



**CORPORATION OF THE  
TOWNSHIP OF ESQUIMALT**  
**Agenda - Final**  
**Committee of the Whole**

Municipal Hall  
1229 Esquimalt Road  
Esquimalt, B.C. V9A 3P1

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Monday, January 13, 2020

7:00 PM

Esquimalt Council Chambers

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**1. CALL TO ORDER**

**2. LATE ITEMS**

**3. APPROVAL OF THE AGENDA**

**4. MINUTES**

- 1) [20-019](#) Minutes of the Regular Committee of the Whole Meeting, December 9, 2019

*Attachments:* [Minutes of the Regular COTW, December 9, 2019](#)

**5. PUBLIC INPUT ON ANY ITEMS LISTED ON THE AGENDA**

**Address Council on any item included on this Agenda, including Staff Reports and Communications (excluding items which are or have been the subject of a Public Hearing). Limit 2 minutes per speaker.**

**6. STAFF REPORTS**

***Community Safety Services***

- 1) [20-005](#) Private use of Public Land - Docks Update - Staff Report No. CSS-20-002

***Recommendation:***

That the Committee of the Whole receive Staff Report No. CSS-20-002 for information and provide any additional direction to staff as the COTW considers advisable.

***Engineering and Public Works***

- 2) [20-026](#) Remembrance Banner Program, Staff Report No. EPW-20-002

***Recommendation:***

That the COTW receive Staff Report No. EPW-20-002 for information, provide any additional direction to staff as the COTW considers advisable, and direct staff to prepare a report for Council's consideration.

*Attachments:* [Attachment No 1: Remembrance Day Program Example Banners](#)  
[Attachment No. 2: Draft Remembrance Banner Program Policy](#)

***Development Services***

- 3) [20-022](#) Planning Tools for Completed and In Progress Work, Staff Report No. DEV-20-003

***Recommendation:***

That the COTW receive Staff Report No. DEV-20-003 for information.

**8. PUBLIC COMMENT PERIOD**

**Address Council on any topic that impacts Esquimalt (excluding items which are or have been the subject of a Public Hearing). Limit 2 minutes per speaker.**

**9. ADJOURNMENT**



# CORPORATION OF THE TOWNSHIP OF ESQUIMALT

## Minutes - Draft

### Committee of the Whole

Municipal Hall  
1229 Esquimalt Road  
Esquimalt, B.C. V9A 3P1

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Monday, December 9, 2019

7:00 PM

Esquimalt Council Chambers

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**Present**     7 - Mayor Barbara Desjardins  
                 Councillor Ken Armour  
                 Councillor Meagan Brame  
                 Councillor Jacob Helliwell  
                 Councillor Lynda Hundleby  
                 Councillor Tim Morrison  
                 Councillor Jane Vermeulen

**Staff:** Laurie Hurst, Chief Administrative Officer  
         Jeff Miller, Director of Engineering & Public Works  
         Ian Irvine, Director of Financial Services  
         Blair McDonald, Director of Community Safety Services  
         Rachel Dumas, Manager of Corporate Services  
         Alicia Ferguson, Recording Secretary

**Others:** Chief Del Manak, Victoria Police Department (VicPD)  
         Deputy Chief Jason Laidman, VicPD  
         Mark McIntyre, Director, Community Engagement, VicPD  
         Inspector Keith Linder, Esquimalt Division, VicPD  
         Charla Huber, Victoria and Esquimalt Police Board

#### 1. **CALL TO ORDER**

Acting Mayor Brame called the Regular Committee of the Whole meeting to order at 7:02 PM.

Acting Mayor Brame acknowledged with respect that we are within the Traditional Territories of the Esquimalt and Songhees First Nations.

#### 2. **LATE ITEMS**

(1) Add to Item 7. **STAFF REPORTS:** (4) Review of Lampson Street Cross-Section to Accommodate Bike Lanes, Staff Report No. EPW-19-037:

- Letter from Corey Burger, Policy & Infrastructure Chair, Greater Victoria Cycling Coalition, received by email dated December 9, 2019, Re: Proposed Bike Lanes for Esquimalt Road and Lampson Street

#### 3. **APPROVAL OF THE AGENDA**

Moved by Councillor Hundleby, seconded by Councillor Morrison: That the agenda be approved as amended with the inclusion of the late item. Carried Unanimously.

