

Municipality of North Cowichan

Regular Council

MINUTES

September 4, 2019, 1:30 p.m.
Municipal Hall - Council Chambers

Members Present Mayor Al Siebring
 Councillor Rob Douglas
 Councillor Christopher Justice
 Councillor Tek Manhas
 Councillor Kate Marsh
 Councillor Rosalie Sawrie
 Councillor Debra Toporowski

Staff Present Ted Swabey, Chief Administrative Officer (CAO)
 Mark Frame, General Manager, Financial and Protective Services
 Ernie Mansueti, General Manager, Community Services
 Sarah Nixon, General Manager, Corporate Services
 David Conway, Director of Engineering
 Rob Conway, Director of Planning
 Natasha Horsman, Manager, Communications and Public Engagement
 Lane Killick, Chief Building Inspector
 Rachel Hastings, Senior Bylaw Compliance Officer
 Karen Robertson, Corporate Officer
 Nelda Richardson, Deputy Corporate Officer

1. **CALL TO ORDER**

There being a quorum present, Mayor Siebring called the meeting to order at 1:30 p.m.

2. **APPROVAL OF AGENDA**

The Mayor noted that Miss Thompson and Middlemiss, who were scheduled to present on the Take Home Naloxone program, needed to reschedule their presentation to the October 2, 2019 meeting. He also advised that Councillor Justice previously asked to have his notice of motion related to Simon Fraser University's Climate Action for BC Communities Initiative withdrawn (noted as item 10.2 on the agenda).

Councillor Douglas advised that he would be presenting a notice of motion regarding cannabis production in the Agricultural Land Reserve and that it could be considered as item 10.4.

It was moved and seconded:

That Council adopt the September 4, 2019 Regular Council agenda, as amended by deferring the presentation by Tracey Thompson and Stacy Middlemiss (noted as item 6.2 on the agenda) removing the notice of motion proposed by Councillor Justice regarding

Climate Action for BC Communities Initiative under item 10.2 and adding the notice of motion from Councillor Douglas regarding cannabis production in the Agricultural Land Reserve as item 10.4.

CARRIED

3. ADOPTION OF MINUTES

3.1 August 21, 2019 Special Council Minutes

It was moved and seconded:

That Council adopt the minutes of the Special Council meeting held August 21, 2019.

CARRIED

3.2 August 21, 2019 Regular Council Minutes

It was moved and seconded:

That Council adopt the minutes of the Regular Council meeting held August 21, 2019.

CARRIED

4. MAYOR'S REPORT

The Mayor gave a verbal report on meetings and activities he recently attended.

5. REPORTS

5.1 Proposed Remedial Action Request for 9384 Cottonwood Road

The Corporate Officer provided an overview of the process for imposing a remedial action requirement in relation to a declared nuisance within the meaning of Section 74 of the *Community Charter* and stated the following:

- A remedial action requirement is a response to specific types of conditions on a property which are generally hazards, nuisances and drainage work obstructions.
- Staff is recommending that Council pass a resolution to impose a remedial action requirement to have the owner demolish the accessory building at 9384 Cottonwood Road as it is a nuisance property which, for several years, has been, and continues to be, a health and safety hazard to the individuals who are illegally occupying the accessory building, as well as the several contraventions of the Building Bylaw.
- Staff has not come to the recommendation lightly. It is as a result of the condition of the building and the actions of the owner since 2009 that has resulted in staff putting forward this recommendation.
- There has been a significant amount of staff time and RCMP time attributed to the issues at the property and if no further action is taken, given the history of the events, it is probable that these issues will continue and additional costs will be incurred by the Municipality to continue to monitor the property.
- Should Council pass the recommended resolution, the owner would be given 30 days to remove the building itself, with costs to be borne by the property owner. If after 30 days the owner does not comply, the District can proceed with the building's

demolition and bill the owner. If remain unpaid, the costs would be added to the owner's taxes.

- Rachel Hastings, the Senior Bylaw Compliance Officer who was also the Building Inspector involved with the file, will provide Council with the background as it relates to the condition of the building, the steps taken by staff to get the owner to bring this building into compliance, and the actions of the owner.
- Allison Gardner, Environmental Health Officer for Island Health is in attendance and can respond to any questions Council might have about the Health Order that was issued on April 11, 2019 for contravention of the Public Health Act and the Sewerage System Regulation (the order was for the clean-up of raw sewage from behind the Accessory Building which has no plumbing facilities).
- Inspector Chris Bear from the North Cowichan/Duncan RCMP is also in attendance and can respond to questions Council might have about the number of calls to the property related to trafficking, possession, stolen property, etc. She noted that Council needs to make its decision about the condition of the building but the calls for service are part of the matrix of what staff has been dealing with over the years.
- Once staff has presented, the owner should be given an opportunity to respond.
- Should Council pass the staff recommendation, Mr. Parker would be given the opportunity to formally request a reconsideration by Council provided he does so within 14 of Council passing a motion.

