

Jack Briedé-Cooper

From: Laurie Hurst <laurie.hurst@esquimalt.ca>
Sent: September-26-22 4:18 PM
To: Corporate Services
Subject: FW:
Attachments: 634668 Desjardins Crowder Final.pdf

CORPORATION OF THE TOWNSHIP OF ESQUIMALT RECEIVED: <u>September 27, 2022</u> For Information <input type="checkbox"/> CAO <input type="checkbox"/> Mayor/Council Other _____ Referred to: <u>Deb H</u> For <input type="checkbox"/> Action <input type="checkbox"/> Response <input type="checkbox"/> Report For Agenda <input checked="" type="checkbox"/> Council <input type="checkbox"/> COTW For Agenda <input type="checkbox"/> In Camera <input type="checkbox"/> Late Item

Laurie Hurst, CPA, CGA

Chief Administrative Officer

Township of Esquimalt | Corporate Services

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From: Barb Desjardins <Barbara.Desjardins@esquimalt.ca>

Sent: September-26-22 4:03 PM

To: Laurie Hurst <laurie.hurst@esquimalt.ca>

Subject:



September 26, 2022
Ref: 634668

Her Worship Barbara Desjardins
Mayor of the Township of Esquimalt
1229 Esquimalt Road
Victoria BC V9A 3P1

Doug Crowder
Finance Committee Chair
Victoria and Esquimalt Police Board
c/o 850 Caledonia Ave
Victoria BC V8T 5J8

Dear Mayor Desjardins and Mr. Crowder:

On April 20, 2022, the Victoria and Esquimalt Police Board (the Board) submitted a request asking me to make a determination under section 27(3) of the *Police Act* (the Act), on an alleged \$1,342,525 shortfall resulting from the Township of Esquimalt Council's (Council) decision not to approve items in the 2022 Victoria Police Operating Budget as submitted by the Board. Specifically, Council did not approve the addition of 10 full-time positions, nor a portion of the requested overtime budget for the Greater Victoria Emergency Response Team and the Public Safety Unit.

To assist in making my decision on the amount in dispute, I reviewed the following:

1. the submission of the Council dated May 31, 2022;
2. the submission of the Board dated June 7, 2022;
3. 2022 Victoria Police Operating Budget;
4. the Policing Agreement between The Victoria and Esquimalt Police Board, The City of Victoria and Esquimalt dated April 17, 2014 (the Framework Agreement);
5. previous section 27(3) decisions and related studies, pertaining to Victoria and Esquimalt;
6. all relevant correspondence with the Board and Esquimalt;

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7. Doug Lepard Report commissioned by the Director of Police Services in 2020 under section 42 of the Act: *Police Act Section 42 Review Budget Allocation Formula for Policing in the City of Victoria and the Township of Esquimalt (the LePard Report)*;
8. the Act; and
9. the Report of the Special Committee on Reforming the Police Act, *Transforming Policing and Community Safety in British Columbia*.

I also considered the impacts of the alleged budget shortfall on service delivery and public safety, and emerging impacts on adequate and effective policing including socio-economic issues, population growth, crime severity and crime trends with particular focus on the pandemic years.

Statutory Roles and Responsibilities

It is helpful for the purpose of my determination to review the relevant statutory roles and responsibilities of the parties to the dispute.

A municipal police board's functions under the Act include financial oversight of the police department, and under section 27(1) the board must prepare and submit to the council for its approval a provisional budget for the following year, on or before November 30. The primary statutory responsibilities of a municipality with respect to a municipal police department are to bear the expenses necessary to generally maintain law and order (see ss. 3(2) and 15). As it relates to the budget, it is the municipality's responsibility to include in its budget the costs of the provisional police budget prepared by the police board; and unless council approves otherwise, the police board must not make an expenditure that is not in the approved budget.

The municipalities of Victoria and Esquimalt must also follow the terms of the Framework Agreement, including provisions for cost sharing and resource allocation between the respective dedicated municipal divisions.

It is the chief constable's responsibility to allocate the approved budget in a manner consistent with the priorities, goals and objectives determined by the police board and with the duties under the Act to enforce laws, maintain law and order and prevent crime.

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Historical Context – Cost Sharing

It is also helpful to review some of the relevant history. The Esquimalt Police Department was amalgamated with the Victoria Police Department through an Order-in-Council and Ministerial Order approved December 18, 2002 (The Amalgamation Order). The Amalgamation Order allowed for the two municipalities to determine their respective share of the amalgamated police department’s budget. The Framework Agreement was subsequently developed in recognition of the parties’ commitment to working collaboratively for the purpose of providing adequate and effective allocation of police resources and an efficient annual police budget development process for policing and law enforcement in the communities. Central to the Framework Agreement is the cost sharing model wherein each municipality agrees to an equitable share of the overall police budget. The current Framework Agreement expires December 31, 2023. Following the publication of the LeParé Report, the municipalities agreed on a revised cost sharing formula which should be reflected in their respective shares of the amount in dispute.