#### 4. MINUTES

- 1) [19-549](#) Minutes of the Regular Committee of the Whole Meeting held October 22, 2019

Moved by Councillor Hundleby, seconded by Mayor Desjardins: That the Minutes of the Regular Committee of the Whole Meeting held October 22, 2019, be adopted. Carried Unanimously.

#### 5. PRESENTATION

- 1) [19-562](#) Victoria Police Department Third Quarter Report - Framework Agreement, Chief Del Manak

Chief Del Manak provided an overview of the 2019 third quarter report, presented a PowerPoint Presentation, and responded to questions from Council.

COTW comments included:

- \* Monitoring campers in parks.
- \* Expansion of the Crime-Free Multi-Housing Program .
- \* Impact of hospital wait times for mental health emergencies on police resources.
- \* Esquimalt's financial contribution for shared policing services.
- \* Operational alignment with the framework agreement.

#### 6. PUBLIC INPUT ON ANY ITEMS LISTED ON THE AGENDA

**Address Council on any item included on this Agenda, including Staff Reports and Communications (excluding items which are or have been the subject of a Public Hearing). Limit 2 minutes per speaker.**

Norah Macey, *resident*, in support of proposed modifications for Esquimalt Road and proposed bike lanes along Lampson Street.

Kim Thrift, *resident*, in support of installing cycling infrastructure in the community.

Colin McTaggart, *resident*, in support of cycling infrastructure proposed for Lampson Street.

Elanor Eason, *resident*, in support of protected cycling infrastructure in the community.

Corey Burger, *resident*, in support of installing cycling infrastructure in the community.

Doug Scott, *resident*, in support of the proposed cycling infrastructure and expressed concerns with curb bump-outs as potential safety hazards and impact to street parking.

#### 7. STAFF REPORTS

##### **Community Safety Services**

- 1) [19-533](#) Deer Management Update - Staff Report No. CSS-19-014

Director of Community Safety Services responded to questions from Council.

COTW encouraged a collaborative approach with other municipalities, organizations, and the Province towards deer management in the community.

**Finance****2) [19-508](#) Local Grants Policy, Staff Report FIN-19-020**

COTW comments included:

- \* Determining best practices of other municipalities.
- \* Options for additional evaluation criteria.
- \* Options for delegating the approval authority.
- \* Discretion to extend and manage reoccurring funding.

The meeting recessed at 8:29 PM and reconvened at 8:35 PM with all members of Council present.

**3) [19-522](#) Property Taxation Policy, Staff Report No. FIN-19-021**

Director of Financial Services and the CAO responded to questions from Council.

COTW comments included allocation of taxes between classifications, business growth targets and incentive options, and the upcoming economic analysis report being prepared by the South Island Prosperity Project.

Moved by Councillor Morrison, seconded by Councillor Vermeulen: That staff be directed to explore options and timelines to amend the Tax Policies and Objectives document to move towards a 2.5 ratio in the commercial property class. Carried.

In Favour: 4 - Mayor Desjardins, Councillor Armour, Councillor Brame, and Councillor Vermeulen

Opposed: 3 - Councillor Helliwell, Councillor Hundleby, and Councillor Morrison

**Engineering and Public Works****4) [19-558](#) Review of Lampson Street Cross-Section to Accommodate Bike Lanes, Staff Report No. EPW-19-037**

Director of Engineering and Public Works responded to questions from Council.

COTW comments included consideration of Option 2 in Staff Report No. EPW-19-037 while maintaining turning lanes and some parking spaces. Consideration of safety concerns, design, and communication of roadway improvements during construction.

**5) [19-561](#) Potential Road Cross-Section Modification for Esquimalt Road, Staff Report No. EPW-19-038**

Director of Engineering and Public Works responded to questions from Council.

COTW comments included options for designated bike lanes, pedestrian safety and consideration of a central island for crosswalks, and visibility enhancements such as lighting.

**8. PUBLIC COMMENT PERIOD**

**Address Council on any topic that impacts Esquimalt (excluding items which are or have been the subject of a Public Hearing). Limit 2 minutes per speaker.**

Doug Scott, *resident*, encouraged enforcement of traffic regulations for cyclists.

Lorne Argyle, *resident*, encouraged Council to consider implementing a single speed limit along Lampson Street.

