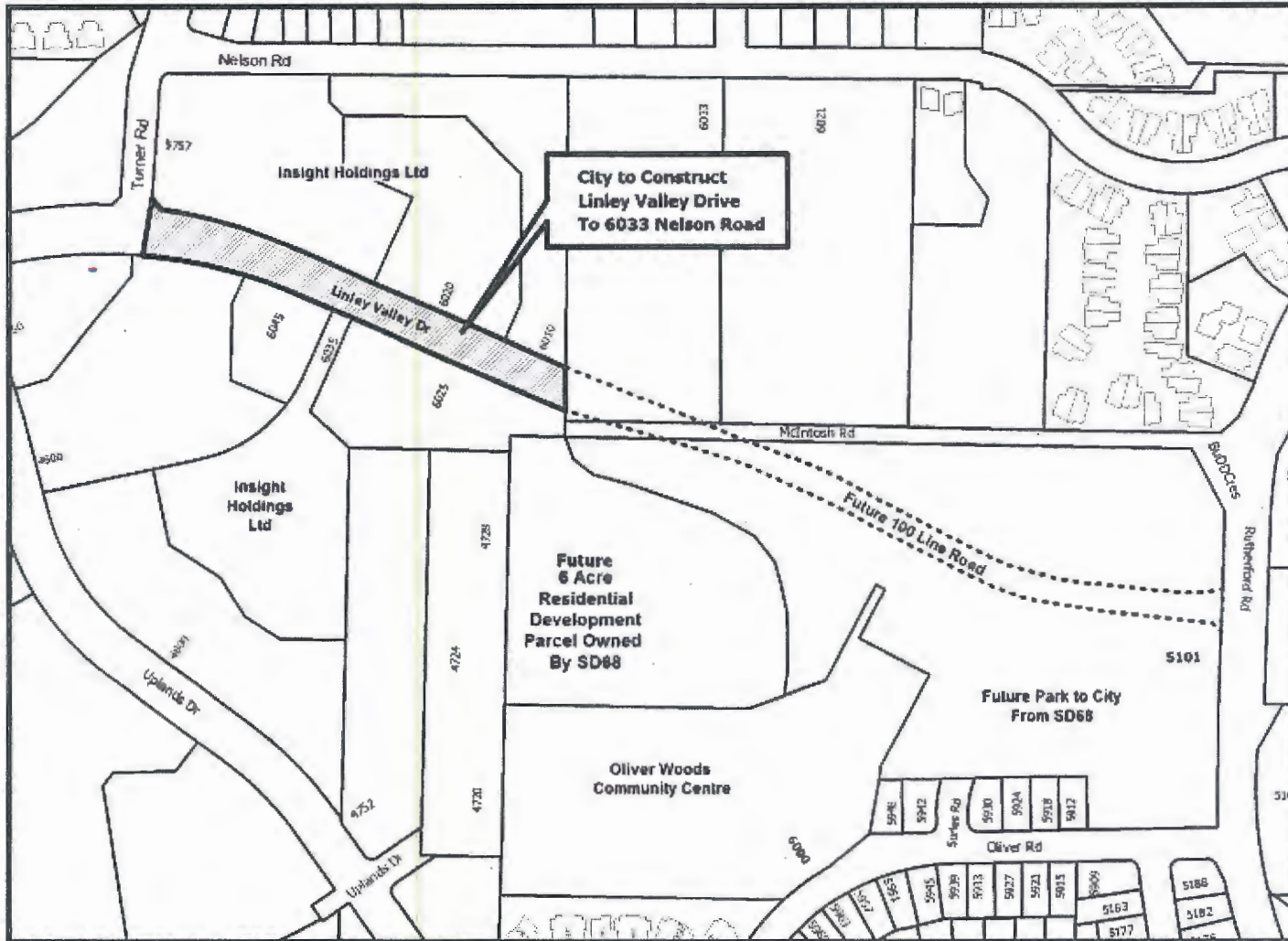
By: _____
Secretary-Treasurer

Harewood Field



The Harewood Field (SD66)
CNIC: 502, Howard Avenue

ATTACHMENT B



Northfield School



The Northfield School
Civic: 2249 Northfield Road

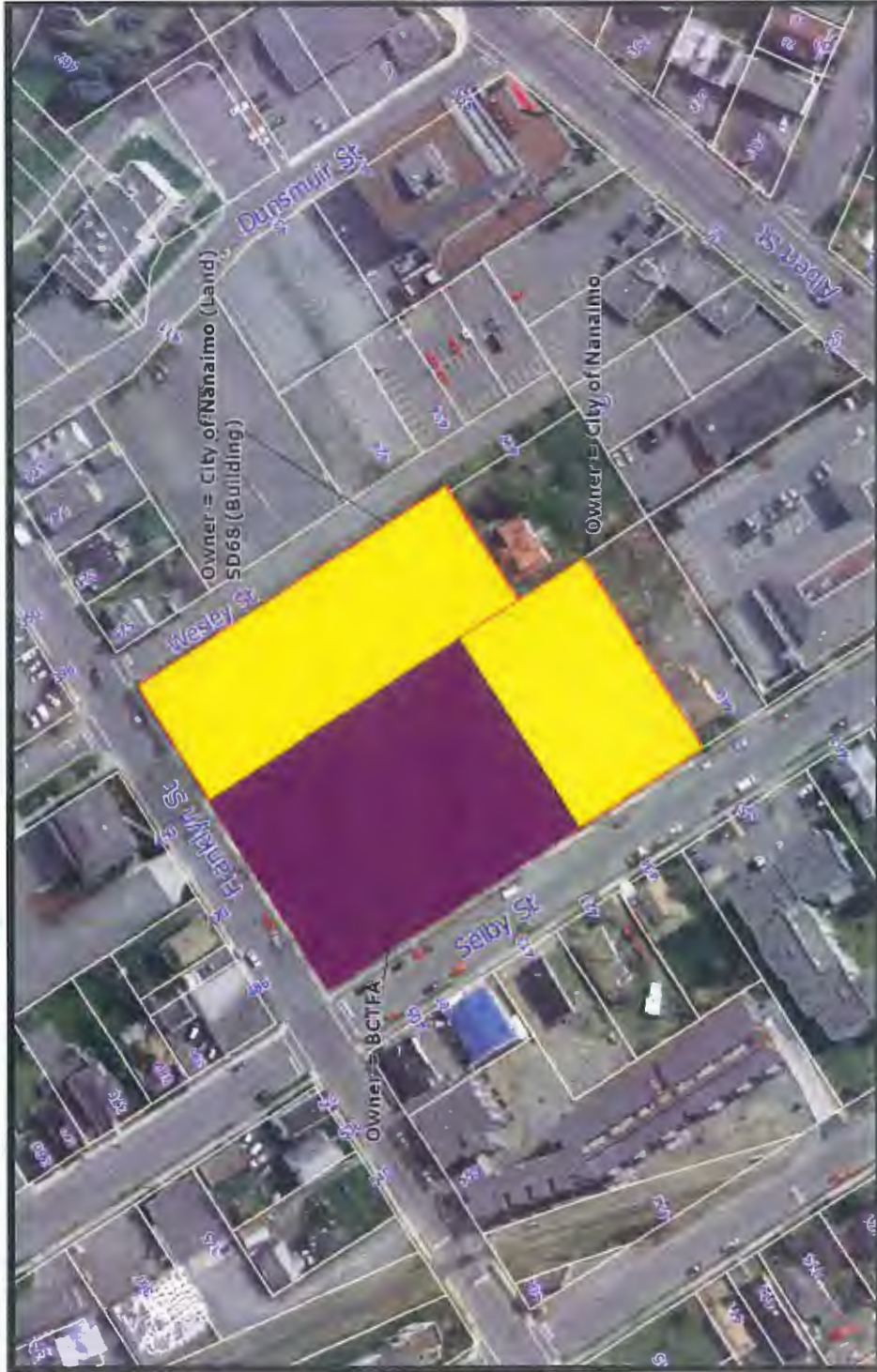
Attachment D

Pioneer Park



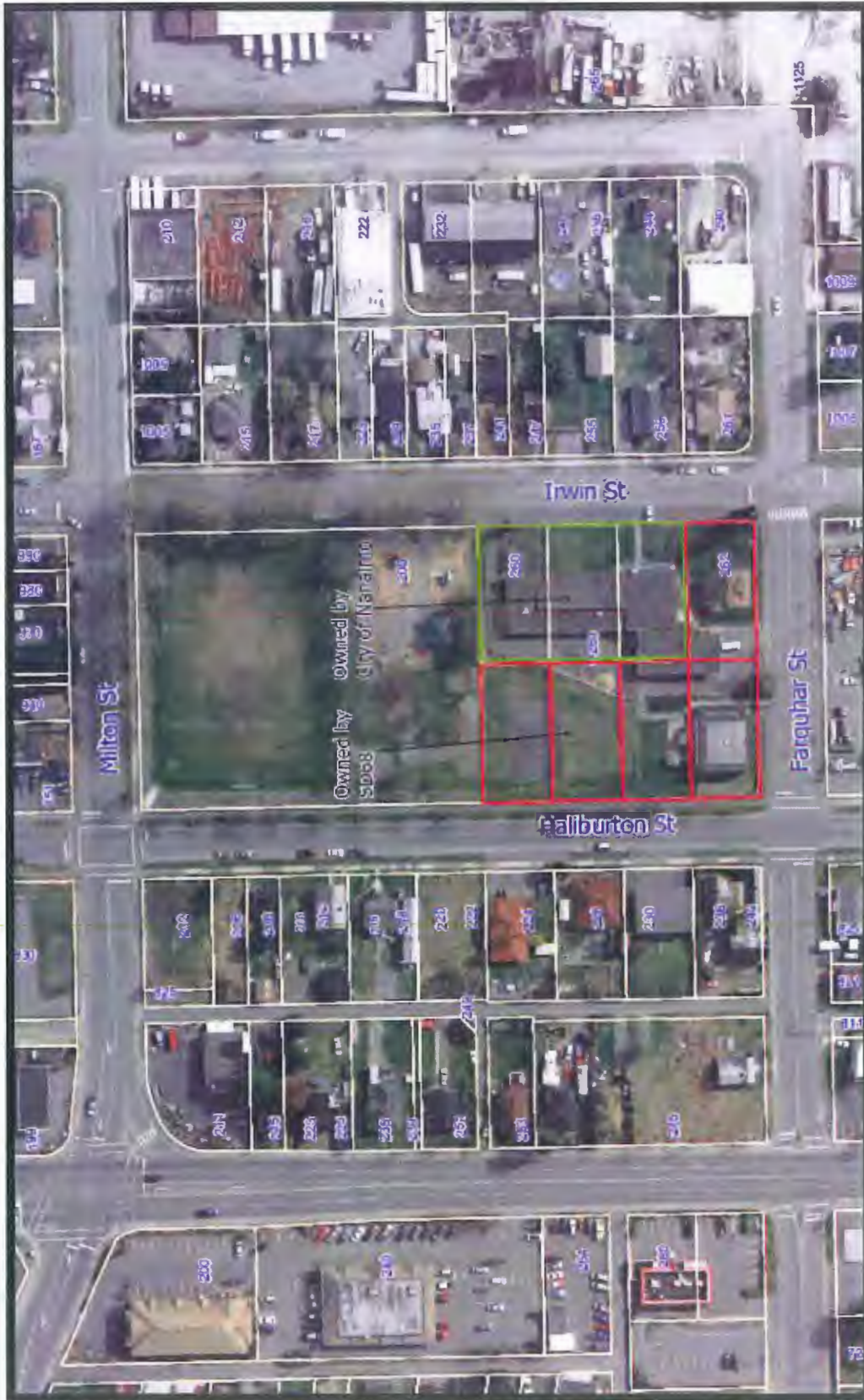
Pioneer Park
Civic: 6780 Dickinson Road

Quennell Square



Quennell Square (SD68, City & BCTFA)

Attachment F



Princess Royal (SD68 & City)
Civic: 260 & 262 Irwin Street

Attachment G



Pauline Haarer School

Attachment H



Bayview School

“In Camera”
City of Nanaimo
REPORT TO COUNCIL

DATE OF MEETING: 2012-DEC-03

AUTHORED BY: BILL CORSAN, MANAGER OF REAL ESTATE

RE: DISPOSITION OF 238 FRANKLYN STREET – CITY HALL ANNEX

STAFF RECOMMENDATION:

That Council:

1. approve the disposition of 238 Franklyn Street to Tectonica Management Inc.;
2. direct the Mayor and Corporate Officer to execute the necessary documents to effect the transfer;
3. direct Staff to return to the next open Council meeting with an “Information Only” Report;
4. direct Staff to issue a Press Release relating to the matter at the next open Council meeting;
and
5. Direct Staff to issue a Notice of Disposition as required under Section 26 and 94 of the *Community Charter* following the open Council Meeting.

PURPOSE:

The purpose of this Staff report is to obtain Council approval for the sale of the City Hall Annex at 238 Franklyn Street to Tectonica Management Inc.

BACKGROUND:

At the 2012-APR-16 Council meeting, it was moved and seconded that Council:

1. direct Staff to advertise the EOI for the sale of the City Hall Annex; and
2. direct Staff to report back with an evaluation and summary report for Council’s consideration.

A report summarizing the Expressions of Interest was presented to Council at the 2012-AUG-27 “In Camera” Committee of the Whole Meeting. At that meeting, Staff was directed to transfer the land and building at 238 Franklyn Street to Tectonica Management Inc.

A Purchase and Sale Agreement has been prepared and Staff are returning to this “In Camera” Council meeting to obtain formal approval to dispose of 238 Franklyn Street.

DISCUSSION:

By the end of December 2012, the majority of Staff from the City Hall Annex and City Hall will be relocated to the new office building located at 411 Dunsmuir Street. The existing City Hall building will be renovated in early 2013 with the remaining employees moving into City Hall later in the year. The City Hall Annex will become vacant which presents the City with the challenge of charting a future for a building requiring a significant seismic upgrade.

At the “In Camera” meeting held 2012-FEB-13, Council directed Staff to prepare terms of reference for an EOI proposal that would seek to sell the City Hall Annex land and building to a purchaser who would either seismically upgrade the building to a minimum of 60% of the current *BC Building Code* requirements or demolish the building.

The EOI requested proposals from developers who were interested in purchasing the City Hall Annex and who would commit to seismically upgrading the building or demolishing the building within 24 months of the close of the sale. The EOI was a non-binding agreement and provided Council with an opportunity to test the market to identify parties interested in the property.

A Section 219 Covenant, in favour of the City, will be registered on title which will prohibit occupancy of the building until it is seismically upgraded or demolished.

To ensure the successful proponent moves forward with the upgrade or demolition, a Re-Purchase Agreement ensures that the building and land are returned to the City should the purchaser fail to undertake the upgrade or demolition within 24 months.

The EOI was advertised in the local newspaper, the City’s website, on the Province’s BC Bid website and on the Union of BC Municipalities CivicInfo website. The EOI was issued 2012-APR-17 with an 8-week period for proponents to prepare their responses. All responses were due by 2012-JUN-11.

EOI Responses

Two submissions were received from local companies by the closing date of 2012-JUN-11. Staff identified an additional two options that Council could explore which included demolishing the building at the City’s cost and selling the land, or retaining the land and building and re-evaluate in one to five years.

At the 2012-AUG-27 “In Camera” Committee of the Whole Meeting, Council directed Staff to transfer the land and building at 238 Franklyn Street to Tectonica Management.

