



TOWN OF SIDNEY

MINUTES OF REGULAR COUNCIL MEETING

Monday, October 28, 2019

Council Chambers

7:00 p.m.

PRESENT: Mayor C. McNeil-Smith
Councillors: S. Duncan, B. Fallot, S. Garnett, T. O'Keeffe, C. Rintoul and P. Wainwright

Staff: R. Humble, Chief Administrative Officer
A. Hicik, Director of Corporate Services
J. Clary, Director of Engineering
M. Harman, Deputy Fire Chief
A. Verhagen, Senior Manager of Current Planning
C. Newcomb, Senior Manager of Long Range Planning
B. Robinson, Manager of Public Works & Parks
T. Restell, Manager of Finance
S. Nelson, Corporate Officer

The Mayor respectfully acknowledged that this evening's meeting is being held on the traditional territory of the WSÁNEĆ people.

1. **CALL TO ORDER / PUBLIC PARTICIPATION PERIOD (maximum 20 minutes) / INTRODUCTIONS / PRESENTATIONS / PUBLIC HEARINGS**

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

A. PUBLIC PARTICIPATION PERIOD

1. **B. Styles (applicant for Happy Buddha Cannabis)** – expressed thanks for the overwhelming support received from the public; stated they are true small business owners wishing to run a nice, clean and licensed store and that Sidney can support a cannabis store as it is what people want and its legal; advised that on August 12 Council passed a bylaw allowing cannabis on Beacon and they then began the process of applying for a license; advised they spent \$40,000 to renovate the store, acted in good faith and have done everything correctly in the process; with LCRB requiring covered windows and the Town wanting interesting and active storefronts, noted his frustration with other business already having completed covered windows, but noted that a solution can be found; and requested Council to recognize that they have acted in good faith, meet requirements, invested time and finances and to please vote yes for their application.
2. **T. Wright, 2355 Brethour Avenue** – stated that the applicants had the store rented for longer than August 12 and that the business owners feel entitled to open a store in Sidney; noted that a lot of people want cannabis, but that Beacon Avenue is not the right place as it is very vibrant with lots of family events; and requested that it not be on Beacon Avenue.
3. **C. Pendergast (applicant for Happy Buddha Cannabis Retailer)** - expressed thanks to the public for their support; advised that the Chamber of Commerce conducted a poll of Sidney's business community and the result was 75% were in support of cannabis retail on Beacon Avenue; stated has listened to Council and are also trying hard to please the Province; advised that this afternoon they received approval from the LCRB for their unique live wall proposal; noted the importance of working together as per the City of Victoria being able to find a solution for a location in a heritage building; stated cannabis stores are opening all across Canada; advised that they intend to give to Sidney, not take; and respectfully requested Council to please approve a recommendation to the LCRB.

