

**Municipality of North Cowichan  
Special Council  
MINUTES**

**December 9, 2019, 6:00 p.m.  
Cowichan Performing Arts Centre - Theatre  
2687 James Street  
Duncan, BC**

Members Present            Mayor Al Siebring  
                                  Councillor Christopher Justice  
                                  Councillor Kate Marsh  
                                  Councillor Debra Toporowski

Members Absent            Councilor Rob Douglas  
                                  Councillor Tek Manhas  
                                  Councillor Rosalie Sawrie

Staff Present                Ted Swabey, Chief Administrative Officer (CAO)  
                                  Sarah Nixon, General Manager, Corporate Services  
                                  David Conway, Director of Engineering  
                                  Rob Conway, Director of Planning and Building  
                                  Megan Jordan, Acting, Manager, Communications and Public Engagement  
                                  Alyssa Meiner, Acting Corporate Officer  
                                  Nelda Richardson, Deputy Corporate Officer

**1. CALL TO ORDER**

There being a quorum present, Mayor Siebring called the meeting to order at 6:00 p.m.

**2. APPROVAL OF AGENDA**

It was moved and seconded:

**That Council approve the December 9, 2019 Council agenda as circulated.**

**CARRIED**

**3. REPORTS**

**3.1 Second Public Hearing for Zoning Amendment Bylaw No. 3761**

Council heard from the CAO regarding the new information requiring a second public hearing and the reconsideration of third reading of Bylaw 3761 under s. 131 of the *Community Charter*.

The CAO reviewed community contributions offered by the Vancouver Island Motorsport Circuit (VIMC), including sound restrictions, water storage reservoir, dedication of lands to Cowichan Tribes First Nation, transfer of lands adjacent to Bings Creek, and

contributions for trails and environmental issues. Council heard that the applicant has withdrawn its application, and if Council proceeds with Bylaw 3761, the amenity contributions will need to be revisited.

#### **4. PUBLIC HEARING**

##### **4.1 Reconsideration of Third Reading for Rezoning Application No. ZB000064 for "Zoning Amendment Bylaw No. 3761, 2019"**

##### **4.1.1 Mayor Siebring to call the Public Hearing to order and explain the Public Hearing process**

Mayor Siebring called the public hearing to order at 6:05 p.m. for Zoning Amendment Bylaw No. 3761 (Motorsport Circuit) and advised that the meeting was being audio recorded with a copy of the recording to be posted to North Cowichan's website following the hearing.

The Mayor explained that he was exercising his authority under s. 131 of the *Community Charter*, and that Council decided to hold another public hearing to allow for input from the public on the new information. The Mayor outlined the public hearing process, including that Council would hear from speakers on a rotating basis from each of the four microphones. Each speaker would have an initial three minute maximum to speak, followed by additional turns as needed. The public was asked to clearly state their name and address for the public record.

Mayor Siebring pointed out the location of the public hearing binders available for public viewing throughout the public hearing, then advised that any written submissions received during the hearing would also form part of the public hearing record.

Mayor Siebring also conveyed that no further verbal or written presentations could be received by any member of Council following the closure of the public hearing.

##### **4.1.2 Acting Corporate Officer to provide a summary of correspondence received (as of Friday, December 6, 2019 at 2:00 p.m.) as well as acceptance of any petitions and late correspondence**

The Acting Corporate Officer provided a summary of public correspondence received. This included 44 pieces of correspondence received before the statutory notice was published in the paper (5 in support from North Cowichan, 38 opposed with 20 from North Cowichan, and 1 group provided comments). Following the November 29<sup>th</sup> statutory notice until the December 6<sup>th</sup> deadline, 90 pieces of correspondence were received (24 in support with 18 from North Cowichan, 64 opposed with 32 from North Cowichan, and 2 with comments). Between the December 6<sup>th</sup> deadline and 2 p.m. December 9<sup>th</sup>, 29 pieces of late correspondence were received.

The Acting Corporate Officer confirmed that copies of all correspondence received had been circulated to Council and included in the public hearing binders, which were available for public inspection at the hearing.

