

AMENDED AGENDA
REGULAR COMMITTEE OF THE WHOLE MEETING
SHAW AUDITORIUM, VANCOUVER ISLAND CONFERENCE CENTRE,
80 COMMERCIAL STREET, NANAIMO, BC
MONDAY, 2014-OCT-06, AT 4:30 P.M.

1. **CALL THE REGULAR COMMITTEE OF THE WHOLE MEETING TO ORDER:**

2. **INTRODUCTION OF LATE ITEMS:**

- Item 7(a) - Liquor Licence Application No. LA108 – Application for a Permanent Change to a Food Primary Liquor Licence – REWsters Restaurant – 223 Commercial Street – Add delegation Mr. Mike Horn
- Remove Item 15 Procedural Motion

3. **ADOPTION OF AGENDA:**

4. **ADOPTION OF MINUTES:**

- (a) Minutes of the Regular Committee of the Whole Meeting held in the Shaw Auditorium, 80 Commercial Street, on Monday, 2014-SEP-15 at 4:30 p.m. Pg. 5-9

5. **PRESENTATIONS:**

- (a) Mr. Philip Cooper, Communications Manager, to provide a presentation regarding information on current approaches in place to assist the public in receiving information from the City, as well as emerging trends for receiving information from the community.

6. **ADMINISTRATION:**

(a) **Fortis Gas Operating Agreement – New Operating Fees**

Purpose: To obtain Council's approval of the AVICC recommended Gas Operating Agreement which will facilitate the collection of Operating Fees to offset the municipal costs associated with installing natural gas infrastructure within the city limits.

Staff Recommendation: That Council approve the Association of Vancouver Island Coastal Communities (AVICC) recommended Gas Operating Agreement in the format as attached to this report.

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7. **CORPORATE SERVICES:**

(a) **Liquor Licence Application No. LA108 – Application for a Permanent Change to a Food Primary Liquor Licence – REWsters Restaurant – 223 Commercial Street**

Purpose: To request Council comment regarding an application received from REWsters Restaurant (223 Commercial Street) to extend the hours of liquor service and permit patron participation (dancing) for the existing licensed restaurant. As Council is aware, a municipal resolution is required before the Province will consider the application further.

Delegation:

1. Mr. Mike Horn

Staff Recommendation: That Council recommend that the Liquor Control and Licensing Branch (LCLB) approve an application to amend the existing food primary liquor licence for REWsters Restaurant (223 Commercial Street) to:

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1. include patron participation entertainment (dancing); and,
2. increase the hours of late night liquor service to 1:00 a.m. within the interior of the building, provided the hours of service for the outdoor patio area are not extended past midnight.

(b) **Liquor Licence Amendment Process**

Purpose: To obtain Council approval to modify the permanent change to a liquor licence application process by eliminating the need for the application to appear at two Council meetings.

Staff Recommendation: That Council direct Staff to modify the application process for permanent changes to liquor primary and food primary liquor licences to use a Council posting procedure to notify Council of a liquor licence application.

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(c) **1 Port Drive - Demolition Contract and Servicing Project**

Purpose: To provide an update on the demolition tender for the Island Pallet Solutions site and the provision of water and sewer services to the Island Ferry Services Ltd. terminal building at 1 Port Drive.

Staff Recommendation: That Council receive for information the report pertaining to a demolition contract and a servicing project at 1 Port Drive.

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(d) **Implementation of New Public Sector Accounting Board (PSAB) Standards for Contaminated Sites**

Purpose: To present a summary of the new PSAB accounting standards relating to contaminated sites and how they will impact the City of Nanaimo.

Staff Recommendation: That Council receive for information the report pertaining to the Implementation of New Public Sector Accounting Board (PSAB) Standards for Contaminated Sites.

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(e) **Quarterly Direct Award Purchases**

Purpose: To report direct award purchases made by Staff during the three month period ending 2014-SEP-30, as per Bylaw No. 7175.

Staff Recommendation: That Council receive for information the Quarterly Direct Award Purchases report for the three month period 2014-JUL-01 to 2014-SEP-30.

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(f) **Quarterly Single Submission Purchases**

Purpose: To report single submission purchases made during the three month period ending 2014-SEP-30, as per Bylaw No. 7175.

Staff Recommendation: That Council receive for information the Quarterly Single Submission Purchases report for the three month period 2014-JUL-01 to 2014-SEP-30.

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(g) **Council and Committee of the Whole Meeting Video Recordings During Municipal Election Process**

Purpose: To provide information regarding the broadcasting and recording of Council and Committee of the Whole meetings within 30 days of the 2014-NOV-15 election.

Staff Recommendation: That Council receive for information the report regarding video recordings of meetings during the Municipal Election process.

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8. **COMMUNITY SERVICES:**

NONE

9. **CORRESPONDENCE (not related to a Report to Council):**

NONE

10. **COUNCIL APPOINTMENTS:**

(a) **Appointments to the Nanaimo Advisory Planning Committee**

At its Special "In Camera" Meeting held 2014-SEP-08, Council appointed the following individuals to the Nanaimo Advisory Planning Committee:

- Ms. Paula Waatainen, Community At Large representative
- Ms. Sandra Larocque, Neighbourhood Association representative
- Ms. Ellen Ross, Environment Community representative
- Mr. Chris Cross, Canadian Homebuilders' Association representative
- Mr. Jim Goldsack, Nanaimo Neighbourhood Network representative

11. **NOTICE OF MOTION:**

12. **OTHER BUSINESS:**

13. **DELEGATIONS (not related to a Report to Council): (10 MINUTES)**

- (a) Mr. and Mrs. Cathy and Allan Peters to promote awareness regarding human trafficking in Nanaimo and to present ideas for action to alleviate this problem. *Pg. 90*
- (b) Mr. Simon Schachner, Canada World Youth, to provide a brief introduction to Canada World Youth and its Youth Leaders in Action program with Indonesia that Nanaimo will be hosting from 2014-OCT-12 to 2015-JAN-06. *Pg. 91*

14. **QUESTION PERIOD:** *(Agenda Items Only)*

15. ~~**PROCEDURAL MOTION:**~~

16. **ADJOURNMENT:**

ACTING MAYOR: COUNCILLOR BRENNAN
2014-SEP-08 to 2014-OCT-19

MINUTES
REGULAR COMMITTEE OF THE WHOLE MEETING
SHAW AUDITORIUM, 80 COMMERCIAL STREET,
MONDAY, 2014-SEP-15 AT 4:30 P.M.

PRESENT: Mayor J. R. Ruttan, Chair

Members: Councillor G. Anderson
Councillor W. L. Bestwick
Councillor M. D. Brennan
Councillor G. E. Greves
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor W. B. McKay (departed at 6:50 p.m.)
Councillor J. F. K. Pattje

Staff: E. C. Swabey, City Manager
T. M. Hickey, General Manager of Community Services
T. P. Seward, Acting General Manager of Community Development & Protective Services
B. E. Clemens, Director of Finance
D. Lindsay, Director of Community Development
P. Cooper, Communications Manager
C. Jackson, Manager of Legislative Services
K. King, Recording Secretary

1. CALL THE OPEN MEETING TO ORDER:

The Regular Committee of the Whole Meeting was called to order at 4:30 p.m.

2. INTRODUCTION OF LATE ITEMS:

(a) Agenda Item 6 (a) – Colliery Dams Update – add delegations from:

1. Mr. Craig Evans
2. Mr. Jim Routledge
3. Mr. Robert Fuller
4. Mr. Soren Korhonen
5. Mr. Terry Lee Wagar
6. Mr. Gordon Fuller
7. Mr. Daniel Appell
8. Ms. Joy Sarauer
9. Ms. Judy Forbister
10. Mr. Jeff Solomon
11. Mr. Mike Horn

(b) Item 7 (c) – Minutes of the Grants Advisory Committee – delete from agenda

- (c) Councillor Kipp advised that Mr. Leon Cake was in attendance and wished to address Council as a late delegation regarding the Colliery Dam Update report.

It was moved and seconded that Leon Cake be permitted to address Council as a late delegation with a five-minute time limitation. The motion carried unanimously.

- (d) Councillor Brennan advised that Ms. Kathleen Darby, Nanaimo Conservatory of Music was in attendance and wished to address Council as a late delegation regarding the Three Year Permissive Tax Exemption.

It was moved and seconded that Ms. Kathleen Darby be permitted to address Council as a late delegation with a five-minute time limitation. The motion carried unanimously.

3. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

It was moved and seconded that the Minutes of the Regular Committee of the Whole Meeting held in the Shaw Auditorium, 80 Commercial Street, Nanaimo, BC, on Monday, 2014-AUG-18 at 4:30 p.m. be adopted as circulated. The motion carried unanimously.

5. ADMINISTRATION:

- (a) Colliery Dams Update

Delegations:

1. Mr. Craig Evans spoke regarding the preservation and protection of the Colliery Dams as registered heritage structures and advised that he is in favour of having a full hydraulic study done.
2. Mr. Jim Routledge advised that he believes that a hydraulic study would assist with conclusions regarding the dams remediation.
3. Mr. Robert Fuller spoke in favour of a hydraulic study.
4. Mr. Soren Korhonen spoke in support of a study as he believes that would prove that remediation is unnecessary and would like the signs removed.
5. Mr. Terry Lee Wagar spoke in favour of a hydraulic study.
6. Mr. Gordon Fuller spoke in favour of a hydraulic study.
7. Mr. Daniel Appell, advised of concerns regarding Colliery Dams remediation.
8. Ms. Joy Sarauer spoke in favour of a hydraulic study.
9. Ms. Judy Forbister spoke in favour of a hydraulic study.
10. Mr. Jeff Solomon spoke in favour of a hydraulic study.

11. Mr. Mike Horn spoke in favour of the hydraulic study.
12. Mr. Leon Cake spoke in favour of a hydraulic study.

It was moved and seconded that Council direct Staff to continue with a Request for Qualifications and a Request for Proposal process to seek proposals from design/build contractors for overtopping and labyrinth spillway options. The motion was defeated.

Opposed: Councillors Anderson, Bestwick, Kipp, McKay and Pattje

It was moved and seconded that Council direct Staff to provide a report to Council identifying the type of studies and associated costs needed to evaluate Colliery Dams remediation options that would include:

1. review of the design flood;
2. modeling of the flood over the Lower Dam for the design flood event with and without Middle Dam failure;
3. review of the dam structure during the design event and estimate the rate of failure of the structure by erosion; and,
4. suggest options for upgrading that would reduce or eliminate the risk of downstream impacts due to dam failure associated with the design flood;

and obtain the Colliery Dam Park Preservation Society approval of the wording of the scope of work for the study prior to reporting to Council. The motion carried.

Opposed: Councillor Greves

6. CORPORATE SERVICES:

(a) Three Year Permissive Tax Exemption Review

Councillor McKay vacated the Shaw Auditorium at 6:50 p.m.

Delegation:

1. Ms. Carol O'Connor, on behalf of PacificCARE was not in attendance.
2. Ms. Kathleen Darby, on behalf of the Nanaimo Conservatory of Music, provided Council with information on how the Nanaimo Conservatory of Music provides opportunities to the community and requested that Conservatory be granted a Permissive Tax Exemption.

It was moved and seconded that the Nanaimo Conservatory of Music be added to the Permissive Tax Exemption Bylaw. The motion unanimously.

It was moved and seconded that the Pacific Child and Family Enrichment Society be invited to the next meeting of Council to present their case for a Permissive Tax Exemption. The motion carried unanimously.

It was moved and seconded that the Central Vancouver Island Multicultural Society be invited to the next meeting of Council to present their case for a Permissive Tax Exemption. The motion carried unanimously.

It was moved and seconded that Council renew Permissive Tax Exemptions for another three years to those organizations identified in Attachment 'A' of the report. The motion carried unanimously.

It was moved and seconded that Council renew a Permissive Tax Exemption to the Nanaimo Recycling Exchange Society for the year 2015. The motion carried unanimously.

(b) Permissive Tax Exemption for the Nanaimo Travellers Lodge Society

Delegation:

1. Mr. Mike Herold, Mr. Ron Blank, Mr. Dave Connolly on behalf of Nanaimo Travellers Lodge Society, provided information regarding the Eden Gardens project and requested reimbursement of the 2014 property taxes for 1917 Northfield Road.

It was moved and seconded that Council refund the City portion of the property taxes paid by Nanaimo Travellers Lodge Society in 2014 for the Eden Gardens development property at 1917 Northfield Road. The motion carried unanimously.

7. QUESTION PERIOD:

- Mr. Fred Taylor, Colliery Dams

8. PROCEDURAL MOTION:

It was moved and seconded that the meeting be closed to the public in order to deal with agenda items under the *Community Charter* Section 90(1):

- (j) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the *Freedom of Information and Protection of Privacy Act*;
- (n) the consideration of whether a Council meeting should be closed under a provision of this subsection or subsection (2);

Community Charter Section 90(2):

- (b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party.

The motion carried unanimously.

Council moved into "In Camera" at 7:37 p.m.

Council moved out of "In Camera" at 7:47 p.m.

9. ADJOURNMENT:

It was moved and seconded at 7:47 p.m. that the meeting terminate. The motion carried unanimously.

CHAIR

CERTIFIED CORRECT:

CORPORATE OFFICER

City of Nanaimo

REPORT TO COUNCIL

DATE OF MEETING: 2014-OCT-06

AUTHORED BY: STEPHEN RICKETTS, MANAGER, CONSTRUCTION

RE: FORTIS GAS OPERATING AGREEMENT – NEW OPERATING FEES

STAFF RECOMMENDATION:

That Council approve the Association of Vancouver Island Coastal Communities (AVICC) recommended Gas Operating Agreement in the format as attached to this report.

PURPOSE:

To seek Council's approval of the AVICC recommended Gas Operating Agreement which will facilitate the collection of Operating Fees to offset the municipal costs associated with installing natural gas infrastructure within the city limits.

BACKGROUND:

For the past four (4) years, the Association of Vancouver Island Coastal Communities (AVICC) was engaged with Fortis BC to give municipal taxpayers within AVICC the opportunity to recover the costs of natural gas distribution lines placed within municipal streets.

Over 25 years ago, the Provincial government passed the *Vancouver Island Natural Gas Pipeline Act* to assist in project construction financing to bring natural gas to Vancouver Island. AVICC municipal taxpayers were required to forgo literally tens of millions of dollars in operating fees to subsidise gas provision in a manner not required of other taxpayers outside of METRO Vancouver.

In 2011, AVICC and its member municipalities, in cooperation with Fortis BC, embarked upon a three-phase strategy to reinstate the ability to recoup annual operating fees.

The strategy involved three initiatives:

1. Reaching consensus on a new "Made in AVICC" Operating Agreement with Fortis BC.
2. Fortis BC obtaining approval from the BC Utilities Commission, (BCUC) for a new common rate structure resulting in significantly reduced natural gas rates for gas customers within AVICC, (the common rate structure means AVICC municipalities pay the same rate for natural gas as the rest of BC).
3. A change to the *Vancouver Island Natural Gas Pipeline Act* to permit the collection of operating fees within AVICC.

☒ Council
☒ Committee of the Whole
☒ Open Meeting
☐ In-Camera Meeting
Meeting Date: 2014-OCT-06

After extensive work, the first two of these three initiatives have now been achieved. The third initiative, the legislation change to the *Vancouver Island Natural Gas Pipeline Act*, is expected to be considered at the Fall sitting of the Provincial Legislature.

As a result, municipal taxpayers are in a position to have Fortis BC start collecting the three percent (3%) operating fees based on natural gas volumes utilized in 2015 within the City of Nanaimo. Payment of these operating fees would be received in March 2016.

DISCUSSION:

An Operating Agreement is essentially a contract defining how Fortis BC and the municipality do business. It defines where Fortis BC can install their infrastructure and what City standards and permit processes to follow. The agreement defines the liability for both parties to the agreement and sets out conditions as to who pays for what should there be damage to either parties infrastructure. In negotiating these conditions, the operating fees were included offset the impacts of installing natural gas infrastructure within the municipality.

In order to benefit from this new revenue stream, the City of Nanaimo must endorse a new operating agreement with Fortis BC based upon the AVICC model agreement by the end of October 2014. Other municipalities within AVICC are also considering this agreement.

If the City of Nanaimo enters into this agreement, Fortis BC will submit the signed agreement to the BCUC. Endorsement of the agreement by the end of October is necessary to provide time for BCUC approvals. This timetable also provides time for Fortis BC to make the necessary changes to their billing systems to begin the collection of operating fees by March 2015 for payment a year following.

The BCUC approval of the common rate structure required Fortis BC to phase the natural gas rate reduction over the next several years. This will lower natural gas rates within AVICC in progressive steps beginning January 01, 2015.

Because of this progressive rate reduction, the three percent (3%) operating fee will not significantly affect the overall reduction in gas rates projected for residential and business customers in the future. Gas rates will drop in excess of twenty percent (20%) after four (4) years for residential customers, and in excess of thirty percent (30%) for most small commercial customers, after including the application of the three percent (3%) fee.

At the same time, collection of the three percent (3%) fee will have a very significant positive impact for local property taxpayers. Operating fees collectively within AVICC have been estimated to provide in the order \$3.5 Million of new revenue per annum. In the case of the City of Nanaimo the estimate of new revenue is in the order of \$575,000 per annum.

(For the complete listing of anticipated new revenue streams provided by Fortis BC, please see Attachment A.)