4. **G. Hazlehurst, Resthaven Drive** - requested cannabis retail not be allowed on any block fronting Beacon Avenue; stated it would cause long customer lineups, parking issues, etc.; and stressed the importance of the store being located in the correct location (i.e. Beacon Avenue is not the correct location).
5. **R. Angus, 2115 Amelia Drive** – stated is in favor of where the cannabis retail is being proposed; the products help with arthritis and other conditions; and looks forward to purchasing products in Sidney and not having to go to Victoria.
6. **Z. Pendergast (applicant for Happy Buddha Cannabis Retailer)** - expressed support for cannabis on Beacon Avenue and requested Council approve a recommendation to the LCRB.
7. **J. Edwards** – noted that the proposal for “The Rise on Fifth” development has been through the process and changes have made improvements, but that the height doesn’t change the impact on the neighborhood and requested Council to consider any amendments to the height and how to ensure no building like that gets built again in the neighborhood in the future.
8. **Sidney Greenner, 2011 Linda Place** – stated cannabis physically helps people and urged Council to support the application, as would rather support a business in Sidney than Victoria.
9. **W. Dunford (works and owns property in Sidney)** - stated cannabis has been around for many years, it is now legalized and doctors are prescribing it instead of chemicals; it is a heavily taxed and regulated business; the Town approved cannabis on Beacon, but now want it on the backstreets; why would a new business choose a back street when there are many empty stores on Beacon; let these business owners come up with a solution and work with Sidney to make it a better Beacon Avenue; this is about a progressive Sidney and the right for people to shop for this product; and after a large investment they need the Town’s support to move ahead.
10. **B. Collins, 2028 Westbrook Drive** – advised of the cleanup event hosted by the Peninsula Stream Society to remove ivy at Reay Creek; noted we have the right and privilege to deliver something new in the community; stated it is important to look at Sidney with an open mind; and urged Council to base their decision on what we want our community to look like in the future.
11. **D Gelinas, 2545 Oakville Avenue** – 1. Cannabis - stated the retailers moved forward in good faith and changing the rules mid-way seems unfair; operating a legitimate and thriving business is better than having an empty store; and suggested the retailer be allowed to proceed as planned; and 2. beach access on Allbay Road - stated landscaping plans did not include stairs; the experienced builder should have known the rules; suggested the variance be denied, stairs removed and lands restored; and noted the Town should take a stand and look at at strengthen its policy framework to respond to situation in the future.
12. **H. McNeill** - providing a character reference for the business owners of Happy Buddha Cannabis, stated has known them for 10 years - that they are very good people and that they would be an asset to Sidney.
13. **T. Hall** - stated is part of the coalition against the height of “The Rise on Fifth” development; expressed frustration the application is going through because of legalities and variations of the law throughout the years; stated is disappointed that it is going to be built 2 storeys higher than the Blue Waters building; and questioned how something could be permitted to be built so high.
14. **R. Lambert, 10046 Fifth Street** – noted that for some people cannabis is the only medial option for pain relief and fully supports such a business on Bacon Avenue; expressed concerns of trying to “hide” it on the side streets; and stated that it would be a positive step for our community.
15. **D. Hazlehurst, Resthaven Drive** – expressed concerns regarding marijuana being sold on Beacon Avenue; stated it is a segway to other drugs; urged Council to think about the product; stated firmly objects to it “shining” on Beacon Avenue and to give science time to determine its effect on health.
16. **W. McNiven, 2326 Orchard Avenue** – stated is in favour of having Happy Buddha Cannabis on Beacon Avenue; that the live wall is beautiful; and that it is not a wise choice to deny a business on Beacon Avenue.

17. **D. Calveley, 9655 First Street** – stated information indicates only 29% of marijuana sales are done through legal operations, which means 71% are through the black market; it is the drug dealers that push people down the wrong path to illegal drugs; and noted that today we are a lot more enlighten and that things will change, including Beacon Avenue.

Public Participation Period closed at 7:36 p.m.

B. PRESENTATION

i. Niimi Visit 2019

Sharon Stoneman, President of Sidney Sister Cities Association, was pleased to advise of the recent delegation of students (ages 13-17) from the City of Niimi, Japan (one of the Town's Sister Cities, established in 2008). She advised that the students stayed with local host families and that a full program of tours/events were planned to help them experience the Canadian lifestyle. Ms. Stoneman noted that the Association is responsible for managing the relationships between the Town and its Sister Cities and expressed appreciation for being able to participate in this visit.

Mayor C. McNeil-Smith expressed appreciation to the volunteers on the Association, and noted the value of sister city relationships.

2. APPROVAL OF AGENDA

- 2019.37.494 Moved by Councillor C. Rintoul, seconded by Councillor S. Garnett, that the agenda be approved with the following:
1. addition to item 10aR5 - 85 email submissions from the public:
 2. addition to item 10aR8 - letter from D. Robbins, dated October 26, 2019; and
 3. removal of item 11b - as per staff's recommendation.

MOTION CARRIED UNANIMOUSLY

3. ADOPTION OF MINUTES

a. Regular Council Meeting - October 15, 2019

- 2019.37.495 Moved by Councillor S. Garnett, seconded by Councillor B. Fallot, that Minutes of the Regular Council Meeting of October 15, 2019, be adopted as presented.