The Senior Bylaw Compliance Officer then provided background information regarding the accessory building that continues to be habituated contrary to the Building Bylaw and Zoning bylaw and gave an overview of the contraventions that have occurred since 2009.

Allison Gardner from Island Health responded to questions from Council regarding the Order that Island Health issued on April 11, 2019.

Inspector Bear then responded to questions from Council regarding the number of calls for service to the property. He noted that the owner is not managing the property and therefore there is a high number of calls for service from the individuals living on the property.

Ms. Hastings then showed more recent pictures from inspections conducted on the property highlighting the Building Code and Building Bylaw infractions.

The owner of the property was then provided an opportunity to address Council.

Mr. Parker stated that he did not want tenants in the accessory building and that his plans were to move the tenants from the house he owns at 9370 Cottonwood Road to 9384 Cottonwood Road (main house) as the neighbours seem to like those tenants and because he is selling the house at 9370 Cottonwood Road. The belongings he has stored at 9370 Cottonwood Road would then be stored in the accessory building and that he would no longer rent out the accessory building. He highlighted that the tenants in the accessory building also invite others to the property to set up their tents, and that makes the problem worse. He conveyed that the solution is for Council to bring a sewage system to Fuller Lake.

He then indicated that he put in a brand new septic field for the main house, which is in working order, that he would clean up the property, and have his new tenants in the main house by the end of the month. He said that everything that he's been asked to do he has done.

Council enquired why he never made an application to authorize a second dwelling.

Mr. Parker stated that he did not want a second dwelling and that he never allowed any tenants to live in the accessory building. It was his tenant that sub-let to the people living in the accessory building now but noted that the tenant who sub-let the accessory building is no longer there.

He concluded by stating he doesn't want trouble with his neighbours or North Cowichan.

Council asked for clarification from Ms. Gardner on the status of the septic field.

Ms. Gardner advised that a septic tank was installed new, but the owner was responsible for having an electrician connect the communication equipment to the pump in order for the discharge to be pumped into the septic field. When Island Health responded to a complaint, a sewage back up was discovered. This was due to the fact that the system was not installed the way it was supposed to so it wasn't functioning as designed. It has been that way for approximately a year. Following that visit, the system was then properly connected.

Council enquired about the capacity of the septic system given the number of tenants on the property.

Ms. Garner noted that systems are designed, by standard practice, based on the number of bedrooms and an assumed reasonable number of humans living in a dwelling. In speaking with the individuals on the property, and other professionals who have visited the property, there have been, at times, up to 20 people residing on the property between the main house and the accessory building. As such, the system may be at risk for overuse. She also noted that tenants residing in the accessory building have been denied access to the washroom facility in the main house, which in her opinion, caused the health hazard behind the accessory building resulting from a large amount of human excrement and toilet paper on the ground surface behind the accessory building. This is the subject of the second Health Order, yet to be rescinded.

It was moved and seconded:

Whereas Division 12 of Part 3 of the *Community Charter* authorizes Council to impose a remedial action requirement on the owner of a building or other structure, including a requirement to remove or demolish the building or structure where it contravenes a building bylaw; is a nuisance; or is so dilapidated or unclean as to be offensive to the community;

AND WHEREAS Webster Daniel Parker is the registered owner (the "Owner") of land with the civic address 9384 Cottonwood Road, North Cowichan, BC and legally described as PID: 010-529-331, [That part of Section 13, Range 5, Chemainus District, lying to the east of Fuller Lake and to the north of Parcel A (DD 89540I) shown outlined in red on Plan DD 7789F, Except part in Plan 33487] (the

“Property”), upon which an accessory building unlawfully used for residential accommodation (the “Accessory Building”) is located;

AND WHEREAS section 17 of the *Community Charter* provides that the authority of Council to require that something be done includes the authority to direct that, if a person subject to the requirement fails to take the required action, the Municipality may fulfill the requirement at the expense of the person;

NOW THEREFORE the Council of the Municipality of North Cowichan resolves as follows:

- 1. THAT Council considers that the Accessory Building contravenes the requirements of Building Bylaw 2003, No. 3172;**
- 2. THAT Council hereby declares that the “Accessory Building” is a nuisance, within the meaning of Section 74 of the Community Charter, and so dilapidated and unclean as to be offensive to the community;**
- 3. THAT Council hereby requires the Owner to demolish the Accessory Building and remove the resulting debris within 30 days of receiving notice of this requirement under Section 77 of the Community Charter(the “Remedial Action Requirement”);**
- 4. THAT the District shall provide notice of the Remedial Action Requirement to the persons entitled to notice under s. 77 of the Community Charter, including a copy of this resolution;**
- 5. THAT the District shall notify the persons entitled to notice under s. 77(1) of the Community Charter that they may request that Council reconsider the Remedial Action Requirement pursuant to s. 78 of the Community Charter, by providing the District with written notice within 14 days of the date on which notice under s. 77 of the Community Charter was sent to them; and**
- 6. THAT if any or all of the actions in paragraph 3 are not completed by the dates set out above, the District may undertake any or all of those actions required by the Remedial Action Requirement without further notice to and at the expense of the Owner, and recover the costs of doing so in accordance with sections 17, 80, 258, and 259 of the Community Charter.**

CARRIED

6. DELEGATIONS AND PRESENTATIONS

6.1 PRESENTATION: Cam Mathewson, Senior Research Consultant, NRG Research Group Re: Citizen Satisfaction Survey Follow-up

Mr. Mathewson provided a presentation on the supplemental analysis of the Citizen Satisfaction Survey. Highlights of his discussion included:

- The validity of telephone surveys;
- Details of the data collection;
- Comparison of demographics (unweighted vs. weighted proportions by age and gender;

- Response to Council's follow up questions regarding challenges facing the community, attitudes on population growth, approaches to service levels and property taxes, and the amount of information received on the demographic profile.

A copy of the full presentation can be found on the District's website at <https://www.northcowichan.ca> attached to the September 4, 2019 Council meeting agenda.

It was moved and seconded:

That Council receive the additional information on the 2019 Citizen Satisfaction Survey results for information and consider the results when determining priorities.

CARRIED

By consensus, Council recessed the Council meeting at 3:20 p.m.

The Council meeting resumed at 3:27 p.m.

6.2 PRESENTATION: Tracey Thompson, Regional Harm Reduction Coordinator and Stacy Middlemiss, OER-Community Action Team Coordinator, Canadian Mental Health Association Re: Understanding the Take Home Naloxone Program

Deferred to the October 2, 2019 Regular Council meeting.

6.3 DELEGATION: Jock Hildebrand, President, Friends of the Cowichan Public Art Gallery Society

Mr. Jock Hildebrand, President of the Friends of the Cowichan Public Art Gallery Society was in attendance to provide Council with an update on the Society's plans to build a public art gallery for the Cowichan Valley. Highlights of his discussion were as follows:

- The Cowichan Valley Public Art Gallery is a not-for-profit society that boasts 70 members and 22 people working on the Board and 6 different committees;
- Their goal is to raise 35 million dollars to build a contemporary purpose built gallery to serve the needs of the Cowichan valley and Vancouver Island;
- The organization is already hosting art exhibitions in various venues in order to qualify for ongoing Canada Council operating grants;
- No funding is being requested at this time;
- The goal is to fundraise for the next several years to realize the project and until then, the Society will be hosting exhibitions in rented space;
- Plans are to build an "A" list gallery that can host top international and national exhibitions and provide exposure for local artists in terms of curated exhibitions;
- The Board currently consists of 9 people and there are 6 working committees with 23 people on those committees;
- It is anticipated to take 5 – 8 years to complete funding for the gallery;
- Further information can be found on the Society's website at: cvpublicartgallery.ca

Mr. Hildebrand noted that he would like a letter of support from Council.

The Mayor advised that Council would consider his request at a future Council meeting.

6.4 DELEGATION: Brad Grigor, Chair of the Committee for the Chemainus Valley Cultural Arts Society

Mr. Brad Grigor, Chair of the Committee for the Chemainus Valley Cultural Arts Society (CVCAS) was in attendance to provide Council with an overview of the work that the Society has been doing over the past 20 years to support and foster arts and culture in the Municipality of North Cowichan (i.e. the summertime music programs at the Chemainus Waterwheel Bandshell). He then outlined the recent and planned activities being undertaken by the CVCAS for the community and the region, including establishing the permanent Rainforest Arts Gallery, First Nations projects and the challenges faced. He concluded his presentation by briefing Council on the Society's initiative to develop a regional professional Community Arts Centre in North Cowichan, including the current progress towards funding a professional, independent feasibility study. They were seeking Council's support to:

- Appoint a Councillor as a liaison to the CVCAS Board;
- Provide a letter of support for the CVCAS Community Arts Centre;
- Authorize staff to participate in interviews during the Feasibility Study; and
- Include an A-Team member (Peter Collum) on the OCP Advisory Board.