In summary:

1. The AVICC has endorsed the model Operating Agreement in the form included in Attachment B.

2. This agreement was developed in partnership with Fortis BC by a working group of municipal engineering staff working over the past four (4) years, and has been fully vetted by Stewart McDannold Stuart with the special assistance of the City of Nanaimo and the District of Saanich.
3. AVICC is formally recommending this agreement to its members at this time. The desire is that each municipality will authorize the signing of its agreement without delay and that, preferably, the BCUC can be presented with the complete suite of AVICC municipal Operating Agreements as a package. This is expected to help expedite implementation and ensure new revenues for local taxpayers.
4. It is important to note, should the Province not pass the necessary legislation change required to allow municipalities to collect operating fees, the model Operating Agreement includes a clause making the agreement null and void.

Options:

1. Approve the AVICC Agreement as requested. (Signed agreements will be presented to the BCUC as a package for approvals. Collection of fees will commence on March 01, 2015, with the first payment in March 2016.)
2. Decline to approve the agreement and enter into individual discussions with Fortis BC towards another form of Operating Agreement exclusive to the City of Nanaimo. (This is a decision to decline receiving operating fees, as operating fees are only available under the AVICC Model Agreement. This decision also has implications to negatively impact operating relationships as the model agreement's provisions are based on the assumption of operating fees offsetting municipal operational concerns.

Strategic Plan Considerations

This initiative directly supports the City's Strategic Plan by providing additional resources to support Asset Management, and building a Community Partnership with Fortis BC.

Respectfully submitted,



S. Ricketts, Manager
Construction Department

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2014-SEP-30

FortisBC Operating Fee Estimate

As At September 9, 2014

Municipality	2016 to 2019 Average
Campbell River	202,794
Central Saanich	82,337
Colwood	75,609
Comox	109,988
Courtenay	156,975
Cumberland	23,215
Duncan	29,636
Gibsons	38,770
Highlands	5,190
Ladysmith	60,675
Langford	136,109
Lantzville	11,706
Metchosin	12,172
Nanaimo	574,869
North Cowichan	160,628
North Saanich	45,468
Parksville	98,910
Port Alberni	104,603
Powell River	108,653
Qualicum Beach	58,387
Saanich	470,034
Sechelt	73,210
Sidney	56,370
Sooke	23,412
Victoria	753,505
View Royal	68,795
Total	3,542,022

Attachment B

FINAL DRAFT OF MODEL FORM OPERATING AGREEMENT FOR FEVI: Sep 26, 2014

Without Prejudice

OPERATING AGREEMENT

THIS OPERATING AGREEMENT (the “Agreement”) made this ____ day of _____, 20____.

BETWEEN:

(hereinafter called the “**Municipality**”)

OF THE FIRST PART

AND:

FORTISBC ENERGY (VANCOUVER ISLAND) INC., a body corporate duly incorporated under the laws of the Province of British Columbia, and having its registered office in the City of Vancouver, in the Province of British Columbia

(hereinafter called “**FortisBC**”)

OF THE SECOND PART

RECITALS:

- A. Whereas by a certificate of public convenience and necessity (CPCN), FortisBC (formerly Terasen Gas (Vancouver Island) Inc.) was granted the right to construct and operate gas distribution facilities within the Municipality;
- B. And whereas pursuant to the Community Charter, S.B.C. 2003, a Municipal council may, by resolution adopt and enter into a licensing and operating agreement;
- C. And whereas FortisBC and the Municipality are the parties to a Franchise or Operating Agreement dated the ♦ day of ♦, 20♦ which has or will expire on ♦;

- D. And whereas FortisBC and the Municipality wish to enter into this Agreement to clarify and settle the terms and conditions under which FortisBC shall exercise its rights to use Public Places in conducting its business of distributing Gas within the Municipality;

NOW THEREFORE THIS AGREEMENT WITNESSES that the parties covenant and agree as follows:

1. DEFINITIONS

1.1 For the purposes of this Agreement:

- (a) “Boundary Limits” means the boundary limits of the Municipality as they exist from time to time and that determine the area over which the Municipality has control and authority;
- (b) “BCUC” means the British Columbia Utilities Commission or successor having regulatory jurisdiction over natural gas distribution utilities in British Columbia;
- (c) “CPCN” means a Certificate of Public Convenience and Necessity granted by the BCUC which allows FortisBC to operate, maintain and install Company Facilities for the distribution of Gas within the Municipality;
- (d) “Company Facilities” means FortisBC’s facilities, including pipes (live and abandoned), buildings, structures, valves, signage, storage facilities, machinery, vehicles and other equipment used to maintain, operate, renew, repair, construct and monitor a natural Gas Distribution and transmission system;
- (e) “Costs” has the meaning ascribed to it in Section 15.1;
- (f) “Distribution Pipelines” means pipelines operating at a pressure less than 2071 kilopascals (300 psi);
- (g) “Emergency Work” means any work that, in its reasonable opinion, each party carrying out the work believes is urgently required to preserve public safety or health or to preserve the safety of Company Facilities or Municipal Facilities, as the case may be, or other property;
- (h) “FortisBC Employees” means personnel employed by or engaged by FortisBC including officers, employees, directors, contractors, and agents;
- (i) “Gas” means natural gas, propane, methane, synthetic gas, liquefied petroleum in a gaseous form or any mixture thereof;
- (j) “Gas Distribution” means fixed equipment, structures, plastic and metal lines and pipe, valves, fittings, appliances and related facilities used or intended for the purpose of conveying, testing, monitoring, distributing,

mixing, storing, measuring and delivering Gas and making it available for use within the Municipality;

- (k) “Impact Service Work” means Service Line Work that:
 - (i) requires cutting of asphalted or concrete surfaces
 - (ii) impact to trees, or requires working in or near wetlands, water bodies or other areas of special environmental sensitivity,
 - (iii) requires working on a site known to have archeological significance, including those designated by the Province of British Columbia or by the Municipality as heritage sites; or
 - (iv) impacts existing Municipal or third party underground Facilities.
- (l) “Mains” means pipes used by FortisBC to carry gas for general or collective use for the purposes of Gas Distribution;
- (m) “Municipal Employees” means personnel employed by or engaged by the municipality, including officers, employees, directors, contractors and agents;
- (n) “Municipal Facilities” means any facilities, including highways, sidewalks, conduits, manholes, equipment, machinery, pipes, wires, valves, buildings, structures, signage, bridges, viaducts and other equipment within the Public Places used by the Municipality for the purposes of its public works or municipal operations;
- (o) “Municipal Supervisor” means the Municipal Engineer or other such person designated by the Municipality to receive notices and issue approval as set out in this Agreement;
- (p) “New Work” means any installation, construction, repair, maintenance, alteration, extension or removal work of the Company Facilities in Public Places except;
 - (i) routine maintenance and repair of the Company Facilities that does not require any cutting of asphalted or concrete surface;
 - (ii) Service Line Work or Impact Service Work; or
 - (iii) Emergency Work;
- (q) “Park” means land dedicated, held, managed or operated by the Municipality as a public park;
- (r) “Pipeline Markers” means post, signage or any similar means of identification used to show the general location of Transmission Pipelines and distribution pipelines or FortisBC Rights of Way;

- (s) “Planned Facilities” means those facilities not yet constructed but which have been identified by way of documented plans for Utilities, for works of third parties, where such works are identified by documented plans permitted by the Municipality;
- (t) “Public Places” means any public thoroughfare, highway, road, street, lane, alley, trail, square, bridge, right of way, viaduct, subway, watercourse or other public place in the Municipality but does not mean Parks;
- (u) “Service Line Work” means installation, construction, repair, maintenance, alteration, extension or removal work of that portion of FortisBC’s gas distribution system extending from a Main to the inlet of a meter set and, for the purposes of this Agreement, includes a service header and service stubs;
- (v) “Transmission Pipeline” means a pipeline of FortisBC having an operating pressure in excess of 2071 kilopascals (300 psi); and
- (w) “Utilities” means the facilities or operations of any water, waste water, sewer, telecommunications, energy, cable service or similar service provider located in Public Places within the Municipality.

2. INTERPRETATION

2.1 For the purposes of interpreting this Agreement:

- (a) the headings are for convenience only and are not intended as a guide to interpretation of this Agreement;
- (b) words in the singular include the plural, words importing a corporate entity include individuals, and vice versa;
- (c) in calculating time where the agreement refers to “at least” or “not less than” a number of days, weeks, months or years, the first and last days must be excluded and where the agreement refers to “at least” or “not less than” a number of days, Saturdays, Sundays and holidays must be excluded;
- (d) the word “including”, when following any general term or statement, is not to be construed as limiting the general term or statement to the specific items or matters, but rather as permitting the general term or statement to refer to all other items or matters that could reasonably fall within the broadest possible scope of the general term or statement.

3. OBLIGATION TO ACT IN GOOD FAITH

- 3.1** FortisBC and the Municipality acknowledge and agree that they will act in good faith, in carrying out the terms and conditions of this Agreement and within reasonable time frames, carry out the obligations under this Agreement.
- 3.2** FortisBC and the Municipality will at all times carry out all work and operations with the due care and attention that is necessary to safeguard the interests of the public, their own employees, and the other party's employees.

4. FORTISBC RIGHTS TO ACCESS & USE PUBLIC PLACES

4.1 Use of Public Places

The Municipality hereby acknowledges FortisBC's rights to:

- (a) develop, construct, install, maintain or remove Company Facilities on, over, in and under Public Places in the Municipality;
- (b) enter on Public Places from time to time as may be reasonably necessary for the purpose of maintaining, repairing, or operating Company Facilities; and
- (c) place pipeline identification markers within Public Places where a Transmission Pipeline or Distribution Pipeline crosses or is otherwise within a Public Place;

subject to terms and conditions defined in this Agreement.

4.2 Use of Parks

- (a) The Municipality may authorize Fortis BC to use Parks for the Company Facilities. The Municipality shall not unreasonably withhold permission in circumstances where Utilities owned by third parties are already placed within the Park and the Municipality does not consider that the use of the Park by Fortis BC will materially affect the public's use of the Park or existing Utilities. Where such permission has been granted to Fortis BC, the Municipality shall grant FortisBC:

- (i) a right of way in registerable form; or
- (ii) in the case of a dedicated Park or other Park for which there is no registered title, a license or permit;

allowing FortisBC to use the Park for the Company Facilities and Fortis BC shall pay to the Municipality compensation for the fair market value of the right-of-way, the license or permit as the case may be. Fair market value shall be as agreed by the Municipality and Fortis BC based on compensation by Fortis BC or other public utilities or other municipalities in the Province of

British Columbia for similar rights-of-way, licenses or permits, as the case may be, granted with respect to similar public lands in other municipalities. Failing agreement between Fortis BC and the Municipality as to the fair market value of any right-of-way, license or permit, compensation shall be determined in accordance with the *Expropriation Act*, RSBC 1996. c125. as amended or replaced from time to time.

5. GRANDFATHERING FOR EXISTING USE OF PARKS

- 5.1** The Municipality acknowledges that Company Facilities may have been installed in Parks. Where FortisBC has existing Company Facilities in a Park, FortisBC may maintain, replace or remove such Company Facilities and enter such park from time to time as may be reasonably necessary for the same purposes, subject to the same terms and conditions defined in this Agreement with respect to FortisBC's use of Public Places, as reasonably applicable.

6. FORTISBC COMPLIANCE WITH STANDARDS FOR USE OF PUBLIC PLACES

6.1 Non-discriminatory Standards for FortisBC

In its use of Public Places, FortisBC shall comply with all Federal and Provincial laws, regulations and codes and shall comply with all Municipal bylaws, standards and policies except that FortisBC shall not have to comply with such Municipal bylaws, standards and policies that:

- (a) conflict with terms of this Agreement or limit any rights or concessions granted to FortisBC by the Municipality under this Agreement; or
- (b) conflict with other legislation governing FortisBC.

Further, where the Municipality has established requirements and standards for work in Public Places, the Municipality shall apply them in a fair, reasonable and non-discriminatory manner consistent with the manner that the Municipality establishes requirements on other Utilities.

6.2 Depth of Cover

Subject to Section 6.1 above, FortisBC shall comply with Municipal standards that establish a minimum depth of cover for the installation of Company Facilities to a maximum of 75cm depth of cover. Notwithstanding the foregoing, the Municipality may require a greater depth of cover for the installation of Company Facilities where such cover is required to accommodate Planned Facilities.

6.3 Provide emergency contacts.

FortisBC will provide the Municipality with a 24 hour emergency contact number which the Municipality will use to notify FortisBC of emergencies including; gas leaks, third party accidents around work sites, ruptures of gas lines, and other potentially hazardous situations.

6.4 Assist with facility locates

FortisBC will, at no cost to the Municipality, provide locations of its Company Facilities within a time frame as may be reasonably requested by the Municipality unless the reason for the request is the result of an emergency; in which case the information shall be provided forthwith. FortisBC shall provide gas locations from FortisBC records. FortisBC shall perform on site facility locates in accordance with the *Safety Standards Act – Gas Safety Regulations*, section 39.

7. FORTISBC WORK OBLIGATIONS:

7.1 New Work

7.1.1. Application for New Work

For New Work, FortisBC shall submit an application to the Municipal Supervisor for a permit when it intends to perform New Work. The application shall include:

- (a) a plan and specifications showing:
 - (i) the size and dimensions of all New Works, their proposed depth below the surface of the ground and their proposed locations related to property lines;
 - (ii) profiles for gas applications for gas mains 114 mm or greater that may impact Planned Facilities, if requested by the Municipality;
 - (iii) the edge of hard surfaces of affected roads, streets or highways or other Public Places;
 - (iv) the proposed location and/or clearances of the New Works where the New Works cross existing Utilities provided that all such locations and elevations are made available to FortisBC by the Municipality or the owner of such Utilities; and
 - (v) boundaries and legal descriptions of any private lands affected or within 1.5 meters of the proposed centre line of the New Work;
- (b) FortisBC's plans for the restoration of the Public Place affected by the New Work if FortisBC's restoration plans are different from those set out in Section 7.6.4 of this Agreement;

- (c) the name of a FortisBC representative who may be contacted for more information;
- (d) projected commencement and completion dates; and
- (e) such other information relevant to the New Work as the Municipality may reasonably require from time to time.

7.1.2. Exception for Emergency

Where FortisBC is required to carry out Emergency Work, FortisBC shall not be required to give prior notice but shall do so as soon as possible thereafter.

7.1.3. Municipal Permits for New Work

The Municipality shall use its best efforts to issue a permit for New Work within fifteen (15) days of receipt by the Municipality of an application containing all the information required under Section 7.1.1, or a time extension if large and complex. The Municipality may refuse to issue a permit for the New Work on the following grounds:

- (a) the proposed location of the New Work conflicts with existing Municipal Facilities, existing third party facilities or Planned Facilities, trees, wetlands, water bodies or other areas of special environmental sensitivity, or areas that are of archeological significance, including areas designated by the Province of British Columbia or by the Municipality as heritage sites; or
- (b) the proposed location or design of the New Work is likely to compromise public safety or does not conform with Municipal bylaws, standards or policies; or
- (c) in instances where FortisBC can delay the New Work without compromising the supply, capacity or safety of its Gas Distribution System or its customers' need for gas service and the Municipality intends within the next three (3) months to undertake work in the same location and wishes to co-ordinate both work; or
- (d) FortisBC has not provided the Municipality with the information required by Section 7.1.1;

and shall provide FortisBC with grounds for its refusal to grant the permit, provided such grounds are reasonable, no more than fifteen (15) days after receiving FortisBC's permit application for New Work, except that in the case of work that is large or complex, the Municipality may extend the time for response by a maximum of ten (10) additional days.

7.1.4. Conditions of Permit

Notwithstanding Section 7.1.3 above, the Municipality may include conditions in its permit for the New Work to address the matters set out in Subsections 7.1.3(a) and 7.1.3(b). In addition, the Municipality may require FortisBC to provide the public with notice of the New Work. Any additional terms or conditions contained in a permit for the New Work shall be of no force and effect except to the extent that such terms or conditions are consistent with the terms of this Operating Agreement.

7.1.5. Work Not to Proceed

If the Municipality

- (a) fails to provide FortisBC with a permit within fifteen (15) days of FortisBC's application of New Work or, in the case of large and complex New Work, within such extended time as may be set out in the Municipality's notice to FortisBC; or
- (b) notifies FortisBC of its objections to the New Work;

FortisBC may refer the matter to dispute resolution in accordance with Section 18. FortisBC shall not proceed with the New Work until the Municipality provides FortisBC with a permit for such work including a permit issued as a result of the resolution of a dispute by the parties.

7.2 Impact Service Work

7.2.1. Application for Impact Service Work

For Impact Service Work, FortisBC shall submit an application to the Municipal Supervisor for a permit when it intends to perform Impact Service Work. The application shall be in the form attached as Schedule A to this Agreement and shall include a sketch showing:

- (a) property lines and street addresses;
- (b) existing gas main and proposed service location offset to property;
- (c) all hard surfaces, trees, archeological or environmental areas impacted by the new service installation; and
- (d) buried utilities identified in the planning stages to be impacted by the proposed service.

7.2.2. Municipal Permits for Impact Service Work

The Municipality shall use its best efforts to issue a permit for Impact Service Work within five (5) days of receipt by the Municipality of an application containing all the information required under Section 7.2.1. The Municipality may refuse to issue a permit for the Impact Service Work on the following grounds:

- (a) the proposed location of the Impact Service Work conflicts with existing Municipal Facilities, existing third party facilities or Planned Facilities, trees, wetlands, water bodies or other areas of special environmental sensitivity, or areas that are of archaeological significance, including areas designated by the Province of British Columbia or by the Municipality as heritage sites; or
- (b) FortisBC has not provided the Municipality with the information required by Section 7.2.1;

and shall provide FortisBC with the grounds for its refusal to grant the permit, provided such grounds are reasonable, no more than ten (10) days after receiving FortisBC's permit application for Impact Service Work.