**9. ADJOURNMENT**

Moved by Mayor Desjardins, seconded by Councillor Hundleby: That the Regular Committee of the Whole meeting be adjourned at 9:46 PM. Carried Unanimously.

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MAYOR BARBARA DESJARDINS  
THIS DAY OF , 2019

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RACHEL DUMAS, CORPORATE OFFICER  
CERTIFIED CORRECT



# CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall  
1229 Esquimalt Road  
Esquimalt, B.C. V9A 3P1

## Staff Report

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File #:20-005

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### REQUEST FOR DIRECTION

**DATE:** January 8th, 2020

Report No. CSS-20-002

**TO:** Laurie Hurst, Chief Administrative Officer

**FROM:** Blair McDonald, Director of Community Safety Services

**SUBJECT:**

Private Use of Public Land - Docks

**ESSENTIAL QUESTION:**

Does Council wish staff to continue with efforts to ensure Private Docks along the Gorge Waterway are in compliance with the Zoning Bylaw?

**RECOMMENDATION:**

That the Committee of the Whole receive Staff Report No. CSS-20-002 for information and provide any additional direction to staff as the COTW considers advisable.

**BACKGROUND:**

In January of 2018, staff presented a report to Council seeking direction in relation to enforcement of use of public lands by private entities. At that time, Council deferred the matter until after the completion of the Official Community Plan.

In March of 2019 staff received direction from Council to initiate a process wherein all owners of docks which were not in compliance with Federal/Provincial/Municipal requirements were to be advised of the requirements of dock siting and ownership and further, that they initiate the required steps to comply with regulations or face potential municipal bylaw enforcement action. Additionally, those persons who owned a dock that was attached to Township land were to be offered the opportunity to enter into an agreement with the Township to allow them to continue to access their dock via Township land, and further that they initiate the required steps to comply with regulations or face potential municipal bylaw enforcement action.

Staff, through legal counsel, initiated a regime which would allow property owners whose land abutted Township land along the Gorge waterway to enter into a Licence of Use and Occupation Agreement. The Agreement would allow those land owners who had possession of a dock in the Gorge that was attached to Township land, the option, provided certain conditions were met, to continue to access that dock by crossing over Township land and also allow their dock to remain attached or anchored to Township land.

Staff sent letters to property owners which have docks attached to their own land, advising of the

provincial requirements for having private moorage in the Gorge, as well as Township requirements to have the water on which their dock sits rezoned to allow for siting of a dock. To those property owners which had a dock attached to Township land, a similar letter was sent advising of Provincial and Township requirements, as well as a copy of the Licence of Use and Occupation Agreement. A meeting was held with interested property owners in November of 2019 to discuss the requirements surrounding the Agreement.

Since the letters have been sent, Council has advised staff they wish to reconsider their direction relating to enforcement of docks at a Committee of the Whole meeting.

## **ISSUES:**

Council has considered the importance of public lands and the need to ensure they remain in the public realm. Council has recognized the need for a process which ensures that Public Lands remain firmly in the public realm and that any encroachment should be governed by formal agreement. On the other hand, Council has heard from property/dock owners who, in many cases, have owned the property for a lengthy period of time and had a dock attached to the property for decades.

Historically, there have been sporadic enforcement efforts on a few of these properties and no enforcement in relation to others. No enforcement action taken thus far has resulted in the removal of private moorage. There are numerous enforcement options that were presented to Council with Council electing to allow time for owners to bring their docks into compliance with various regulations. A review of enforcement strategies of surrounding municipalities has shown the following:

View Royal: Enforcement is conducted on a case by case basis and is complaint driven. View Royal rarely, if ever, receives complaints about existing docks. If someone wishes to build a new dock, they are required to obtain an Environmental Development Permit and to follow all Provincial and Federal regulations in relation to the construction and siting of the dock.

Saanich: Enforcement is conducted on a case by case basis and is complaint driven. At present, Saanich refers all complainants with a concern relating to private moorage to the Province as the Gorge is Provincial jurisdiction. Building of a new dock requires compliance with Federal/Provincial and Municipal regulation.

Victoria: The vast majority of Victoria's shoreline on the Gorge is commercial in nature and has many docks/marinas. There is some private moorage which Victoria has received no complaints. Enforcement is conducted on a case by case basis and is complaint driven. As Victoria has received no complaints, they have taken no action.