The public hearing binders also include the CAO's December 9, 2019 report with attachments, relevant staff reports and Council meeting minutes, and the public input received for the October public hearing and minutes, all incorporated by reference into the December 9<sup>th</sup> public hearing.

Late correspondence was then received at the hearing by the Deputy Corporate Officer, with copies made and distributed to Council and added to the public hearing binders.

#### **4.2 Mayor to call for submissions from the public on the proposed site specific zoning amendment**

The Mayor invited the public to speak and asked if there were any First Nations elders who wished to speak first. Council heard from the following individuals:

1. Joe Thorne, Cowichan Tribes elder
2. Hwiemtum (Fred) Roland, Cowichan Tribes elder
3. Bryan Wallis, Maple Bay (North Cowichan)
4. Kate Koyote, 3615 Gibbins Rd (North Cowichan)
5. Tim Kulchyski, 8891 Stoney Hill Rd (North Cowichan)
6. Jared Williams, no address given
7. John Koury, 101-1440 Algonkin Rd (North Cowichan)
8. Robert Fullerton, 6521 Birds Eye Dr (North Cowichan)
9. Sierra Courtemanche, 5984 Castley Rd (North Cowichan)
10. Monique Joseph, 6158 Sumas Rd (North Cowichan)
11. Carole Messier, 1260 Shore Pine Close (North Cowichan)
12. Sabine Almstron, 6154 Edgehill Place (North Cowichan)
13. Lorna Foss, 3180 Sherman Rd (North Cowichan)
14. Bob Kopp, 3981 Normandy Rd (North Cowichan)
15. Jonathan Binnington, 3375 Coho Lane, Nanoose Bay
16. Leah Versible, 9904 Maple St, Chemainus (North Cowichan)
17. Mark Primmer, Chemainus Rd (North Cowichan)
18. Bryan Senft, 1279 Kathleen Dr (North Cowichan)
19. Martina Joe, 2562 Beverly St (North Cowichan)
20. Greg Clackson, Mill Bay (CVRD)
21. Alison Wilcock, 404 Arbutus Ave (North Cowichan)
22. Zan Boyle, Donnay Dr (North Cowichan)
23. Morgan Steacey, 4415 Pollock Rd (Sahtlam – CVRD)
24. Kerry Davis, 27-3205 Gibbins Rd (North Cowichan)
25. Shaun Johnny, Cowichan Tribes, no address given
26. Heather Ferris, Alderlea St (North Cowichan)
27. Peter Rusland, 5807 Banks Rd (North Cowichan)
28. Jackie Barker, Cobble Hill (CVRD)
29. Clara Remple, no address given
30. Amy Webb, 8061 York Ave (North Cowichan)
31. Paul Rickard, 4053 Lanchaster Rd. (North Cowichan)
32. Gisela Haarbrucker, 3186 Herons Way (North Cowichan)
33. Monique Joseph, 6158 Sumas Rd (North Cowichan)
34. Sheila Paul, (owner of 1037 Khenipsen Rd, North Cowichan) (Cowichan Bay)