7.2.3. Conditions of Permit

Notwithstanding Section 7.2.2 above, the Municipality may include conditions in its permit for the Impact Service Work to address the matters set out in Subsection 7.2.1(a). Any additional terms or conditions contained in a permit for the Impact Service Work shall be of no force and effect except to the extent that such terms or conditions are consistent with the terms of this Operating Agreement.

7.2.4. Work Not to Proceed

If the Municipality

- (a) fails to provide FortisBC with a permit within ten (10) days of FortisBC's application of Impact Service Work; or
- (b) notifies FortisBC of its objections to the Impact Service Work;

FortisBC may refer the matter to dispute resolution in accordance with Section 18. FortisBC shall not proceed with the Impact Service Work until the Municipality provides FortisBC with a permit for such work including a permit issued as a result of a resolution of a dispute between the Parties.

7.3 Notices of Service Line Work

7.3.1 Notice

FortisBC shall provide the Municipality with notice of its intent to undertake Service Line Work. When it intends to undertake Service Line Work, FortisBC shall provide such notice in the form attached as Schedule A to this Agreement.

7.3.2 Objections

The Municipality may object to Service Line Work on the grounds set out in Subsections 7.2.2(a) and (b) above, by providing FortisBC with notice of its objections within five (5) days of receiving FortisBC's notice. If the Municipality does not provide such notice of its objections to FortisBC within five (5) days of receiving FortisBC's notice, the Municipality shall be deemed to have granted its approval of the Service Line Work.

7.3.3 Resolving Objections

If the Municipality has objections to the planned Service Line Work and if the Municipality and FortisBC are unable to agree on a resolution, then either party may refer the matter to dispute resolution in accordance with Section 18. The Municipality shall not otherwise withhold or delay its approval.

7.4 Expiry of Permit or Approval After Twelve Months

A permit or deemed approval will expire in the event that FortisBC does not carry out New Work, or Service Line Work within twelve months of the date of the permit or deemed approval.

7.5 FortisBC to Obtain Locate Information

Prior to conducting any New Work, FortisBC shall locate other Utilities and satisfy itself that it is clear to proceed.

7.6 Work Standards

7.6.1. Engineering Practices

All work carried out by FortisBC shall be carried out in accordance with sound engineering practices.

7.6.2. Specific Work Requirements to Remove Materials

FortisBC shall keep its work sites clean and tidy. FortisBC shall remove all rubbish and surplus material from Public Places upon completion of its work.

7.6.3. No Nuisance

Fortis BC shall not leave any part of its gas system in such a state as to constitute a nuisance or a danger to the public through neglect, non-use and want or repair.

7.6.4. Restore Surface and Subsurface

Where FortisBC has performed any operations, Service Line Work or New Work in a Public Place, FortisBC shall restore without unreasonable delay and return such Public Place, as much as reasonably practical, to the condition and use which existed prior to such activity. The restoration will be in accordance with the specifications set out by the Municipality. Such specifications may include the degree and nature of compaction, subsurface structure, surface finish and landscaping required.

Where FortisBC is required to cut pavement on a Public Place such cuts and restoration will be limited to less than 1.5 meters in width unless at the discretion of FortisBC a larger excavation is warranted due to the depth or size of the pipe or requirements of the Workers' Compensation Board or other relevant Provincial or Federal regulations. FortisBC will be responsible for any repairs and maintenance of the surface repair for a period of five (5) years. However, where pavement restoration has been conducted by the Municipality, whether or not such work was undertaken to repair cuts on FortisBC's behalf, FortisBC shall not be responsible for the repairs or maintenance of the surface repair.

7.6.5. Repair Damage to Municipal Facilities

To the extent that any of the work being done by FortisBC results in damage to Municipal Facilities or Public Places, other than the usual physical disruption to Public Places caused by the installation of Company Facilities that FortisBC shall restore in accordance with Section 7.6.4 above, FortisBC will, as soon as reasonably possible, report such damage and reimburse the Municipality for its Costs arising from such damage calculated in accordance with Section 15.1 below. Where such damage results directly from inaccurate or incomplete information supplied by Municipality, and FortisBC has complied with all applicable laws and regulations, and with instructions supplied by the Municipality, then the cost of repairing damaged Municipal Facilities or Public Places will be at the expense of the Municipality.

7.6.6. Restoration Audit

FortisBC may retain a third party, at FortisBC's expense, to carry out audits of FortisBC's repairs or restoration of Municipal Facilities, and the number and frequency of such audits shall be determined in consultation with, and with the agreement of the Municipality. The audit shall take into account different road classification, the results of previous audits and other criteria agreed upon by FortisBC and the Municipality. Notwithstanding the foregoing, the extent and the frequency of the audits will be results based and therefore, the results of any

audits will determine whether the frequency and the extent of any audits should be increased or decreased. This system of audits shall replace any testing required by the Municipality under its bylaws.

7.7 Conformity Requirement

The New Work and Service Line Work must be carried out in conformity with Municipal Permits or approved notices for New Work or Service Line Work, as the case may be, except that FortisBC may make in-field design changes when carrying out the New Work or Service Line Work to accommodate field conditions which could not have been reasonably foreseen by FortisBC. If such in-field conditions materially impact FortisBC's plans for restoration or materially change the impact of FortisBC's work on Municipal Facilities, other than in respect of projected commencement and completion dates, FortisBC shall notify the Municipality of the changes and the reasons for them prior to continuing the work.

7.8 Non-Compliance

If Company Facilities located in Public Places are later found not to be located in compliance with FortisBC's notice of New Work or Service Line Work provided in accordance with Sections 7.1 and 7.3, then any alteration or upgrading required to bring them into compliance with such notice will be at the expense of FortisBC provided that the work has not been altered, damaged or modified by the Municipality or a third party.

7.9 Prime Contractor

Where FortisBC performs any work in a Public Place, FortisBC shall act as the prime contractor or designate in writing its contractor to act as the prime contractor, within the meaning of Section 118 of the Workers Compensation Act (British Columbia) unless otherwise designated in writing by the Municipality or a third party working in such Public Place.

8. CLOSURE OR EXPROPRIATION OF PUBLIC PLACES

8.1 Closure of Public Places

Before any Public Places containing Company Facilities may be legally closed or alienated by the Municipality, the Municipality shall as soon as reasonably possible notify FortisBC of its intent to close or alienate such Public Places and either:

- (a) grant FortisBC a registered statutory right of way in a form satisfactory to FortisBC so as to maintain FortisBC's right to use the land; or
- (b) request FortisBC to remove and (if possible and practicable) relocate those Company Facilities affected by such closure or alienation at the sole cost of the Municipality.

8.2 Expropriation of Public Places

If the Public Places are expropriated by an expropriating authority and FortisBC is required to remove the Company Facilities then the Municipality shall as soon as reasonably possible notify FortisBC of the expropriation. This Section 8.2 is applicable when the Municipality receives official notice of expropriation or otherwise becomes aware of expropriation through communications with the expropriating authority.

9. FACILITY CHANGES REQUIRED

9.1 By FortisBC

FortisBC may provide Notice to the Municipality that it requires Municipal Facilities to be altered, changed or relocated to accommodate its requirements. The Municipality will comply with FortisBC's requests to the extent it is reasonably able to do so and with reasonable speed and dispatch after receipt of written request. FortisBC agrees to pay for all of the Costs for changes to the affected Municipal Facilities. The Municipality shall provide estimates and invoices to FortisBC in respect of such work in accordance with Section 15 of this Agreement.

9.2 By the Municipality

The Municipality may provide Notice to FortisBC that it requires Company Facilities to be altered, changed, temporarily shut-down, temporarily by-passed, or relocated to accommodate its requirements. FortisBC will comply with the Municipality's requests to the extent it is reasonably able to do so and with reasonable speed and dispatch after receipt of written request. The Municipality agrees to pay for all of the Costs for changes to the affected Company Facilities except where such Company Facilities were not installed in conformity with Section 7.7 of this Agreement. FortisBC shall provide estimates and invoices to the Municipality in respect of such work in accordance with Section 15 of this Agreement.

This Section 9.2 is an agreement between the Municipality and FortisBC for the purpose of section 76(1)(c) of the *Oil and Gas Activities Act*.

10. JOINT PLANNING, COOPERATION AND COORDINATION

10.1 Conduct of Construction and Maintenance Activities

The Municipality and FortisBC agree to use reasonable efforts in carrying out their construction and maintenance activities in a manner that is responsive to the effect that it may have on the other party, as well as other users of Public Places. Such reasonable efforts include attending the planning meetings described in Section 10.2 below and reducing as much as is practical, the obstruction of access to Public Places, and interference with the facilities and activities of others in Public Places.

10.2 Communication and Coordination Activities

At the initiation of the Municipality, representatives of the Municipality, FortisBC and other affected Utilities and third parties will meet each year, prior to the construction season, to discuss the parties' anticipated construction activities for that year and to review Planned Facilities. Such discussions will include

- (a) safe working practices;
- (b) the use of common trenching, common utility access facilities and such other common facilities as may be commercially reasonable and comply with operating and safety standards; and
- (c) the consolidation of planned New Work, Impact Service Work and maintenance work especially where pavement must be cut in order to avoid multiple excavations.

10.3 Municipal Planning Lead

During such annual planning meetings, the Municipality shall lead the planning process for all Utilities and third parties with Planned Facilities in Public Places.

10.4 Mapping Information

10.4.1. Municipal Information

The Municipality shall supply to FortisBC at no cost all record drawings and information it has for Municipal Facilities.

10.4.2. FortisBC Information

FortisBC shall supply to the Municipality at no cost all record drawings and information it has for Company Facilities within the Municipality, including abandoned mains.

10.4.3. Co-Operation

FortisBC and the Municipality shall co-operate to improve their mapping systems so they are compatible, provide the necessary information and are easily accessible to both parties.

11. MUTUAL INDEMNITY

11.1 Indemnity by FortisBC

11.1.1. FortisBC indemnifies and protects and saves the Municipality harmless from and against all claims by third parties in respect to loss of life, personal injury (including, in all cases, personal discomfort and illness), loss or damage to property caused by FortisBC in:

- (a) placing, constructing, renewing, altering, repairing, maintaining, removing, extending, operating or using the Company's Facilities on or under any Public Places; and

- (b) any breach of this Agreement by FortisBC;

except to the extent contributed by negligence or default of the Municipality or the Municipal Employees.

11.1.2. This indemnity expressly extends to all acts and omissions of FortisBC Employees.

11.2 Indemnity by the Municipality

11.2.1. The Municipality indemnifies and protects and saves FortisBC harmless from and against all claims by third parties in respect to loss of life, personal injury (including, in all cases, personal discomfort and illness), loss or damage to property to the extent caused by the Municipality in:

- (a) placing, constructing, renewing, altering, repairing, maintaining, removing, extending, operating or using the Municipal Facilities on or under any Public Places;

- (b) any breach of this Agreement by the Municipality;

except to the extent contributed by the negligence or default of FortisBC or FortisBC Employees.

11.2.2. This indemnity expressly extends to all acts and omissions of Municipal Employees.

11.3 Limitations on Municipality's Liability

All property of FortisBC kept or stored on the Public Places will be kept or stored at the risk of FortisBC. For further certainty, FortisBC acknowledges that the Municipality has made no representations or warranties as to the state of repair or the suitability of the Public Places for any business, activity or purpose whatsoever. FortisBC accepts its use of Public Places on an "as is" basis.

11.4 No Liability for Approval of Drawings and Plans

The Municipality shall not be liable to FortisBC as a result only of the Municipality's approval of drawings and plans in connection with notices or applications for permits provided by FortisBC to the Municipality pursuant to this Agreement.

12. OPERATING FEE

12.1 Fee Calculation

12.1.1. FortisBC agrees to pay to the Municipality a fee of three percent (3%) (the “Operating Fee”) of the gross revenues (excluding taxes) received by FortisBC for provision and distribution of all gas consumed within the Boundary Limits of the Municipality, other than gas consumed by customers from whom the BCUC has not allowed FortisBC to collect the Operating Fee, provided that the Municipality is permitted by law to charge such a fee. Such amount will not include any amount received by FortisBC for gas supplied or sold for resale.

12.1.2. The Municipality will provide FortisBC with thirty (30) days prior written notice of any boundary expansion so that existing and new customers in the expanded area can be included as a part of the annual payment fee.

12.1.3. FortisBC will be responsible for adding those existing and new customers within the new Municipal boundary upon receipt of such notice from the Municipality and the revised calculation of the fee will commence effective the date that is the later of the date of actual boundary change or thirty (30) days after the notification under section 12.1.2.

12.2 Payment Date and Period

Payments by FortisBC to the Municipality will be made on the first day of March of each year of the Agreement in respect of the amount received by FortisBC during that portion of the term of this Agreement which is in the immediately preceding calendar year. By way of example only, payment made on March 1, 2015 will be the amount received during the 2014 calendar year.

12.3 BCUC Decision or Provincial Legislation

In the event that a decision by the BCUC, other than periodic rate changes as a result of commodity, delivery or margin increases or decreases, or new legislation by the Provincial Government, impacts the operating fee being paid to the Municipality so as to increase it or decrease it by more than 5% annually at the time of the decision or in subsequent years, the parties shall negotiate a new operating fee formula which best reflects the revenue stream received by the Municipality under this Agreement. For greater certainty, the parties acknowledge that a change to the BCUC’s decision that FortisBC shall provide the agency billing and collections service for marketers on a mandatory basis, as set out in the “Business Rules for Commodity Unbundling”, dated June 5, 2003 as set out in Appendix A to Letter No. L-25-03, may impact the operating fee being paid to the Municipality.

13. OTHER APPROVALS, PERMITS OR LICENSES

Except as specifically provided in this Agreement, the Municipality will not require FortisBC to seek or obtain approvals, permits or licenses related to FortisBC’s use of the

Public Places as contemplated in this Agreement. The Municipality will not charge or levy against FortisBC any approval, license, inspection or permit fee, or charge of any other type, that in any manner is related to or associated with FortisBC constructing, installing, renewing, altering, repairing, maintaining or operating Company Facilities on any Public Places or in any manner related to or associated with FortisBC exercising the powers and rights granted to it by this Agreement (other than for repair of damage to the Municipal Facilities or Public Places in accordance with Section 15) .

If the Municipality does charge or levy fees or costs against FortisBC (other than for repair of damage to the Municipal Facilities or Public Places in accordance with Section 15) then FortisBC may reduce the annual operating fee payable to the Municipality under Section 12 by an amount equal to such charges, fees or costs or in the event no annual operating fee is payable, FortisBC will not be required to pay such charges or fees or costs.

14. MUNICIPAL OBLIGATIONS

14.1 Municipal Work

14.1.1. Before the Municipality undertakes routine maintenance and repair that is likely to affect Company Facilities, it must give FortisBC as much notice as it can but not less than fifteen (15) days before commencing such construction or maintenance activity.

14.1.2. Where the Municipality is required to carry out Emergency Work, the Municipality shall not be required to give prior notice but shall do so as soon as possible thereafter.

14.1.3. FortisBC will be entitled to appoint at its cost a representative to inspect any construction or maintenance activity undertaken by the Municipality. The provisions of this section do not relieve the Municipality of its responsibilities under the *Gas Safety Act*, *Oil and Gas Activities Act*, and successor legislation, regulations thereunder, or the requirements of the BC Workers' Compensation Board.

14.1.4. In addition, the Municipality shall provide Notice to FortisBC of any work planned that will be adjacent to, across, over or under a Transmission Pipeline or within a right-of-way for a Transmission Pipeline. To the extent that FortisBC requires that permit be issued for construction or other activities within a Transmission Pipeline right-of-way, the Municipality will submit an application for such a permit in sufficient time for the application to be reviewed and approved by FortisBC prior to the commencement of the construction or other activity.

14.1.5. The Municipality shall assist FortisBC in FortisBC's efforts to reduce instances of residences being built over gas lines and other similarly unsafe building practices by third parties.

14.1.6. The Municipality shall not interfere with Transmission Pipeline markers.

14.1.7. The Municipality shall provide notice to FortisBC of any damage caused by the Municipality to Company Facilities or Transmission Pipeline Markers as soon as reasonably possible. To the extent that any of the work being done by the Municipality results in damage to the Company Facilities, the Municipality will report such damage and pay FortisBC its Costs arising from such damage in accordance with Section 15.1 below. Where such damage results directly from inaccurate or incomplete information supplied by FortisBC, and the Municipality has complied with all applicable laws and regulations, and with instructions supplied by FortisBC, then the cost of repairing the damaged Company Facilities will be at the expense of FortisBC.

14.1.8. The Municipality shall notify FortisBC of any new bylaws, standards or policies adopted or passed by the Municipality that are likely to affect FortisBC's operations in Public Places.

15. COSTS AND PAYMENT PROCEDURES

15.1 Definition of Costs

Wherever one party is required to pay the other party Costs as a result of damage caused by one party to the other's property or for facility changes required in accordance with Section 9 of this Agreement, the Costs shall be:

- (a) all direct expenses and disbursements incurred to restore such property to as good a state of repair as had existed prior to the damage;
- (b) reasonable administration and overhead charges on labour, equipment and materials;
- (c) such taxes as may be required in the appropriate jurisdiction;
- (d) the cost of the lost commodity as determined by the claiming party;
- (e) the cost for additional work related to the damage (for example, gas relights, flushing water mains); and
- (f) cost of supplying alternate or temporary service until the repair of the property is made.