Summary of Submissions

The submissions of both parties reference the Framework Agreement and cost sharing formula as being relevant to my decision. I will summarize the relevant points raised by both parties.

In its submission, Council acknowledges “the additional positions may be important but the majority of demand for these resources is in Victoria and not in Esquimalt.”¹ Council’s interpretation of excerpts in the LeParé Report is that Esquimalt has extra officers and pays a disproportionate amount of the police budget. Council says it would like some officers dedicated to Esquimalt to be reallocated to the general resources of Victoria Police Department, reducing the need for all 10 positions requested. As I write this decision, the issue of the allocation of resources between the dedicated municipal divisions and any potential consequential adjustment of the cost sharing formula, is in dispute between the municipalities pursuant to the terms of the Framework Agreement. Accordingly, I will not comment further on the resource allocation issue, nor is it relevant to my determination.

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¹ Desjardins, Barbara, Letter to Director of Police Services re: Section 27(3) Review Submission Letter, May 31, 2022.

In its submission, the Board emphasizes the need for the requested resources as highlighted in staffing and efficiency reviews completed between 2017 and 2021. The submission included crime, population and other data to support the request for additional resources to ensure adequate and effective policing by the department, noting that the costs should be paid using the current cost sharing formula.

Analysis

This is the third request for a determination of a Victoria Police budget dispute under section 27(3) in the last four years . Since the previous Director of Police Services made the most recent determination in February 2020, the changing policing and public safety climate and expectation for reform has continued to shape the evolving role of police. While the need for a multi-disciplinary approach and response to public safety has never been greater, the evidence points to a significant public need for traditional policing and law enforcement services including proactive, preventative front line work. At the same time, the complexity, breadth and demands on policing continues to outpace available police and health, mental health and addictions and solutions to homelessness. In the absence of comprehensive wraparound support, police continue as the primary responders. All levels of government have identified the challenges associated with crime, violent crime and the current social, health crises facing our communities have added significant pressure on police and policing resources.

In April 2022, the Special Committee on Reforming the Police Act submitted its report, *Transforming Policing and Community Safety in British Columbia*, to the Legislative Assembly. The report examined the role of police with respect to complex social issues including mental health and wellness, addictions and harm reduction, the scope of systemic racism in police agencies, and reforms related to independent oversight, transparency, governance, service delivery, funding, and training. The resources requested in the Board's 2022 provisional budget take into account some of the complex social issues highlighted in this report. I also note the community support for some of the positions requested from relevant stakeholders, including the Vancouver Island Health Authority and the Aboriginal Coalition to End Homelessness Society.

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Decision

Section 27(3) states:

If a council does not approve an item in the budget, the director, on application by the council or the municipal police board, must

- (a) determine whether the item or amount should be included in the budget, and
- (b) report the director's findings to the municipal police board, the council and the minister.

In other words, my authority is limited to making a decision on whether a budget item or amount in dispute should be included in the police budget. In this case, the amount in question is \$1,342,525, Esquimalt's share being \$183,523.

Based on my review of the materials cited above, the current policing and public safety climate, the requirements under the Act to provide adequate and effective policing and the parties' submissions, I can see no reason not to approve the full amount in dispute. Therefore, the \$1,342,525 should be included in the 2022 Victoria Police Operating Budget. I provide no comment on or comparison of the merits or relative value of the enumerated resources in this case as this is the role of the Chief Constable and the Board in discharging their responsibilities under the Act.

The Board's request is the third the parties have submitted for determination under section 27(3) in the last 4 years. In each determination, the Director of Police Services has highlighted the need for a renewed commitment for the Board, the Chief Constable and the municipalities to work together in compliance with the Framework Agreement. Unfortunately, this continues to be a challenge, which I have no doubt contributes to the frequency of entrenched positions on the police budget. I would reiterate the message in previous determinations that parties continue to make greater efforts to collaborate. The Board must take a greater leadership role in ensuring compliance with the Framework Agreement, with specific reference to sections 4.5 (Regular Review of Dedicated Municipal Decision) and 6 (Performance Metrics), and in its efforts to communicate and work with the municipal councils and staff to develop a sustainable police budget that each party can agree is necessary to meet local public safety needs and priorities.

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The Board, Chief Constable and municipalities also play a role in working collaboratively in the common interests of public safety. I encourage the parties to read my March 14, 2022, decision on the 2021 Vancouver Police Operating Budget dispute in this regard.

I would like to thank the parties involved for their submissions.

Regards,



Wayne Rideout
Assistant Deputy Minister
And Director of Police Services
Policing and Security Branch

cc: Her Worship Lisa Helps, Lead Co-Chair, Victoria and Esquimalt Police Board
Del Manak, Chief Constable, Victoria Police Department