MOTION CARRIED UNANIMOUSLY

4. BUSINESS NOT COMPLETED AT A PREVIOUS REGULAR MEETING

5. BUSINESS ARISING FROM MINUTES *(for information only)*

6. DELEGATIONS

7. PETITIONS

8. MAYOR'S REPORT

9. COUNCILLORS' REPORTS

- a. **Councillor S. Garnett** - advised of the following: that the Sidney Museum & Archives won the Chamber's Crystal Award of Excellence for Not-for-Profit Organization of the Year and expressed thanks to staff and the volunteers; that the Chief Dan George exhibit was extremely successful with 2,700 visitors; and encouraged the public to see the WSA NEC Art exhibit open now until November 28.
- b. **Councillor B. Fallot** - advised of her participation in the cleanup event hosted by the Peninsula Streams Society to remove ivy at Reay Creek and thanked the many volunteers; congratulated the organizers, volunteers and artists on a great Sidney Fine Art Show; and advised the Sidney ArtSea Studio Tour on the Peninsula has been around for 25 years showcasing the local artists and their works.

- c. **Councillor T. O'Keeffe** - advised of her attendance at the Chamber's Crystal Awards of Excellence where a number of local business received awards; acknowledged last week was Small Business Week and attended a webinar put on by the Ministry regarding how local governments can support businesses in their community and suggested that the Town consider eligibility for the Open for Business Award, and noted one way a local government can support business is by recognizing them and acknowledging their contribution to the community.

2019.37.496 Moved by Councillor T. O'Keeffe, seconded by Councillor C. Rintoul, that the Town send a letter, from Mayor and Council, to each of the winners and those who were nominated for the Saanich Peninsula Chamber of Commerce's Crystal Awards for Excellence congratulating them and thanking them for the important role they play in our economy.

MOTION CARRIED UNANIMOUSLY

10. COMMITTEE REPORTS

a. Committee of the Whole Meeting - October 22, 2019

2019.37.497 Moved by Councillor B. Fallot, seconded by Councillor S. Garnett, that Minutes of the Committee of the Whole Meeting of October 22, 2019, be received for information.

MOTION CARRIED UNANIMOUSLY

Minutes contain recommendation(s) regarding:

R.1 Smoking in Downtown Sidney

2019.37.498 Moved by Councillor B. Fallot, seconded by Councillor C. Rintoul, that staff be directed to require that event organizers who are requesting to close Beacon Avenue to traffic make their event smoke and vape free.

MOTION CARRIED UNANIMOUSLY

R.2

2019.37.499 Moved by Councillor B. Fallot, seconded by Councillor C. Rintoul, that staff be directed to further investigate the steps to declare Sidney's downtown core smoke and vape free.

OPPOSED: Councillors: S. Duncan, T. O'Keeffe & P. Wainwright

MOTION CARRIED 4:3

R.3

2019.37.500 Moved by Councillor B. Fallot, seconded by Councillor C. Rintoul, that staff be directed to bring forward a 2020 budget item to research appropriate locations and install cigarette butt disposal containers.

OPPOSED: Councillors: B. Fallot, T. O'Keeffe & C. Rintoul

MOTION CARRIED 4:3

Mayor C. McNeil-Smith left the meeting room at 8:09 p.m., citing a potential conflict of interest as he has a family relationship with a member of the proponent's team.

R.4 Development Permit Application No. DP100786 (10129 Fifth Street)

(To construct a 3 storey, 71-unit multi-family residential development).

2019.37.501 Moved by Councillor B. Fallot, seconded by Councillor C. Rintoul, that Development Permit Application No. DP100786 (10129 Fifth Street) be forwarded to the Advisory Planning Commission for further review and comment.

MOTION CARRIED

Mayor C. McNeil-Smith returned to the meeting at 8:11 p.m.