15.2 Cost Claim Procedures

15.2.1. Wherever one party is claiming Costs of the other party in regard to any work or issue arising under this Agreement the claiming party shall:

- (a) Notify the other party of the loss no later than two (2) months after incurring costs and provide an invoice to the other party no later than one year after incurring Costs;

- (b) provide detailed descriptions of the cost items, provided that claiming party may require the other party to keep sensitive business information, including third party information, confidential;
- (c) provide the time period the invoice covers;
- (d) provide a minimum of twenty-one (21) day terms for payment of the invoice; and
- (e) provide for late payment interest at the rate consistent with the party's policy for charging for late payments, which rate must be reasonable.

15.2.2. The party claiming Costs shall have no right of set off for these invoices against any amounts otherwise payable to the other party, except to the extent so approved in writing by the other party.

15.3 Cost Verification Procedures

15.3.1. Wherever either party is the recipient of or is claiming Costs and or fees that party may at its own discretion request from the other party:

- (a) Certification by an officer or designated representative verifying the calculations and computations of the Costs and or fees; or
- (b) An internal review or audit of the calculations and computations of the Costs and or fees, with the internal review or audit to be carried out by a person appointed by the party being asked to provide the review; or
- (c) An independent external audit of the calculations and computations of the costs and fees, with the independent external auditor being a Chartered or a Certified General Accountant in British Columbia appointed by the party requesting the external audit.

15.3.2. The costs of this cost verification process shall be borne by the party who is required to supply the information except as otherwise specified providing the frequency of such requests does not exceed once per calendar year. For all future cases which occur in that calendar year, the costs of such further verifications shall be at the expense of the requester.

Where the independent external audit finds and establishes errors representing a variance greater than two (2%) percent of the originally calculated value in favour of the party claiming Costs, the costs shall be at the expense of the party supplying the information. Once an error has been verified, payment or refund of the amount found to be in error will be made within twenty-one (21) days.

16. START, TERMINATION AND CONTINUITY

16.1 Municipal Authority to Enter into Agreement

Prior to entering into this Agreement the Municipality will complete all procedures, obtain all consents and enact and bring into force all resolutions required under the *Community Charter*, and amendments thereto, and all other applicable legislation, to approve and authorize this Agreement.

16.2 Agreement Not Binding Until Conditions Met

This Agreement will not come into effect and does not bind the parties until:

- (a) FortisBC has obtained such approvals of this Agreement, or its terms, as may be required under the *Utilities Commission Act*; and
- (b) The Municipality has obtained authority permitting it to charge the operating fee set out in Section 12.1 this Agreement.

Upon executing this Agreement FortisBC shall make reasonable efforts to fulfill the condition under paragraph (a) and the Municipality shall make reasonable efforts to fulfill the condition under paragraph (b). If these conditions is not fulfilled or waived within one (1) year of the date of execution of this Agreement, then the obligation on FortisBC or the Municipality, as the case may be, to make reasonable efforts to fulfill the condition will terminate, and neither party will have any further obligation to the other under this Agreement.

16.3 Termination of Franchise Agreement

If not already terminated or expired, any franchise and operating agreement between the Municipality and FortisBC is terminated upon the effective date of this Agreement as referred to in Section 16.2 of this Agreement.

16.4 Term of Agreement

This Agreement will have a term of twenty (20) years from the date that it comes into effect and after the initial term shall continue indefinitely unless terminated in accordance with Section 16.5 below.

16.5 Termination of Agreement

16.5.1. This Agreement may be terminated by the Municipality upon the occurrence of any of the following events:

- (a) FortisBC admits its inability to pay its debts generally as they become due or otherwise acknowledges its insolvency;

- (b) FortisBC starts proceedings or takes any action to commence or executes an agreement to authorize its participation in any proceeding:
 - (i) seeking to adjudicate it bankrupt or insolvent;
 - (ii) seeking liquidation, reorganization, arrangement, protection, relief or composition of it or any of its property or debt or making a proposal with respect to it under any law relating to bankruptcy, insolvency, reorganization or compromise of debts or other similar laws; or
 - (iii) seeking the appointment of a receiver, trustee, agent, custodian or other similar official for it or for any substantial part of its assets or if a creditor seeks the appointment of a receiver, trustee, agent, custodian or other similar official for any substantial part of its assets; and such proceeding is not dismissed, discharged, stayed or restrained within twenty (20) days of the Municipality becoming aware of it.

16.5.2. Either party may terminate if other breaches any term, provision, obligation hereunder and such breach, is a material major breach, and has not been cured within sixty (60) days of receipt of Notice of such breach. A Party will not be considered to be in default if such matter is in dispute or has been referred to commercial arbitration, the outcome of which is pending, or is being resolved in good faith compliance with the dispute resolution and arbitration processes of this Agreement.

16.5.3. After the initial twenty (20) year term of this Agreement, either party may terminate this Agreement by giving the other not less than one (1) year's notice of termination.

16.6 Amendments and Waivers

This Agreement may be amended only by an agreement in writing signed by the parties. No waiver of any provision nor consent to any exception to the terms of this Agreement shall be effective unless in writing and signed by the parties to be bound, and then only to the specific purpose, extent and instance so provided. No waiver, delay or failure to exercise any rights under this Agreement shall be construed as a continuing waiver of such right or as a waiver of any other right under this Agreement.

The parties agree to meet to discuss the operations of the Agreement within thirty (30) days of either party making the request. Such a meeting will determine whether any amendments are required to this Agreement and the parties shall discuss any proposed amendments with a view to maximizing the benefit of the relationship.

16.7 Negotiations on Termination or Expiry of this Agreement

Upon one party giving Notice to the other of termination of this Agreement, the parties shall negotiate in good faith to enter into a new agreement with respect to the terms and conditions under which FortisBC may use the Public Places. In the event that such negotiations break down and in the opinion of one or other of the parties acting in good faith that settlement is unlikely, either party may give Notice to the other of its intention to apply to the BCUC to seek resolution of the terms and conditions applicable to FortisBC's continued operations and construction activities within the Municipality.

16.8 Continuity In The Event No Agreement Is Settled

Upon the expiry or termination of this Agreement, if a new agreement has not been ratified or if the BCUC has not imposed the terms and conditions under which FortisBC may use the Public Places, the following provisions will apply:

- (a) The Company Facilities within the boundary limits of the Municipality both before and after the date of this Agreement, shall remain FortisBC's property and shall remain in the Public Places.
- (b) The Company Facilities may continue to be used by FortisBC for the purposes of its business, or removed from Public Places in whole or in part at FortisBC's sole discretion.
- (c) FortisBC may continue to use Public Places within the Municipality for the purposes of its business. FortisBC's employees, may enter upon all the Public Places within the Boundary Limits of the Municipality to maintain, operate, install, construct, renew, alter, or place Company Facilities; provided that FortisBC continues to operate in a manner consistent with the terms and conditions of this Agreement as if the term had been extended except with respect to the payment of the operating fee.
- (d) FortisBC will with the support of the Municipality take such steps necessary to seek BCUC approvals of the extension of terms and conditions including payment of the operating fee under the terminated agreement during negotiations of a new agreement.
- (e) Should FortisBC no longer be authorized or required to pay the operating fee under this or any other Agreement between it and the Municipality or by any order of the BCUC, the Municipality shall be free to apply such approval, permit and licence fees, charges and levies it is legally entitled to collect.

17. ACCOMMODATION OF FUTURE CHANGES

17.1 Outsourcing of Infrastructure Management

In the event that the Municipality assigns the task of infrastructure management to a third party:

- (a) the Municipality will ensure that its contracts for such infrastructure management contain provisions that will allow the Municipality to meet its obligations under and to comply with the terms and conditions of, this Agreement; and
- (b) FortisBC will accept the appointment of such third party as the Municipality's agent or subcontractor to enable such third party to deal directly with FortisBC so as to enable the Municipality to comply with the terms, obligations and conditions of this Agreement.

17.2 Changes to the Community Charter

In the event that the provisions of the *Community Charter* or other legislation affecting the rights and powers of municipalities change in such a way as to materially, in the opinion of the Municipality, affect municipal powers in respect to matters dealt with in this Agreement,

- (a) the Municipality may within one year of the change coming into effect propose new agreement terms with respect to only those specific changes and FortisBC agrees to negotiate such terms; and
- (b) failing satisfactory resolution of the terms of the Agreement either of the parties may seek resolution through the Dispute Resolution Process, Section 18.

17.3 Changes to the Utilities Commission Act

In the event that the provisions of the *Utilities Commission Act* or other legislation affecting the rights and powers of regulated Utilities change in such a way as to materially, in FortisBC's opinion, affect FortisBC's powers in respect to matters dealt with in this Agreement,

- (a) FortisBC may within one year of the change coming into effect propose new agreement terms with respect to only those specific changes and the Municipality agrees to negotiate such terms; and
- (b) failing satisfactory resolution either of the parties will seek resolution through the Dispute Resolution Process, Section 18.

18. DISPUTE RESOLUTION

18.1 Mediation

Where any dispute arises out of or in connection with this Agreement, including failure of the parties to reach agreement on any matter arising in connection with this Agreement, the parties agree to try to resolve the dispute by participating in a structured mediation conference with a mediator under the Rules of Procedure for Commercial Mediation of The Canadian Foundation for Dispute Resolution.

18.2 Referral to the BCUC or Arbitration

If the parties fail to resolve the dispute through mediation, the unresolved dispute shall be referred to the BCUC if within its jurisdiction. If the matter is not within the jurisdiction of the BCUC, such unresolved dispute shall be referred to, and finally resolved or determined by arbitration under the Rules of Procedure for Commercial Arbitration of The Canadian Foundation for Dispute Resolution. Unless the parties agree otherwise the arbitration will be conducted by a single arbitrator.

18.3 Additional Rules of Arbitration

The arbitrator shall issue a written award that sets forth the essential findings and conclusions on which the award is based. The arbitrator will allow discovery as required by the *Arbitration Act* of British Columbia in arbitration proceedings.

18.4 Appointment of Arbitrator

If the arbitrator fails to render a decision within thirty (30) days following the final hearing of the arbitration, any party to the arbitration may terminate the appointment of the arbitrator and a new arbitrator shall be appointed in accordance with these provisions. If the parties are unable to agree on an arbitrator or if the appointment of an arbitrator is terminated in the manner provided for above, then any party to Agreement shall be entitled to apply to a judge of the British Columbia Supreme Court to appoint an arbitrator and the arbitrator so appointed shall proceed to determine the matter *mutatis mutandis* in accordance with the provisions of this Section.

18.5 Award of Arbitrator

The arbitrator shall have the authority to award:

- (a) money damages;
- (b) interest on unpaid amounts from the date due;
- (c) specific performance; and
- (d) permanent relief.

18.6 Cost of Arbitration

The costs and expenses of the arbitration, but not those incurred by the parties, shall be shared equally, unless the arbitrator determines that a specific party prevailed. In such a case, the non-prevailing party shall pay all costs and expenses of the arbitration, but not those of the prevailing party.

18.7 Continuation of Obligations

The parties will continue to fulfill their respective obligations pursuant to this Agreement during the resolution of any dispute in accordance with this Section 18, provided that, neither party shall proceed with any work or activity or take any further action which is the subject matter of the dispute.

18.8 Matters Not subject to Arbitration

For certainty the conditions precedent referred to in Section 16.2 shall not be subject to arbitration.

19. GENERAL TERMS & CONDITIONS

19.1 No Liens

FortisBC will do its best to not allow, suffer or permit any liens to be registered against the Company Facilities located in Public Places as a result of the conduct of FortisBC. If any such liens are registered, FortisBC will start action to clear any lien so registered to the Public Place within ten (10) days of being made aware such lien has been registered. FortisBC will keep the Municipality advised as to the status of the lien on a regular basis. In the event that such liens are not removed within ninety (90) days of the registration of such lien, FortisBC will pay them in full or post sufficient security to ensure they are discharged from title.

19.2 Corporate Authority

FortisBC now warrants, represents and acknowledges that:

- (a) it has the full right, power and authority to enter into this Agreement; and
- (b) it is a corporation, duly organized, legally existing and in good standing under the laws of its jurisdiction of incorporation or continuance and is lawfully registered and licensed to do business in British Columbia.

19.3 Representations

Nothing in this Agreement shall be deemed in any way or for any purpose to constitute either party as the legal representative, agent, partner or joint venturer of the other, nor shall either party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against, in the name of, or on behalf of the other party.

19.4 Assignments and Enurement

This Agreement and any rights or obligations under it are not assignable by either party, without the prior written consent of the other party hereto, such consent not to be unreasonably withheld. This Agreement shall be binding upon, enure to the benefit of, and be enforceable by, the successors and permitted assigns of the parties hereto.

19.5 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.

19.6 General

This Agreement is subject to the laws of Province of British Columbia and the applicable laws of Canada, and nothing in this Agreement will be deemed to exclude the application of the provisions of such laws, or regulations thereunder.

19.7 Entire Agreement

This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter herein contained and supersedes all prior agreements and undertakings with respect thereto.

19.8 Severability

If any provision of this Agreement is held invalid by any court, governmental agency or regulatory body, the other provisions to the extent permitted by law shall remain in full force and effect. To the extent permitted by applicable law, the parties hereby waive any provision of law that renders any provision hereof prohibitive or unenforceable in any respect.

19.9 Force Majeure

Neither party shall be liable to the other for temporary failure to perform hereunder, if such failure is caused by reason of an Act of God, labour dispute, strike, temporary breakdown of facilities, fire, flood, government order or regulations, civil disturbance, non-delivery by program suppliers or others, or any other cause beyond the parties' respective control.

19.10 Notice

Any notice or other written communication required, or permitted to be made or given pursuant to this Agreement (the "Notice") shall be in writing and shall be deemed to have been validly given if delivered in person or transmitted electronically and acknowledged by the respective parties as follows:

(A) If to the Municipality:



(B) If to FortisBC:

FORTISBC ENERGY (VANCOUVER ISLAND) INC.
16705 Fraser Highway
Surrey, B.C. V4N 0E8
Attention: Director, Regulatory Affairs

CITY OF _____
by its authorized signatories

Authorized Signatory

Authorized Signatory

FORTISBC ENERGY (VANCOUVER ISLAND) INC.
by its authorized signatories

Authorized Signatory

Authorized Signatory

**Gas Service Line Work
Permit Request
Vancouver Island Municipalities**

SCHEDULE A



To Municipality:	<i>Fax/email:</i>	Date (Yr/ Mth/ Day) / /
------------------	-------------------	----------------------------

FortisBC Energy (Vancouver Island) Inc. hereby gives notice of its intention to perform work on a natural gas service to the following listed addresses, and that excavations within a public place will occur at each location

Project number	Fortis Contact	Address	Service location	Impacts involved	Permit#

Instructions:

- Email is preferred
- Describe service location relative to facing front of property. i.e. Front/Left, Centre or Right: Back/Right Centre or Right
- Brief description of impact;

Impacts are:

- Public pavement
- Public trees, wetlands or other such environmentally sensitive areas
- Archeologically significant areas
- Existing municipal or third party facilities

General Conditions:

As contained in the operating agreement between the Municipality and FortisBC Energy (Vancouver Island) Inc.

Reply to:

Pre-Requisite Desk
FortisBC Energy (Vancouver Island) Inc.
16705 Fraser Highway, Surrey, BC V4N 0E8
E-mail: Pre-RequisiteDesk@FortisBC.com
Toll free tel: 1-866-771-7337
Toll free fax: 1-877-413-1152

City of Nanaimo

REPORT TO COUNCIL

DATE OF MEETING: 2014-OCT-06

AUTHORED BY: DAVE STEWART, PLANNER, PLANNING & DESIGN SECTION

RE: LIQUOR LICENCE APPLICATION NO. LA108 - APPLICATION FOR A PERMANENT CHANGE TO A FOOD PRIMARY LIQUOR LICENCE - REWSTERS RESTAURANT - 223 COMMERCIAL STREET

STAFF RECOMMENDATION:

That Council recommend the Liquor Control and Licensing Branch (LCLB) approve an application to amend the existing food primary liquor licence for REWsters Restaurant (223 Commercial Street) to:

1. include patron participation entertainment (dancing); and
2. increase the hours of late night liquor service to 1am within the interior of the building, provided the hours of service for the outdoor patio area are not extended past midnight.

PURPOSE:

The purpose of this report is to request Council comment regarding an application received from REWsters Restaurant (223 Commercial Street) to extend the hours of liquor service and permit patron participation (dancing) for the existing licensed restaurant. As Council is aware, a municipal resolution is required before the Province will consider the application further.

BACKGROUND:

The City has received correspondence from Mr. Morgan Carey and Ms. Courtenay Althouse (REWsters Restaurant). The applicants are requesting a local government resolution in support of their application to the LCLB to extend the hours of service for the food primary liquor licence past 12am and permit patron participation.

The existing licence hours are:

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
10am - 10pm	10am - 10pm	10am - 10pm	10am - 12am	10am - 12am	10am - 12am	10am - 12am

The proposed licence hours are:

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
10am - 1am	10am - 1am	10am - 1am	10am - 1am	10am - 1am	10am - 1am	10am - 1am

The existing restaurant, including the patio, has a licensed capacity of 120 persons.

The subject property, located at 223 Commercial Street (Attachment A), is within the city's downtown core and is included within the Core (DT1) zone. The DT1 zone permits neighbourhood pubs, nightclubs, lounges and restaurants.

In June 2002, the City of Nanaimo retained Neilson-Welch Consulting Inc., to prepare a Liquor Control Strategy, which Council subsequently adopted. In terms of food primary establishments, the Liquor Control Strategy recommends that the hours of food and liquor primary licensed establishments not be extended beyond current limits.

The concern noted in the report is that restaurants with late night hours could "turn into a magnet for patrons forced to leave the pubs, bars and nightclubs". Council, at its meeting of 2007-MAY-28, amended Nanaimo's Hours of Service Policy to allow liquor service to 1:30am in all areas of the City.