Purchase & Sale Agreement

A Purchase and Sale Agreement, Re-Purchase Option and No Occupancy Covenant have been prepared and agreed upon by both parties (Attachment B). The salient terms of the agreements include the following:

Purchase Price:	\$1
Closing Date:	2014-JAN-14
Purchaser's Conditions Precedent:	120 days due diligence to conduct environmental testing of the soil and costs associated with demolishing or renovating the building as to render the building 60% compliant with the seismic requirements of the <i>BC Building Code</i> .
Vendor's Conditions Precedent:	120 days due diligence to satisfy that the land is free of contaminants.
Payment for Covenant & Compliance:	The City of Nanaimo will pay \$40,000 (the equivalent of two year's property taxes) to Tectonica as a performance bonus upon removal of the development covenant if the conditions are met within the two-year time frame.
Re-Purchase Option:	<p>City of Nanaimo has the option to re-purchase the land and building if the purchaser has not within 2 years following the closing date completed design and construction of the renovations, modifications and upgrades necessary to render the Building 60% compliant with the seismic requirements of the <i>Building Code</i>.</p> <p>The Purchaser will compensate the City for liquidated damages in the amount of \$10,000 to compensate for the costs of marketing, selling and remarketing and selling the land.</p>
No Occupancy Covenant:	The builder may not occupy the building until the renovations, modifications and upgrades necessary to render the building 60% compliant with the seismic requirements of the <i>Building Code</i> have been completed.

Next Steps

Following approval from Council, the next steps are:

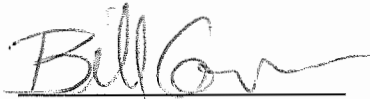
- agreements to be executed by both parties;
- return to the 2012-DEC-17 open Council meeting with an "Information Only" report;
- issue a Press Release (Attachment C) for the 2012-DEC-17 Council meeting;
- purchaser and City to undertake 120 period of due diligence;
- Notice of Disposition to be published in local newspapers; and
- purchaser to take possession of building on 2014-JAN-14.

Strategic Plan Considerations

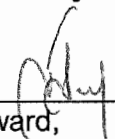
The disposal of these parcels of land meets two of the key priorities identified in the 2012-2015 Strategic Plan, including;

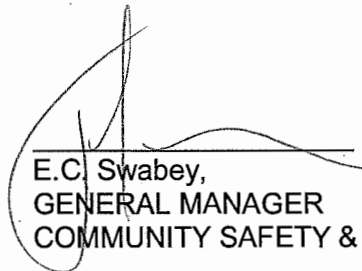
Strategy	
Asset Management	Stewardship of Current Infrastructure and Facilities <ul style="list-style-type: none">the disposition of 238 Franklyn Street removes a facility from the City's land inventory that requires extensive investment that is not justified by the land value.
Taking Responsibility	Potential Strategies and/or Initiatives <ul style="list-style-type: none">Continuing to facilitate change and overall development consistent with vision and plans; taking action steps to be a catalyst or investment in the City's future.

Respectfully submitted,


Bill Corsan,
Manager
Real Estate

Concurrence by:


Toby Seward,
DIRECTOR
DEVELOPMENT


E.C. Swabey,
GENERAL MANAGER
COMMUNITY SAFETY & DEVELOPMENT

CITY MANAGER COMMENT:

I concur with the Staff recommendation.

2012-NOV-20
CLL00055
BC/tl

ATTACHMENT A

Chronology of Project / Issue

“In Camera” Committee of the Whole Meeting 2012-AUG-27

It was moved and seconded that Council direct Staff to transfer the land and building at 238 Franklyn Street to Tectonica Management Inc. The motion carried unanimously.

Open Council Meeting 2012-APR-16

It was moved and seconded that Council direct Staff:

1. to advertise the Expression of Interest for the sale of the City Hall Annex as attached to the report; and
2. to report back with an evaluation and summary report for Council’s consideration.

“In Camera” Finance/Policy Committee of the Whole Meeting 2012-APR-02

It was moved and seconded that Council:

1. direct Staff to advertise the attached Expression of Interest for the Sale of the City Hall Annex;
2. direct Staff to bring this report forward to the Open Council meeting of 2012-Apr-16; and
3. direct Staff to report back to a future “In Camera” Meeting with an evaluation and summary report for Council’s consideration.

Special “In Camera” Council 2012-FEB-13

Council directed Staff to prepare Terms of Reference for an Expression of Interest (EOI) proposal that would seek to sell the land and building at 238 Franklyn Street to a purchaser who would either seismically upgrade the building to a minimum of 60 percent of *Building Code* requirements or demolish the building.

ATTACHMENT B

PURCHASE AND SALE AGREEMENT

THIS AGREEMENT dated for reference November 22, 2012 is

BETWEEN:

CITY OF NANAIMO, 455 Wallace Street, Nanaimo, B.C. V9R 5J6

(the "City")

AND:

TECTONICA MANAGEMENT INC., 201-890 Crace Street, Nanaimo,
B.C. V9R 2T3

(the "Developer")

In consideration of the promises exchanged below and other good and valuable consideration the receipt and sufficiency of which the City and Developer each acknowledge, the City and the Developer agree as follows:

ARTICLE 1 - DEFINITIONS

1.1 **Definitions** – In this Agreement, in addition to any terms defined elsewhere in this Agreement:

- (a) "Agreement Date" means the reference date of this Agreement indicated above.
- (b) "Building" means the approximately 3 storey office building located on the Land.
- (c) "Business Day" means a day other than a Saturday, Sunday or statutory holiday in British Columbia.
- (d) "City's Solicitors" means Young, Anderson.
- (e) "Completion" means completion of the sale of the Land to the Developer in accordance with Article 4.
- (f) "Completion Date" means January 14, 2014.
- (g) "Conditions Precedent" means the conditions precedent under Article 3.
- (h) "Contaminants" means

- (i) as defined in the *Environmental Management Act*: any biomedical waste, contamination, contaminant, effluent, pollution, recyclable material, refuse, hazardous waste or waste;
 - (ii) matter of any kind which is or may be harmful to human safety or health or to the environment; or
 - (iii) matter of any kind the storage, manufacture, disposal, emission, discharge, treatment, generation, use, transport, release, remediation, mitigation or removal of which is now or is at any time required, prohibited, controlled, regulated or licensed under any Environmental Laws.
- (i) "Developer's Solicitors" means RAMSAY (AMPMAN RHODES).
 - (j) "Development Covenant" means the covenant under section 219 of the *Land Title Act* to be granted by the Developer to the City with respect to the Land, in the form attached as Schedule B.
 - (k) "Environmental Law" means any past, present or future common law or principle, enactment, statute, regulation, order, bylaw or permit, and any requirement, standard or guideline, of any Governmental Authority having jurisdiction, relating to the environment, environmental protection, pollution or public or occupational safety or health.
 - (l) "HST" means any tax levied under Part IX of the *Excise Tax Act* (Canada) as the same may be amended or replaced from time to time, including for certainty, goods and services tax or the harmonized sales tax, as applicable.
 - (m) "HST Certificate" means the certificate referred to in section 6.2.
 - (n) "Land" means the land located at 238 Franklin Street, Nanaimo, B.C., including the Building and all other improvements to such land, legally described as Lot 1, (DD F94704), Section 1, Nanaimo City, Plan 5108 (PID: 000-000-434).
 - (o) "LTO" means the appropriate land title office.
 - (p) "Permitted Encumbrances" means the reservations and exceptions contained in the original grant from Crown, any liens, charges and encumbrances described in Schedule A and any charges and encumbrances to be registered pursuant to this Agreement.

- (q) "Purchase Price" means the purchase price (excluding HST) for the Land in the amount of \$1.00.
- (r) "Re-Purchase Option" means the agreement, in the form attached as Schedule C, to be entered into by the City and the Developer with respect to the Land providing the City with an option to purchase the Land.
- (s) "Transfer" means a transfer or transfers in registrable form transferring the estate in fee simple of the Land to the Developer.

ARTICLE 2 - PURCHASE AND SALE

- 2.1 **Purchase and Sale of Land** –The Developer will purchase from the City, and the City will sell to the Developer, the Land, free and clear of all liens, charges and encumbrances, except for the Permitted Encumbrances, on the terms and conditions of this Agreement.
- 2.2 **Development Covenant and Re-Purchase Option** - Concurrently with the Completion of the sale of the Land to the Developer, the Developer and the City will enter into, and the Developer will cause to be registered in the LTO, the Development Covenant and the Re-Purchase Option, in accordance with the terms and conditions of this Agreement.
- 2.3 **Payment of Purchase Price** – The Developer will pay the Purchase Price to the City on the Completion Date in accordance with this Agreement.
- 2.4 **Payment for Covenant & Compliance** – In consideration of the Developer's promises under section 2 of the Development Covenant and of the benefit to the City of timely compliance with those requirements, the City agrees that if the Developer satisfies its obligations under section 2 of the Development Covenant, to the written satisfaction of the City, within 2 years of the date of registration of the Development Covenant in the LTO, the City will pay to the Developer \$40,000.00 within 30 days of such written satisfaction.

ARTICLE 3 - CONDITIONS PRECEDENT

- 3.1 **Developer's Conditions Precedent** – The Developer's obligation to complete the transactions contemplated by this Agreement is subject to the satisfaction of the following conditions precedent, which are for sole the benefit of the Developer and may be waived by the Developer at its sole discretion:
 - (a) On or before the date that is 120 days following the Agreement Date, the Developer will be satisfied with the results of its due diligence investigations

respecting the Land and the Building, including with respect to the cost of demolishing the Building or renovating, modifying and upgrading the Building so as to render the Building 60% compliant with the seismic requirements of the B.C. Building Code.

In consideration of \$10.00 non-refundable paid by the Developer to the City and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the City, the City agrees not to revoke its acceptance of this Agreement while it remains subject to the conditions precedent under this section. If the Developer does not give the City notice of its satisfaction or waiver of any of the conditions precedent under this section within the time provided herein, this Agreement will automatically terminate.

3.2 Vendor's Conditions Precedent – The City's obligation to complete the transactions contemplated by this Agreement is subject to the satisfaction of the following conditions precedent, which are for sole the benefit of the City and may be waived by the City at its sole discretion:

- (a) On or before the date that is 120 days following the Agreement Date, the City will be satisfied, in its sole discretion, with the results of the due diligence investigations, including as contemplated under section 3.4, with respect to the environmental condition of the Land, including, for clarity, the Building.

In consideration of \$10.00 non-refundable paid by the City to the Developer and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Developer, the Developer agrees not to revoke its acceptance of this Agreement while it remains subject to the conditions precedent under this section. If the City does not give the Developer notice of its satisfaction or waiver of any of the conditions precedent under this section within the time provided herein, this Agreement will automatically terminate.

3.3 Termination of Agreement – If any of the Conditions Precedent is not satisfied or, if permitted, waived in accordance with this Article within the applicable time provided for herein, this Agreement shall automatically terminate and the parties will have no further obligations under this Agreement except pursuant to sections 2.3 and 5.4, which shall survive such termination.

3.4 Environmental Investigations – As part of the Developer's due diligence investigations under section 3.1(a) and for the benefit of the City in connection with section 3.2(a), the Developer will cause an appropriately qualified professional or professionals, acceptable to the City, to conduct a Phase 1 Environmental Site Investigation with respect to Land and the Building based on terms of reference acceptable to both the Developer and the

City. The Developer will cause the foregoing investigation and report to be completed and provided to the City within 90 days of the Agreement Date and to be addressed to and prepared for the benefit of, and so that they may be used and relied upon by, both the Developer and the City and the report shall include express wording to that effect.

ARTICLE 4 - COMPLETION

- 4.1 **Title and Possession** – On the Completion Date, the City will:
- (a) convey the estate in fee simple of the Land to the Developer free and clear of all liens, charges and encumbrances except for the Permitted Encumbrances; and
 - (b) give vacant possession of the Land to the Developer, subject only to the Permitted Encumbrances.
- 4.2 **Adjustments** – All adjustments to the Purchase Price in respect of the Land, both incoming and outgoing, usually the subject of adjustments between a vendor and a purchaser in connection with the purchase and sale of land, including adjustments of property taxes, utilities and rents, will be made up to and including the applicable Completion Date.
- 4.3 **Closing Documents** –
- (a) No later than 5 days before the Completion Date, the Developer will cause the Developer's Solicitors to deliver to the City's Solicitors:
 - (i) the Transfer, to be approved and executed by the City;
 - (ii) the Development Covenant and the Re-Purchase Option, to be executed by the City;
 - (iii) 2 copies of the City's Statement of Adjustments, to be approved and executed by the City; and
 - (iv) the HST Certificate,
 each duly executed by the Developer, as applicable.
 - (b) Before the Completion Date, the City will cause the City's Solicitors to deliver to the Developer's Solicitors, the Transfer, the Development Covenant and the Re-Purchase Option, each duly executed on behalf of the City.

4.4 Completion – On or before the Completion Date:

- (a) the Developer will pay to the Developer's Solicitors, in trust, the Purchase Price, adjusted in accordance with this Agreement;
- (b) forthwith after receipt by the Developer's Solicitors of such payment and of the applicable documents from the City's Solicitors under section 4.3(b), the Developer will cause the Developer's Solicitors to apply to the LTO to deposit and register, as applicable, the Transfer, Development Covenant and Re-Purchase Option, as an all or nothing concurrent application; and
- (c) upon the Developer's Solicitors being satisfied after application to the LTO for to deposit and register the Transfer, Development Covenant and Re-Purchase Option in the LTO that there are no transfers, liens, charges or encumbrances, other than the Transfer and the Permitted Encumbrances, registered or pending registration against title to the Land the Developer will cause the Developer's Solicitors to deliver to the City's Solicitors a solicitor's trust cheque in the amount of the adjusted Purchase Price made payable to the City's Solicitors, in trust.

The parties agree that all requirements of this section are concurrent requirements and that nothing will be Completed on the Completion Date until everything required to be done by this section is done.

4.5 Risk – The Land is at the City's risk until application is made to register the Transfer in the Land, and is thereafter at the Developer's risk.

ARTICLE 5 - REPRESENTATIONS, WARRANTIES AND RELATED MATTERS

5.1 Developer's Representations and Warranties – The Developer hereby represents and warrants to the City that the following are true, and covenants with the City that the following will be true on the Completion Date:

- (a) the Developer is a company formed and existing under the laws of Canada or a Province of Canada and duly qualified to purchase and own the Land and the Developer has full power, authority and capacity to enter into this Agreement and carry out the transactions contemplated herein;
- (b) there is no action or proceeding pending, or to the Developer's knowledge threatened, against the Developer before any court, arbiter, arbitration panel, administrative tribunal or agency which, if decided adversely to the Developer,

might materially affect the Developer's ability to perform its obligations hereunder;

- (c) neither the Developer entering into this Agreement nor the performance of its terms will result in the breach of or constitute a default under any term or provision of any indenture, mortgage, deed of trust or other agreement to which the Developer is bound or subject; and
- (d) the Developer has taken all necessary or desirable actions, steps and other proceedings to approve and authorize, validly and effectively, the entering into, execution, delivery and performance of this Agreement.