R.5 New Cannabis Retail Store Licence Referral - 2410 Beacon Avenue

Moved by Councillor B. Fallot, seconded by Councillor C. Rintoul, that staff be directed to respond to the Liquor and Cannabis Licensing Branch regarding the Happy Buddha Cannabis application at 2410 Beacon Avenue with a copy of the staff report dated October 15, 2019 related to the Happy Buddha Cannabis application, and the following decision:

- i. Whereas it is the Council of the Town of Sidney's opinion that a proposed cannabis retail store shall meet, to a high degree, the standards and requirements established by Town of Sidney Liquor & Cannabis Licensing Policy DV-015;
- ii. And whereas Policy DV-015 highlights the Town of Sidney's broader expectation that cannabis retail store locations will support the Town of Sidney's goals and policy objectives of creating and maintaining a pedestrian-friendly retail experience on Beacon Avenue that includes a variety of interesting and accessible window displays visible to the public;
- iii. And whereas the proposed Happy Buddha cannabis retail store's proposed storefront design does not provide a retail display or a level of visual interest that would address this expectation;
- iv. Therefore, based on the application not meeting the requirements of Policy DV-015, the Council of the Town of Sidney resolves that the application be denied.

2019.37.502

Moved by Councillor P. Wainwright, seconded by Councillor C. Rintoul, that the Cannabis Retail Store Application at 2410 Beacon Avenue be tabled until the proposed Zoning Amendment process has been completed.

**OPPOSED: Mayor C. McNeil-Smith & Councillors: S. Duncan,
B. Fallot & T. O'Keeffe
MOTION DEFEATED 4:3**

The question was called on the original motion as follows:

2019.37.503

Moved by Councillor B. Fallot, seconded by Councillor C. Rintoul, that staff be directed to respond to the Liquor and Cannabis Licensing Branch regarding the Happy Buddha Cannabis application at 2410 Beacon Avenue with a copy of the staff report dated October 15, 2019 related to the Happy Buddha Cannabis application, and the following decision:

- i. Whereas it is the Council of the Town of Sidney's opinion that a proposed cannabis retail store shall meet, to a high degree, the standards and requirements established by Town of Sidney Liquor & Cannabis Licensing Policy DV-015;
- ii. And whereas Policy DV-015 highlights the Town of Sidney's broader expectation that cannabis retail store locations will support the Town of Sidney's goals and policy objectives of creating and maintaining a pedestrian-friendly retail experience on Beacon Avenue that includes a variety of interesting and accessible window displays visible to the public;
- iii. And whereas the proposed Happy Buddha cannabis retail store's proposed storefront design does not provide a retail display or a level of visual interest that would address this expectation;
- iv. Therefore, based on the application not meeting the requirements of Policy DV-015, the Council of the Town of Sidney resolves that the application be denied.

**OPPOSED: Councillors: S. Duncan, S. Garnett & P. Wainwright
MOTION CARRIED 4:3**

2019.37.504 **R.6** Moved by Councillor B. Fallot, seconded by Councillor C. Rintoul, that an amendment to the Zoning Bylaw No. 2015 be made to prohibit cannabis retail locations on Beacon Avenue.

OPPOSED: Councillors: S. Duncan, S. Garnett & P. Wainwright
MOTION CARRIED 4:3

2019.37.505 **R.7** Moved by Councillor B. Fallot, seconded by Councillor C. Rintoul, that staff be directed to bring forward an amendment to Section 2 (ii) (b) of Policy DV-015 that removes the requirement for active and transparent storefronts for cannabis retail store locations.

MOTION CARRIED UNANIMOUSLY

2019.37.506 **R.8** **Development Variance Permit Application No. DV100285 (10379, 10383 and 10387 Allbay Road)**

(To retroactively approve the construction of two sets of beach stairs and the alteration of an existing set of beach stairs).

(Referral from Council Meeting of October 15, 2019).

Moved by Councillor B. Fallot, seconded by Councillor C. Rintoul, that Option 3 be approved as follows:

Option 3

1. That all owners and tenants in occupation of property within 75m (246 ft) of 10379, 10383 and 10387 Allbay Road be notified regarding Development Variance Permit Application No. DV100285 (to reduce the required setback to the natural boundary from 7.6 metres to 0 metres in order to legalize the construction of two beach access stairwells and the alteration to an existing stairwell within the required setback to the natural boundary) and that any written correspondence received be forwarded to Council at the time of consideration of approval of the variance; and
2. That the applicant forfeit a \$10,000 portion of the landscape deposit to go towards environmental enhancement in the Roberts Bay Environmentally Sensitive Area.