## **ALTERNATIVES:**

1. That the COTW receive Staff Report No. CSS-20-002 for information and provide any additional direction to staff as the COTW considers advisable.
2. That the COTW provide alternative direction to staff.
3. That the COTW request further information from staff.





# CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall  
1229 Esquimalt Road  
Esquimalt, B.C. V9A 3P1

## Staff Report

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File #:20-026

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### REQUEST FOR DIRECTION

**DATE:** January 8, 2020

Report No. EPW-20-002

**TO:** Laurie Hurst, Chief Administrative Officer

**FROM:** Jeff Miller, Director of Engineering and Public Works

**SUBJECT:**

Remembrance Banner Program

**ESSENTIAL QUESTION:**

Does the Committee of the Whole wish to proceed with the Remembrance Banner Program as outlined in the draft policy?

**RECOMMENDATION:**

That the COTW receive Staff Report No. EPW-20-002 for information, provide any additional direction to staff as the COTW considers advisable, and direct staff to prepare a report for Council's consideration.

**BACKGROUND:**

On May 27, 2019, the Mayor presented Council with a report regarding a potential Remembrance Banner Program. Council approved the following resolution:

*"That Council request staff to prepare a report to Council as to how the Township of Esquimalt can facilitate a community project of Remembrance Day banners".*

The Program would include approximately 36 banners mounted on banner holders located along Esquimalt Road. The banners would contain the name of deceased service personnel, their branch of service, and the conflict they served in. The conflicts would include:

- World War One
- World War Two
- Korean Conflict
- Peace Keeping Operations
- Afghanistan Mission

These banners would be mounted on the banner holders shortly after Thanksgiving and taken down during the banner switch over from Summer to Winter themed banners. See Attachment No. 1 for several variations in banner appearance.

## **ISSUES:**

There are three main areas for the Committee of the Whole to consider:

- Costs associated with the program
- Period for display/ program length
- Banner placement

### Cost of Program

1. Individuals participating in this Program will be responsible for the cost of banner purchasing:
  - Based on budget quotations, each banner would cost approximately \$150 including taxes
  - The Township would also set up a system (similar to the one established for the Memorial Park Brick Project) in which the cost of the banner could be claimed as a tax deduction by the Requester
2. The cost for the mounting and taking down of the Remembrance Banners:
  - It would cost approximately \$3,000 to \$5,000 (depending on the number of banners displayed) to change over the banners
  - This cost will be incurred if the work takes place outside of established mounting/ take down schedules (four times a year)
  - This cost is made up of traffic control services, vehicle and staff time to do this work. These costs are not currently part of the operational budget and would have to be added into the budget as a supplementary request during the 2020 - 2025 Financial Plan budget approval
3. The cost for the purchase of the banners would have to be a line item in the 2020 - 2025 Financial Plan:
  - In order to purchase the banners earlier in the year, a budget request will need to be added to the Financial Plan
  - As banners are purchased, the revenue received would recover the initial capital cost
  - If the scope of the Project is limited to 36 banners, the cost would be \$5,400

### Period of Display

1. What should the length of the Program be?
  - In the draft Council Policy (Attachment 2), the time period has been setup as a one time only program (one year)
  - At the end of the program, the banners would be returned to the Purchaser in their current condition (i.e. no cleaning or repair of rips)

Alternate Program Length:

- Alternatively, the Program could be extended into a multi-year program
- At the end of a multi-year program, the banners would not be returned to the Purchaser and disposed of in a respectful manner

2. How long are the banners to be displayed in a given year?

- At this time the draft policy outlines the banners being mounted after Thanksgiving and taken down as the summer/winter banner change over occurs which generally occurs at the end of November to early December
- Under this schedule, the Remembrance Banners would be mounted for approximately two months
- Under this approach, there is a cost associated with the banner mounting as identified in Cost of Program Point 2 (i.e. \$3,000 to \$5,000)

Alternate Display Time:

- An alternative to this time period would be to display the banners for a longer period so that mounting and take down would occur with established change over operations
- With this option there would be no additional costs to the operational budget as the activities associated with the take down of Buccaneer Day banners and mounting of summer/winter banners is already accommodated within the operational budget
- The display period would be approximately six months
- If a longer period for display is chosen for the Remembrance Banners, the spring and summer banners as well as other types of banners would not be displayed along Esquimalt Road