Given that the requested 1am closing time is one hour earlier than the typical 2am closing time for most downtown liquor primary establishments, and is 30 minutes earlier than the 1:30am Hours of Service Policy endorsed by Council for liquor primary establishments, the concerns identified above should not be an issue. The applicants letter of rationale concerning the proposed hours change is included (Attachment B).

In addition to extending the liquor licence hours of service to 1am, the applicants are requesting a patron participation endorsement in order to allow a DJ booth and dancing during special events.

The City's Liquor Control Strategy recommends "that Council endorse restaurants' requests for patron participation entertainment, but only in cases where the individual restaurant provides, in writing, an outline of the types of entertainment planned, and the assurance that food service will remain the primary function." The applicants letter of assurance is included (Attachment C).

DISCUSSION:

As part of the food primary amendment review process, the LCLB asks the local government to comment on the following:

- ***The potential for noise if the application is approved:*** The subject property is located approximately 20m south of Studio NA (99 Chapel Street), a mixed use development which includes 80 residential units. The restaurant currently includes an outdoor patio area. It is anticipated that if the hours are extended to 1am the noise levels from patrons, particularly those on the patio, may negatively impact Studio NA residents. In order to address potential noise concerns related to the increased hours of service for the restaurant, Staff recommend the outdoor patio hours of service not be extended past midnight. The applicant has verbally agreed to the reduced hours of service for the patio.

The Dorchester Hotel and the Coast Bastion Hotel are also approximately 50m and 75m from the restaurant, respectively. No other residential uses are within 100m of the subject property.

- ***The impact on the community if the application is approved:*** The subject property is included within the Downtown Urban Node within the City's Official Community Plan (OCP).

The Downtown Urban Node encourages the downtown to be “a welcome place for residents to work, live and visit”. When reviewing the application, Council is asked to weigh the benefit of the increased hours and proposed entertainment may have for those visiting the downtown core with any potential negatives that may be caused to those living and working downtown.

The downtown core is the Nanaimo’s primary late night entertainment district. The restaurant is located next door to Modern Café. An alleyway adjacent to the restaurant connects Church Street to Skinner Street through the parking lot of the Old City Station Pub and Level 2 nightclub. There are five liquor primary establishments on Skinner Street, and a liquor primary lounge on Bastion Street. The RCMP and the City’s Liquor Control Strategy have noted that an accumulation of late night liquor licensed venues within an area may contribute to disorder and disturbance within the area. A copy of the RCMP’s referral response is included (Attachment D).

While Council is asked to consider each liquor licence application on its’ individual merits, if the extended hours and entertainment endorsement are approved, other downtown restaurants may request a similar licence amendment in order to remain competitive. Currently, eight downtown restaurants operate past midnight. Eight downtown food primary establishments currently serve past midnight. The following chart identifies the late night service hours for downtown food primary establishments.

Restaurant Name	Location	Late night hours
Serving Past Midnight		
The Keg	350 Robson Street	2:00 am
Lighthouse Bistro	50 Anchor Way	1:00 am
Coast Bastion Inn	11 Bastion Street	1:00 am
Acme	14 Commercial Street	2:00 am
The Dorchester	70 Church Street	1:30 am
James Street Billiards	77 Victoria Crescent	2:00 am
New York Style Pizza and Pasta	299 Wallace Street	1:00 am
Fox and Hounds	247 Milton Street	2:00 am
Not Serving Past Midnight		
Bistro Taiyo	321 Wesley Street	12:00 am
The Nest Bistro	386A Franklyn Street	10:00 pm
Pho A Dong	428 Fitzwilliam Street	12:00 am
Penny’s Palapa	10 Wharf Street	12:00 am
Modern Café	221 Commercial Street	12:00 am
Le Café Francis	153 Commercial Street	12:00 am
Tandori Junction	489 Wallace Street	12:00 am
Café Bakery Mon Petit Choux	120 Commercial Street	12:00 am
Firehouse Grill	1-7 Victoria Road	12:00 am
Astera’s Greek Taverna	347 Wesley Street	12:00 am
The Green Olive	150 Skinner Street	12:00 am
Fibber Magee’s	321 Selby Street	12:00 am
The Corner Bistro	75 Front Street	12:00 am

The restaurant is located in a recently renovated heritage building at 223 Commercial Street, which also includes the Real Estate Webmaster's office. The renovation of the building and addition of the restaurant and patio has, in Staff's opinion, increased the liveliness and vitality within the downtown core. If hours of service for the restaurant are extended, downtown patrons will have another late night alternative to a pub or a nightclub.

A referral was sent to the Downtown Business Improvement Association (DNBIA), but no response was received.

- ***Where the amendment may result in the establishment being operated in a manner contrary to its primary purpose:*** As part of the 2014, BC Policy Liquor review the LCLB has clarified a food primary establishment must continue to focus on food service with a full menu when liquor service is available; however, patrons do not need to order food if they do not wish to eat. While this represents a clarification and not a change in policy or regulation, the clarification has highlighted a concern among some, including the RCMP, that food primary establishments with late night hours of service and entertainment endorsements are beginning to operate in a manner similar to liquor primary establishments. The RCMP note that while downtown liquor primary establishments contribute to the City's Bar Watch program, food primary establishments do not.

The restaurant will provide a full menu and has provided written assurance that the primary function will be that of a restaurant (Attachment C). The applicant is requesting a patron participation entertainment endorsement in order to allow dancing in the rear portion of the restaurant during special functions.

- ***The views of residents / neighbouring businesses:*** A public notice and comment sheet was mailed and hand delivered to the owners, residents and business owners of buildings and properties within 100m of the subject property. A total of 184 comment sheets were mailed and delivered. 36 responses have been received; 25 are in support of the application while 11 are opposed. Those opposed to the application cited concerns regarding existing nuisance and disturbance issues resulting from liquor licensed establishments in the area and a concern that the application will make the situation worse. A summary of the responses received is attached (Attachment E).

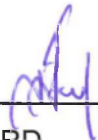
Respectfully submitted,



B. Anderson
MANAGER
PLANNING & DESIGN SECTION

Concurrence by:



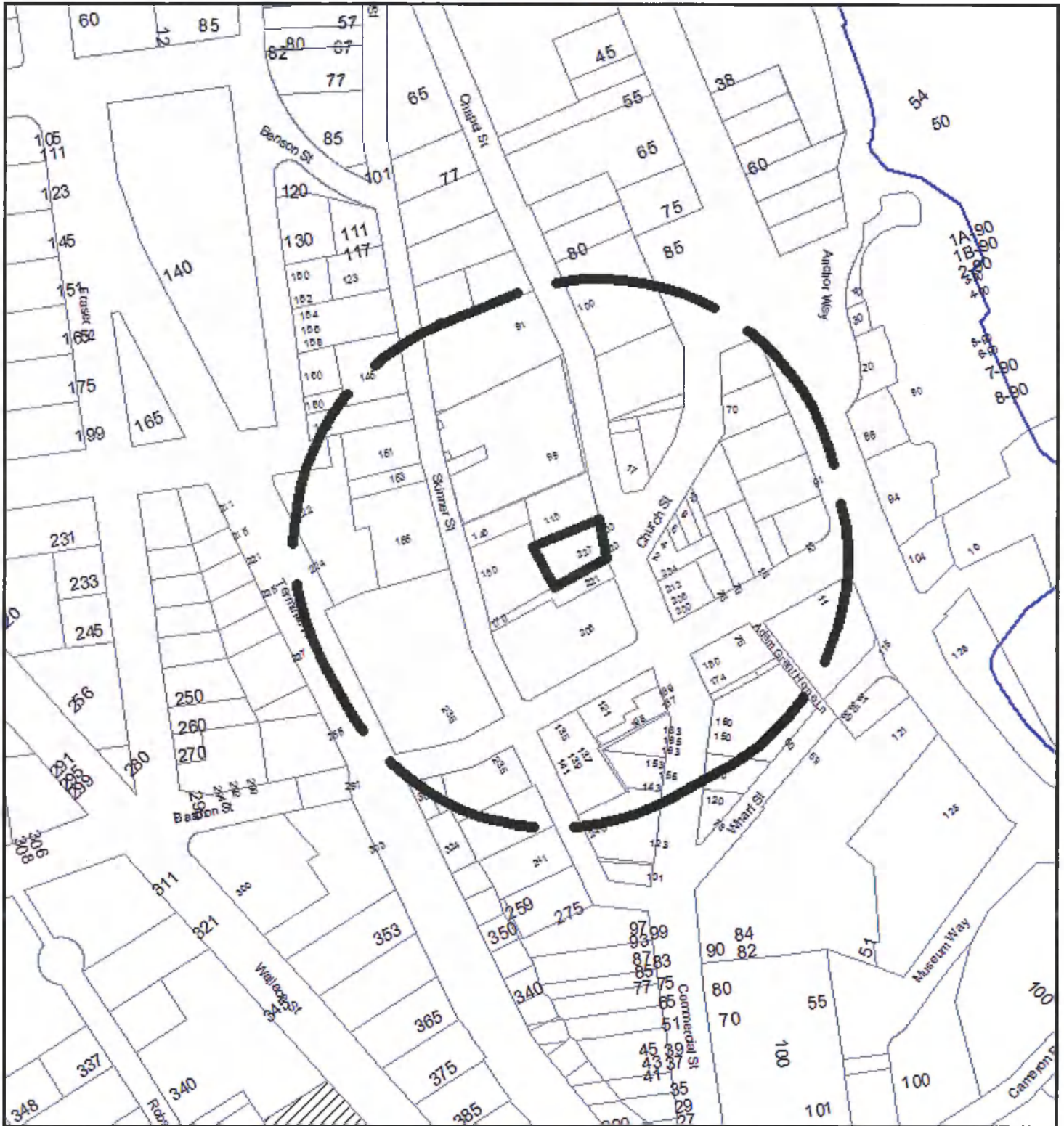
D. Lindsay
DIRECTOR
COMMUNITY DEVELOPMENT

T. SEWARD
ACTING GENERAL MANAGER
COMMUNITY DEVELOPMENT AND
PROTECTIVE SERVICES

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Attachment A



LIQUOR LICENSE APPLICATION NO. LA000108

LOCATION PLAN

Civic: 223 Commercial Street
REWsters Restaurant



 Subject Property

 Notification Area

ATTACHMENT B

Attn: City of Nanaimo

My name is Morgan Carey and I am the owner for REWSters Restaurant located at 223 Commerical Street.

We are applying to have our hours of liquor service extended from the existing 10-10 (Sunday through Wednesday) and 10-midnight (Thursday through Saturday) to an across the board 10 AM to 1 AM service.

The reason we are applying for this extension is due to the fact that we did not realize that originally when we reported our hours for the "initial opening" we would be limiting ourselves to those hours for liquor service should we plan to extend the hours in the future.

Our goal is to have the hours as they are until we gauge traffic / interest however we are already seeing very encouraging signs from the city of Nanaimo and we feel that very soon we will be able to extend the hours of operation significantly. In order to do this, we need to ensure that we have appropriate licensing ahead of time so that the addition of the extra hours is not done so without liquor service (which would be detrimental to extension).

Also even on days where we do not plan to regularly extend the hours (say Monday / Tuesday) we still would like the option to be open later for special events (bath tub week, after dinner for special events at the port theater or for private bookings / staff parties etc)

We of course understand that we are a food primary and must provide "food service first" initiative including providing food sales at all times that liquor is available for purchase. And of course we will comply with the strictest intent with all relevant local / provincial and Canadian laws with respect to liquor consumption.

My personal contact information
Morgan Carey
250-668-7364 Cell
morgan@realestatewebmasters.com

Please do not hesitate to contact me with questions / comments
Thank you for your consideration.

ATTACHMENT C

Liquor Control and Licensing Board

We are writing this letter in regards to applying for a food-primary entertainment endorsement license. Rewsters Restaurant is currently a food primary restaurant with no intention of becoming a bar or night club.

The reason we would like to request a patron participation license is due to several customer requests to have functions in our back room. We have been asked to use our back room for staff parties, Christmas parties, as well as retirement parties, where customers would like to bring in music and be allowed to dance if they chose to do so for these special occasions.

We appreciate your consideration,

Courtenay Althouse
Manager
Rewsters Restaurant

ATTACHMENT D



**Royal Canadian
Mounted Police**

**Gendarmerie royale
du Canada**

Security Classification
/Designation
Classification/désignation

RCMP Nanaimo
303 Prideaux Street
Nanaimo, BC V9R 2N3

Your File - Votre référence

LA108

Our File - Notre référence

City of Nanaimo
Attention: Dave Stewart
Planning Department

Date

September 30, 2014

Dear Sir,

Re: Rewsters Restaurant – Extention of hours of Food Primary liquor licence

This letter is in response to the application by Mr Morgan CAREY to extend hours of the food primary liquor license from midnight to 1 a.m. seven days a week. The City of Nanaimo has requested police comment on the potential impact of the proposed change in license hours on police resources, levels of criminal activity, levels of public disorder including noise, and any previous incident in immediate vicinity of the establishment.

Rewsters Restaurant has an occupancy capacity of 120 persons inclusive of a patio area. The restaurant is situated in close proximity to residential condominiums (Studio NA) and the Modern Café, which also features outdoor patio service. The Modern Café's food primary liquor license permits service until midnight seven days a week.

Rewsters Restaurant is situated in close proximity to the downtown entertainment district. An alleyway adjacent to the restaurant connects Church Street to Skinner Street through the parking lot of the Old City Station Pub, a 265 seat liquor primary establishment. There are five liquor primary establishments on Skinner Street, and a liquor primary lounge on Bastion Street. This area contains the greatest concentration of liquor-primary establishments in the City. The downtown Bar Watch program developed in 2007 provides dedicated police resources on weekends to address public disorder, organized crime and disturbances associated with this hospitality area. The Bar Watch program is part of the city's Liquor Control Strategy.

A recommendation of the Liquor Control Strategy (2002) was to restrict hours of liquor service at food primary establishments to Midnight, particularly in the downtown entertainment district. The rationale was to prevent an accumulation of liquor licenced venues that contribute to disorder and disturbances that commonly occur when high occupancy nightclubs close at 2 am. The downtown hospitality district continues to experience noise disturbances, violence & obstreperous behaviour in and around nightclub closing hours.

In 2014, Provincial liquor regulations were changed, enabling restaurants to provide late night liquor service without requiring their customers to purchase meals. When combined with entertainment

endorsements, these establishments can now operate in a manner similar to liquor primary establishments. We are already observing late-night trends in some food-primary establishments featuring live entertainment, dancing, liquor service without food, and patrons that enter & exit the premises freely to smoke, socialize and mingle with crowds wandering between downtown clubs.

Significantly, food-primary establishments do not participate in the Bar Watch Program, do not use patron-screening technology or utilize trained and licenced security personnel. This gives rise to possibility that individuals banned or excluded from Bar Watch establishments for incidents of crime and violence could continue to patronize licensed establishments in the downtown hospitality district.

The RCMP cannot comment on the management style and practices of Rewsters Restaurant as it is newly opened. The establishment's outdoor patio is situated in close proximity to a neighbouring residential condominium and adjacent high-occupancy nightclubs. An extension of licensed hours could potentially impact on police resources, crime, disorder, and disturbances including noise in the vicinity of the establishment.

If you require further information, please contact Inspector Sorab Rupa, Operations Officer at Nanaimo Detachment.

Yours truly,

Mark Fisher, Superintendent
Officer in Charge, Nanaimo Detachment

Attachment E

Returned Public Comment Sheets

For:

- ☒ I SUPPORT THE APPLICATION.
☐ I DO NOT SUPPORT THE APPLICATION.


Comments:

I THINK A MORE CONTROLLED PRESENCE IN THE
LOCAL AREA AROUND THE PUB WILL DETRACT
FROM YOUNG PEOPLE JUST HANGING AROUND.

Name: RON DIRKSON Resident Street Address: 415-99 CHAPEL ST
Name of Business: DIRKSON DESIGN SVCS Business Address: "

- ☒ I SUPPORT THE APPLICATION.
☐ I DO NOT SUPPORT THE APPLICATION.

Comments: THIS WILL BENEFIT OUR PATRONS & MUSICIANS
AS REHEARSALS & CONCERT END LATE & MOST
RESTAURANTS ARE EITHER CLOSED OR THE KITCHENS
ARE CLOSED -

Vancouver Island
Symphony  Box 661
Nanaimo BC 150 COMMERCIAL ST
V9R 5L9

Name: www.vancouverislandsymphony.com Resident Street Address:
Name of Business: Business Address:

- ☒ I SUPPORT THE APPLICATION.
☐ I DO NOT SUPPORT THE APPLICATION.

Comments:

Name: Kevin Perry Resident Street Address:
Name of Business: Perkins Coffee Co Business Address: 234 Commercial St Nanaimo

Comments: _____

Name: Gandra Bistriz Resident Street Address: _____
Name of Business: SL Bistriz Consulting Business Address: 101-155 Skinner St.

☒ I SUPPORT THE APPLICATION.
☐ I DO NOT SUPPORT THE APPLICATION.

SEP 17 2014
CITY OF NANAIMO
FINANCE DEPARTMENT

Comments: _____

Name: Shirley Manta Resident Street Address: 155 Skinner St.
Name of Business: as agent for 454375 BC Ltd. Business Address: "

☒ I SUPPORT THE APPLICATION.
☐ I DO NOT SUPPORT THE APPLICATION.

SEP 17 2014
CITY OF NANAIMO
FINANCE DEPARTMENT

Comments: _____

Name: Shirley Manta as agent for Resident Street Address: _____
Name of Business: Mass Financial Corp. Business Address: c/o 201-155 Skinner St.