OPPOSED: Mayor C. McNeil-Smith & Councillors: S. Garnett & P. Wainwright
MOTION CARRIED 4:3

2019.37.507 **R.9** **Development Permit Application No. DP100796 and Development Variance Permit Application No. DV100286 (9570 & 9574 Fifth Street)**

(To relax requirements for retaining walls in order to construct a 4 storey, 16-unit multi-family residential development).

(Referral from Council Meeting of October 15, 2019).

Moved by Councillor B. Fallot, seconded by Councillor C. Rintoul:

1. That, following the receipt of revised drawings as per Council resolution 2019.36.475, owners and tenants in occupation of property within 75m (246ft) of the properties at 9570 & 9574 Fifth Street be notified of Development Variance Permit Application No. DV100286 (to relax the setback requirements for retaining walls taller than 1.2m) and that any written correspondence received be forwarded to Council at the time of consideration of approval of the variance; and
2. That if Council authorizes the issuance of Development Variance Application No. DV100286, then Development Permit Application No. DP100796 (to permit the construction of a 16-unit condominium building) be brought before Council for consideration of approval with the following conditions:

- a. That the property owner shall, prior to the issuance of Building Permit, pay to the Town a deposit in the amount of 115% of the estimated cost to complete the hard and soft landscaping for the development;
- b. That the property owner shall, prior to the issuance of Building Permit, register a flood hazard covenant on the title of the property referencing the submitted Engineer's report, and;
- c. That the property owner shall, prior to the issuance of Building Permit, register a restrictive covenant on the title of the property with the Town as a signatory, prohibiting the future strata council from passing any bylaws that may restrict occupancy of the building based on age.

MOTION CARRIED UNANIMOUSLY

11. STAFF REPORTS

a. Curb Ramp Design

2019.37.508 Moved by Councillor S. Garnett, seconded by Councillor B. Fallot, that staff bring forward a budget amount to replace existing curb ramps for consideration by Council during annual budget deliberations, with priority being given to the Beacon Avenue at Fifth Street intersection as identified by the letter writer.

MOTION CARRIED UNANIMOUSLY

b. Remedial Action - Unsightly Premises at 2131 Colinwood Road

(This item was removed from the agenda - see item 2).

c. Agreement - Sidney Street Market Operator

2019.37.509 Moved by Councillor P. Wainwright, seconded by Councillor S. Garnett, that the Mayor and the Chief Administrative Officer be authorized to negotiate a renewed agreement with the existing Sidney Street Market Operator, Westcoast Impressions, based on similar terms to the existing agreement.

MOTION CARRIED UNANIMOUSLY

d. Amendment Agreement - Peninsula Fire & Emergency Mutual Aid to include Confine Space Rescue

2019.37.510 Moved by Councillor P. Wainwright, seconded by Councillor C. Rintoul, that the amendment agreement between the Town, District of North Saanich and District of Central Saanich, to include confined space rescue as an additional joint service under the Peninsula Fire and Emergency Program Mutual Aid Agreement, be approved.

MOTION CARRIED UNANIMOUSLY

e. Agreements - Sidney Sculpture Walk

2019.37.511 Moved by Councillor S. Garnett, seconded by Councillor B. Fallot:

1. That the Renewal Agreement and the revised New Art Agreement be approved; and
2. That staff be authorized to execute agreements with existing and new artists for the continuation of the Sculpture Walk program.

MOTION CARRIED UNANIMOUSLY

f. Status Update - Outstanding Council Action Items

- 2019.37.512 Moved by Councillor B. Fallot, seconded by Councillor S. Garnett:
1. That the staff report, dated October 21, 2019, providing an update of the outstanding Council Action Items, be received for information; and
 2. That Council Resolution No. 2016.15.157 - to undertake a survey of residents regarding tax rate setting, be rescinded.