Location of Banners

1. Number of banners and their location:

- The draft Council Policy outlines the banners will only be displayed along Esquimalt Road (36 banners in total)
- This number may be reduced due to banner holders that are damaged and awaiting replacement
- In the future the program could be expanded as there are banner holders located along other road corridors:
  - Admirals Road - 10
  - Craigflower Road - 20
  - Recreation Centre and Archie Browning Parking lots - 20
  - If these locations are utilized, an additional 50 banner holders would be made available for a total of approximately 86 banner holders

**ALTERNATIVES:**

1. That the COTW receive Staff Report No. EPW-20-002 for information, provide any additional direction to staff as the COTW considers advisable, and direct staff to prepare a report for Council's consideration.

2. That the COTW provide alternative direction to staff.
3. That the COTW request further information from staff.

HONOURING  
CAPTAIN  
JOHN SMITH



CANADIAN  
PEACEKEEPING

Township of  
ESQUIMALT



HONOURING  
**CAPTAIN  
JOHN SMITH**



CANADIAN  
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## CORPORATION OF THE TOWNSHIP OF ESQUIMALT

### COUNCIL POLICY

<b>TITLE: Remembrance Banner Program</b>	<b>NO.</b>
<p><b><u>POLICY:</u></b></p> <p>The Township, in partnership with various third party stake holders will facilitate the establishment and operation of a limited area program to honor and remember veterans of conflicts or peace keeping operations.</p> <p><b>1. Eligibility</b></p> <p>In order to participate in this program, individuals must have served with the Armed Forces of Canada or an allied nation's armed forces. These individuals will have served in either:</p> <ul style="list-style-type: none"><li>• Navy</li><li>• Army</li><li>• Air Force</li><li>• Nursing Sisters</li><li>• Merchant Marine (World War One and Two only)</li></ul> <p>Individuals who served in allied armed forces may be considered for inclusion into the program if they were Canadian citizens during their time with an allied armed force</p> <p>In order to be included within the program, an individual must be deceased. The contact person must have the legal authority in which to give permission to allow the deceased individual's name and other information to be displayed in public. This requirement will form part of the application process.</p> <p>As there are a limited number of banner holders, participation within this program will be on a first come basis. If more individuals participate in the program than banner holders are available, these individuals will be placed on a waiting list.</p> <p>Once the first round of the program has elapsed, a second program will be undertaken with individuals from the waiting list being provided an opportunity for purchasing a banner prior to new applicants to the second program.</p> <p>Individuals will complete the application form providing the required information for themselves and the banner holder. If the application form is incomplete or is incorrect, a banner will not be made.</p> <p><b>2. Content</b></p> <p>The banners will be standard and will be two sided.</p> <p>The banners will have the following information displayed in white lettering and font that is</p>	

<b>EFFECTIVE DATE:</b>	<b>APPROVED BY:</b> Council	<b>REF:</b>	<b>AMENDS NO.</b> Original	<b>PAGE 1 OF 3</b>
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<b>TITLE: Remembrance Banner Program</b>		<b>NO.</b>	
<p>readable from a distance:</p> <ul style="list-style-type: none"> <li>➤ Header – Honouring</li> <li>➤ Name of individual</li> <li>➤ Conflict served in (World Wars I or II, Korea, Peace Keeping, Afghanistan)</li> <li>➤ Footer – Township of Esquimalt corporate logo</li> <li>➤ Size – width 610 mm (24") x length 1524 mm (60")</li> <li>➤ Common background of a floral display</li> </ul> <p><b>3. Locations</b></p> <p>The banners will be located on banner holders located along Esquimalt Road. There will be a total of 36 spaces available. Each banner will be randomly selected and placed on a banner holder with no set locations for individual banners. Due to the randomness of installation, no record shall be kept of the exact location of each banner. A banner <i>may</i> not be installed if the banner holder is damaged or out of service.</p> <p>Virtual banners will also appear on a portion of the Township's website. The virtual banners will include the same information as the cloth banners.</p> <p><b>4. Schedule</b></p> <ul style="list-style-type: none"> <li>• The Township staff will mount and take down the banners on an annual basis.</li> <li>• Length of time the banners will be displayed will be from just after Thanksgiving to the winter banner change over (approximately October to December).</li> </ul> <p><b>5. Duration</b></p> <ul style="list-style-type: none"> <li>• The banners will have an active life of one year. At the end of this period the banner will be retired.</li> <li>• Retired banners will be returned in their current condition to the third party that requested them if they so wish.</li> <li>• If a banner is damaged during its life and is considered not functional by Township staff, it will be retired early.</li> <li>• If the Requestor declines to keep the retired banner, it will be respectfully disposed of by Township staff.</li> </ul> <p><b>6. Cost</b></p> <ul style="list-style-type: none"> <li>• The requestor shall be responsible for providing the funds required to purchase the banner. This cost will be a market cost and will not include any markups.</li> <li>• If the cost of banners increases in future cycles, the requestor shall be responsible for the new cost of banner.</li> <li>• The Township will be responsible for the costs associated with the storage, installation and take town of the banners.</li> <li>• No maintenance activities will be undertaken on the banners.</li> <li>• The Township will be responsible for the costs relating to the creation, maintenance and potential upgrades to the Township's web page dedicated to this program.</li> </ul>			
<b>EFFECTIVE DATE:</b>	<b>APPROVED BY:</b> Council	<b>REF:</b>	<b>AMENDS NO.</b> Original <b>PAGE 2 OF 3</b>