- ☒ I SUPPORT THE APPLICATION.
☐ I DO NOT SUPPORT THE APPLICATION.

SEP 17 2014
CITY OF NANAIMO
FINANCE DEPARTMENT

Comments: _____

Name: DIANE LARSON AS AGENT FOR Resident Street Address: _____
Name of Business: LIVZEN 7 CIRCLE HOLDINGS Business Address: c/o 24-1ST SPINNER ST.

- ☒ I SUPPORT THE APPLICATION.
☐ I DO NOT SUPPORT THE APPLICATION.

Comments: _____

Name: Greg Fiddick Resident Street Address: _____
Name of Business: _____ Business Address: _____

- ☒ I SUPPORT THE APPLICATION.
☐ I DO NOT SUPPORT THE APPLICATION.

Comments: Good Luck!

Name: Steve Wahl Resident Street Address: _____
Name of Business: SMOKE RINGS CIGAR + TOBACCO Co Business Address: * 7-70 CHURCH STREET



I SUPPORT THE APPLICATION.



I DO NOT SUPPORT THE APPLICATION.

Comments: _____

Name: Mike + Pam Donnelly Resident Street Address: _____
 Name of Business: _____ Business Address: _____



I SUPPORT THE APPLICATION.



I DO NOT SUPPORT THE APPLICATION.

Comments: These hours of operation effectively make this (and other restaurants/bars/night clubs, without the established controls put on liquor primary licences. In light of the gang activity, shootings etc. at late night restaurant/bars perhaps this public safety issue should be forwarded

Name: Bill Carter Resident Street Address: _____
 Name of Business: Bastion Jewellers Business Address: 143 Commercial St.

to the Safer Nanaimo Advisory Committee for discussion.



I SUPPORT THE APPLICATION.



I DO NOT SUPPORT THE APPLICATION.

Comments: _____

Name: Ron Peters Resident Street Address: 8
 Name of Business: Bastion LAW Group Business Address: 405-235 Bastion St.



I SUPPORT THE APPLICATION.



I DO NOT SUPPORT THE APPLICATION.

Comments: _____

Name: Grant McDonald Resident Street Address: _____
 Name of Business: Church Pickard Business Address: #301-17 Church St.



I SUPPORT THE APPLICATION.



I DO NOT SUPPORT THE APPLICATION.

Comments: Why did you not put the address of the
restaurant and a small map/diagram showing
the location ??? (In all things success depends
upon previous preparation.) When I received
your letter I had no idea of the location of
Rewaters Restaurant. ??

Name: John T. Carter Resident Street Address: _____
 Name of Business: _____ Business Address: 231-99 Chapel Street



I SUPPORT THE APPLICATION.



I DO NOT SUPPORT THE APPLICATION.

Comments: _____

Name: RRC Resident Street Address: _____
 Name of Business: _____ Business Address: 205 Commercial



I SUPPORT THE APPLICATION.



I DO NOT SUPPORT THE APPLICATION.

Comments:

Name: SHARON SOLSBURY

Resident Street Address:

Name of Business: STERICYCLE
COMMUNICATION

Business Address: SUITE 205, 235 BASTION ST.
NANAIMO BC.



I SUPPORT THE APPLICATION.



I DO NOT SUPPORT THE APPLICATION.

Comments:

Name: Emmabentins

Resident Street Address:

Name of Business: Coast Realty Group

Business Address: 17 Church St.



I SUPPORT THE APPLICATION.



I DO NOT SUPPORT THE APPLICATION.

Comments:

Name: Michelle

Resident Street Address:

Name of Business: Hills Native Art

Business Address: 76 Bastion St.

- ☒ I SUPPORT THE APPLICATION.
☐ I DO NOT SUPPORT THE APPLICATION.

Comments: _____

Name: LEONARD KROG Resident Street Address: _____
Name of Business: PROBAC COMPANY Business Address: 217-165 SKINNER ST.
NANAIMO

- ☒ I SUPPORT THE APPLICATION.
☐ I DO NOT SUPPORT THE APPLICATION.

Comments: _____

Name: JOHN WOODS Resident Street Address: _____
Name of Business: THE NOTION OF (GOLF) Business Address: 1102-17 CHURCH ST.

- ☒ I SUPPORT THE APPLICATION.
☐ I DO NOT SUPPORT THE APPLICATION.

Comments: We think the downtown core needs more
options at night other than night clubs and pubs. Our
city is starting to grow and expand and restaurant options
will bring a respectable crowd to the streets. We would
love to see some excitement over our Downtown core.

Name: Stephanie Brown Resident Street Address: _____
Name of Business: Real Estate Webmasters Business Address: 6223 Commercial Street



I SUPPORT THE APPLICATION.



I DO NOT SUPPORT THE APPLICATION.

Comments:

- 1) ITS "COMMERCIAL" STREET
- 2) ITS BUSINESS
- 3) EXTENSIVE MONIES HAVE BEEN SPENT HERE
- 4) REVITALIZING IS AN ONGOING PROCESS
- 5) TIMES ARE CHANGING.
- 6) ITS A RESTAURANT.

Name:

A. HERINGA

Resident Street Address:

Name of Business:

PARKING LOT

Business Address:

145 SKINNER ST.



I SUPPORT THE APPLICATION.



I DO NOT SUPPORT THE APPLICATION.

Comments:

Name:

JAN ROBERTSON

Resident Street Address:

Name of Business:

Business Address:



I SUPPORT THE APPLICATION.



I DO NOT SUPPORT THE APPLICATION.

Comments:

British Columbia Boys Choir
PO Box 321, Stn A
Nanaimo, BC V9R 5L3

150 COMMERCIAL ST

Name:

Resident Street Address:

Name of Business:

Business Address:

Opposed:

Dear Mr. Stewart,

Further to my voice mail message of today's date, I wish to confirm that **I DO NOT SUPPORT THE APPLICATION** – for an extension to the hours of the liquor licence for REWsters Restaurant.

As a homeowner in Studio NA (located at 99 Chapel Street, Nanaimo), I endure enough disorderly conduct and excessive noise at all hours of the night when the local bars empty out. I have witnessed vandalism, public urination against the side of our building, broken beer bottles in our driveway and other disgusting behaviours from the bar patrons. On many occasions, I have been awakened by the loud noise and shouting between the bar patrons. Needless to say, we don't need another bar in the area – least of all one that is open until 1:00 a.m. EVERY NIGHT of the week. I strongly oppose this application – and ask that the City of Nanaimo give proper consideration to the rights of the homeowners who are entitled to peaceful and quiet enjoyment of their residences.

Please acknowledge receipt of this email as I will not be able to return the comment sheet to you by tomorrow's deadline.

Yours truly,

Sharon A. Sorenson
#221, 99 Chapel Street,
Nanaimo, BC

☐ I SUPPORT THE APPLICATION.

☒ I DO NOT SUPPORT THE APPLICATION.

Comments:

They are a restaurant why are they opening for bar hours? If they get the change they should pay \$1100.00 for a business licence like we do.

Name: Jerry Hong Resident Street Address: _____

Name of Business: Spice Lounge Business Address: 2119 Bay Street 4

☐ I SUPPORT THE APPLICATION.

☒ I DO NOT SUPPORT THE APPLICATION.

Comments:

10 2014
CITY OF NANAIMO
FINANCE DEPARTMENT

Name: STEVE GIASIO Resident Street Address: _____

Name of Business: GOBFATHERS BILLARDS LTD. Business Address: 115 Chapel St. NANAIMO BC.

BC. V9S3A2



I SUPPORT THE APPLICATION.



I DO NOT SUPPORT THE APPLICATION.

Comments:

Alvaday Club + 2 Bars on Street.
Issues with Broken glass, cigarette S.
Vomit, urine at front Back Doors + Alley
Cars left in private parking spaces so in
am we can not park to get stores.
Most of the damage to store
windows + Doors is broken signs, windows
etc.

Name: Devon Macmillan Resident Street Address:

Name of Business: Maleik Macmillan's Business Address: 115A Chapel St. N.W.



I SUPPORT THE APPLICATION.



I DO NOT SUPPORT THE APPLICATION.

Comments:

We have had a problem with drunks downtown
in the early mornings - Vomit, urine, breaking
Potters + broken windows - This all occurs in the
12-4 a.m. hours downtown. We do not need another
place downtown for people to get drunk!

Name: Hans Pedersen Resident Street Address:

Name of Business: Crafts Canada Business Address: 115 Chapel St.



I SUPPORT THE APPLICATION.



I DO NOT SUPPORT THE APPLICATION.

Comments:

I WOULD ONLY SUPPORT THE PROPOSED LICENCE HOURS IF THEY
WERE LIMITED TO THURSDAY, FRIDAY AND SATURDAY 10PM-1AM
ONLY. KEEPING EXISTING LICENCE HOURS FOR SUNDAY, MONDAY
TUESDAY AND WEDNESDAY. SO I DON'T SUPPORT THIS
APPLICATION BECAUSE AS A RESIDENT THE NOISE LEVEL FROM
PATRONS WOULD BE TOO MUCH 7-DAYS A WEEK.

Name: LORA McDONALD Resident Street Address:

Name of Business: Business Address:

☐ I SUPPORT THE APPLICATION.

☒ I DO NOT SUPPORT THE APPLICATION.

Comments: INCREASED damage AND STREET mess (BOTTLES, CANS, etc
will be the result of increasing the drinking hours.

Name: Lexi NANAIMO Resident Street Address: 116-99 Chapel ST.
Name of Business: DON YAMROW Business Address:

☐ I SUPPORT THE APPLICATION.

☒ I DO NOT SUPPORT THE APPLICATION.

Comments: _____

Name: ANNE LEGER Resident Street Address: _____
Name of Business: _____ Business Address: _____

☐ I SUPPORT THE APPLICATION.

☒ I DO NOT SUPPORT THE APPLICATION.

Comments: _____

Name: Ten Oliver Resident Street Address: _____
Name of Business: _____ Business Address: _____

☐ I SUPPORT THE APPLICATION.

☒ I DO NOT SUPPORT THE APPLICATION.

Comments: NO NEED FOR DOWNTOWN NANAIMO RESTAURANT
TO BE OPEN UNTIL 0100 AT THIS TIME.
THERE ARE ALREADY TOO MANY BARS
AND NIGHT CLUBS OPEN IN THE AREA.

Name: CHRIS STEINER Resident Street Address

Name of Business: Business Address:

☐ I SUPPORT THE APPLICATION.

☒ I DO NOT SUPPORT THE APPLICATION. - STRONGLY OPPOSE

Comments: THERE IS ENOUGH PROBLEMS WITH PATRON OF
UPPER LEVEL & THE OTHER BAR USING MY DOORWAY
AS A WASHROOM. I'VE HAD PEOPLE URINATING IN MY
DOORWAY. SLEEPING & SMOKING OR JUST HANGING
NOW. IT WILL GET SO MUCH WORSE. I STRONGLY SE
NO TO THIS. I KNOW VANDALISM WILL INCREASE
AND I WILL NOT TOLLERATE IT. KEEP IT JUST A RESTAUR.

Name: JANET KRABTEL Resident Street Address

Name of Business: LUX BOUTIQUE Business Address: 212 COMMERCIAL S.

City of Nanaimo

REPORT TO COUNCIL

DATE OF MEETING: 2014-OCT-06

AUTHORED BY: DAVE STEWART, PLANNER, PLANNING & DESIGN SECTION

RE: LIQUOR LICENCE AMENDMENT PROCESS

STAFF RECOMMENDATION:

That Council receive the report and direct Staff to modify the application process for permanent changes to liquor primary and food primary liquor licences to use a Council posting procedure to notify Council of a liquor licence application.

PURPOSE:

The purpose of this report is to obtain Council approval to modify the permanent change to a liquor licence application process by eliminating the need for the application to appear at two Council meetings.

BACKGROUND:

Through the "*BC Liquor Policy Review - Final Report*", local governments are encouraged to 'identify target timelines to resolve all applications related to liquor licensing' and identify ways in which to streamline the review process. Staff has identified an opportunity to replace the initial Information Only Council report with a Council posting memo.

Local governments are asked by the Liquor Control and Licensing Branch (LCLB) to comment on a permanent change to an existing liquor primary licence (extension of hours, increase in person capacity or the addition of a patio); and an application to include patron participation entertainment (dancing) or extend hours of service past midnight for a food primary (restaurant) liquor licence.

Currently, once an application is submitted for a permanent change to a liquor licence, the City has 90 days to provide comment to the LCLB. Once the application is received Staff refers the application to various internal and external departments, including the RCMP and any applicable Neighbourhood Association(s). Staff also prepares an Information Only Council report which is included in the next available Council agenda. The sole purpose of the report is to inform Council that an application has been received and that Staff will begin the notification process. Council is also given the opportunity to 'opt out' of the application process. If Council chooses to 'opt out', the LCLB will conduct their own review process, which may include neighborhood notification.

As part of the City's notification process, Staff mails and delivers a public notice and comment sheet to the owners and occupants of all buildings within a 100 metre radius of the subject establishment.

The notice includes an opportunity for the receiver to comment on the application and the date of the Council meeting at which the application will be considered.

Upon completion of the public notification phase, a second Staff report is forwarded to Council which includes Staff's recommendation for the application, a summary of comments from the referrals, and a summary of the responses received from the public notice and comment sheets.

DISCUSSION:

On 2014-APR-28, Council endorsed a change to the Development Variance Permit (DVP) approval process by removing the requirement for the initial Council report by replacing it with a Council posting procedure. As such, DVP applications now only require one Council meeting as opposed to the two meetings required previously.

The current permanent change to a liquor or food primary licence process closely resembles the previous DVP process requiring two Council meetings. In order to reduce the timeframe for liquor licence applications, Staff recommends the process be changed to reflect the recently amended DVP review process. As such, the Information Only report will be eliminated and instead Council would be informed of the application and notification process using a Council posting method.

The notification process will begin the same day or shortly after the Council posting and will be executed 10 days prior to the Council meeting where the liquor licence application would be considered for endorsement by Council. By eliminating the Information Only Council report, Staff can immediately inform Council of the application through a posted memo and then begin the notification process. Revised process information sheets highlighting the proposed changes are attached for a permanent change to a liquor primary licence (Attachment A) and an hours of service and entertainment endorsement for a food primary licence (Attachment B).

Using a Council posting notification will continue to allow Council members to be informed of the liquor licence application and the expected timeframe for the application to appear at a regular Council meeting. By reducing the number of Council meetings for the application from two to one, the proposal will create a more streamlined process, while respecting the LCLB's public notification requirements.


Respectfully submitted,



B. Anderson
MANAGER
PLANNING & DESIGN SECTION

Concurrence by:



D. Lindsay
DIRECTOR
COMMUNITY DEVELOPMENT

T. Seward
ACTING GENERAL MANAGER
COMMUNITY DEVELOPMENT &
PROTECTIVE SERVICES

CITY MANAGER COMMENT:

I concur with the staff recommendation.

ATTACHMENT A



COMMUNITY DEVELOPMENT DEPARTMENT

AMENDMENT TO A LIQUOR PRIMARY LICENCE - APPLICATION PROCESS -

Local governments are asked to comment on an amendment to an existing Liquor Primary Licence where the application includes:

- *an amendment to the hours of liquor service (either earlier or later);*
- *an increase in person capacity; or*
- *the addition of a patio.*

THE PROCESS:

1. The Applicant Notifies City of Application

- (a) Applicant obtains application form from the Liquor Control and Licensing Branch (LCLB)
- (b) City Staff receive a copy of the application and date stamps the original application form to indicate the date it was received. The City has 90 days from the date the application was received to respond to the LCLB.
- (c) The applicant shall provide Staff with a non-refundable \$250 processing fee.
- (d) The applicant shall provide Staff with a letter of rationale for the proposed change to the liquor licence. The letter must include:
 - the nature of the business;
 - the proposed change requested;
 - the rationale for the proposed amendment;
 - a community impact statement that outlines any positive or negative impacts the application amendments may have on the community; and
 - measures to be taken to prevent and/or address the negative impacts described, including noise abatement measures.
- (e) Staff reviews the application to ensure all requirements have been submitted.
- (f) Staff sends a letter to the applicant acknowledging that the application has been received.

2. Staff Distributes Application Materials

Staff sends a request for comment to various internal and external departments. The following checklist identifies the agencies and the specific issues on which each agency is expected to comment:

☐ **RCMP, Nanaimo Detachment**

The RCMP is expected to comment on the potential impact of the proposed amended licence on:

- police resources;
- levels of criminal activity in the city;
- levels of public disorder, including noise; and
- any previous RCMP related incidents involving the applicant establishment.

☐ **Building Inspections**

The Building Inspection Section is expected to provide comments on:

- whether or not the establishment conforms to the City's Building Bylaw ; and
- whether or not the establishment conforms to the BC Building Code (including the Code's regulations on occupant load).

☐ **Fire Department**

The Fire Department is expected to comment on:

- a history of fire-related concerns by the establishment;
- code and fire safety inspections; and
- where the amendment includes an increase in capacity, the Fire Department should also comment on occupant load issues.

☐ **Bylaw Services / Business Licensing**

The Manager of Bylaw Services is expected to comment on:

- any complaints or concerns related to the business licence of the premises; and
- any history of disturbances or nuisances in the immediate vicinity.

☐ **Downtown Nanaimo Partnership**

The Partnership is expected to review only those applications that relate to the proposed establishments in Downtown Nanaimo. For each of these applications a representative is expected to comment on:

- the existing downtown business community; and
- the amendments potential impact on the Partnership's vision of downtown Nanaimo.