MOTION CARRIED UNANIMOUSLY

g. Budget Variance Report - First 3 Quarters of 2019

- 2019.37.513 Moved by Councillor T. O'Keeffe, seconded by Councillor B. Fallot, that the staff report, dated October 22, 2019, providing the financial results for the first 3 quarters of the 2019 fiscal year, be received for information.

MOTION CARRIED UNANIMOUSLY

h. 2020 Budget Timelines

- 2019.37.514 Moved by Councillor B. Fallot, seconded by Councillor C. Rintoul, that the schedule for the 2020-2024 Financial Plan meetings be set as follows:
- January 20 - Presentation of Draft Budget at Committee of the Whole;
 - February 3 - Preliminary budget discussions at Committee of the Whole; and
 - February 18 - Budget deliberations at Special (Tuesday) Council Meeting;

MOTION CARRIED UNANIMOUSLY

12. OTHER REPORTS

13. CORRESPONDENCE

Councillor B. Fallot left the meeting room at 9:38 p.m., citing a potential conflict of interest as she is a resident at Summergate Village.

a. Summergate Village Land Use Contract and R4 Zoning

- 2019.37.515 Moved by Councillor P. Wainwright, seconded by Councillor S. Garnett, that the letter from Summergate Village Strata President, dated October 9, 2019, regarding the Summergate Village Land Use Contract and the Town's R4 Zoning designation, be referred to staff for a report regarding the potential scope, process, including engagement, and timing of a possible zoning amendment.

MOTION CARRIED

Councillor B. Fallot returned to the meeting at 9:52 p.m.

14. BYLAWS / DEVELOPMENT PERMITS / VARIANCES / SUBDIVISION

a. Bylaw No. 2178 - Tax Exemption

(To provide permissive tax exemption for properties owned or held by St. Andrew's Abbeyfield Housing and Shoreline Medical Society).

- 2019.37.516 Moved by Councillor P. Wainwright, seconded by Councillor B. Fallot, that Bylaw No. 2178 - Tax Exemption be given adoption.

MOTION CARRIED UNANIMOUSLY

b. Bylaw No. 2183 - Revitalization Tax Exemption

(To provide tax exemption for the Aranza rental project, and also to incentivize the development of additional rental housing within the community).

- 2019.37.517 Moved by Councillor P. Wainwright, seconded by Councillor B. Fallot, that Bylaw No. 2183 - Revitalization Tax Exemption be given adoption.

MOTION CARRIED UNANIMOUSLY

15. NEW BUSINESS

16. CORRESPONDENCE FOR INFORMATION

- 2019.37.518 Moved by Councillor B. Fallot, seconded by Councillor S. Garnett, that the following correspondence be received for information:
1. Email from Dig This, regarding parking in Sidney, dated October 9, 2019. Reply dated October 10, 2019.
 2. Email from E. Diller, regarding parking in Sidney, dated October 9, 2019. Reply dated October 10, 2019.
 3. Email from E. Bennett, regarding parking enforcement, dated October 3, 2019. Reply dated October 10, 2019.
 4. Letter from L. Soleil-Garbutt, requesting more tree planting in Sidney, dated October 3, 2019. Reply dated October 11, 2019.
 5. Letter from A. Gomez, regarding the Queen's portrait in the Council Chambers, dated October 6, 2019. Reply dated October 10, 2019.
 6. Letter from Corporation of the Village of Pouce Coupe, supporting fostering transportation network services in small communities, dated October 10, 2019.
 7. Email from D. Jensen, regarding the film called "The Need to Grow", dated October 10, 2019.
 8. Email from L. Pike, regarding the Town's library services with VIRL, dated October 19, 2019. Reply dated October 22, 2019.

MOTION CARRIED UNANIMOUSLY

17. NOTICES OF MOTION

18. MOTION TO GO "IN-CAMERA" (CLOSED MEETING)

19. ADJOURNMENT

- 2019.37.519 Moved by Councillor B. Fallot, seconded by Councillor S. Garnett, that the meeting be adjourned at 9:53 p.m.

MOTION CARRIED UNANIMOUSLY

MAYOR

CORPORATE OFFICER