December 9, 2019 - Special Council - Public Hearing Minutes

35. Gerry Hawkes, 4660 Hillbank Rd, Cowichan Bay (CVRD)
36. Kevin Corkum, 2984 Mt. Sicker Rd (North Cowichan)
37. Tyler Jackson, Bell McKinnon Rd (North Cowichan)
38. Wally Smith, Crofton Rd (North Cowichan)
39. Chantal Foss, 4260 Wheatley Rd (North Cowichan)
40. John Steven, 111 McKinsty Rd (Duncan)
41. Norman Conrad, Renita Ridge (North Cowichan)
42. Tina Short, no address given (North Cowichan)
43. Sandy McPherson, 5734 Van Koy Rd (North Cowichan)
44. Michelle Atterby, 3878 Cowichan Lake Rd (North Cowichan)
45. Ming Hui, 6507 North Rd (North Cowichan)
46. Midnight Rose Meldrin Joe, no address given
47. Ward Yeagar, 9940 Cedar St, (North Cowichan)
48. Linda Williams, no address given
49. Darcy Gibbins, 4380 Irvine Dr (CVRD)
50. No name given, on behalf of Bev Suderman, 401 Ypres (Duncan)
51. Richard Dwyer, 4280 Sunrise Rd (CVRD)
52. Isabel Rimmer, 4195 Sahtlam Rd (CVRD)
53. Michael Hanes, 4361 Pollock Rd (CVRD)
54. Jytte Ebbesen, Cowichan Bay (for Martha Lescher, 475 Chesterfield Rd, Duncan)
55. Stephen Faulkner, 162 Jubilee St (Duncan)
56. Penny Lahan, 530 Bayview Place, Maple Bay (North Cowichan)
57. Brian Jervis, Shore Pine Close (North Cowichan)
58. Peter Van den Bos, 6895 Hillcrest Rd (CVRD)
59. Larry Fiege, 5880 Indian Rd (North Cowichan)
60. Paul Fletcher, 162 Jubilee St (Duncan)
61. Stephen Kostamo, 1729 Westcott Rd (North Cowichan)
62. Mary Ann Deacon, 1138 Khenipsen Rd (North Cowichan)
63. Joyce Behnsen, 3177 Drinkwater Rd (North Cowichan)
64. Greg Eyre, 3841 Cowichan Lake Rd (North Cowichan)
66. Colin Mullett, 35185 Elenor Rd, Koksilah (CVRD)
67. Serena Haire, no address given, Cowichan Valley
68. Tricia Bowler, 4361 Pollock Rd (CVRD)
69. Greg Gerbis, 2540 Timbercrest Dr (North Cowichan)
70. John Kirkpatrick, Park Rd (Lake Cowichan)
71. Victoria Roper, 3936 Corey Rd (North Cowichan)
72. Dave Polster, 6015 Mary St (North Cowichan)
73. Richard Hughes, Cobble Hill (CVRD)
74. Christine Fagan, 7386 Bell McKinnon Rd (North Cowichan)
75. Marilyn Weland, Deuchars Dr (North Cowichan)
76. Alison Rimmer, 3878 Cowichan Lake Rd (North Cowichan) (also on behalf of Icel Dobell, 6473 Genoa Bay Rd (North Cowichan)
77. Beverly McKeen, 1279 Kathleen Dr (North Cowichan)
78. Alison Nicholson, 3961 Riverside Rd, Shawnigan Lake (CVRD Area E Director)
79. Miyo Stevens, 380 Brae Rd (Duncan)
80. Dennis DelTorre, 5939 Cygnet Place (North Cowichan)

81. Pete Elzinga, 6023 Castley Rd. (North Cowichan)
82. Mariah Wallener, 4240 Sahtlam Rd (CVRD)
83. Jan Dwyer, 5839 Banks Rd (North Cowichan)
84. Charlie Fagan, 7386 Bell McKinnon Rd (North Cowichan)
85. Spencer Carter, 681 Government St (Duncan)
86. Richard Walton, 6606 Chisolm Trail (North Cowichan)
87. Bruce Matthews, Maple Bay (North Cowichan)
88. Michael Neat, Mountain Rd (CVRD)
89. Brad Borjeau, 6096 Sterling Dr (North Cowichan)
90. Chris Davies, 4404 Cowichan Lake Rd (CVRD)
91. Gene Foss, 3180 Sherman Rd (North Cowichan)
92. Timothy MacDonald, no address given (Duncan)
93. Lindsay Sharp, 4805 Cowichan Lake Rd (North Cowichan)
94. Barry Hetschko, (North Cowichan)

Comments opposed to the rezoning included the following:

- VIMC is perceived as a bully and a bad corporate citizen, prioritizing money over the needs of citizens.
- Denying the rezoning is an opportunity to show North Cowichan does not bow down to threats from bullies.
- The proposed track expansion presents risks of damage to the watershed and streams, creeks, wildlife, fish, birds, integrity of Somenos Lake, and environmental degradation.
- Need to consider the environment, preserve land, forests, trees and wildlife.
- Consider commitments to climate action; decisions should be made through a climate lens to avoid climate change, pollution and environmental destruction.
- Need to retain trees in the Phase II area to preserve water health.
- This development does not meet environmental ethics basics and eco-tourism is on the rise.
- Land surrounding a race track has questionable value for people.
- The land proposed for rezoning is unique and is significant to First Nations, from an origin story perspective and for obtaining medicine.
- North Cowichan needs to acknowledge what has not been talked about in the last 150 years (\$40 million fisheries have not been respected). Cowichan Tribes is paying for liabilities of the past (e.g. don't have resources like Chinook left) and has been pushing back on issues for 100 years.
- Denying the rezoning shows support for First Nations as the land is less than 0.5 km from their origin story land, and First Nations (Hul'qumi'num Treaty Group and Cowichan Tribes) have a land use plan for the non-ceded land.
- Disbelief over the magnitude of the threatened lawsuit and potential for significant tax increase; feel manipulated and only told part of the story by the Municipality and paper.
- The economic benefit from development of the track benefits only a few and not the average citizen.
- Concerns about excessive noise and pollution, for the sake of entertainment.
- Fully aware of the lawsuit and threats, but unaware of any assurances by the Municipality to authorize the track expansion.

- Need to support businesses in North Cowichan that do business ethically.
- The track is not needed and benefits only the wealthy.
- The threat of a lawsuit was always there and should have been expected. North Cowichan has insurance to pay for lawsuits.
- Agree with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Province of BC's *Declaration on the Rights of Indigenous Peoples Act*. First Nations' right to lands are being clearly articulated, and there is a strong First Nation voice in opposition to the proposed expansion. This is an opportunity to right wrongs and provide for future healing and reconciliation.
- Consider the cultural impacts and reconciliation as First Nations are truly connected to significant areas in First Nation territories. The mountain is thousands of years old and sacred to First Nations.
- There is a duty to consult with and respect First Nations.
- Tourists are coming to Cowichan for clean air and the environment, not for more pavement and racing cars.
- This development has polarized this small community.
- More transparency is needed on the lawsuit. VIMC is not entitled to that much compensation and it is more likely that increase in tax would be amortized over many years.
- There has been damage to public trust with uncertainty and not making all the details clear.
- Belief that VIMC's commitments are vague and VIMC will find loopholes to get out of them.
- Suggestion to downzone the land to forestry, and allow VIMC to remain as a non-conforming use.
- This development is attracting the attention of the United Nations with respect to impact on water and natural resources.
- The CVRD may not pay increased taxes but is paying with loss of enjoyment of land, reduced land value, and impact to peaceful use of property and health.
- Leave something behind for the children (the Somenos watershed is the largest contributor to salmon and development affects quality of water).
- Sound carries far on a mountain (go-karts were given requirements for sound mitigation).
- VIMC has not done the sound-proofing remediation they could have done and promised to do.
- This is a land use decision.
- North Cowichan could offer to buy the land and return it to First Nations.
- There is a responsibility to stand up and do what is right, and set an example for the children.
- The Nurburgring in Europe has very strict sound requirements and 95 db will impair hearing.

Comments in favour of the rezoning included the following:

- There are many accommodations and commitments made by VIMC included in this rezoning application.
- This development can accommodate environmental and sound concerns, and there are many commitments offered by VIMC to protect the environment.
- Council needs to go to North Cowichan residents (through referendum) if it does not want to support VIMC.
- VIMC has created significant economic benefits and interest in this small town.
- A community with no industry is a dead community and VIMC has invested millions into this project. This is a positive economic impact on the community that tourism marketing did not have to pay for.
- Need to be concerned about the potential unreasonable tax increase that would impact residents and be a huge burden and businesses of North Cowichan.
- Council has a duty to the taxpayers and must consider the well-being and interests of the North Cowichan community. Most cannot afford a tax increase and well-being depends on being able to put food on the table and a roof overhead.
- Noise of motor vehicles may be annoying but outside the VIMC track there is a major highway; noise is not a big issue.
- North Cowichan had full knowledge from the beginning of what VIMC's plans were for the track; the 2013 and 2015 letters from the then CAO outlined the municipality's position that proposed uses (for Phase I) would be permitted on the property and consistent with a vehicle testing facility. VIMC has been very open with their plans.
- The current Council is sending a message to business that North Cowichan is not to be trusted and this will impact business' interest in operating in the community.
- VIMC bought heavy Industrial Land (I2) and has the right to use the land for heavy industrial uses (e.g. garbage dump, auto wreckers, saw mills, etc.). The test track is a gentle use of this property compared to allowed uses, and has limited hours of operation.
- Millions of dollars in taxes are needed to pay for this theatre, swimming pool, new hospital, new police station and VIMC is paying taxes that will otherwise need to come from residents.
- North Cowichan needs the jobs and tax revenue from the VIMC track.
- VIMC has built a recreation facility that anyone in the valley can use; it is not a closed facility or private club and you don't need to be rich to use the track.
- Carbon emissions from the track are small when compared to the highway outside the track.
- Need to further diversify North Cowichan's economy, and generate economic development; this development is allowing North Cowichan to move beyond a resource based industry, diversify, and leverage opportunity.
- We need to look for a solution (e.g. electric cars). There are no clear winners with a divided community but this is industrially zoned land.
- No one likes a bully, but the unfortunate reality is there is a significant risk to North Cowichan taxpayers. Even a portion of that amount is a significant burden on taxpayers.
- This whole process has been so inefficient and expensive, squandering resources when roads and infrastructure need to be fixed. Confidence in development is needed for investment in the valley, and we need a process that makes development more efficient.