<b>TITLE: Remembrance Banner Program</b>	<b>NO.</b>
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**7. Purchase of Banners**

A requestor will submit an application to the Township for a banner.  
This application will include:

- Requestor's name
- Confirmation that they have the legal authority to release the deceased personal information
- Contact information for banner return
- Confirmation of payment of cost of the banner
- Name of the deceased individual
- Branch of service
- Conflict served in
- Confirmation that requestor understands that the information provided will become public information and can be made available under the FIOPPA Act and Regulations

This application will be made through Parks and Recreation Department. Once a list has been compiled an order will be placed for the manufacture of the banners.

Once the ordered banners have been received from the Township, Engineering and Public Works will mount and take down the banners after the display period. Engineering and Public Works will coordinate the return of the banners to the Requestor or the disposal of the banners.

**8. Records**

Information such as a person's name, branch of service and date of service is considered to be personal information. Any Records that are accessed or disclosed under the *Freedom of Information and Protection of Privacy Act [FIPPA]* shall be securely retained by the Township for the required period in accordance with the Township's Records Management Policy. All privacy inquiries related to this Policy shall be directed to the Corporate Officer.

EFFECTIVE DATE:	APPROVED BY: Council	REF:	AMENDS NO. Original	PAGE 3 OF 3
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# CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall  
1229 Esquimalt Road  
Esquimalt, B.C. V9A 3P1

## Staff Report

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File #:20-022

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### REQUEST FOR DIRECTION

**DATE:** January 3, 2020

Report No. DEV-20-003

**TO:** Laurie Hurst, Chief Administrative Officer

**FROM:** Bill Brown, Director of Development Services

**SUBJECT:**

Planning tools for completed and in progress work

**ESSENTIAL QUESTION:**

Does Council wish staff to provide any additional details about the planning tools discussed below or research other tools to regulate activities?

**RECOMMENDATION:**

That the COTW receive Staff Report No. DEV-20-003 for information.

**BACKGROUND:**

From time to time Council receives requests from residents to control or regulate certain activities that are, or potentially may, create a nuisance. Council has, at its disposal, a wide range of tools to regulate these types of activities. Planning tools often overlap with other tools including business licences, and some of the tools are the subject of a significant body of case law (e.g. discrimination of dwelling occupants based on familial relationships). This report provides an overview of the tools at Council's disposal for dealing with various planning nuisance issues and under no circumstances is any of the content in this report to be interpreted or construed as legal advice to Council. If Council wishes to explore the legal side of any of the tools outlined below, it should instruct staff to obtain such advice for Council's consideration.

This report addresses four common questions that have been raised by either residents or Council related to the regulation of certain activities that are, or potentially may, create nuisances.