5.2 Acknowledgments and Agreements by Developer – The Developer acknowledges and agrees that:

- (a) the City sells and the Developer purchases the Land on an "as is" basis and condition;
- (b) the City has not made any representations, warranties or agreements as to the condition or quality of the Land, including as to:
 - (i) the subsurface nature or condition of the Land (including soil type, hydrology and geotechnical quality or stability);
 - (ii) the environmental condition of the Land (including regarding Contaminants in, on, under or migrating to or from the Land) or regarding the compliance of the Land, or past or present activities on it, with any Environment Laws;
 - (iii) the suitability of the Land for the Developer's intended use for, or development of, the Land; or
 - (iv) access to or from the Land;
- (c) it is the sole responsibility of the Developer to satisfy itself with respect to:
 - (i) the environmental condition of the Land (including regarding Contaminants in, on or under or migrating to or from the Land);
 - (ii) regarding the compliance of the Land or past or present activities on it, with any Environmental Laws, including by conducting any reports, tests, investigations, studies, audits and other enquiries that the Developer, in its sole discretion, considers prudent;

- (d) effective from and after Completion of the sale of the Land, the Developer shall be solely responsible for all remediation costs (as defined in the *Environmental Management Act* (British Columbia)), the costs of complying with any Environmental Laws and all consultant and legal fees, costs and disbursements), expenses, fines and penalties incurred, on or after Completion, which the Developer or any other person has or may have arising out of or in any way related to or in connection with the Land, including the presence of (i) Contaminants within the Building or any part thereof whether arising before, on or after Completion, (ii) the presence of Contaminants in, on, under or migrating to or from the Land (other than under (i) of this paragraph) arising after Completion, and (iii) any mandatory or voluntary remediation, mitigation or removal of any Contaminants referred to in (i) or (ii) of this paragraph; and
 - (e) the City has not made any representations, warranties or agreements with the Developer as to whether any HST is payable by the Developer in respect of the sale of the Land to the Developer.
- 5.3 **Site Profile** – The Developer hereby waives delivery by the City to the Developer of a site profile (as defined in the *Environmental Management Act* (British Columbia)) with respect to the Land.
- 5.4 **Access** – The Developer, its agents and employees have a licence, exercisable on 24 hours prior written notice to the City, but subject to the rights of any occupants of the Land and compliance with such rights, to enter upon the Land from time to time prior to the Completion Date, at the Developer's sole risk and expense, for the purpose of making inspections, surveys, tests and studies of the Land. The Developer agrees to:
- (a) release and indemnify, and hold harmless, the City from and against any and all actions, causes of actions, liability, demands, losses, costs and expenses (including legal fees and disbursements) which the City or any third party may suffer, incur, be subject to or liable for, arising out of or in any way related to or in connection with the exercise by the Developer of its rights under this section; and
 - (b) leave the Land in the same condition as that in which the Developer found the Land, including by removing any equipment, refuse or other matter brought onto the Land by the Developer or its agents or contractors.

ARTICLE 6 - MISCELLANEOUS

- 6.1 **Fees and Taxes** – The Developer will pay, as and when due and payable:

- (a) any property transfer tax payable under the *Property Transfer Tax Act* (British Columbia) with respect to the purchase of the Land hereunder;
- (b) LTO fees in connection with the registration or deposit with the LTO of any document to be registered pursuant to the terms of this Agreement;
- (c) its own legal fees and disbursements; and
- (d) any HST payable in respect of the sale to the Developer of the Land hereunder, with the Developer and the City agreeing that the Purchase Price does not include HST.

The City will pay its own legal fees and disbursements.

- 6.2 **HST Certificate** - On or before the Completion Date, the Developer will provide the City with a certificate (the "**HST Certificate**"), executed by the Developer, stating that the Developer is registered with Canada Revenue Agency or any successor thereto for the purposes of HST and setting out its HST registration number. The Developer shall indemnify and save harmless the City from and against any and all claims, demands, actions or causes of action and all losses, costs, liabilities and expenses that may be suffered or incurred by the City in respect of any HST payable in respect of the sale of the Land hereunder.
- 6.3 **Currency** – All dollar amounts referred to in this Agreement are Canadian dollars.
- 6.4 **Preparation of Documents and Clearing Title** – The Developer will at its expense prepare all necessary conveyancing documentation. At its expense, the City will clear title to the Land, subject only to the Permitted Encumbrances.
- 6.5 **Further Assurances** - Each of the parties will at all times execute and deliver at the request of the other all such further documents, deeds and instruments, and do and perform such other acts, as may be reasonably necessary to give full effect to the intent and meaning of this Agreement.
- 6.6 **Notice** - Any demand or notice which may be given pursuant to this Agreement will be in writing and delivered, faxed, sent by e-mail or sent by postage prepaid mail and addressed to the applicable party as follows:

to the City:

City of Nanaimo
455 Wallace Street

Nanaimo, BC V9R 5J6
Fax Number: (250) 754-8263
Email Address: bill.corsan@nanaimo.ca
Attention: Bill Corsan

to the Developer:

201 – 890 Crace Street
Nanaimo, BC V9R 2T3
Fax Number: (250) 714-0063
Email Address: darren@tectonica.ca
Attention: Darren Moss

or at such other address as either party may specify by notice in writing to the other. The time of giving and receiving any such notice will be deemed to be on the day of delivery or receipt if delivered or sent by fax or email, or on the third Business Day after the day of mailing thereof if sent by mail. In the event of any disruption of mail services, all notices will be delivered or sent by fax or email rather than mailed.

6.7 No Effect on Powers – For clarity, this Agreement does not:

- (a) affect or limit the discretion, rights, duties or powers of the City or the approving officer for the City under the common law or any statute, bylaw or other enactment nor does this Agreement create or give rise to, nor do the parties intend this Agreement to create, any implied obligations concerning such discretionary rights, duties or powers;
- (b) affect or limit the common law or any statute, bylaw or other enactment applying to the Land; or
- (c) relieve the Developer from complying with any common law or any statute, regulation, bylaw or other enactment.

Without limiting the foregoing, the Developer acknowledges and agrees that where fulfillment of any of the Conditions Precedent requires that the Council of the City adopt bylaws or pass resolutions, the adoption of such bylaws and passage of such resolutions shall be within the absolute and unfettered discretion of Council and the provisions of this Agreement will not in anyway obligate the Council to adopt such bylaws or pass such resolutions.

6.8 Time of Essence - Time is of essence of this Agreement and the transaction for which it provides.

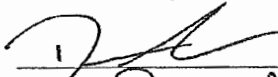
- 6.9 **Tender** - Any tender of documents or money may be made upon the parties at their respective addresses set out in this Agreement or upon their respective solicitors.
- 6.10 **Change of Solicitors** – A party may change its solicitor by providing notice to the other party.
- 6.11 **No Other Agreements** - This Agreement (including, for clarity, the agreements to be executed pursuant to this Agreement) is the entire agreement between the parties regarding its subject matter and it terminates and supersedes all prior representations, warranties, promises and agreements regarding its subject matter.
- 6.12 **Assignment** – The Developer may not assign all or any part of this Agreement, or the benefit hereof, without the prior written consent of the City, which may be withheld without reason, provided that the City will consent to an assignment of this Agreement in its entirety to a company affiliated with the Developer (as the term ‘affiliate’ is defined under the *Business Corporations Act*), or to a new corporation, if the principals of such affiliate or corporation include William Derby, Darren Moss, Barry Fairbank and Robert Moss.
- 6.13 **Benefit** - This Agreement enures to the benefit of and is binding upon the parties and their respective heirs, executors, administrators, successors and assigns.
- 6.14 **Schedules** – The following Schedules to this Agreement form an integral part of this Agreement:
- Schedule A – Permitted Encumbrances
Schedule B – Development Covenant
Schedule C – Re-Purchase Option
-
- 6.15 **Modification** - This Agreement may not be modified except by agreement in writing signed by the parties.
- 6.16 **Interpretation** - Wherever the singular or neuter is used in this Agreement, it will include the plural, the feminine, the masculine or body corporate where the context requires.
- 6.17 **Governing Law** – This Agreement will be governed by and construed in accordance with the laws of British Columbia.
- 6.18 **No Real Estate Agent** – The Developer represents and warrants to the City that no real estate agent or other agent has assisted the Developer, or in any way directly or indirectly participated, in the making of this Agreement and that no real estate agent or

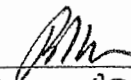
other agent is entitled to any commission or other remuneration in any way in connection with this Agreement or the sale and purchase of the Land between the City and the Developer, and the Developer agrees to indemnify and hold the City harmless from and against any such commission or remuneration, and any action, cause of action or liability relating thereto.

6.19 **Non-Merger** – None of the provisions of this Agreement will merge on Completion of the transfer of the Land.

As evidence of their agreement to be bound by the terms and conditions of this Agreement, the parties have executed this Agreement below:

TECTONICA MANAGEMENT INC. by its authorized signatories:


Name: DARREN MOSS


Name: ROBERT I. MOSS

Date: _____

CITY OF NANAIMO by its authorized signatories:

Mayor:

Clerk:

Date: _____

Schedule A

Permitted Encumbrances

- Undersurface Rights M76301

Development Covenant

TERMS OF INSTRUMENT - PART 2

WHEREAS:

- A. The Transferor is the registered owner in fee-simple of those lands and premises located within the City of Nanaimo, in the Province of British Columbia, more particularly described as:

PID: 000-000-434
 Lot 1, (DD F94704), Section 1, Nanaimo District, Plan 5108
 (the "Lands")

- B. The Transferee is the City of Nanaimo;
- C. The City of Nanaimo's City Hall Annex, having a civic address of 238 Franklyn Street (the "**Building**"), is located on the Lands;
- D. The Building requires significant upgrades to meet the seismic requirements of the British Columbia Building Code 2006, as amended from time to time (the "**Building Code**");
- E. The Transferor acknowledges that it is in the public interest that the use of the Building be limited and wishes to grant this covenant (the "**Agreement**") to the Transferee;
- F. Section 219 of the *Land Title Act* provides that a covenant, whether of negative or positive nature, in respect of:
- the use of land or the use of a building on or to be erected on land;
 - that land is to be built on in accordance with the covenant;
 - that land is not to be built on or subdivided except in accordance with the covenant;
 - that land is not to be used, built on or subdivided;
 - that separate parcels of land are not to be sold or transferred separately;
 - that land or specified amenities be protected, preserved, conserved, maintained, enhanced, restored or kept in its natural or existing state;

may be granted in favour of the municipality and may be registered as a charge against the title to that land.

NOW THEREFORE THIS AGREEMENT WITNESSES that under Section 219 of the *Land Title Act*, and in consideration of the premises and the mutual covenants and agreements contained herein, and the sum of ONE (\$1.00) DOLLAR of lawful money of Canada now paid to the Transferor by the Transferee (the receipt and sufficiency of which is hereby acknowledged), and for other good and valuable consideration the parties covenant and agree each with the other as follows:

Building Upgrade or Demolition

1. The Transferor covenants and agrees with the Transferee that it must not use or permit the use of the Building for the purpose of any human occupancy unless the Transferor has first, to the satisfaction of the Transferee, carried out such renovations, modifications and upgrades as are necessary to render the Building sixty percent (60%) compliant with the seismic requirements of the Building Code.
2. The Transferee will, upon the request and at the expense of the Transferor, discharge this Agreement from title to the Lands provided that either of the following conditions has been met:
 - (a) the Transferor has carried out the renovations, modifications and upgrades necessary to render the Building sixty percent (60%) compliant with the seismic requirements of the Building Code, to the satisfaction of the Transferee; or
 - (b) the Transferor has completely demolished the Building.

General Provisions

3. The Transferor must indemnify and save harmless the Transferee from any and all claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees whatsoever which anyone has or may have against the Transferee or which the Transferee incurs as a result of any loss or damage or injury, including economic loss, arising out of or connected with:
 - (a) the breach of any covenant in this Agreement;
 - (b) the use of the Lands contemplated under this Agreement; and
 - (c) restrictions or requirements under this Agreement.
4. The Transferor hereby releases and forever discharges the Transferee of and from any claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees whatsoever which the Transferor can or may have against the Transferee for any loss or damage or injury, including economic loss, that the Transferor may sustain or suffer arising out of or connected with:
 - (a) the breach of any covenant in this Agreement;
 - (b) the use of the Lands contemplated under this Agreement; and
 - (c) restrictions or requirements under this Agreement.
5. At the Transferor's expense, the Transferor must do everything necessary to secure priority of registration and interest for this Agreement and the Section 219 Covenant it creates over all registered and pending charges of a financial nature against the Lands.
6. Nothing contained or implied in this Agreement shall prejudice or affect the rights and powers of the Transferee in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively

exercised in relation to the Lands as if the Agreement had not been executed and delivered by the Transferor.

7. The Transferor covenants and agrees that the Transferee may withhold occupancy permits as necessary to ensure compliance with the covenants in this Agreement, and further that the issuance of a development permit, building permit or occupancy permit does not act as a representation or warranty by the Transferee that the covenants in this Agreement have been satisfied.
8. Time is of the essence of this Agreement.
9. The Transferor covenants and agrees for itself, its heirs, executors, successors and assigns, that it shall at all times perform and observe the requirements and restrictions set out in this Agreement and they shall be binding upon the Transferor as personal covenants only during the period of its respective ownership of any interest in the Lands.
10. It is mutually understood, acknowledged and agreed by the parties hereto that the Transferee has made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the Transferor other than those contained in this Agreement.
11. The waiver by a party of any breach of this Agreement or failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar, and no waiver shall be effective unless it is in writing signed by both parties.
12. The enforcement of this Agreement shall be entirely within the discretion of the Transferee and the execution and registration of the Agreement against title to the Lands shall not be interpreted as creating any duty on the part of the Transferee to the Transferor or to any other person to enforce any provision or the breach of any provision of this Agreement.
13. Wherever the singular, masculine and neuter are used throughout this Agreement, the same is to be construed as meaning the plural or the feminine or the body corporate or politic as the context so requires.
14. The headings in this Agreement are included for ease of reference only and shall not affect the interpretation of this Agreement or any provision of this Agreement.
15. All of the provisions of this Agreement shall be construed as covenants and agreements as though the words importing covenants and agreements were used in each separate paragraph.
16. No remedy under this Agreement is to be deemed exclusive but shall, where possible, be cumulative with all other remedies at law or in equity.
17. The restrictions and covenants herein contained shall be covenants running with the Lands and shall be perpetual, and shall continue to bind all of the Lands when subdivided, and shall be registered in the Victoria Land Title Office pursuant to section 219 of the *Land Title Act* as covenants in favour of the Transferee as a charge against

the Lands in priority to all charges of a financial nature.

18. The Transferor agrees to execute all other documents and provide all other assurances necessary to give effect to the covenants contained in this Agreement.
19. If any part of this Agreement is found to be illegal or unenforceable, that part shall be considered separate and severable and the remaining parts shall not be affected thereby and shall be enforceable to the fullest extent permitted by law.
20. This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

The Transferor and Transferee acknowledge that this Agreement has been duly executed and delivered by the parties executing Form C (page 1) attached hereto.

Re-Purchase Option**TERMS OF INSTRUMENT - PART 2****WHEREAS:**

- A. The Transferor is the registered owner in fee simple of:
 PID 000-000-434
 Lot 1, (DD F94704), Section 1, Nanaimo District, Plan 5108
 (the "**Land**");
- B. The Transferee is the City of Nanaimo;
- C. The City of Nanaimo's City Hall Annex, having a civic address of 238 Franklyn Street (the "**Building**"), is located on the Lands;
- D. The Building requires significant upgrades to meet the seismic requirements of the British Columbia Building Code 2006, as amended from time to time (the "**Building Code**");
- E. To ensure that the Building is either upgraded or demolished in a timely manner, the Transferor has agreed to grant to the Transferee an option to purchase the Land on the terms and conditions set out herein.

NOW THEREFORE, in consideration of the premises and the sum of Ten Dollars (\$10.00) now paid by the Transferee to the Transferor (the receipt and sufficiency of which is hereby acknowledged by the Transferor), the parties agree as follows:

Definitions

1. In this Agreement:
- (a) "**Agreement**" means this Agreement, including its recitals and schedules, and Forms C and D attached hereto.
- (b) "**Completion Date**" means the 60th day following the provision of notice of the exercise of the Option by the Transferee, or if the Land Title Office is closed on such day, the next day that office is open, or such other date as may be agreed in writing by the parties;
- (c) "**Election Period**" means the period of time referred to in section 6;
- (d) "**GST**" means the Goods and Services Tax levied pursuant to the *Excise Tax Act* (Canada), and if applicable, is deemed to include any harmonized sales tax levied pursuant to federal and provincial legislation.