- Council is alienating a prominent business, excited to share a passion for driving in the Valley. New high performance cars are becoming hybrid and electric and this facility will provide great in-house testing for electric vehicles and be an amenity for the public.
- Noise has gone down significantly since VIMC opened, operating hours are restricted, and VIMC now has full time staff dedicated to keeping sound below allowable levels.
- VIMC is willing to give land to local First Nations.
- The VIMC facility helps keep street racers off the road, and the driving instructors teach people to drive better and improve skills in slippery conditions.
- VIMC benefits the local community by employing locals as driving instructors and builders, who then have money for their families to spend locally.

Council recessed from 9:05 p.m. to 9:25 p.m. and continued to hear comments from the public as outlined above.

#### **4.3 Final call for submissions**

The Mayor called for submissions from the public for a third and final time.

#### **4.4 Adjournment of the Public Hearing**

The Mayor noted that no one in attendance wished to speak further to the application then closed the public hearing at 12:03 a.m.

### **5. BYLAWS**

#### **5.1 "Zoning Amendment Bylaw No. 3761, 2019" (reconsideration of third reading)**

Council thanked the public for expressing their views and discussed the motion being reconsidered.

It was moved and seconded:

**That Council give third reading to "Zoning Amendment Bylaw No. 3761, 2019" - a bylaw to rezone three properties at Cowichan Valley Highway and Drinkwater Road to a new Comprehensive Development Zone and direct staff to work with the municipal solicitor to prepare the legal documentation to secure the written commitment made by VIMC in their September 25, 2019 letter and the additional commitments/agreements made by VIMC at the public hearing.**

(Opposed: Siebring; Douglas; Justice; Marsh; Sawrie; Toporowski)

**DEFEATED**

It was moved and seconded:

**That Council rescind second reading of Bylaw No. 3761.**

(Opposed: Toporowski)

**CARRIED**

It was moved and seconded:

**That Council amend Bylaw No. 3761 to restrict its application to only those parcels of land on which VIMC is currently carrying on its Phase I operations (PIDs: 029-201-675 and 014-104-067).**

(Opposed: Toporowski)

**CARRIED**

It was moved and seconded:

**That Bylaw No. 3761 be read a second time, as amended.**

(Opposed: Toporowski)

**CARRIED**

It was moved and seconded:

**That the public hearing in relation to Bylaw No. 3761, as amended, be waived, and that staff give notice of waiver of the public hearing in relation to the amended bylaw in accordance with the requirements of the *Local Government Act*, and that the amended bylaw be brought forward for consideration of third reading in January 2020.**

**CARRIED**

## **6. ADJOURNMENT**

It was moved and seconded:

**That Council adjourn the December 9, 2019 Special Council meeting at 12:49 a.m.**

**CARRIED**

---

Certified by Acting Corporate Officer  
(Minutes certified "correct" and Public  
Hearing report certified "fair and accurate")

---

Signed by Mayor