The Mayor advised Mr. Grigor that Council would consider the Society's requests at a future Council meeting.

6.5 DELEGATION: Bill Routley, Re: Chemainus River Campground

Bill Routley was in attendance to speak on behalf of the owners of the Chemainus River Campground (John and Jeri Wyatt) who were advised by the Agricultural Land Commission that their campground was in non-compliance and ordered the Wyatt's to remove all construction associated with the campground and return the property back to its form Agricultural capacity no later than October 1, 2019.

Mr. Routley then provided a history of the campground since its inception in 1986 and noted that at no point was the land used for agriculture; therefore, it would be unreasonable to shut down the campground. He asked for Council's assistance, on behalf of the Wyatt's, to either make an application to the Agricultural Land Commission (under Section 29 of the *ALC Act*) to have the Chemainus River campground lands excluded from the Agricultural Land Reserve or to support an application to the Ministry of Forests, Lands, Natural Resource Operations and Rural Development to increase the water licence to accommodate agricultural use.

It was moved and seconded:

That Council direct staff to submit an application to the Agricultural Land Commission (ALC) under Section 29 of the *ALC Act* to exclude the Chemainus River Campground lands from the Agricultural Land Reserve;

And That the Mayor be authorized to write the Minister of Agriculture, with copies to the Minister of Municipal Affairs and Housing, the Minister of Environment and Climate Change Strategy, Minister of Tourism, Arts and Culture, and the Minister of Forests, Lands, Natural Resource Operations and Rural Development, citing the following concerns:

- **By shutting down the campground there will be a loss of temporary and permanent housing which is unreasonable given the housing crisis we are facing;**
- **The land was previously never used for Agriculture purposes as it was forest; and**
- **The existing water licence, which permits 1,000 gallons a day from the Chemainus River for domestic use only, would not support agriculture use without a substantial increase to the water licence to accommodate agriculture use during the growing season.**

CARRIED

7. PUBLIC INPUT

Council received brief public input regarding agenda items from registered speakers.

8. REPORTS CONTINUE:

8.1 Setbacks for all Other Principal Buildings On Agricultural Lands

It was moved and seconded:

That staff be directed to prepare a zoning amendment bylaw to reduce front, rear, and side yard setbacks for 'All Other Principal Buildings' as follows:

- **In the A1 zone - from 46 m to 25 m for front yard setbacks and from 46 to 15 m for side and rear yard setbacks, except for those lands abutting residentially zoned properties which are subject to 30 m setbacks from the abutting property line;**
- **In the A2 zone - from 30 m to 25 m for front yard setbacks and from 30 m to 15 m for side and rear yard setbacks, except for those lands abutting residentially zoned properties which are subject to 30m setbacks from the abutting property line; and**
- **In the A3 zone - from 30 m to 25 m for front yard setbacks, and from 30 m to 15 m for rear yard setbacks.**

(Opposed: Douglas; Justice)

CARRIED

Councillor Toporowski declared a conflict of interest for items 8.2, 9.1, 9.2 and 9.3 as Cowichan Tribes is a partner in the Costa Canna Corporation and she is a Cowichan Tribes Council member and left the Council Chambers at 5:06 p.m.

Councillor Manhas declared a conflict of interest for items 8.2, 9.1, 9.2 and 9.3 as his employer has submitted a rezoning application for a retail cannabis store and left the Council Chambers at 5:06 p.m.

By consensus Council recessed the meeting at 5:06 p.m. for a 10 minute break.

The meeting resumed at 5:15 p.m.

8.2 Rezoning Application No. ZB000093 for Bylaw 3763 (Retail Cannabis Sales - 8432 Trans-Canada Highway)

It was moved and seconded:

That Council give first reading to "Zoning Amendment Bylaw (Cannabis Sales – 8432 Trans-Canada Highway), 2019" No. 3752 – a bylaw to permit cannabis retail sales at 8432 Trans-Canada Highway;

AND That the Applicant be directed to conduct an Information Meeting prior to second reading and advise the Halalt and Lyakson First Nations of the information meeting;

AND That a Public Hearing be scheduled as required by the *Local Government Act*.