☐ **Neighbourhood Associations**

Where a Neighbourhood Association exists which includes the location of the establishment, a representative of that association is asked to comment on:

- the character of the existing neighbourhood;
- the existing relationship between the Neighbourhood Association and the applicant establishment; and
- the proposed amendments potential impact on the neighbourhood.

3. Council Memo

A memo will be forwarded to Mayor and Council and posted in Council chambers notifying Council that an application has been received and Staff will begin the notification process.

4. Public Notification

The public notification stage may be done concurrently with Step 2. Upon receipt of the application, Staff will mail and deliver a Public Notice and Comment Sheet to the owners and occupants of all buildings within a 100 metre radius of the applicant establishment. The Public Notice and Comment Sheet will include the name and location of the applicant establishment, the proposed amendment, the City Staff contact, a map indicating the establishment and the notification area and space on the sheet in which the public can comment on the application. A copy of these responses will be presented to Council.

5. Staff Report

- ~~a. Shortly after the application has been received, Staff will provide Council with an Information Only report at a regular Council meeting. The report is intended to give Council members notice that an application has been received. After receiving this report, Council may choose to exercise their option to not comment on the application. If Council chooses to opt out of the application process Staff will inform the LCLB of Council's decision and no further action will be taken by Staff or Council regarding the application.~~
- a. Upon completion of the public notification phase, a Staff report will be forwarded to Council. The report should contain Staff's recommendation for or against the application, a summary of comments from the referrals, and a summary of the responses received from the Public Notice and Comment sheets. The report should also include Staff comment regarding any potential noise issues or community impact on the community.
- b. Owners and occupants of all buildings within a 100 metre radius of applicant establishment shall be notified of the date the second Staff report will be presented to Council.

6. Council Provides Resolution

The final step in the process is for Council to make its recommendation regarding the application to the LCLB. Staff will provide notice of Council's resolution to the LCLB and provide a reason for Council's recommendation. The resolution must comment on local government regulatory criteria and indicate the method used to gather the views of residents and a summary of their views.

ATTACHMENT B



COMMUNITY DEVELOPMENT DEPARTMENT

AMENDMENT TO A FOOD PRIMARY LIQUOR LICENCE - APPLICATION PROCESS -

Local governments are asked to comment on an amendment to an existing Food Primary Licence where the application includes:

- an extension of hours of liquor service past 12:00am; and / or
- patron participation entertainment.

THE PROCESS:

1. Applicant Notifies City of Application

- a. Applicant obtains application form from the Liquor Control and Licensing Branch (LCLB).
- b. City Staff receive a copy of the application and date stamps the original application form to indicate the date it was received. The City has 90 days from the date the application was received to respond to the LCLB.
- c. The applicant shall provide Staff with a non-refundable \$250 processing fee.
- d. The applicant shall provide Staff with a letter of rationale. The letter must include:
 - i. the nature of the business;
 - ii. the proposed hours of liquor service;
 - iii. the type of entertainment to be offered;
 - iv. a community impact statement that outlines the positive and negative impacts of the establishment on the community; and
 - v. measures to be taken to prevent and / or address the negative impacts described, including noise abatement measures.
- e. Staff reviews the application to ensure the use conforms to the City's Zoning Bylaw and the application is complete. ***It should be noted that the zoning does not allow dancing within any restaurant use.***
- f. Staff sends a letter to the applicant acknowledging that the application has been received.

2. Staff Distributes Application Materials

Staff sends a request for comment to various internal and external departments. The following checklist identifies the agencies and the specific issues on which each agency is expected to comment:

☐ **RCMP, Nanaimo Detachment**

The RCMP is expected to comment on the potential impact of the proposed amended licence on:

- police resources;
- levels of criminal activity in the city;
- levels of public disorder, including noise; and
- any previous RCMP related incidents in the immediate vicinity of the establishment.

□ **Building Inspection**

The Building Inspection Section is expected to provide comments on:

- whether or not the establishment conforms to the City's Building Bylaw ; and
- whether or not the establishment conforms to the BC Building Code (including the Code's regulations on occupant load).

□ **Fire Department**

The Fire Department is expected to comment on:

- a history of fire-related concerns by the establishment;
- code and fire safety inspections; and
- where the amendment includes an increase in capacity, the Fire Department should also comment on occupant load issues.

□ **Bylaw Services / Business Licensing**

The Manager of Bylaw Services is expected to comment on:

- any complaints or concerns related to the business licence of the premises; and
- any history of disturbances or nuisances in the immediate vicinity.

□ **Downtown Nanaimo Partnership**

The Partnership is expected to review only those applications that relate to the proposed establishments in Downtown Nanaimo. For each of these applications a representative is expected to comment on:

- the existing downtown business community; and
- the amendments potential impact on the Partnership's vision of downtown Nanaimo.

□ **Neighbourhood Associations**

Where a Neighbourhood Association exists which includes the location of the establishment, a representative of that association is asked to comment on:

- the character of the existing neighbourhood;
- the existing relationship between the Neighbourhood Association and the applicant establishment; and
- the proposed amendments potential impact on the neighbourhood.

3. Council Memo

A memo will be forwarded to Mayor and Council and posted in Council chambers notifying Council that an application has been received and Staff will begin the notification process.

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The public notification stage may be done concurrently with Step 2. Upon receipt of the application, Staff will mail and deliver a Public Notice and Comment Sheet to the owners and occupants of all buildings within a 100 metre radius of the applicant establishment. The Public Notice and Comment Sheet will include the name and location of the applicant establishment, the proposed amendment, the City Staff contact, a map indicating the establishment and the notification area and space on the sheet in which the public can comment on the application. A copy of these responses will be presented to Council.

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- a. Upon completion of the public notification phase, a Staff report will be forwarded to Council. The report should contain Staff's recommendation for or against the application, a summary of comments from the referrals, and a summary of the responses received from the Public Notice and Comment sheets. The report should also include Staff comment regarding any potential noise issues or community impact on the community.
- b. Owners and occupants of all buildings within a 100 metre radius of applicant establishment shall be notified of the date the second Staff report will be presented to Council.

6. Council Provides Resolution

The final step in the process is for Council to make its recommendation regarding the application to the LCLB. Staff will provide notice of Council's resolution to the LCLB and provide a reason for Council's recommendation. The resolution must comment on local government regulatory criteria and indicate the method used to gather the views of residents and a summary of their views.

City of Nanaimo

REPORT TO COUNCIL

DATE OF MEETING: 2014-OCT-06

AUTHORED BY: BILL CORSAN, MANAGER OF REAL ESTATE

RE: 1 PORT DRIVE – DEMOLITION CONTRACT AND SERVICING PROJECT

REQUEST FOR DIRECTION:

That Council receive for information the report pertaining to a demolition contract and a servicing project at 1 Port Drive.

PURPOSE:

To provide Council and the community with an update on the demolition tender for the Island Pallet Solutions site and the provision of water and sewer services to the Island Ferry Services Ltd. terminal building at 1 Port Drive.

BACKGROUND:

The City of Nanaimo acquired 1 Port Drive from CP Rail on 2013-MAR-27 for \$3,400,000. This 10.8 ha (26.7 acre) waterfront parcel is strategically located adjacent to the downtown core. Since acquiring the property, the City has been active in preparing the site for new uses, including a terminal facility for a passenger only foot ferry to downtown Vancouver.

A long term vision has been created for the City-owned property and the surrounding industrial lands through the South Downtown Waterfront Initiative (SDWI). The plan envisions a mix of land uses on the property and surrounding neighbourhood. One of the key features is a multi-modal transportation hub that provides a central location for local and regional bus services, passenger rail, and ferry services.

Herold Engineering Ltd. was hired to undertake a demolition study of the Island Pallet Solutions Ltd. (IPSL) site. Total cost of the demolition work was estimated to be \$300,000. The 2014 budget includes up to \$800,000 for demolition work at 1 Port Drive which was intended for IPSL and the former CP Ferry Dock. Demolition of the former CP Ferry Dock is expected to cost around \$300,000.

At the 2014-JUL-21 Council meeting, Staff was directed to advise IPSL that its lease would terminate on 2014-SEPT-30. Staff were directed to issue a tender to demolish the existing building and improvements.

As part of the City's commitments under the lease agreement with Island Ferry Services Ltd. (IFSL), the City is required to provide water and sewer services to the terminal building. The cost estimate for this work is \$150,000. This project was not identified in the 2014 budget deliberations as the lease was finalized after adoption of the budget. Funding for the servicing will come from the \$800,000 'Waterfront Remediation' budget set aside for 1 Port Drive.

Council
Committee...
Open Meeting
In-Camera Meeting
Meeting Date: 2014-OCT-06

Island Pallet Solutions Demolition Tender Results

The lease to IPSL has terminated and Staff issued Tender No. 1555 to demolish the existing improvements and to regrade the site.

Five tenders were received, with the lowest bid submitted by Pacific Blasting & Demolition Ltd. for \$522,294 excluding GST. The tender included the demolition of a house at 2145 Boundary Ave (\$16,700 excluding GST) as part of the Northfield/Boundary intersection upgrades.

The base bid which included the demolition of IPSL was priced at \$253,350, under the estimated budget of \$300,000. The remaining \$252,252 represented side grading and soil disposal costs. The next lowest bid was Palladian Development Inc. at \$556,236.

Staff recommend grading this parcel as it is one of the few portions of 1 Port Drive that is unencumbered and is open for redevelopment by the City immediately should an opportunity be presented. Once graded, the site would be more suitable for the Regional District's multimodal transportation hub, or could be used to support a land swap with Seaspan to free up additional waterfront lands.

Servicing of Island Ferry Services Ltd.

The City's lease with IFSL has two conditions precedent. The first states that prior to 2014-SEPT-30, the Council of the City of Nanaimo, in its sole discretion, will have given third reading and passed a bylaw amending Zoning Bylaw 2011 No. 4500 to allow in the Harbour Waterfront (W2) zone "passenger ferry terminal" as a permitted use. This bylaw was adopted 2014-SEPT-08.

The second condition is that on or before 2014-SEPT-30, the City will have constructed and connected water and sanitary sewer services to and sufficient for the operation of the ferry terminal building in the lease area. Herold Engineering was engaged to undertake the servicing design and to oversee the installation and have estimated the work to be \$150,000.

The remaining funds within the 'Waterfront Remediation' budget (once the demolition of IPSL is deducted) will be used to service the IFSL lease.

Once the property is serviced, the lease will commence and the City can charge rent which is estimated to be \$67,000 per annum.

Deferment of Demolition of Former CP Dock

The current budget cannot support the demolition of IPSL, the servicing of the IFSL lease area and the demolition of the former CP Dock.

Staff are recommending that the demolition of the former CP Dock be deferred until 2015 and additional budget be sought to fund the work. Staff will prepare a separate project scope sheet for Councils' consideration during the 2015 budget deliberations.

Strategic Plan Considerations

The redevelopment of 1 Port Drive meets three of the key priorities identified in the 2012-2015 Strategic Plan:

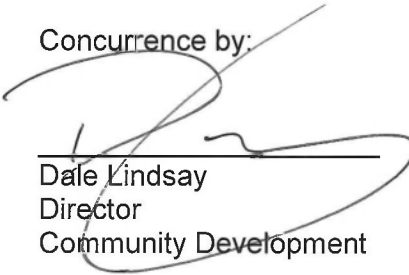
Strategy	Potential Strategies and/or Initiatives
Waterfront Enhancement	<ul style="list-style-type: none">• A working waterfront that supports business, marine industries, transportation connectivity, entertainment and tourism.• Enhanced public access and use.
Transportation and Mobility	<ul style="list-style-type: none">• Economic growth in part due to enhanced transportation connections to Victoria, Vancouver and the world.• Work with RDN, NEDC, Chamber of Commerce, Nanaimo Port Authority, BC Ferries, BC Transit, Airport Authority, Island Corridor Foundation, advocates for and support improvement of external connections: inter-city bus, ferries, fast foot ferry to downtown Vancouver, float planes, enhanced air connections.
Taking Responsibility	<ul style="list-style-type: none">• Continuing to facilitate change and overall development consistent with vision and plans; taking action steps to be a catalyst or investment in the City's future.

Respectfully submitted,



Bill Corsan,
Manager, Real Estate
Community Development

Concurrence by:



Dale Lindsay
Director
Community Development



Toby Seward
Acting General Manager
Community Development & Protective Services

CITY MANAGER COMMENT:

I concur with the Staff recommendation.

Drafted: 2014-SEP-29
LD002643
BC/tl

City of Nanaimo

REPORT TO COUNCIL

DATE OF MEETING: 2014-OCT-06

AUTHORED BY: J. SLATER, SENIOR ACCOUNTANT, ACCOUNTING SERVICES

RE: IMPLEMENTATION OF NEW PUBLIC SECTOR ACCOUNTING BOARD
(PSAB) STANDARDS FOR CONTAMINATED SITES

STAFF RECOMMENDATION:

That Council receive for information the report pertaining to the Implementation of New Public Sector Accounting Board (PSAB) Standards for Contaminated Sites.

PURPOSE:

To present a summary of the new PSAB accounting standards relating to contaminated sites and how they will impact the City of Nanaimo.

BACKGROUND:

Environmental liabilities can represent a significant cost to all levels of government. The respondents to a 2006 project priorities survey ranked environmental liability as a high priority issue to be put on PSAB's technical agenda. Since then, a statement of principle has been approved, an Exposure Draft has been issued, and the new Contaminated Sites accounting standard was approved by PSAB in March 2010.

The new accounting standard has been developed to address issues including:

- The scope of environmental liabilities to be considered
- The definition of contamination
- Considerations that determine when a government becomes responsible
- How environmental liabilities should be measured given the uncertainties

The new PSAB accounting standard will require the City of Nanaimo to record its anticipated liability for contaminated sites in the fiscal year ending December 31, 2015. The adoption of the new standard will be a change in accounting policy, and the requirement will be to record the opening balance of any contaminated sites liabilities at January 1, 2015, and any movement reported up to December 31, 2015.

To determine potential liability for contaminated sites by January 1, 2015, all required analysis should be completed before that date.

It is important to recognize that these new standards could have a potential material impact on the City's financial statements, as previously there has not been a requirement to evaluate and test non-productive sites for potential contamination.

SUMMARY OF THE NEW STANDARDS:

PSAB section 3260 outlines that “contamination is the introduction into air, soil, water or sediment of a chemical, organic, or radioactive material or live organism that exceeds an environmental standard. A contaminated site is a site at which substances occur in concentrations that exceed the maximum acceptable amounts under an environmental standard”.

The first key component of the new standard [*PS 3260 Liability for Contaminated Sites*] is that properties should be differentiated between those sites in ‘productive use’ and those sites considered ‘not in productive use’. An example of a site ‘not in productive use’ is an abandoned gas station. It has been determined that parks and parkland are considered to be in productive use, although there could potentially be portions of parkland that are not actively being used as a park.

From a local government perspective, the City will need to define what ‘non-productive’ means for its portfolio of sites. For example, how long does it take for a site (after productive use ends) to be deemed ‘non-productive’.

The new standard outlines how to account for and report a liability associated with the remediation of contaminated sites. A liability for contaminated sites must be recognized when:

- An environmental standard exists;
- Contamination exceeds the environmental standard;
- The City is directly responsible (or accepts responsibility);
- It is expected that future economic benefits will be given up; and,
- A reasonable estimate of the amount can be made.

A liability for remediation will be estimated at the financial statement date, and the measurement technique adopted should result in the best estimate of the amount required based on the information available at the financial statement date.

IMPLEMENTATION PLAN:

With support from Senior Management and various City Staff, the Accounting Services section will be responsible for leading the process to implement the new standards.

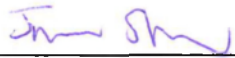
A copy of the implementation plan is attached, which splits the project into five main phases:

1. Initial Communication and Training
2. Initial Site Screening
3. Preliminary Site Assessments
4. Measuring and Recording of Contaminated Sites Liability
5. Ongoing Maintenance

CONCLUSION:

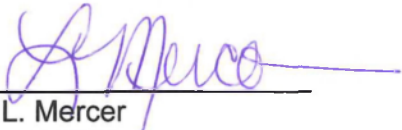
The new PSAB standards will require the City of Nanaimo to record a liability for the remediation of any contaminated sites that meet the criteria as outlined in the above report. Further information will be reported to Council as the implementation of the new standard is completed.