- (e) **"Improvements"** includes all improvements on the Land as of the date of exercise of the Option by the Transferee.
- (f) **"Option"** means the option to purchase the Land granted by the Transferor to the Transferee under the terms of this Agreement;
- (g) **"Option Event"** means the event that triggers the Transferee's right to exercise the Option, as set out in section 4.
- (h) **"Permitted Encumbrances"** means the liens, charges and encumbrances set out in Schedule "A" to this Agreement.
- (i) **"Registration Date"** means the date that this instrument is registered against title to the Land in the Land Title Office.
- (j) **"Transferor"** includes the successors in title of the Transferor.

Term

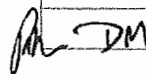
- 2. The term of this Agreement is eighty (80) years commencing on the Registration Date, provided that if the perpetuity period for the Option as specified in the *Perpetuity Act* is increased or decreased in length then the term of this Agreement will be increased or decreased accordingly.

Grant of Option

- 3. The Transferor grants to the Transferee an irrevocable option to purchase the Land and Improvements on the terms and conditions set out in this Agreement.

Option Event

- 4. The Transferee may exercise the Option in the event that the Transferor has not, within two (2) years following the Registration Date, done one of the following:
 - (a) completed the design and construction of the renovations, modifications and upgrades necessary to render the Building sixty percent (60%) compliant with the seismic requirements of the Building Code ~~and such that the Building is shell space finished and ready for the installation of tenant improvements~~, all to the satisfaction of the Transferee; or
 - (b) completely demolished the Building.

INITIAL


Notice of Exercise of Option

5. In order to exercise the Option, the Transferee must deliver written notice to the Transferor of the Transferee's exercise of the Option pursuant to the terms and conditions of this Option to Purchase.
6. The Transferee may exercise the Option at any time after the occurrence of the Option Event, unless prior to the exercise of the Option the Transferor has fulfilled one or the other of the requirements under sections 4 (a) and 4 (b).

Purchase Price

7. The purchase price for the purpose of the Option shall be equal to the purchase price paid by the Transferor to the Transferee on the Registration Date, not including GST, less liquidated damages in the amount of ten thousand dollars (\$10,000.00) to compensate the Transferee for the costs of marketing, selling and remarketing and selling the Land, over and above those costs for which the Transferor is responsible under section 10 (c).

General

8. The acceptance and exercising of the Option in the manner set out in this Option to Purchase constitutes a binding contract of sale and purchase of the Land and Improvements. The completion of the sale and purchase of the Land and Improvements shall take place on the Completion Date and on or before the Completion Date, the parties shall execute and deliver such documents as are reasonably required to convey title to the Land and Improvements to the Transferee, free and clear of all liens, charges and encumbrances, whether registered or unregistered, except the Permitted Encumbrances.
9. This Agreement shall terminate and the Transferee shall, at the expense of the Transferor, provide a discharge of this Agreement in registrable form, in either of the following cases:
 - (a) if the Option is not exercised in the manner set forth in this Agreement and the term set out in section 2 has expired; or
 - (b) if the Transferor has, prior to the exercise of the Option, fulfilled one or the other of the requirements under sections 4 (a) and 4 (b).
10. If the Transferee elects to acquire the Land and Improvements pursuant to this Agreement, then:
 - (a) the purchase and sale of the Land and Improvements will complete on the Completion Date;

- (b) the Transferee will be entitled to possession of the Land and Improvements at noon on the Completion Date;
 - (c) all adjustments of taxes, utilities and other items normally adjusted between a vendor and purchaser on the sale of similar property shall be made with respect to the Land and Improvements to and including the Completion Date. Real property taxes will be adjusted on the basis that current year's taxes will be 10% higher than previous years' taxes but the parties will readjust ten (10) days after determination of the actual current year real property taxes. The Transferor will pay the costs of the Transferee in relation to the transfer of the Land and Improvements, including Land Title Office registration fees and legal fees, and the purchase price shall be adjusted accordingly;
 - (d) the Land and Improvements will be at the risk of the Transferor until 12:00 noon on the Completion Date;
 - (e) all documentation required to convey the Land and Improvements to the Transferee will be prepared by its solicitors and delivered to the solicitors for the Transferor at least five (5) business days before the Completion Date, and the Transferor will execute, in registrable form, all documents necessary to transfer title to the Land and Improvements to the Transferee;
 - (f) the Transferor will execute and deliver to the Transferee such further documents and give such further assurances as the solicitors for the Transferee may require in order to carry out and give effect to the intent of this Agreement and the purchase and sale contemplated in this Agreement;
 - (g) on the Completion Date the Transferee will cause its solicitors to register the transfer of the Land and Improvements in the Land Title Office;
 - (h) following registration of the transfer of the Land and Improvements on the Completion Date, and upon the Transferee's solicitors being satisfied by way of post-registration search that title to the Land and Improvements will vest in the Transferee in accordance with ordinary Land Title Office procedures, the Transferee will pay to the Transferor by way of solicitor's trust cheque the purchase price due to the Transferor under this Agreement, as adjusted under section 10(c).
11. After the delivery of notice under section 5, until 12:00 noon on the Completion Date the Transferor will:
- (a) permit the Transferee and its representatives to enter onto the Land and carry out such inspections, tests, studies, appraisals, surveys and

investigations of the Land and Improvements as the Transferee may reasonably require;

- (b) cause the Land and Improvements to be maintained in the manner of a prudent owner;
- (c) maintain insurance coverage with respect to the Land and Improvements in full force and effect until 12:00 noon on the Completion Date in such amounts and on such terms as would a prudent owner;
- (d) not enter into or amend any contract with respect to the Land and Improvements including, without limitation, leases or service contracts, before the Completion Date without the prior written approval of the Transferee;
- (e) grant authorizations reasonably required by the Transferee to authorize municipal or other governmental authorities to release information confirming compliance with laws, bylaws and other statutory and governmental regulations and with respect to potential statutory liens;
- (f) pay when due any indebtedness of the Transferor to any municipal or other governmental authority which, by operation of law or otherwise, becomes a lien, charge or encumbrance on the Land or Improvements from and after the Completion Date, including without limitation, corporation capital taxes and workers compensation payments; and
- (g) not modify, amend or cancel any of the Permitted Encumbrances without the prior written approval of the Transferee.

12. Time is of the essence of this Agreement.

13. Any notice required to be given under this Agreement will be in writing and will be deemed to have been received, if delivered on the date of delivery or, if mailed by prepaid registered mail, on the fourth day following the date of mailing, addressed:

In the case of the Transferee:

City of Nanaimo
455 Wallace Street
Nanaimo, B.C.
V9R 5J6

In the case of the Transferor, to the address shown on title to the Land.

14. No term, condition, covenant or other provision of this Agreement will be considered to have been waived by the Transferee unless such waiver is expressed in writing by the Transferee and the waiver by the Transferee of any such term, condition, covenant or other provision of this Agreement will not be construed as or constitute a waiver of any further or other breach of that or any other term, condition, or other provision of this Agreement.
15. This Agreement extends to, is binding upon and ensures to the benefit of the parties and their respective heirs, executors, administrators, successors and assigns.
16. In this Agreement, unless the context otherwise requires, the singular includes the plural and the masculine includes the feminine gender and a corporation.
17. The headings in this Agreement are included for ease of reference only and shall not affect the interpretation of this Agreement or any provision of this Agreement.
18. All of the provisions of this Agreement shall be construed as covenants and agreements as though the words importing covenants and agreements were used in each separate paragraph.
19. This Agreement will be interpreted according to the laws of the Province of British Columbia.
20. If any section of this Agreement or any part of a section, is found to be illegal or unenforceable, that part or section, as the case may be, will be considered separate and severable and the remaining parts or sections, as the case may be, will not be affected and will be enforceable to the fullest extent permitted by law.
21. Nothing contained or implied in this Agreement shall prejudice or affect the rights and powers of the Transferee in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Land as if the Agreement had not been executed and delivered by the Transferor.

IN WITNESS WHEREOF the parties hereto hereby acknowledge that this Agreement has been duly executed and delivered by the parties executing Form C, page 1, attached hereto.

SCHEDULE A
Permitted Encumbrances

1. All subsisting exceptions and reservations of rights, titles, interests and privileges contained in any previous Crown grant of the Land.
2. **Legal Notations:**
None.
3. **Charges, Liens and Interests:**
Undersurface Rights in favour of Her Majesty the Queen in Right of the Province of British Columbia

ATTACHMENT C



238 Franklyn St. sale to Tectonica Management Inc. to spur new development

(Nanaimo, December 17, 2012) – The City of Nanaimo has approved a purchase and sales agreement which will transfer ownership of the old City Hall Annex located at 238 Franklyn Street to Tectonica Management Inc., to encourage investment in the downtown core.

The decision to sell the building originally presented a number of challenges on account of its condition. In a report prepared by Herold Engineering, the building was identified as being at high risk during a significant seismic event. In addition, an estimate outlining the cost to upgrade the building found that the cost (\$6.3 million) greatly exceeded the market value of the property. In light of this gap, in April of 2012, Council directed staff to advertise an Expression of Interest of which two submissions were received, both valuing the building at \$1. At the August 12, 2012 In Camera Committee of the Whole Meeting, Tectonica was chosen by Council as the successful bid.

Under the terms of the purchase and sales agreement, Tectonica Management will have two years to seismically upgrade the building or demolish it from the date of possession. Tectonica has indicated they intend to bring the building up to code and convert the lower two floors to commercial uses while adding two new storeys of residential space above.

“Today’s announcement is a win-win for the community of Nanaimo” said Mayor John Ruttan. “The sale of the old City Hall Annex to Tectonica for one dollar solves the challenge of disposing of a property for which there is no financial incentive for a buyer to develop. Having reviewed our options carefully, Council believes the agreement with Tectonica supports our strategic priority for effective asset management while successfully supporting the community’s vision to see continued development of the downtown core.”

“Tectonica Management Inc. is very pleased to have reached agreement with the City for the adaptive re-use of the City Hall Annex”, said Tectonica Director, Darren Moss. “Our firm is keen to proceed with the project as soon as the local market direction is clear. We believe the existing building is in a great location and provides a strong base for redevelopment including both residential and commercial space. There is an opportunity to create a range of residential units to meet the needs of a variety of residents seeking a new home in downtown Nanaimo.”

As an incentive to undertake the planned seismic upgrading as soon as possible, the City has agreed to pay Tectonica a \$40,000 performance bonus, the equivalent to two years worth of property tax. To receive this bonus, the seismic upgrade – or alternate demolition – must occur within the window of the first two years following Tectonica taking ownership of the property. In addition, if Tectonica does not complete design and construction of the renovations, modification and upgrades necessary to render the building 60 per cent compliant with the seismic requirements of the building code within the first two years of taking ownership of the building, the City has the option to buy the land and building back.

ATTACHMENT C

-30-

Contact:

Toby Seward
Director of Development
City of Nanaimo
250-755-4424

"IN CAMERA"

**City of Nanaimo
REPORT TO COUNCIL**

DATE OF MEETING: 2012-DEC-3

AUTHORED BY: BILL CORSAN, MANAGER, REAL ESTATE

RE: ROAD CLOSURE PORTION OF MEREDITH ROAD ADJACENT TO 1720 MEREDITH ROAD

STAFF RECOMMENDATION:

That Council:

1. approve in principle, the sale of the proposed road closure area to Nanaimo Church of Christ ("NCC") for the sum of \$139,500; and
2. if approval in principle is received, direct Staff to prepare a report with an accompanying road closure bylaw for the next open Council agenda.

PURPOSE:

The purpose of this report is to provide information to Council and seek approval in principle, to the sale of a portion of road right of way known as Meredith Road.

BACKGROUND:

NCC has submitted a road closure application for the acquisition of part of Meredith Road. The road closure area comprises of approximately 617.8 m² (6,650 sq. ft.) as shown on Attachment A. The road closure is required to create a parcel of sufficient size once consolidated to the adjacent lands to accommodate an addition and renovation to the existing NCC church. NCC will also continue to use part of the road closure area as parking for the church.

NCC has paid for an independent appraisal which estimates the market value of the road right of way to be \$139,500 and are prepared to submit an Offer to Purchase on this basis.

Meredith Road is a local city street that has asphalt paved with concrete curbs and sidewalks and underground utility services. There are no utilities located within the proposed road closure area. Fortis BC, Telus, Shaw, BC Hydro and the Ministry of Transportation interests are unaffected by this application.

In addition to the \$500.00 fee for processing the road closure application, costs for legal, survey and advertising will be recovered from NCC.

Council
 Committee.....
 Open Meeting
 In-Camera Meeting

Meeting Date: 2012 - DEC - 03

DISCUSSION

Staff has reviewed the application in accordance with all City standards and can confirm the road area to be surplus to the City's needs.

As this report deals with land disposition Staff has brought the report to an In-camera meeting however if approval in principle for the disposal of the land is received a report will be prepared and brought forward to the next open Council agenda as part of a road closure bylaw.

Respectfully submitted,

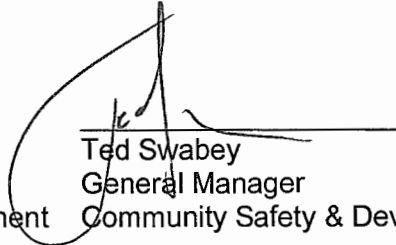


Bill Corsan
Manager, Real Estate
Community Safety & Development

Concurrence by:



Andrew Tucker
Director of Planning
Community Safety & Development



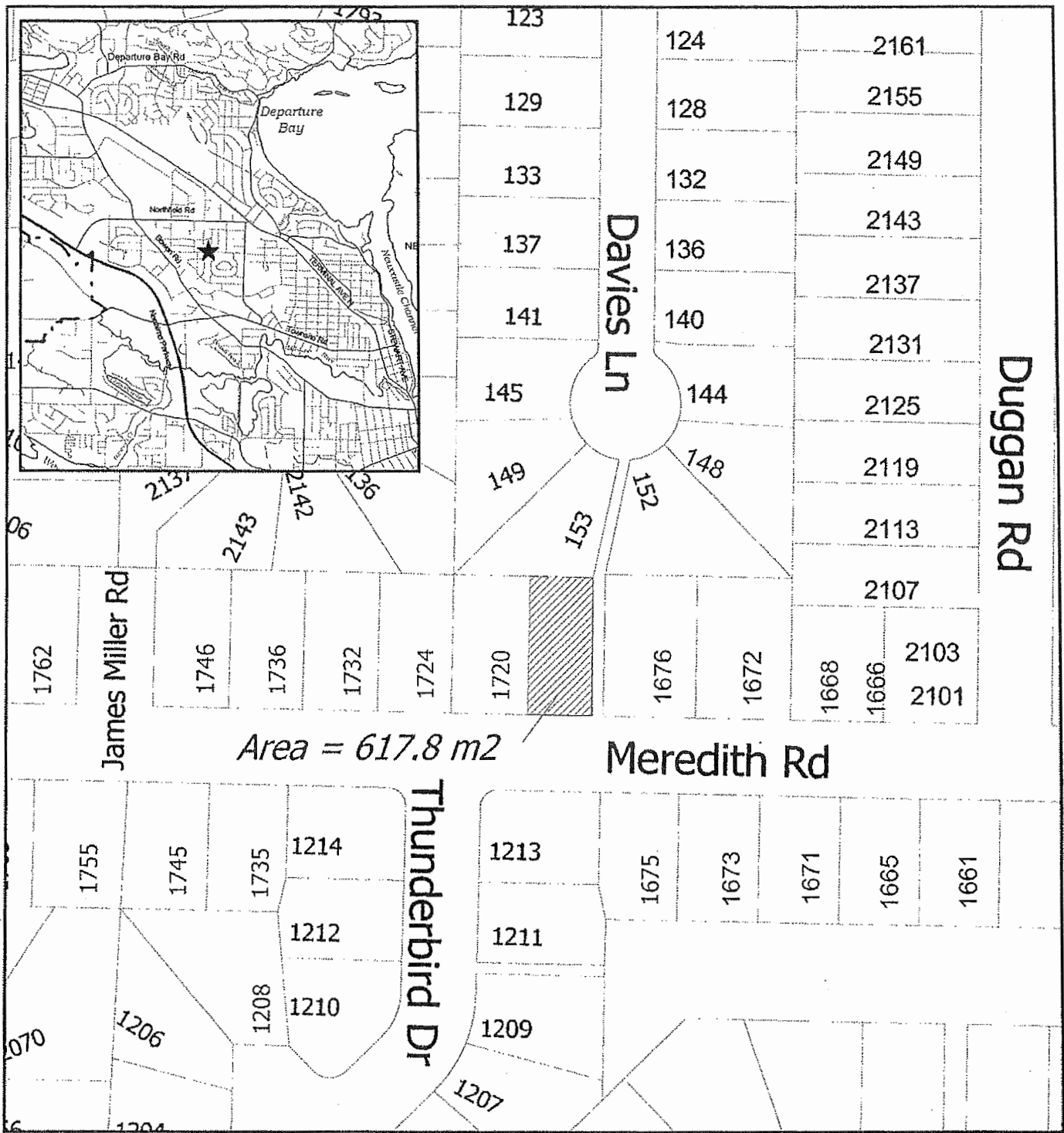
Ted Swabey
General Manager
Community Safety & Development

CITY MANAGER COMMENT:

I concur with the staff recommendation.