**ISSUES:**

- 1) **Can the municipality control the number or residents who occupy a dwelling through its zoning powers?**

One of those tools at Council's disposal is the Zoning Bylaw. The powers associated with the Zoning

Bylaw are set out in Section 479 of the Local Government Act which states that:

- 479** (1) *“A local government may, by bylaw, do one or more of the following:*
- (a) divide the whole or part of the municipality or regional district into zones, name each zone and establish the boundaries of the zones;*
  - (b) limit the vertical extent of a zone and provide other zones above or below it;*
  - (c) regulate the following within a zone:*
    - (i) the use of land, buildings and other structures;*
    - (ii) the density of the use of land, buildings and other structures;*
    - (iii) the siting, size and dimensions of*
      - (A) buildings and other structures, and*
      - (B) uses that are permitted on the land;*
    - (iv) the location of uses on the land and within buildings and other structures”;*

While the Zoning Bylaw is a powerful tool for regulating land use and development, it has limitations when it comes to regulating other activities that are associated with land use such as the number of people who can live in a dwelling unit. The Zoning Provisions set out in Section 479 of the Local Government Act does not provide a specific tool to control the number of residents who occupy a dwelling. However, the Canadian Mortgage and Housing Corporation [CMHC] publishes the National Housing Occupancy Standards which are in place to ensure that:

*“Suitable housing has enough bedrooms for the size and make-up of resident households, according to National Occupancy Standard (NOS) requirements. Enough bedrooms based on NOS requirements means one bedroom for:*

- each cohabiting adult couple;*
- unattached household member 18 years of age and over;*
- same-sex pair of children under age 18; and*
- additional boy or girl in the family, unless there are two opposite sex children under 5 years of age, in which case they are expected to share a bedroom.*

*A household of one individual can occupy a bachelor unit (i.e. a unit with no bedroom).”*

These standards are generally used by organizations, such as the Capital Region Housing Corporation [CRHC], that receive funding from the federal or provincial government to provide housing. They are not generally used by local governments to control the number of occupants in a dwelling unit.

Likewise, the British Columbia Building Code generally does not control the number of occupants in Part 9 buildings which are buildings of 3 storey or less in building height, having a building area not exceeding 600 m<sup>2</sup>, and used for major occupancies classified as:

- a) Group C, residential occupancies;
- b) Group D, business and personal services occupancies;
- c) Group E, mercantile occupancies; or
- d) Group F, Divisions 2 and 3, medium- and low-hazard industrial occupancies.

If there are public health issues that arise due to the number of occupants of a dwelling, the Vancouver Island Health Authority [VIHA] *may* have some powers to deal with the situation. In this case the Township would contact VIHA for assistance. The Township has neither the authority nor

the staff expertise to regulate public health issues.

In summary, Zoning Bylaws are not typically used to control the number of people who occupy a dwelling. Furthermore, staff has little evidence that this is a serious issue in terms of negative impacts on neighbourhoods in Esquimalt. When there are nuisances, the Township has at its disposal a range of other tools such as ticketing under other bylaws to deal with issues such as noise and unsightly premises. There is a dearth of empirical evidence to justify the Township trying to control the number of occupants in a dwelling unit. The administrative burden would far outweigh the benefits. Furthermore, in a housing crisis, it is questionable whether it is in the best public interest to restrict the number of occupants in a dwelling through the use of zoning tools.

## **2) Can Council control occupants of dwellings based on familial relationships?**

There is concern among some residents that households consisting of unrelated people create more issues in a neighbourhood including noise, traffic and crime, than households of people related through marriage or blood. Staff are not aware of any evidence to substantiate this concern in Esquimalt. However, the Zoning Bylaw does address this issue. It defines Family as:

*“Family”* - means one or more persons related by blood, marriage, common law, adoption, or foster parenthood; or not more than four (4) unrelated persons sharing one Dwelling Unit but excludes residents of a Recovery Home.

This definition informs a multitude of other definitions in the Zoning Bylaw including the definition of “Dwelling Unit” which is defined as follows:

*“Dwelling Unit”* means one or more habitable rooms used for the residential accommodation of one Family when such rooms contain or provide for the installation of only one (1) set of cooking facilities and one or more sets of sanitary facilities (emphasis added).

Therefore, the Township’s Zoning Bylaw does limit the number of unrelated people who can live together in a dwelling unit. It should be noted that there is debate amongst planners and lawyers as to whether Zoning Bylaws should, discriminate based on familial relationships, particularly when there are issues related to housing affordability, cost of post secondary education, and climate change. It should be noted that in the past eight years, Development Services staff have never checked on the family status of occupants in a dwelling unit. Given the fact that this has not been an issue, that there is considerable debate about whether or not zoning bylaws should discriminate based on familial relationships, and that there is a current housing crises in the region, Council may wish to discuss whether the definitions in the Zoning Bylaw related to this issue should be amended by removing references to familial relationships.