(Opposed: Siebring; Marsh)

CARRIED

9. BYLAWS

9.1 Bylaw 3752 - "Zoning Amendment Bylaw (Cannabis Sales - 110, 2951 Green Road), 2019" (adoption)

It was moved and seconded:

That "Zoning Amendment Bylaw (Cannabis Sales - 2951 Green Road), 2019" No. 3752 - a bylaw to permit retail cannabis sales at unit 110, 2951 Green Road be adopted.

CARRIED

9.2 Bylaw 3748 - "Zoning Amendment Bylaw (Cannabis Sales - 2900 Drinkwater), 2019" (reconsideration)

The following motion from the August 21, 2019 Council meeting was reconsidered pursuant to Section 131 of the *Community Charter*:

That "Zoning Amendment Bylaw (Cannabis Sales – 2900 Drinkwater Road), 2019" – No. 3748 – a bylaw to permit cannabis retail sales at 2900 Drinkwater Road be given third reading."

(Opposed: Siebring; Sawrie)

CARRIED

9.3 Bylaw 3748 - "Zoning Amendment Bylaw (Cannabis Sales - 2900 Drinkwater Road), 2019" (adoption)

It was moved and seconded:

That Council postpone adoption of Bylaw 3748 until the Province has completed its licensing and security clearance process for Costa Canna;

And Further that the Mayor write the Minister of Public Safety and Solicitor General requesting that the Provincial government fast track the application process for Costa Canna.

The motion was withdrawn with consent from the mover and seconder.

Council conveyed that its goal was to ensure that both Costa Canna and the Liquor Distribution Branch had the same opportunity in terms of approvals so stated that it would hold off considering adoption of the Liquor Distribution Branch's Zoning Bylaw until such time as the CAO was able to find out more information on the status of Costa Canna's application for security clearance with the Province.

Councillors Manhas and Toporowski returned to the Council Chambers at 5:42 p.m.

10. NOTICE OF MOTIONS

10.1 Quamichan Watershed and Lake Phosphorus Loading

It was moved and seconded:

Whereas it is one of Council's strategic priorities to take action on the water quality of Quamichan Lake;

And Whereas phosphorus deposition in Quamichan Lake is the result of land use practices including land clearing, agricultural practices, residential development, residential life in the watershed, as well as our methods for dealing with storm-water and septic disposal;

And Whereas some jurisdictions have come up with ideas to curtail and limit the deposition of phosphorus into watersheds and lakes using planning policy and land use regulations and engineering standards;

Be it Resolved that, within a time frame appropriate to its use in the OCP process, and the drafting of the new Zoning bylaw, staff present Council with a report on reducing both the deposition of phosphorus into the watershed and the flow of phosphorus into the lake which outlines options and recommendations for a) defining an appropriate target or goal and b) methods for achieving this target or goal including engineering standards, and land use planning policies and regulations.

It was moved and seconded:

That Councillor Justice's Notice of Motion be referred to the September 18, 2019 Council meeting for consideration so staff have the opportunity to seek input from Dr. Preikshot on how staff would proceed with implementing the motion.

CARRIED

10.2 Simon Fraser University's Climate Action for BC Communities Initiative

Withdrawn.

10.3 Public Hearing and Special Council Meeting to be Held at the Cowichan Performing Arts Centre - Tuesday, October 1, 2019 at 6:00 p.m.

It was moved and seconded:

That Council authorize holding a Public Hearing for Bylaw 3761 - "Zoning Amendment Bylaw (Comprehensive Development Zone - 4063 Cowichan Valley Highway), 2019 and Special Council meeting outside of Municipal Hall on Tuesday, October 1, 2019 at 6:00 pm at the Cowichan Performing Arts Centre located at 2687 James Street, Duncan, BC.

CARRIED

10.4 Cannabis Production in the Agricultural Land Reserve

Councillor Douglas requested that the following Notice of Motion be considered at the September 18, 2019 Council meeting:

"That staff be directed to prepare a report and draft zoning amendment bylaw to prohibit cannabis production in the Agricultural Land Reserve, unless it is grown in ways that preserve the productive capacity of agricultural land."

11. NEW BUSINESS

None.

12. QUESTION PERIOD

Council received no questions from the public regarding business considered at this meeting.

13. ADJOURNMENT

It was moved and seconded:

That Council adjourn the September 4, 2019 Regular Council meeting at 6:30 p.m.

CARRIED

Certified by Corporate Officer

Signed by Mayor