Drafted: 2012-DEC-03
File LD002554
NP

ATTACHMENT A



Area = 617.8 m²

LOCATION PLAN

 Subject Property



Road Closure over part of Road Dedication
Adjacent to 1720 Meredith Road

"IN CAMERA"
City of Nanaimo
REPORT TO COUNCIL

DATE OF MEETING: 2012-DEC-3

AUTHORED BY: BILL CORSAN, MANAGER, REAL ESTATE

RE: ACQUISITION OF 310 PARK STREET

STAFF RECOMMENDATION:

That Council:

1. approve the acquisition of 310 Park Street for a price of up to _____ and
2. authorize the Mayor and Corporate Officer to execute the necessary documents to effect the transaction.

PURPOSE:

The purpose of this report is to provide information to Council and request approval for Staff to acquire 310 Park Street for a price of up to _____

BACKGROUND:

_____, the listing agent for 310 Park Street has approached the City to determine the level of interest in acquiring 310 Park Street.

310 Park Street is a vacant lot, 278m² (2,993 sq ft) in size, roughly rectangular in shape, with R1 zoning. The property has a City sanitary sewer running through it and although there is legal access to the site there is no formal built access. The property is listed for court ordered sale for an appraised value of \$6,900. The 2012 BC assessment value for the land is \$33,100.

DISCUSSION

Rationale for Acquisition

The City owns the surrounding property at 503 Bradley (vacant land), 350 Park Street (vacant land) and 110 Wall Street (Caledonia Park) as shown on Attachment A. The land at 350 Park Street was acquired in 1987 to allow for construction of a new connector road between Wall Street and Holly Avenue. The project was put on hold by Council and the land has remained vacant since.

The acquisition of 310 Park Street enables the City to own all the lots immediately north of Caledonia Park.

Committee.....
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-DEC-03

Staff have reviewed the development options for 310 Park Street. At present, the property is not accessible from an established road. The parcel is small and irregular in shape which makes it challenging to develop. Servicing the site would also be problematic.

Funding

Funding for this acquisition is from the Property Acquisition Reserve Fund.

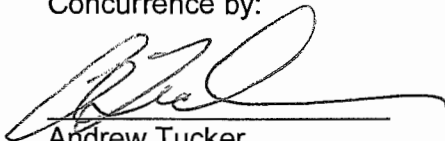
As this report deals with land acquisition Staff has brought the report to an In-camera meeting however if approval for the acquisition of the land is received a report will be prepared and brought forward to the next open Council agenda.

Respectfully submitted,

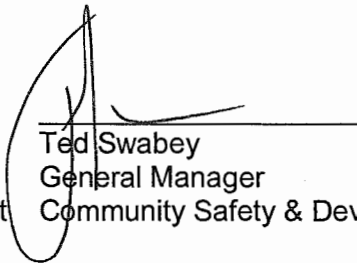


Bill Corsan
Manager, Real Estate
Community Safety & Development

Concurrence by:



Andrew Tucker
Director of Planning
Community Safety & Development

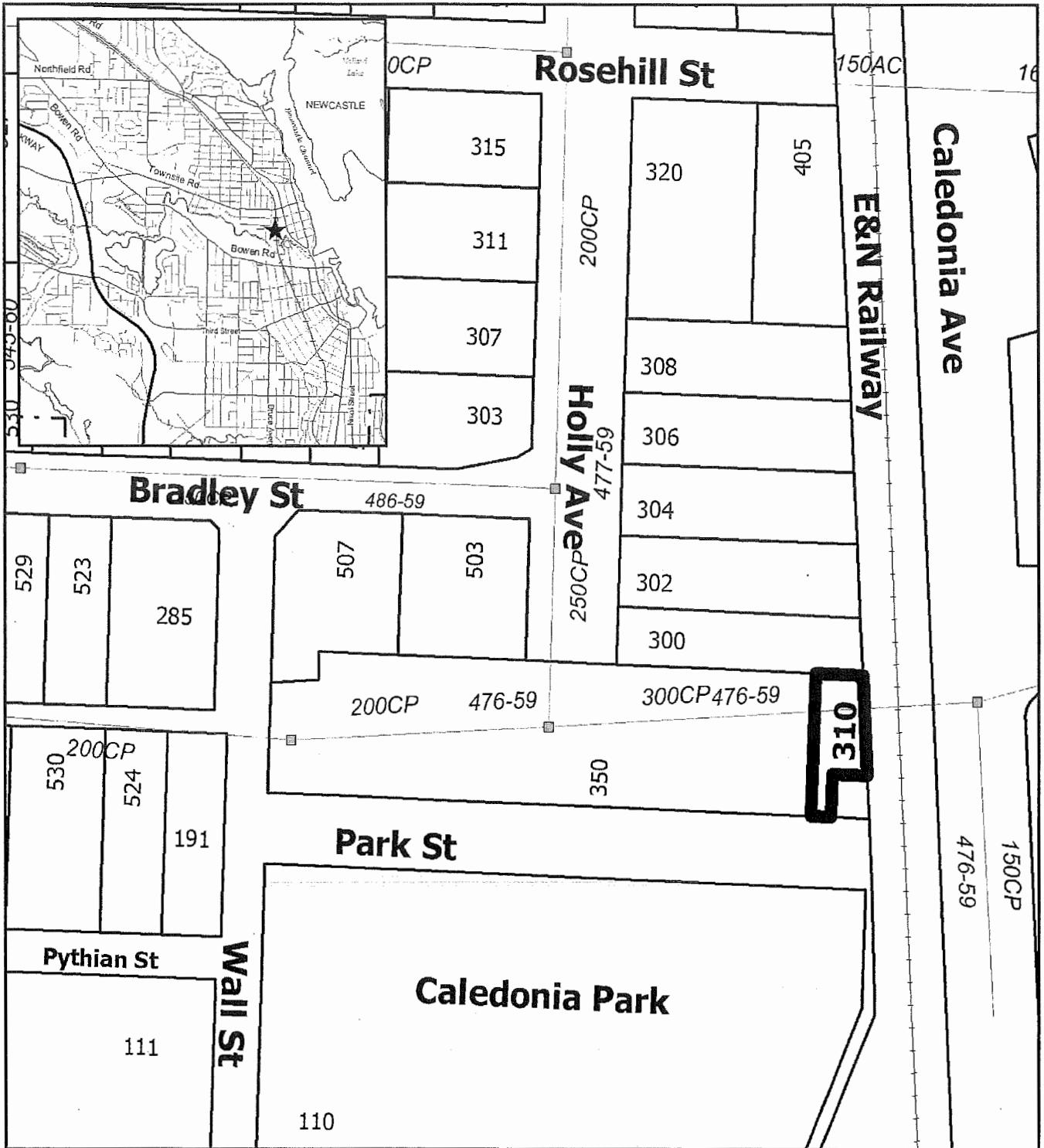


Ted Swabey
General Manager
Community Safety & Development

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2012-NOV-22
File LD002617
NP



LOCATION PLAN

Property Acquisition
Civic: 310 Park Street



 Subject Property

 City Owned Land

“IN CAMERA”
City of Nanaimo
REPORT TO COUNCIL

DATE OF MEETING: 2012-DEC-03
AUTHORED BY: Ian Howat, Director of Strategic Relationships
RE: Water Servicing Agreement to Indian Reserve Nanaimo River #2

STAFF RECOMMENDATION:

That Council approve the attached Water Servicing Agreement to Indian Reserve Nanaimo River #2 and authorize the Mayor and Corporate Officer to execute the agreement.

PURPOSE:

To enter into a servicing agreement with Snuneymuxw First Nation (SFN) to provide City of Nanaimo water services to the Indian Reserve Nanaimo River #2.

BACKGROUND:

The City and SFN agreed to seeking a solution to the water quality and quantity problems on IR#2 in 2005 when it was identified as a fundamental issue to be addressed by both parties in the original Protocol Agreement. In the Protocol agreement the City agreed to provide City water to IR#2 assuming that SFN would find the necessary funding to undertake the extension of the infrastructure. Indian and Northern Affairs Canada (INAC) typically fund these initiatives, but as this opportunity unfolded SFN discovered that INAC would not fund extending City water to IR#2 because of the high percentage of CP Lands (Certificate of Possession), which is like fee simple ownership.

That work is nearing completion and before the water can flow, the City and SFN must enter into a water servicing agreement.

Council
 Committee.....
 Open Meeting
 In-Camera Meeting
Meeting Date: 2012-DEC-03

DISCUSSION:

The Water Servicing Agreement to Indian Reserve Nanaimo River #2 is attached as "Attachment A" for your review. Some highlights are:

- The City's responsibilities for maintenance of the water system end at the border of IR#2.
- SFN is responsible for maintaining the system within IR#2.
- Water will be metered at the boundary of IR #2 and the same fee will be charged to SFN that is charged to all other users on the City system.
- The City is protected from any liability resulting from providing water to SFN and is not required to provide any service other than what is provided to the rest of the water users in the City system.
- In the event that the City is not paid by SFN for the water used and through the dispute resolution process this impasse is not resolved the City has the right to shut off the water supply.
- The connection fees that mirror the City's water DCC rates have been waived for the existing properties on IR#2, but all new connections must pay the City the new connection fee.
- SFN are to adopt similar water conservation measures that are currently in place in the City.
- The term of the agreement is 40 years with the option of 15 year renewals.


For more details on the Agreement please review that attachment.

Respectfully submitted,



Ian Howat
Director of Strategic Relationships

Concurrence by:



Tom Hickey,
General Manager,
Community Services

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2012-NOV-26

ATTACHMENT "A"

**WATER SERVICING AGREEMENT TO INDIAN RESERVE
NANAIMO RIVER #2**

This Agreement is dated for reference _____, 2012.

BETWEEN:

SNUNEYMUXW FIRST NATION, a "Band" as that term is defined in the *Indian Act* (Canada), as represented by the Snuneymuxw First Nation Council, having an administrative office at 668 Centre Street, Nanaimo, British Columbia, V9R 4Z4 ("**Snuneymuxw**")

AND

THE CITY OF NANAIMO, a Municipality in the Province of British Columbia, as represented by its Mayor and Council, having an administrative office at 455 Wallace Street, Nanaimo, British Columbia, V9R 5J6 (the "**City**")

BACKGROUND

- A. The land outlined on the plan attached to this Agreement as Schedule A is reserve land within the meaning of the *Indian Act*, R.S.C. 1985, c. 1-5 and known as Snuneymuxw Indian Reserve Nanaimo River 2.
- B. Pursuant to section 23 of the Community Charter the City is empowered and authorized to enter into an agreement with Snuneymuxw to provide local government services to reserve land.
- C. The City operates or will operate a water distribution system adjacent to IR#2 and Snuneymuxw operates or will operate a water distribution system to residences and businesses on IR#2.
- D. The City and Snuneymuxw entered into a Water Treatment Plant and Services Agreement dated August 11, 2010 and a Community to Community Water Agreement dated December 13, 2007.
- E. The City has authorized the execution of this Agreement by a resolution duly passed on _____, 2012, a copy of which is attached as Schedule C.
- F. Snuneymuxw Band Council has authorized the execution of this Agreement by a [bylaw/resolution?] duly passed on _____, 2012, a copy of which is attached as Schedule D.

Accordingly, the Parties now wish to enter into this water servicing agreement (the "**Agreement**") and for good and valuable consideration each hereby agree as follows.

1.0 DEFINITIONS & INTERPRETATION

1.1 In this Agreement, unless the context otherwise requires:

- (a) "**Bulk Meter**" means a water meter located at a Connection Point;
- (b) "**City Distribution System**" means the City's water distribution infrastructure in use from time to time, including its dams, reservoirs, treatment plants, pipes, and waterlines;
- (c) "**Connection Points**" means the points identified for City connections to the Snuneymuxw Distribution System at the boundaries of IR#2, as outlined on the plan attached as Schedule B;
- (d) "**IR#2**" means Indian Reserve Nanaimo River 2 as depicted on Schedule A;
- (e) "**Snuneymuxw Distribution System**" means the water distribution system owned and operated by or on behalf of Snuneymuxw located on IR#2 and connected to the City Distribution System at the Connection Points.

1.2 References to a statute, regulation or bylaw (including bylaws of the City) are deemed to include any amendments and any statute, regulation or bylaw that replaces or re-enacts any of the foregoing and has substantially the same purpose.

2.0 PROVISION OF WATER TO RESERVE LANDS

2.1 The City shall, at the Connection Points, connect the Snuneymuxw Distribution System to the City Distribution System under the terms and conditions set out in this Agreement.

2.2 Subject to the terms and conditions of this Agreement the City will provide to Snuneymuxw at the Connection Points a potable water supply using the City Distribution System. The quality and quantity of the water and service provided by the City to IR#2 pursuant to this Agreement shall be substantially the same as the quality and quantity of such service provided by the City to residences and businesses within the City of Nanaimo generally. Notwithstanding the foregoing:

- (a) Snuneymuxw acknowledge and agree that there may be from time to time interruptions or reductions in the level of water service and the City will not be responsible or liable for any losses, costs, damages, claims or expenses arising from or connected with any temporary interruption or reduction in the level of water service provided under this Agreement;
- (b) nothing in this Agreement shall require the City to provide water to the Connection Points if and to the extent the City determines, acting reasonably and in good faith, that it does not have the extra capacity to provide such service beyond what is required for current water consumption on IR#2 as at the time of execution of this Agreement plus such growth in water consumption on IR#2 as is reasonable and

- consistent with the overall growth in water consumption within the City of Nanaimo in the same period of time; or
- (c) nothing in this Agreement shall impose upon the City a greater duty to supply water service to the Connection Points than it has to inhabitants of the City generally.

- 2.3 The City will maintain the City Distribution System in accordance with all governing laws, standards and guidelines in place from time to time.
- 2.4 The City will provide Snuneymuxw with prompt notification upon discovering any anomaly in water quality delivered to the Connection Points as compared to elsewhere in the City Distribution System, and will promptly take all steps reasonably required to address such anomaly.

3.0 METERS

- 3.1 The City will install and maintain Bulk Meters at the Connection Points.