## **3) Can a Zoning Bylaw or Official Community Plan compel a municipality to require owners of Single Family Dwelling Units and Secondary Suites that are rented to obtain a business licence?**

Council can amend its Business Licence Bylaw to require owners of Single Family Dwellings and Secondary Suites that are rented, to obtain a business licence or other type of permit as long as it is consistent with the Official Community Plan. The Official Community Plan does not have to

specifically require that owners of Single Family Dwellings or Secondary Suites obtain a business licence. Business licences have two main functions in relation to land use. The first is to make sure that the proposed business is permitted under the zoning bylaw and the second is to ensure that it meets the requirements of the parking bylaw. In the case of both a Single Family Dwelling and a Secondary Suite, these two criteria are adjudicated at the building permit stage. There is no need to require a business licence to ensure compliance with the Zoning Bylaw for Single Family Dwelling Units or Secondary Suites.

#### **4) Can Council compel the owner of land to demolish a nuisance building?**

From time to time Council has inquired about their authority to have derelict buildings demolished. The tools available to Council depend upon the specific situation. When the property is the subject of a rezoning, Council may have the power to require the demolition of a building prior to the adoption of a rezoning bylaw. This is not always practical. For example, in the case of the Legion Property (622 Admirals Road), the Legion building continued to function as an important part of the community's fabric long after the rezoning was approved. In other cases, the financial institutions may require that the buildings be maintained as collateral. In any event, legal advice should be obtained before making the demolition of a building the condition of the adoption of a rezoning bylaw in order to avoid using rezoning powers for non-planning purposes.

In situations where rezoning is not a consideration, Council can invoke Section 72 in conjunction with Section 74 of the Community Charter. Section 72 states in part that:

- 72** (1) *"A council may impose remedial action requirements in relation to*  
    *(a) matters or things referred to in section 73 [hazardous conditions],*  
    *(b) matters or things referred to in section 74 [declared nuisances], or*  
    *(c) circumstances referred to in section 75 [harm to drainage or dike].*  
(2) *In the case of matters or things referred to in section 73 or 74, a remedial action requirement*  
    (i) *may be imposed on one or more of*  
        (i) *the owner or lessee of the matter or thing, and*  
        (ii) *the owner or occupier of the land on which it is located, and*  
    (b) *may require the person to*  
        (i) *remove or demolish the matter or thing,*  
        (ii) *fill it in, cover it over or alter it,*  
        (iii) *bring it up to a standard specified by bylaw, or*  
        (iv) *otherwise deal with it in accordance with the directions of council or a person authorized by council."*

Section 74 states in part that:

- 74** (1) *"A council may declare that any of the following is a nuisance and may impose a remedial action requirement in relation to the declared nuisance:*  
    (i) *a building or other structure, an erection of any kind, or a similar matter or thing;*  
    (ii) *a natural or artificial opening in the ground, or a similar matter or thing;*  
    (iii) *a drain, ditch, watercourse, pond, surface water, or a similar matter or thing;*

*(d) a matter or thing that is in or about any matter or thing referred to in paragraphs (a) to (c).*

*(2) Subsection (1) also applies in relation to a thing that council considers is so dilapidated or unclean as to be offensive to the community.”*

There are notification requirements set out in Section 77 of the Community Charter.

This tool is available to Council in those situations where they determine by resolution that a building is a nuisance or “so dilapidated or unclean as to be offensive to the community”. Once again, seeking legal advice before enacting such a resolution is advisable - at least for the first few resolutions.

### **ALTERNATIVES:**

Council has requested that staff provide them with an overview of the tools at their disposal to deal with a number of planning issues related to nuisances or potential nuisances that have been raised by members of the community as well as Council itself. Council has the following alternatives for responding to the information in the report:

1. That the COTW receive Staff Report No. DEV-20-003 for information.
2. That the COTW receive Staff Report No. DEV-20-003 for information, provide any additional direction to staff as the COTW considers advisable, and direct staff to prepare a report for Council's consideration.
3. That the COTW provide alternative direction to staff.