4.0 OPERATING FEES

- 4.1 Snuneymuxw will pay a fee to the City for water provided to the Snuneymuxw Distribution System at the Connection Points, and recorded on the Bulk Meters, based on the metered water rate paid by other users of the City Distribution System and set out in the City's *Waterworks Rate and Regulation Bylaw*, as updated from time to time.
- 4.2 In the event of a Bulk Meter malfunction, the City may estimate the volume of water supplied for the purpose of calculating charges under this Agreement on the basis of historical consumption patterns at the Connection Point in question pending resolution of the malfunction.
- 4.3 Water charges payable under section 4.1 shall be invoiced approximately every four months in accordance with the City's general scheme for invoicing users of the City Distribution System and shall be payable on receipt, with a 5 percent discount offered for prompt payment as detailed on each invoice (approximately three weeks from the date of each invoice).
- 4.4 Invoices rendered in a calendar year that remain unpaid at the end of that calendar year will be deemed to be in default and subject to an interest charge equal to the amount applicable to all other users of the City Distribution System as established by the City from time to time.
- 4.5 The City will upon request make available to Snuneymuxw for inspection and copy, records of the City which would allow Snuneymuxw to confirm the amount of water supplied and recorded by the Bulk Meters.

5.0 MAINTENANCE OF SYSTEM

- 5.1 The City is responsible for the repair, maintenance and operation of the City Distribution System and any associated costs, all to a standard that complies with the applicable

health, safety and engineering standards and specifications established or applied by the City for similar works elsewhere in the City.

- 5.2 Snuneymuxw is responsible for the repair, maintenance and operation of the Snuneymuxw Distribution System and any associated costs.
- 5.3 Snuneymuxw and the City agree that pipework and appurtenances on IR#2 will be built by Snuneymuxw in accordance with good engineering practices, for long term maintenance benefits and avoidance of water wastage.

6.0 CONNECTION FEES FOR NEW DEVELOPMENT

6.1 Snuneymuxw will:

- (a) notify the City of the commencement of all new developments on IR#2 from time to time; and
- (b) on receipt of an invoice from the City, pay a new connection fee to the City with respect to each of those new developments, at a rate equivalent to the City's Water Supply Development Cost Charge Bylaw rate from time to time applicable to similar new developments within City boundaries.

The fee paid by Snuneymuxw under this section will be applied by the City towards the cost of future major capital works required within the City Distribution System, which includes water intake, storage and piping improvements and which could be related to or benefit the provision of water to IR#2.

6.2 For the purpose of this part 6,

- (a) a "new development" will mean the construction of a new building, or units within a building resulting in multiple tenancies, on IR#2 or the alteration, renovation or change in the use of an existing building on IR#2, or the carrying-out of any construction, engineering or other operations in, on, over or under land on IR#2, which will result in the need for water to be supplied to the new development from the City Distribution System; and
- (b) the existing buildings on IR#2 at the time of execution of this Agreement will be exempt from the new development connection fee.

7.0 WATER RESTRICTIONS

7.1 Snuneymuxw will:

- (a) take reasonable steps to adopt and to enforce bylaws governing water conservation and the imposition of water use restrictions on IR#2 which are substantively consistent with City bylaws in force from time to time related to water conservation and water use restrictions with the intention of curtailing water

- consumption by residents and businesses on IR#2 to the same extent as the City may do outside IR#2;
- (b) not transmit the water provided by the City under this Agreement outside IR#2 for use or consumption outside IR#2;

8.0 INDEMNITY

- 8.1 Snuneymuxw shall indemnify and save harmless the City from and against all claims, actions, causes of action, suits or other liability resulting from any breach of any provisions of this Agreement to be performed by Snuneymuxw, except if caused by the negligence or wilful misconduct of the City. In addition to the foregoing, the Snuneymuxw shall afford the City and its employees and agents the same protection from liability as is provided under the *Local Government Act* RSBC 1996 c. 323 in respect of the City's activities elsewhere in the City of Nanaimo and, without restricting the generality of the foregoing, shall indemnify, defend and hold harmless the City from and against any and all claims, demands, actions, causes of action, losses, damages and costs of whatever kind on account of any actual or alleged loss, injury or damage to any person or to any property arising out of or in connection with the provision of or failure to provide potable water as required herein, if and to the extent that the City, its employees or agents would have otherwise been excused from liability for such loss, injury or damage pursuant to the *Local Government Act* but for the fact that such provision or failure to provide potable water is in respect of lands and occupiers of land on IR#2.
- 8.2 The City shall indemnify and save harmless Snuneymuxw from and against all claims, actions, causes of action, suits or other liability resulting from any breach of any provisions of this Agreement to be performed by the City, except if caused by the negligence or wilful misconduct of Snuneymuxw.

9.0 TERM

- 9.1 This Agreement shall come into full force and effect on the day first set out above and shall have an initial term of 40 years (the "Term").
- 9.2 At the written request of SFN made during the year that is the 5th year before the end of the Term, or any renewal thereof, the City will agree to renew the Term of this Agreement for a further Term of 15 years, commencing that year, if the City determines, acting reasonably and in good faith, that it has sufficient water capacity in the City Distribution System to supply the forecast water consumption needs of the City and IR#2 for the applicable renewal Term.

10.0 DISPUTE RESOLUTION

- 10.1 The Parties agree that during the term of this Agreement and in the performance of each of their responsibilities under this Agreement, each of them will:
- (a) make bona fide efforts to resolve by amicable negotiations any disputes arising between them under this Agreement; and

(b) provide frank, candid and timely disclosure of all relevant facts, information and documents to facilitate those negotiations.

- 10.2 The Parties further agree to use their best efforts to conduct any dispute resolution procedure under this Agreement as efficiently and cost effectively as possible.
- 10.3 Where a dispute arising out of or in connection with this Agreement is not promptly resolved by amicable negotiations the Parties agree to attempt to resolve the dispute by mediated negotiation with the assistance of a neutral person mutually agreed upon, or should the Parties be unable to agree upon such person within 30 days of either Party serving notice of its intention to proceed to mediation, a neutral person appointed by the British Columbia International Commercial Arbitration Centre administered under its Mediation Rules.
- 10.4 If the dispute cannot be settled within thirty (30) days after the mediator has been appointed or such lesser or longer period otherwise agreed to in writing by the Parties, the dispute will be referred to and finally resolved by arbitration administered by the British Columbia International Commercial Arbitration Centre, under its Rules.
- 10.5 Except where otherwise specified in this Agreement, any and all disputes between or among the Parties to this Agreement arising under, out of or in any way relating to this Agreement will be determined under this section.
- 10.6 Subject to any ruling or recommendation to the contrary by the Arbitrator or Mediator respectively, the Parties agree that the costs of such mediation or arbitration shall be shared equally between them. Costs in this context shall not include any costs incurred by a Party in preparation for and attending upon or settling a matter through mediation or arbitration.

11.0 NOTICE

- 11.1 Any notice, document, statement, report, demand or payment desired or required to be given or made pursuant to this Agreement will be in writing and may be given or made if delivered personally to the Party to whom it is to be given or made, delivered by electronic facsimile transmission or mailed in Canada with postage prepaid and addressed if to:

To the City:
455 Wallace Street, Nanaimo
British Columbia, V9R 5J6
Fax: 250-755-4435
Attention: Corporate Officer

To Snuneymuxw:
668 Centre Street, Nanaimo
British Columbia, V9R 4Z4
Fax: 250-753-3492
Attention: Band Manager

11.2 A Party may change its address by giving the other Party prior notice of a change in address in accordance with this section and provided further that if there is a postal strike or other postal disruption, notice shall be personally delivered, not mailed.

12.0 GENERAL PROVISIONS

12.1 If there is a breach of this Agreement by Snuneymuxw, then the City may at its option notify the Snuneymuxw of such breach and give such time as is reasonable in the circumstances to remedy the breach. If the breach continues after the period of time provided to remedy the breach and the matter has not been referred to dispute resolution under section 10, or if the matter has been referred to and resolved or determined by dispute resolution proceedings and the breach continues thereafter, then in either case the City may at its option suspend the provision of water at one or more Connection Points until such time as the breach of this Agreement has been remedied.

12.2 All references to each Party are deemed to be references to the heirs, executors, administrators, successors, assigns, servants, agents and officials of the respective parties whenever the context so allows.

12.3 No party will be liable for its failure to perform any of its obligations under this Agreement due to a cause beyond its reasonable control including acts of God, fire, flood, explosion, strikes, lockouts or other labour disturbances, laws, rules and regulations or orders of any duly constituted governmental authority (other than laws, rules and regulations or orders of a party that affect its own performance).

12.4 Waiver of any default by either Party shall not be deemed to be a waiver of any subsequent default by that Party.

12.5 Section headings are included for convenience only and do not form part of this Agreement and shall not be used in the construction or interpretation of the Agreement.

12.6 No representations, warranties or conditions, express or implied, have been made other than expressed in this Agreement.

12.7 Should any clause or portion of this Agreement be declared or held invalid for any reason, the invalid portion shall be severed and the severance shall not affect the validity of the remainder.

12.8 This Agreement may be amended from time to time by Snuneymuxw and the City provided such amendments are in writing and executed by the Parties.

12.9 Time shall be of the essence in this Agreement.

12.10 This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

- 12.11 Each of the Parties consents and agrees to execute such further and other documents and instruments, and to do such further and other things as they are authorized to do and as may be necessary to implement and carry out the intent of this Agreement.
- 12.12 Nothing contained in or implied by this Agreement shall in any way prejudice or affect the rights and powers of the City or Snuneymuxw in the exercise of their respective functions under any statutes, regulations, or by-laws.
- 12.13 This Agreement may be executed in one or more counterparts, each of which shall constitute an original copy of this Agreement for all purposes and, all of which shall together be deemed to constitute one and the same document.
- 12.14 Counterparts may be executed and delivered by the Parties to each of the other Parties by facsimile and/or other electronic means and if so executed and delivered, the counterparts shall be for all purposes as effective as if the parties had executed and delivered an original document.

IN WITNESS WHEREOF the parties have executed this Agreement on the date first set out above.

SIGNED, SEALED AND DELIVERED on)
 behalf of the **SNUNEYMUXW FIRST**)
NATION by Chief Douglas White III.)
 _____)
 Witness)
 _____)
 Address)
 _____)
 Occupation)
)
)
)
)
)
)
)

 Chief Douglas White III

The Corporate Seal of **THE CITY OF**)
NANAIMO was hereunto affixed in the)
 presence of:)
 _____)
 John Ruttan, Mayor)
 _____)
 Corporate Officer)

(C/S)

SCHEDULE A

Indian Reserve Nanaimo River 2

SCHEDULE B

Water Distribution System Plans

MINUTES OF THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE CITY HALL BOARD ROOM, 455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-DEC-03, COMMENCING AT 1:00 P.M.

PRESENT: Members: Councillor G. Anderson
 Councillor W. L. Bestwick
 Councillor M. D. Brennan
 Councillor G. E. Greves
 Councillor D. K. Johnstone
 Councillor J. A. Kipp
 Councillor W. B. McKay
 Councillor J. F. K. Pattje

 Absent: His Worship Mayor J. R. Ruttan

 Others: Mr. Merv Unger, City Representative on Nanaimo Port Authority
 Board. (arrived 1:08 p.m., vacated 1:38 p.m.)
 Mr. Bob Bennie, Chair, Nanaimo Port Authority Board. (arrived
 1:08 p.m., vacated 1:38 p.m.)

 Staff: A. C. Kenning, City Manager
 E. C. Swabey, General Manager of Community Safety and Development
 I. Howat, Director of Strategic Relationships
 T. L. Hartley, Director of Human Resources and Organizational Planning
 B. E. Clemens, Director of Finance
 T. P. Seward, Director of Development
 A. J. Tucker, Director of Planning
 T. Hickey, General Manager of Community Services (arrived 1:38 p.m.)
 R. Harding Director Parks, Recreation & Culture (arrived 1:38 p.m.)
 S. Clift, Director Engineering & Public Works (arrived 1:42 p.m.)
 B. Corsan, Manager of Real Estate
 P. Cooper, Communications Manager
 T. Samra, Manager Legislative Services
 S. Snelgrove, Recording Secretary

1. CALL THE OPEN MEETING TO ORDER:

 The Special "In Camera" Meeting was called to order at 1:00 p.m.

2. PROCEDURAL MOTION:

19812 It was moved and seconded that the meeting be closed in order to deal with the following matters under the *Community Charter* Section 90(1):

- (e) the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure could reasonably be expected to harm the interests of the municipality;
- (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the municipality if they were held in public;

The motion carried unanimously.

3. INTRODUCTION OF LATE ITEMS:

- (a) Add Agenda Item 6 (a) - Verbal Report from Mr. Ian Howat

4. ADOPTION OF AGENDA:

19912 It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

5. ADOPTION OF MINUTES:

20012 It was moved and seconded that the Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-NOV-19 at 1:00 p.m. in the City Hall Board Room, 455 Wallace Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

6. PRESENTATIONS:

Mr. Merv Unger and Mr. Bob Bennie entered the Board Room at 1:08 p.m.

- (a) Mr. Merv Unger, City Representative on the Nanaimo Port Authority (NPA) Board, and Mr. Bob Bennie, Chair, NPA Board, provided a presentation regarding the NPA Operations.

Mr. Merv Unger and Mr. Bob Bennie vacated the Board Room at 1:38 p.m.

20112 It was moved and seconded that Council direct Staff to prepare a list of priorities from the City to the appointed representative of the Nanaimo Port Authority for the next meeting with the NPA in approximately six months. The motion carried unanimously.

20212 It was moved and seconded that Council move Agenda Items 6 (a) -
7 (a) – Acquisition of 295 and 299 Selby Street and 7 (b) –
Proposed Land Exchange Between School District 68 and City of Nanaimo to the end of
the agenda. The motion carried unanimously.

7. COMMUNITY SAFETY AND DEVELOPMENT:

(a) Disposition of 238 Franklyn Street – City Hall Annex

20312 It was moved and seconded that Council:

1. approve the disposition in principal of 238 Franklyn Street to Tectonica Management Inc.;
2. direct the Mayor and Corporate Officer to execute the necessary documents to effect the transfer after the notice period has ended and subsequent approval by Council;
3. direct Staff to return to the next open Council meeting with an "Information Only" Report;
4. direct Staff to issue a Press Release relating to the matter at the next open Council meeting; and,
5. direct Staff to issue a Notice of Disposition as required under Section 26 and 94 of the *Community Charter* following the open Council Meeting.

The motion carried unanimously.

(b) Road Closure Portion of Meredith Road Adjacent to 1720 Meredith Road

20412 It was moved and seconded that Council:

1. approve in principle, the sale of the proposed road closure area to Nanaimo Church of Christ ("NCC") for the sum of \$139,500; and,
2. direct Staff to prepare a report with an accompanying road closure bylaw for the next open Council agenda.

The motion carried unanimously.

(c) Acquisition of 310 Park Street

20512 It was moved and seconded that Council:

1. approve the acquisition of 310 Park Street for a price of up to \$7000; and,
2. authorize the Mayor and Corporate Officer to execute the necessary documents to effect the transaction.

The motion carried unanimously.

8. ADMINISTRATION

(a) Water Servicing Agreement to Indian Reserve Nanaimo River #2

20612 It was moved and seconded that Council approve the attached Water Servicing Agreement to Indian Reserve Nanaimo River #2 and authorize the Mayor and Corporate Officer to execute the agreement. The motion carried unanimously.

Councillor McKay vacated Board Room at 2:00 p.m.

Councillor Brennan vacated the Board Room on a conflict of interest at 2:01 p.m. as her spouse is a School Board Trustee.

Councillor McKay returned to the Board Room at 2:02 p.m.

(b) Verbal update from Mr. Ian Howat, regarding

7. COMMUNITY SAFETY AND DEVELOPMENT Continued:

(d) Acquisition of 295 and 299 Selby Street

20712 It was moved and seconded that Council:

1. approve the acquisition of 295 and 299 Selby Street subject to the City's conditions precedent being met;
2. authorize the Mayor and Corporate Officer to execute the Purchase and Sale Agreement (PSA) and necessary documents to effect the transfer once the conditions precedent have been met; and,
3. direct Staff to provide a further report to open Council when the conditions precedent have been met.

The motion carried unanimously.

(e) Proposed Land Exchange Between School District 68 and City of Nanaimo

20812 It was moved and seconded that Council:

1. approve in principle the land exchange concept outlined in this Staff report;
2. direct Staff to prepare a formal Land Exchange Agreement with School District 68;
3. direct Staff to issue a joint press release with School District 68 regarding the matter; and,
4. direct Staff to provide a further report to open Council when the Land Exchange Agreement is finalized.

The motion carried unanimously.

9. ADJOURNMENT:

20912 It was moved and seconded at 2:30 p.m. that the "In Camera" Meeting terminate. The motion carried unanimously.

21012 It was moved and seconded at 2:30 p.m. that the Regular Meeting terminate. The motion carried unanimously.

M A Y O R

CERTIFIED CORRECT:

CORPORATE OFFICER

AGENDA FOR THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
TO BE HELD IN THE CITY HALL BOARD ROOM,
455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-DEC-17, COMMENCING AT 1:00 P.M.

CHAIR: MAYOR RUTTAN

ACTING MAYOR: COUNCILLOR BESTWICK (2012-DEC-03 TO 2013-JAN-20)

1. **INTRODUCTION OF LATE ITEMS:**

2. **ADOPTION OF AGENDA: (Bestwick/Johnstone)**

3. **ADOPTION OF MINUTES: (Bestwick/Johnstone)**

(a) Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-DEC-03 at 1:00 p.m. in the City Hall Board Room. *Pg. 3-7*

(b) Amended Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-OCT-29, to correct the vote on resolution number 18712 to reflect that Councillors Bestwick and Brennan were opposed rather than the vote being unanimously in favour as previously presented in the Minutes. *Pg. 8-10*

4. **PRESENTATIONS:**

NONE

5. **MAYOR'S REPORT:**

NONE

6. **ADMINISTRATION:**

NONE

7. **COMMUNITY SAFETY AND DEVELOPMENT:**

NONE

8. **CORPORATE SERVICES:**

NONE

9. **COMMUNITY SERVICES:**

- (a) **Minutes of the "In Camera" Parks, Recreation and Culture Commission meeting held 2012-OCT-24**

To be introduced by PRCC Chair, Councillor Johnstone.

Commission recommendation: That Council receive the Minutes of the Parks, Recreation and Culture Commission meeting held 2012-OCT-24.

Pg. 11-13

- (b) **Water Servicing Agreement to the Snuneymuxw Indian Reserve Nanaimo River #4**

Staff Recommendation: That Council approve the attached Water Servicing Agreement to Snuneymuxw Indian Reserve Nanaimo River #4 and authorize the Mayor and Corporate Officer to execute the agreement.

Pg. 14-28

10. **CORRESPONDENCE:**

- (a) Letter dated 2012-DEC-04 from Ms. Heather Sarchuk, Administrator, North Cedar Improvement District regarding
- (b) Letter dated 2012-DEC-13 from Mr. Reece Harding, Young Anderson Barristers & Solicitors, regarding

Pg. 29

Pg. 30

11. **OTHER BUSINESS:**

12. **ADJOURNMENT OF THE SPECIAL "IN CAMERA" MEETING:**

13. **ADJOURNMENT OF THE SPECIAL MEETING:**

**MINUTES OF THE "IN CAMERA"
PARKS, RECREATION AND CULTURE COMMISSION MEETING
HELD IN THE BOWEN PARK COMPLEX CONFERENCE ROOM
ON WEDNESDAY, 2012-OCT-24, COMMENCING AT 9:47 P.M.**

PRESENT: Commissioner D. Johnstone, Chair

Members: Commissioner T. Greves
Commissioner F. Pattje
Commissioner K. Alden
Commissioner M. Beaudoin-Lobb
Commissioner H. Houle
Commissioner A. McPherson
Commissioner D. Rinald
Commissioner G. Savage
Commissioner I. Thorpe
Commissioner M. Young

Regrets: Commissioner L. Avis

Staff: R. Harding J. Ritchie
S. Samborski R. Tweed, recording

1. CALL THE "IN CAMERA" MEETING TO ORDER:

The "In Camera" Meeting was called to order at 9:47 p.m.

2. INTRODUCTION OF LATE ITEMS: None.

3. ADOPTION OF AGENDA:

It was moved and seconded that the "In Camera" Agenda be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

(a) Minutes of the "In Camera" Parks, Recreation and Culture Commission meeting held Wednesday, 2012-JUL-25 at 9:26 p.m. in the Bowen Complex Conference Room.

It was moved and seconded that the Minutes as circulated be adopted. The motion carried unanimously.

5. PRESENTATIONS: None.

6. CHAIR'S REPORT:

(a) Commissioner Beaudoin-Lobb is having difficulty with Grants Advisory Committee meeting scheduling and would like an alternate. Meetings are held on Wednesdays at 3:00 p.m. once per month.

The matter was discussed and it was felt that rather than having an alternate, it would be better for the Grants Advisory Committee to have another appointment made to replace Commissioner Beaudoin-Lobb.

It was moved and seconded that the Parks, Recreation and Culture Commission recommend that Council appoint Commissioner Ian Thorpe to the Grants Advisory Committee to replace Commissioner Beaudoin-Lobb on the Committee for the remainder of his current term of appointment to the Parks, Recreation and Culture Commission. The motion carried unanimously.

7. REPORTS OF ADVISORY BODIES:

(a) **Cultural Committee.** Commissioner Pattje reported on the "In Camera" Cultural Committee meeting held 2012-OCT-03.

(i) Nanaimo Cultural Awards Recommendations for 2012.

Delegations: (None.)

Correspondence: (None.)

Cultural Committee's Recommendation: *That the Parks, Recreation and Culture Commission recommend that Council approve:*

1. *the Vancouver Island Symphony as the recipient of the 2012 Excellence in Culture Award; and,*
2. *Eveline O'Rourke as the recipient of the 2012 Honour in Culture Award.*

It was moved and seconded that the recommendation be adopted. The motion carried unanimously.

8. STAFF REPORTS:

(a) Colliery Dam – Verbal Update – Richard Harding.

Staff outlined the potential for damage that the dams pose and provided the report and motions that were presented to Council on 2012-OCT-22 and adopted with regard to decommissioning the dams.

The issue is being brought to Commissions attention prior to the information being made public. Staff are working on how to incorporate the dam areas into the park and naturalize. Currently working with emergency evacuation plans in the event of dam burst or seismic events. There will be an information release through a communications plan.

Commissioner Greves advised that Council is currently looking for funding as it will cost \$5-7M for removal and naturalization for this project.

It was moved and seconded that the report be received. The motion carried unanimously.

9. CORRESPONDENCE: (not related to a Report to Commission) None.
10. NOTICE OF MOTION: None.
11. OTHER BUSINESS: None.
12. UNFINISHED BUSINESS: None.
13. QUESTION PERIOD: No Questions.
14. ADJOURNMENT:

It was moved and seconded at 10:06 p.m. that the "In Camera" meeting adjourn, with the next "In Camera" Meeting of Commission to be held, if required, Wednesday, 2012-NOV-28, in the Bowen Park Complex Conference Room, following adjournment of the regular Commission meeting. The motion carried unanimously.

CERTIFIED CORRECT:

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*

D. Johnstone, Chair
Parks, Recreation and Culture Commission

R. Harding, Director
Parks, Recreation and Culture

2012-OCT-26
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“IN CAMERA”
City of Nanaimo
REPORT TO COUNCIL

DATE OF MEETING: 2012-DEC-17

AUTHORED BY: Ian Howat, Director of Strategic Relationships

RE: Water Servicing Agreement to the Snuneymuxw Indian Reserve Nanaimo River #4

STAFF RECOMMENDATION:

That Council approve the attached Water Servicing Agreement to Snuneymuxw Indian Reserve Nanaimo River #4 and authorize the Mayor and Corporate Officer to execute the agreement.

PURPOSE:

To enter into a servicing agreement with Snuneymuxw First Nation (SFN) to provide City of Nanaimo water services to the Snuneymuxw Indian Reserve Nanaimo River #4.

BACKGROUND:

In the summer of 2006, Snuneymuxw staff approached the City engineers about a proposed subdivision in IR4 that they wished to proceed with to facilitate the construction of more community housing. Indian and Northern Affairs Canada's (INAC's) approval of the subdivision was contingent upon water and sewer connections. Snuneymuxw hired a civil engineer named Matt Hope of Bullock and Baur to lead the design and discussion with city staff.

Shortly after this initial meeting at the staff level, the item was placed on the Protocol Agreement Working Group (PAWG) agenda for discussion. During the discussions with Snuneymuxw PAWG members and staff,

On November 5, 2012, Council passed the following resolution: *“Council agree to start the engineering process to supply water to IR #4, recognizing SFN’s verbal acknowledgement that we have several agreements that include efforts to expand water supply.”* City staff are proceeding with the engineering to provide water to IR#4 and have completed negotiations on the water servicing agreement for IR#4.

- Council
- Committee.....
- Open Meeting
- In-Camera Meeting

Adoption Date: 2012-DEC-17

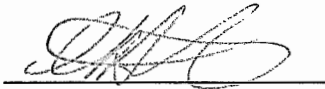
DISCUSSION:

The Water Servicing Agreement to Snuneymuxw Indian Reserve Nanaimo River #4 is attached as "Attachment A" for your review. Some highlights are:

- The City's responsibilities for maintenance of the water system end once the extension to IR#4 leaves the City's right of way.
- SFN is responsible for maintaining the system within IR#4 and in the Regional District of Nanaimo between the City right of way and IR#4.
- Water will be metered as it leaves the City's right of way and the same fee will be charged to SFN that is charged to all other users on the City system.
- The City is protected from any liability resulting from providing water to SFN and is not required to provide any service other than what is provided to the rest of the water users in the City system.
- In the event that the City is not paid by SFN for the water used and through the dispute resolution process this impasse is not resolved the City has the right to shut off the water supply.
- The connection fees that mirror the City's water DCC rates applies to all properties on IR#4.
- SFN are to adopt similar water conservation measures that are currently in place in the City.
- The term of the agreement is 40 years with the option of 15 year renewals.

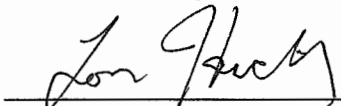
For more details on the Agreement please review that attachment.

Respectfully submitted,



Ian Howat
Director of Strategic Relationships

Concurrence by:



Tom Hickey,
General Manager,
Community Services

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2012-DEC-10

WATER SERVICING AGREEMENT

SNUNEYMUXW INDIAN RESERVE NANAIMO RIVER #4

This Agreement is dated for reference December 17, 2012.

BETWEEN:

SNUNEYMUXW FIRST NATION, a “band” as that term is defined in the *Indian Act* (Canada), as represented by the Snuneymuxw First Nation Council, having an administrative office at 668 Centre Street, Nanaimo, British Columbia, V9R 4Z4 (“**Snuneymuxw**”)

AND

THE CITY OF NANAIMO, a Municipality in the Province of British Columbia, as represented by its Mayor and Council, having an administrative office at 455 Wallace Street, Nanaimo, British Columbia, V9R 5J6 (the “**City**”)

BACKGROUND

- A. The land outlined on the plan attached to this Agreement as Schedule A is reserve land within the meaning of the *Indian Act, R.S.C. 1985, c. 1-5* and known as Snuneymuxw Indian Reserve Nanaimo River 4.
- B. Pursuant to section 23 of the Community Charter the City is empowered and authorized to enter into an agreement with Snuneymuxw to provide local government services to reserve land.
- C. The City operates or will operate a water distribution system in the vicinity of IR#4 and Snuneymuxw operates or will operate a water distribution system to residences and businesses on IR#4.
- D. The City and Snuneymuxw entered into a Water Treatment Plant and Services Agreement dated August 11, 2010 and a Community to Community Water Agreement dated December 13, 2007.
- E. The City has authorized the execution of this Agreement by a resolution duly passed on December 17, 2012, a copy of which is attached as Schedule D.
- F. Snuneymuxw Band Council has authorized the execution of this Agreement by a resolution duly passed on _____, 2012, a copy of which is attached as Schedule E.

Accordingly, the Parties now wish to enter into this water servicing agreement (the “**Agreement**”) and for good and valuable consideration each hereby agree as follows.

1.0 DEFINITIONS & INTERPRETATION

1.1 In this Agreement, unless the context otherwise requires:

- (a) **"Bulk Meter"** means a water meter located at a Connection Point;
- (b) **"City Distribution System"** means the City's water distribution infrastructure in use from time to time, including its dams, reservoirs, treatment plants, pipes, and waterlines;
- (c) **"Connection Points"** means the points identified for City connections to the Snuneymuxw Distribution System at the locations outlined on the plan attached as Schedule B;
- (d) **"IR#4"** means Indian Reserve Nanaimo River 4 as depicted on Schedule A;
- (e) **"Planned Developments"** means the planned developments for IR#4 shown on the plan attached as Schedule C;
- (f) **"Snuneymuxw Distribution System"** means the water distribution system owned and operated by or on behalf of Snuneymuxw located on or adjacent to IR#4 and connected to the City Distribution System at the Connection Points.

1.2 References to a statute, regulation or bylaw (including bylaws of the City) are deemed to include any amendments and any statute, regulation or bylaw that replaces or re-enacts any of the foregoing and has substantially the same purpose.

2.0 PROVISION OF WATER TO RESERVE LANDS

2.1 The City shall, at the Connection Points, connect the Snuneymuxw Distribution System to the City Distribution System under the terms and conditions set out in this Agreement.

2.2 Subject to the terms and conditions of this Agreement the City will provide to Snuneymuxw at the Connection Points a potable water supply using the City Distribution System. The quality and quantity of the water and service provided by the City to IR#4 pursuant to this Agreement shall be substantially the same as the quality and quantity of such service provided by the City to residences and businesses within the City of Nanaimo generally. Notwithstanding the foregoing:

- (a) Snuneymuxw acknowledge and agree that there may be from time to time interruptions or reductions in the level of water service and the City will not be responsible or liable for any losses, costs, damages, claims or expenses arising from or connected with any temporary interruption or reduction in the level of water service provided under this Agreement;
- (b) nothing in this Agreement shall require the City to provide water to the Connection Points if and to the extent the City determines, acting reasonably and in good faith, that it does not have the extra capacity to provide such service beyond what is required for (i) current water consumption on IR#4 as at the time of execution of

this Agreement; (ii) the Planned Developments; and (iii) such growth in water consumption on IR#4 as is reasonable and consistent with the overall growth in water consumption within the City of Nanaimo in the same period of time; or

- (c) nothing in this Agreement shall impose upon the City a greater duty to supply water service to the Connection Points than it has to inhabitants of the City generally.

2.3 The City will maintain the City Distribution System in accordance with all governing laws, standards and guidelines in place from time to time.

2.4 The City will provide Snuneymuxw with prompt notification upon discovering any anomaly in water quality delivered to the Connection Points as compared to elsewhere in the City Distribution System, and will promptly take all steps reasonably required to address such anomaly.

3.0 METERS

3.1 The City will own and maintain Bulk Meters at the Connection Points.

4.0 OPERATING FEES

4.1 Snuneymuxw will pay a fee to the City for water provided to the Snuneymuxw Distribution System at the Connection Points, and recorded on the Bulk Meters, based on the metered water rate paid by other users of the City Distribution System and set out in the City's *Waterworks Rate and Regulation Bylaw*, as updated from time to time, multiplied by the volume of water provided.

4.2 In the event of a Bulk Meter malfunction, the City may estimate the volume of water supplied for the purpose of calculating charges under this Agreement on the basis of historical consumption patterns at the Connection Point in question pending resolution of the malfunction.

4.3 Water charges payable under section 4.1 shall be invoiced approximately every four months in accordance with the City's general scheme for invoicing users of the City Distribution System and shall be payable on receipt, with a 5 percent discount offered for prompt payment as detailed on each invoice (approximately three weeks from the date of each invoice).

4.4 Invoices rendered in a calendar year that remain unpaid at the end of that calendar year will be deemed to be in default and subject to an interest charge equal to the amount applicable to all other users of the City Distribution System as established by the City from time to time.

4.5 The City will upon request make available to Snuneymuxw for inspection and copy, records of the City which would allow Snuneymuxw to confirm the amount of water supplied and recorded by the Bulk Meters.

5.0 MAINTENANCE OF SYSTEM

- 5.1 The City is responsible for the repair, maintenance and operation of the City Distribution System and any associated costs, all to a standard that complies with the applicable health, safety and engineering standards and specifications established or applied by the City for similar works elsewhere in the City.
- 5.2 Snuneymuxw is responsible for the repair, maintenance and operation of the Snuneymuxw Distribution System and any associated costs.
- 5.3 Snuneymuxw and the City agree that pipework and appurtenances on IR#4 will be built by Snuneymuxw in accordance with good engineering practices, for long term maintenance benefits and avoidance of water wastage.

6.0 CONNECTION FEES FOR NEW DEVELOPMENT

6.1 Snuneymuxw will:

- (a) on receipt of an invoice from the City, pay a new connection fee to the City with respect to connections made to any existing buildings on IR#4 at the time of commencement of services under this Agreement, at a rate equivalent to the City's Water Supply Development Cost Charge Bylaw rate from time to time applicable to similar new developments within City boundaries;
- (b) notify the City of the commencement of all new developments on IR#4 from time to time; and
- (c) on receipt of an invoice from the City, pay a new connection fee to the City with respect to each of those new developments, at a rate equivalent to the City's Water Supply Development Cost Charge Bylaw rate from time to time applicable to similar new developments within City boundaries.

The fee paid by Snuneymuxw under this section will be applied by the City towards the cost of future major capital works required within the City Distribution System, which includes water intake, storage and piping improvements and which could be related to or benefit the provision of water to IR#4.

6.2 For the purpose of this part 6, a "new development" will mean the construction of a new building, or units within a building resulting in multiple tenancies, on IR#4 or the alteration, renovation or change in the use of an existing building on IR#4, or the carrying-out of any construction, engineering or other operations in, on, over or under land on IR#4, which will result in the need for water to be supplied to the new development from the City Distribution System, and includes the Planned Developments;

7.0 WATER RESTRICTIONS

7.1 Snuneymuxw will:

- (a) take reasonable steps to adopt and to enforce bylaws governing water conservation and the imposition of water use restrictions on IR#4 that are substantively consistent with City bylaws in force from time to time related to water

conservation and water use restrictions, with the intention of curtailing water consumption by residents and businesses on IR#4 to the same extent as the City may do outside IR#4;

- (b) not transmit the water provided by the City under this Agreement outside IR#4 for use or consumption outside IR#4;

8.0 INDEMNITY

8.1 Snuneymuxw shall indemnify and save harmless the City from and against all claims, actions, causes of action, suits or other liability resulting from any breach of any provisions of this Agreement to be performed by Snuneymuxw, except if caused by the negligence or wilful misconduct of the City. In addition to the foregoing, the Snuneymuxw shall afford the City and its employees and agents the same protection from liability as is provided under the *Local Government Act* R.S.B.C. 1996 c. 323 in respect of the City's activities elsewhere in the City of Nanaimo and, without restricting the generality of the foregoing, shall indemnify, defend and hold harmless the City from and against any and all claims, demands, actions, causes of action, losses, damages and costs of whatever kind on account of any actual or alleged loss, injury or damage to any person or to any property arising out of or in connection with the provision of or failure to provide potable water as required herein, if and to the extent that the City, its employees or agents would have otherwise been excused from liability for such loss, injury or damage pursuant to the *Local Government Act* but for the fact that such provision or failure to provide potable water is in respect of lands and occupiers of land on IR#4.

8.2 The City shall indemnify and save harmless Snuneymuxw from and against all claims, actions, causes of action, suits or other liability resulting from any breach of any provisions of this Agreement to be performed by the City, except if caused by the negligence or wilful misconduct of Snuneymuxw.

9.0 TERM

9.1 This Agreement shall come into full force and effect on the day first set out above and shall have an initial term of 40 years (the "Term").

9.2 At the written request of Snuneymuxw made during the year that is the 5th year before the end of the Term, or any renewal thereof, the City will agree to renew the Term of this Agreement for a further Term of 15 years, commencing that year, if the City determines, acting reasonably and in good faith, that it has sufficient water capacity in the City Distribution System to supply the forecast water consumption needs of the City and IR#4 for the applicable renewal Term.

10.0 DISPUTE RESOLUTION

10.1 The Parties agree that during the term of this Agreement and in the performance of each of their responsibilities under this Agreement, each of them will:

- (a) make bona fide efforts to resolve by amicable negotiations any disputes arising between them under this Agreement; and

(b) provide frank, candid and timely disclosure of all relevant facts, information and documents to facilitate those negotiations.

- 10.2 The Parties further agree to use their best efforts to conduct any dispute resolution procedure under this Agreement as efficiently and cost effectively as possible.
- 10.3 Where a dispute arising out of or in connection with this Agreement is not promptly resolved by amicable negotiations the Parties agree to attempt to resolve the dispute by mediated negotiation with the assistance of a neutral person mutually agreed upon, or should the Parties be unable to agree upon such person within 30 days of either Party serving notice of its intention to proceed to mediation, a neutral person appointed by the British Columbia International Commercial Arbitration Centre administered under its *Mediation Rules*.
- 10.4 If the dispute cannot be settled within thirty (30) days after the mediator has been appointed or such lesser or longer period otherwise agreed to in writing by the Parties, the dispute will be referred to and finally resolved by arbitration administered by the British Columbia International Commercial Arbitration Centre, under its *Rules*.
- 10.5 Except where otherwise specified in this Agreement, any and all disputes between or among the Parties to this Agreement arising under, out of or in any way relating to this Agreement will be determined under this section.
- 10.6 Subject to any ruling or recommendation to the contrary by the Arbitrator or Mediator respectively, the Parties agree that the costs of such mediation or arbitration shall be shared equally between them. Costs in this context shall not include any costs incurred by a Party in preparation for and attending upon or settling a matter through mediation or arbitration.

11.0 NOTICE

- 11.1 Any notice, document, statement, report, demand or payment desired or required to be given or made pursuant to this Agreement will be in writing and may be given or made if delivered personally to the Party to whom it is to be given or made, delivered by electronic facsimile transmission or mailed in Canada with postage prepaid and addressed if to:

To the City:
 455 Wallace Street, Nanaimo
 British Columbia, V9R 5J6
 Fax: 250-755-4435
 Attention: Corporate Officer

To Snuneymuxw:
 668 Centre Street, Nanaimo
 British Columbia, V9R 4Z4
 Fax: 250-753-3492
 Attention: Band Manager

- 11.2 A Party may change its address by giving the other Party prior notice of a change in address in accordance with this section and provided further that if there is a postal strike or other postal disruption, notice shall be personally delivered, not mailed.

12.0 GENERAL PROVISIONS

- 12.1 If there is a breach of this Agreement by Snuneymuxw, then the City may at its option notify the Snuneymuxw of such breach and give such time as is reasonable in the circumstances to remedy the breach. If the breach continues after the period of time provided to remedy the breach and the matter has not been referred to dispute resolution under section 10, or if the matter has been referred to and resolved or determined by dispute resolution proceedings and the breach continues thereafter, then in either case the City may at its option suspend the provision of water at one or more Connection Points until such time as the breach of this Agreement has been remedied.
- 12.2 All references to each Party are deemed to be references to the heirs, executors, administrators, successors, assigns, servants, agents and officials of the respective parties whenever the context so allows.
- 12.3 No party will be liable for its failure to perform any of its obligations under this Agreement due to a cause beyond its reasonable control including acts of God, fire, flood, explosion, strikes, lockouts or other labour disturbances, laws, rules and regulations or orders of any duly constituted governmental authority (other than laws, rules and regulations or orders of a party that affect its own performance).
- 12.4 Waiver of any default by either Party shall not be deemed to be a waiver of any subsequent default by that Party.
- 12.5 Section headings are included for convenience only and do not form part of this Agreement and shall not be used in the construction or interpretation of the Agreement.
- 12.6 No representations, warranties or conditions, express or implied, have been made other than expressed in this Agreement.
- 12.7 Should any clause or portion of this Agreement be declared or held invalid for any reason, the invalid portion shall be severed and the severance shall not affect the validity of the remainder.
- 12.8 This Agreement may be amended from time to time by Snuneymuxw and the City provided such amendments are in writing and executed by the Parties.
- 12.9 Time shall be of the essence in this Agreement.
- 12.10 This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.
- 12.11 Each of the Parties consents and agrees to execute such further and other documents and instruments, and to do such further and other things as they are authorized to do and as may be necessary to implement and carry out the intent of this Agreement.

12.12 Nothing contained in or implied by this Agreement shall in any way prejudice or affect the rights and powers of the City or Snuneymuxw in the exercise of their respective functions under any statutes, regulations, or by-laws.

12.13 This Agreement may be executed in one or more counterparts, each of which shall constitute an original copy of this Agreement for all purposes and, all of which shall together be deemed to constitute one and the same document.

12.14 Counterparts may be executed and delivered by the Parties to each of the other Parties by facsimile and/or other electronic means and if so executed and delivered, the counterparts shall be for all purposes as effective as if the parties had executed and delivered an original document.

IN WITNESS WHEREOF the parties have executed this Agreement on the date first set out above.

SIGNED, SEALED AND DELIVERED on)
behalf of the **SNUNEYMUXW FIRST**)
NATION by Chief Douglas White III,)
Kwulasultun.)

Chief Douglas White III, Kwulasultun

Witness)

Address)

Occupation)

The Corporate Seal of **THE CITY OF**)
NANAIMO was hereunto affixed in the)
presence of:)

(C/S)

John Ruttan, Mayor)

Corporate Officer)

SCHEDULE A

Indian Reserve Nanaimo River 4

SCHEDULE B

Water Distribution System Plans

SCHEDULE C

IR #4 Planned Development

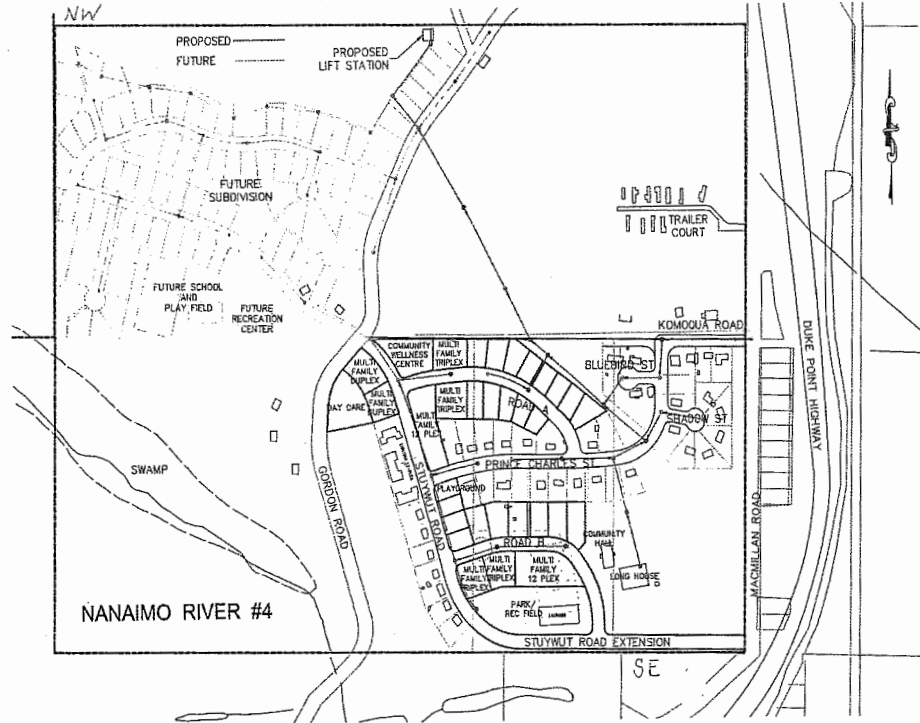


figure 2

THIS DRAWING IS FOR THE SOLE USE OF THE CLIENT AND NO REPRESENTATIONS OF ANY KIND ARE MADE TO ANY OTHER PARTY.

FILE NO: 1500-051

Collection System & LIR Station
Subdivision & Sanitary Collection System
Snuheymuxw First Nation
scale 1:1000



SCHEDULE D

City Resolution

SCHEDULE E

Snuneymuxw Band Council Resolution

MINUTES OF THE SPECIAL "IN CAMERA" MEETING OF COUNCIL
TO DISCUSS CONFIDENTIAL MATTERS,
HELD IN THE CITY HALL BOARD ROOM, 455 WALLACE STREET, NANAIMO, BC,
ON MONDAY, 2012-DEC-17, COMMENCING AT 1:00 P.M.

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

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay
Councillor J. F. K. Pattje

Staff: A. C. Kenning, City Manager
E. C. Swabey, General Manager of Community Safety and Development
T. M. Hickey, General Manager of Community Services
I. Howat, Director of Strategic Relationships
T. L. Hartley, Director of Human Resources and Organizational Planning
B. E. Clemens, Director of Finance
T. P. Seward, Director of Development
S. Clift, Director of Engineering and Public Works
A. J. Tucker, Director of Planning
B. Sims, Manager, Water Resources
P. Cooper, Communications Manager
T. Samra, Manager of Legislative Services
K. King, Coordinator
S. Snelgrove, Recording Secretary

1. CALL THE OPEN MEETING TO ORDER:

The Special "In Camera" Meeting was called to order at 1:00 p.m.

2. PROCEDURAL MOTION:

21112 It was moved and seconded that the meeting be closed in order to deal with the following matters under the *Community Charter* Section 90(1):

- (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose; and,
- (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the municipality if they were held in public.

The motion carried unanimously.

3. ADOPTION OF AGENDA:

21212 It was moved and seconded that the Agenda be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

21312 It was moved and seconded that the Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-DEC-03 at 1:00 p.m. in the City Hall Board Room, 455 Wallace Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

21412 It was moved and seconded that the Minutes of the Special "In Camera" Meeting of Council held Monday, 2012-OCT-29, as amended, be adopted. The motion carried unanimously.

5. COMMUNITY SERVICES:

(a) Minutes of the "In Camera" Parks, Recreation and Culture Commission meeting held 2012-OCT-24

21512 It was moved and seconded that Council receive the Minutes of the Parks, Recreation and Culture Commission meeting held 2012-OCT-24. The motion carried unanimously.

(b) Water Servicing Agreement to the Snuneymuxw Indian Reserve Nanaimo River #4

21612 It was moved and seconded that Council approve the attached Water Servicing Agreement to Snuneymuxw Indian Reserve Nanaimo River #4 and authorize the Mayor and Corporate Officer to execute the agreement. The motion carried unanimously.

6. CORRESPONDENCE:

(a) Letter dated 2012-DEC-04 from Ms. Heather Sarchuk, Administrator, North Cedar Improvement District

21712 It was moved and seconded that Council direct Staff to meet with the North Cedar Improvement District to discuss The motion carried unanimously.

(b) Letter dated 2012-DEC-13 from Mr. Reece Harding, Young Anderson Barristers & Solicitors,

7. ADJOURNMENT:

21812 It was moved and seconded at 1:21 p.m. that the "In Camera" Meeting terminate. The motion carried unanimously.

21912 It was moved and seconded at 1:21 p.m. that the Regular Meeting terminate. The motion carried unanimously.

M A Y O R

CERTIFIED CORRECT:

CORPORATE OFFICER