Respectfully submitted,



J. Slater
SENIOR ACCOUNTANT

Concurrence by:



L. L. Mercer
MANAGER
ACCOUNTING SERVICES



B. E. Clemens
DIRECTOR
FINANCE

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2014-SEP-22
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JLS/tw

City of Nanaimo
Implementation Plan - PS3260 Contaminated Sites

		Audit Assertion Addressed In KPMG's Readiness Scan	Assigned to:	Status	Comments	Goal date / or Completion Date
Phase One - Initial Communication and Training						
1	Prepare an implementation plan for PS3260 (Contaminated Sites) and have it reviewed by the City of Nanaimo's external auditors (KPMG)	Project Management	Jamie Slater	Complete	Draft contaminated sites implementation plan has been completed and sent to KPMG Burnaby for review and comments, and changes have been made following the comments from KPMG.	30-Jun-14
2	Develop a training plan to educate key accounting staff, site managers, and engineers on the implications of PS3260. Include in-house environmental specialists and individuals who actively manage and maintain the sites (e.g. Managers from the parks department) since they will have key information about the past activities on sites that will be needed for the analysis.	General	Jamie Slater	In progress	Contaminated sites PS3260 implementation plan will be communicated via written communications and in-person training sessions.	15-Oct-14
3	Communicate the requirements and implications of PS3260 with the Finance and Accounting Department to ensure that all finance managers are aware of the new requirements	Project Management	Jamie Slater	In progress	Contaminated sites PS3260 implementation plan will be communicated via written communications and in-person training sessions in September 2014.	15-Oct-14
4	Communicate the requirements and implications of PS3260 to all City of Nanaimo Managers including site managers, property managers and procurement through written communication and in-person training sessions	Project Management	Jamie Slater	In progress	Contaminated sites PS3260 implementation plan will be communicated via written communications and in-person training sessions in September 2014.	15-Oct-14
5	Communicate the requirements and implications of PS3260 to City of Nanaimo's legal advisor	Project Management	Jamie Slater	In progress	Contaminated sites PS3260 implementation plan will be communicated via written communications and in-person training sessions in September 2014.	15-Oct-14
6	Communicate the requirements and implications of PS3260 to City Council	Project Management	Jamie Slater	In progress	Draft report to Council is complete and has been reviewed by KPMG. Information report to Council is scheduled for September 2014.	15-Oct-14
7	Discuss the application of PS3260 with other municipalities on the island and in BC. Join the KPMG share forum for contaminated sites and review the Government Finance Officer's Association (GFOA) forum.	Project Management	Jamie Slater	In progress	This will continue to be an ongoing item as the contaminated sites project is implemented.	Ongoing
8	Complete a formal gap analysis between the City's existing accounting policies and the requirements of PS3260	General	Jamie Slater, Laura Mercer	Not started	N/A	31-Oct-14
9	Develop appropriate accounting policies and procedures with respect to liabilities for contaminated sites and contingent liabilities for site remediation	Recognition	Jamie Slater, Laura Mercer, Brian Clemens	Not started	N/A	31-Oct-14

City of Nanaimo
Implementation Plan - PS3260 Contaminated Sites

		Audit Assertion Addressed In KPMG's Readiness Scan	Assigned to:	Status	Comments	Goal date / or Completion Date
Phase Two - Initial Site Screening						
1	Develop an inventory of all sites - both contaminated and not contaminated. Reconcile land inventory listing to the accounting system and the land inventory management system. Ensure list is reviewed regularly by management.	General	Jamie Slater, Barb Wardill, Fiona Seyd, Bill Corsan	In progress	A land inventory is currently maintained by the real estate department and accounted for by the capital asset accountant, meeting has been set up to discuss completeness of information.	30-Sep-14
2	Assign a manager to each site inventory item. Consider who has the appropriate knowledge to ensure the listing is complete and accurate - likely the people that deal with the sites on a day to day basis.	General	Jamie Slater, Barb Wardill, Fiona Seyd, Bill Corsan	In progress	A land inventory is currently maintained by the real estate department and accounted for by the capital asset accountant, meeting has been set up to discuss completeness of information.	30-Sep-14
2	Determine which sites are in 'productive use' or not and document the reasons for these determinations. Create a 'productive use' checklist or spreadsheet for each site to document how these determinations were made.	Recognition	Jamie Slater, Barb Wardill, Fiona Seyd, Various Site Managers	Not Started	N/A	15-Oct-14
3	Send over the list of sites that are considered to be in 'productive use' and the supporting logic to KPMG for review. Determine any 'grey area' sites that may need further review. KPMG will want to understand the underlying rationale for the categorization and how "in productive use" was defined for the various types of sites.	Recognition	Jamie Slater, Barb Wardill KPMG	Not Started	N/A	31-Oct-14
4	Determine the final list of sites that are not considered to be in productive use. The listing will change over time as the use of the sites changes or additional information about the sites becomes known.	Recognition	Jamie Slater, Barb Wardill KPMG	Not started	N/A	15-Nov-14

City of Nanaimo
Implementation Plan - PS3260 Contaminated Sites

		Audit Assertion Addressed In KPMG's Readiness Scan	Assigned to:	Status	Comments	Goal date / or Completion Date
Phase Three - Preliminary Site Assessments						
1	Identify all environmental standards and regulations that the City is subject to, consult with an Environmental Engineer as required	General	Bill Corsan, Jamie Slater	Not Started	N/A	15-Nov-14
2	Create an initial site assessment document and have it reviewed by KPMG. This document will include things like; the nature of past activities at sites, site location, hydrology and geology, results from any experience with similar or related sites, similarities to and experience at other known contaminated sites, materiality of the site, etc.	Recognition	Jamie Slater, Barb Wardill, Fiona Seyd, Bill Corsan	Not Started	N/A	15-Nov-14
3	Develop a framework for a classifying and accounting for risk with respect to contaminated sites, based on what property contamination exists, costs, and timelines for remediation	Risk Management	Jamie Slater, Barb Wardill, Fiona Seyd, Bill Corsan	Not started	N/A	3-Nov-14
4	Apply a staged approach to site review, starting with initial site assessments as a filter for potential risk areas and those sites requiring more investigation.	Recognition	Jamie Slater, Barb Wardill, Fiona Seyd, Bill Corsan	Not Started	N/A	30-Nov-14
5	Assess if there are any sites for which the City is to have assumed responsibility for the remediation (i.e. any properties obtained through tax sale). Also need to consider which sites the City is directly responsible for. Legal counsel will need to be involved to help determine if there is a legal liability.	General	Jamie Slater, Barb Wardill, Fiona Seyd, Bill Corsan	In progress	A land inventory is currently maintained by the real estate department and accounted for by the capital asset accountant, to set up meeting to discuss completeness of information	30-Nov-14
6	Consider whether the City expects that future economic benefits will be given up. Will the City have to spend cash to clean-up the contamination? Or will no remediation work be undertaken (no risk to human health or environment) and hence no cash expenditures are expected?	Recognition	Jamie Slater, Laura Mercer	Not Started	N/A	30-Nov-14
7	Consider whether a reasonable estimate of the amount can be made	Recognition	Jamie Slater, Laura Mercer	Not Started	N/A	31-Dec-14

City of Nanaimo
Implementation Plan - PS3260 Contaminated Sites

		Audit Assertion Addressed in KPMG's Readiness Scan	Assigned to:	Status	Comments	Goal date / or Completion Date
Phase Four - Measuring and Recording of Contaminated Sites Liability						
1	Enlist the assistance of environmental engineering firms to measure whether contamination exceeds an existing environmental standard for in-scope sites, retain supporting documentation and environmental site assessment reports. Site assessments will only be completed for sites that meet all the criteria assessed in Phase Three.	Recognition	Bill Corsan	Not started	N/A	31-Dec-14
2	Analyze the costs attributable to remediation activities to ensure the costs can be recorded under PS 3260.40.	Measurement	Jamie Slater, Laura Mercer	Not started	N/A	31-Dec-14
3	Record liabilities for properties with known contamination that meet all of the recognition criteria.	Recognition	Jamie Slater, Laura Mercer	Not started	N/A	31-Dec-14
4	Report comparative figures for the year ending December 31, 2014 in the City's Annual Financial Statements, which are also presented to Council for adoption. If prospective application is required, the opening balance will need to be assessed on January 1, 2015 and comparative information won't need to be reported until Dec 31, 2015.	Reporting	Jamie Slater, Laura Mercer	Not started	N/A	31-Dec-14
5	Report liabilities for contaminated sites for the year ending December 31, 2015 and consider the disclosure requirements in PS 3260.	Reporting	Jamie Slater, Laura Mercer	Not started	N/A	31-Dec-15
Phase 5 - Ongoing Maintenance						
1	Examine whether there have been unexpected changes to sites not previously thought to be contaminated which would necessitate a review for contamination	Recognition	Jamie Slater, Bill Corsan	Not started	N/A	Annual Maintenance
2	Maintain a continuity schedule that displays the changes in liability by site from one financial reporting period to another, with adjustments for actual remediation expenditures and changes in estimates	Measurement	Jamie Slater, Laura Mercer	Not started	N/A	Annual Maintenance

City of Nanaimo

REPORT TO COUNCIL

DATE OF MEETING: 2014-OCT-6

AUTHORED BY: K. FELKER, MANAGER, PURCHASING AND STORES

RE: QUARTERLY DIRECT AWARD PURCHASES

STAFF RECOMMENDATION:

That Council receives this report for information.

PURPOSE:

To comply with Council's Purchasing Power Delegation by reporting direct award purchases made by Staff during the three month period covered by the report.

BACKGROUND:

Under the Council's Purchasing Power Delegation bylaw 2013 No. 7175, a report to Council will be provided each quarter summarizing any direct award purchases between \$25,000 to \$250,000. Council approves any direct awards over \$250,000. This report covers the period between 2014-JUL-01 to 2014-SEP-30.

DISCUSSION:

Council adopted Council's Purchasing Power Delegation bylaw 2013 No. 7175 that gives authority for staff to directly award a contract to a vendor if certain conditions are met. This bylaw also requires staff to report on these direct awards valued at \$25,000 to \$250,000 each quarter.

According to the bylaw, the circumstances under which a direct award can be made are as follows:

1. to ensure compatibility with existing equipment, facilities or to maintain specialized products by the manufacturer or representative.
2. one with which staff has specialized training and/or extensive experience.
3. where there is an absence of competition and no acceptable alternative or substitute exists.
4. for the purchase of used equipment or at auction.
5. where it can be demonstrated the product or service is available only through one authorized manufacturer, distributor, dealer, or service provider.
6. item is purchased for testing or trial use.
7. for matters involving high security and/or to protect the confidentiality of the City.
8. urgently required on an emergency basis (e.g. life/death, health, safety, critical equipment or facility breakdown).
9. a Notice of Intent to Direct Award is posted electronically and is not challenged.
10. where there is demonstrated value to continue consultant services into the next project phase (i.e. from design to construction).
11. any other situation where it is clearly demonstrated there is only one viable source of supply.

There were fourteen (14) direct awards made during the three month period covered by the report. Details of these are given below.

Vendor: Canadian Dewatering Ltd
Amount: \$26,140.00 + GST
Description: Millstone Sanitary Sewer Replacement Project
Reason: Additional testing was required in order to evaluate Tender 1524

Vendor: C Heathcote Contracting Ltd
Amount: \$107,095 + GST
Description: Demolish & legally dispose the building, store and contents located at 236/240 Haliburton Street
Reason: Tender 1497 was issued with no responses. Due to public safety concerns of the partially collapsed structure, a contract was negotiated to complete the work

Vendor: Herold Engineering Ltd
Amount: \$31,200.00 + GST
Description: Civil Engineering services for Island Ferries Terminal Building servicing works
Reason: In addition to this project Herold Engineering is also undertaking the civil design works for the proposed terminal facility and are familiar with site conditions and service issues

Vendor: Hub City Paving Ltd
Amount: \$163,400.00 + GST
Description: Paving of Bowen tennis courts
Reason: Notice of Intent 1551 to award contract was posted on City website & BC Bid website and went unchallenged.

Vendor: Mar-Tech Underground Services Ltd
Amount: \$115,000.00 + GST
Description: Departure Bay Culvert Re-lining Project
Reason: Notice of Intent 1554 to award contract was posted on the City website and BC Bid website and went unchallenged

Vendor: Mid Island Fence Products
Amount: \$25,495.00 + GST
Description: Supply & install deflection netting for McGirr Sports Fields
Reason: Work needed to be performed prior to BC Summer Games

Vendor: Prism Engineering
Amount: \$32,550.00 + GST
Description: Design of heat recovery system for Frank Crane Arena
Reason: Continuation of Consultant services into the next project phase

Vendor: Simson Maxwell
Amount: \$34,250.00 + GST
Description: Custom portable generator & trailer
Reason: Notice of Intent 1553 to award contract was posted on City website and went unchallenged

Vendor: Southern Railway Vancouver Island Ltd
Amount: \$42,039.49 + GST
Description: Bing-Kee Pedestrian Crossing
Reason: Only vendor allowed to perform work on railway system

Vendor: Think Communications
Amount: \$80,213.92 + GST & PST
Description: NetApp Dual Controller Storage
Reason: To ensure compatability with existing manufacturer's equipment

Vendor: Urban Systems Ltd
Amount: \$25,025.00 + GST
Description: Civil Engineering for Cedar Road Pump Station Assessment
Reason: Continuation of consulting services into the next project phase

Vendor: Think Communications
Amount: \$162,886.52 + GST
Description: Dell PowerEdge Servers
Reason: To ensure compatability with existing manufacturer's equipment

Vendor: Stonehouse Developments Ltd
Amount: \$69,500 + GST
Description: REEP Program
Reason: Vendor assisted with application process with BC Hydro

Vendor: Cimco Refrigeration
Amount: \$37,913.94 + GST
Description: Chiller Repairs
Reason: Repairs urgently required on an emergency basis due to chiller failure

Respectfully submitted,



K. Felker
Manager, Purchasing & Stores

Concurrence by:



B. E. Clemens,
Director of Finance

CITY MANAGER COMMENT:

I concur with the staff recommendation.

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City of Nanaimo
REPORT TO COUNCIL

DATE OF MEETING: 2014-OCT-06

AUTHORED BY: K. FELKER, MANAGER, PURCHASING AND STORES

RE: QUARTERLY SINGLE SUBMISSION PURCHASES

STAFF RECOMMENDATION:

That Council receives this report for information.

PURPOSE:

To comply with Council's Purchasing Power Delegation Bylaw by reporting single submission awards made during the three month period covered by the report.

BACKGROUND:

Under Council's Purchasing Power Delegation Bylaw 2013 No. 7175, a report to Council will be provided each quarter summarizing any single submissions received after either publicly tendering or inviting at least three (3) vendors to bid on the work. The value of these purchases is between \$25,000 to \$250,000. Council approves any single submission purchases over \$250,000. This report covers the period between 2014-JUL-01 to 2014-SEP-30.

DISCUSSION:

There was one (1) single submission award made during the three month period covered by the report. Details are given below.

Request for Tender No. 1545

Vendor: DKI Services Ltd

Amount: \$37,800.00 + GST

Description: 2014 Road Crack Sealing Program

Reason: Single response to Request for Tender. Request for Tender was posted on the City of Nanaimo website.

Respectfully submitted,



K. Felker
Manager, Purchasing & Stores

Concurrence by:

A handwritten signature in black ink, appearing to read 'BEC', is written over a horizontal line.

B. E. Clemens,
Director of Finance

CITY MANAGER COMMENT:

I concur with the staff recommendation.

G:\Reports\Quarterly Reports\2014\Single Submission\Quarter 3

City of Nanaimo
REPORT TO COUNCIL

DATE OF MEETING: 2014-OCT-06

AUTHORED BY: CHRIS JACKSON, MANAGER OF LEGISLATIVE SERVICES

RE: COUNCIL AND COMMITTEE OF THE WHOLE MEETING VIDEO
RECORDINGS DURING MUNICIPAL ELECTION PROCESS

STAFF RECOMMENDATION:

That Council receive for information the report regarding video recordings of meetings during the Municipal Election process.

PURPOSE:

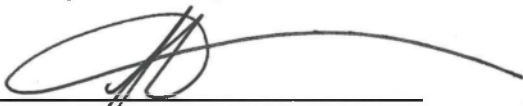
To provide information regarding the broadcasting and recording of Council and Committee of the Whole meetings within 30 days of the November 15 election.

DISCUSSION:

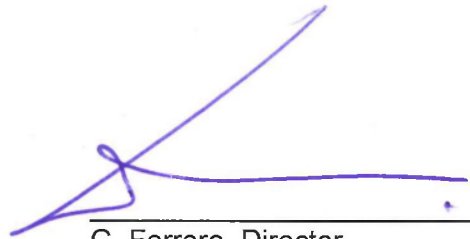
Meetings occurring within 30 days of an election are not televised by Shaw.

For the upcoming November 15 election, staff will follow a similar practice where meetings will continue to be recorded but not available as a live stream or provided for viewing on the website following the meeting. After the election, all meeting video recordings will be posted to the City website.

Respectfully submitted,



C. Jackson, Manager,
Legislative Services



G. Ferrero, Director
Information Technology & Legislative
Services

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2014-OCT-02

Delegation Request

Cathy & Allan Peters has requested an appearance before council.

The requested date is Oct 06, 2014.

The requested meeting is:
FPCOW

Presenter's information

City: Ladysmith
Province: BC
Bringing a presentation: No

Details of Presentation:

Human trafficking in Nanaimo- we have presented to the Nanaimo School Board and want to follow up with a presentation on the current situation with human trafficking in this area. BC just handed down the first human trafficking conviction to 29 year old Reza Moazami from North Vancouver (where we also have a condo...just under our noses). Reza had a "stable" of 11 girls- 9 of whom were underage! These girls were moved around and worked out of hotels and condos in North Vancouver, Vancouver, Richmond and NANAIMO. As parents of 3 children we are deeply concerned with this rapidly growing crime (fueled by the internet), that seems to be under the radar screen for most Canadians. We are compelled to speak to civic leaders to increase their awareness of this issue and to present ideas for action to alleviate this problem.

<input type="checkbox"/> Council	Agenda Item	<input type="checkbox"/>
<input checked="" type="checkbox"/> Committee. <i>COW</i>	Delegation	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> Open Meeting	Proclamation	<input type="checkbox"/>
<input type="checkbox"/> In-Camera Meeting	Correspondence	<input type="checkbox"/>
Meeting Date: <u>2014- OCT -06</u>		

Delegation Request

Simon Schachner (Canada World Youth) has requested an appearance before council.

The requested date is Oct 06, 2014.

The requested meeting is:
Council

Presenter's information

City: Nanaimo

Details of Presentation:

A brief introduction to Canada World Youth and its Youth Leaders in Action program with Indonesia that Nanaimo will be host to from October 12th to Jan. 6th

☒ Council
☒ Committee: *LOW*
☒ Open Meeting
☐ In-Camera Meeting

Agenda Item
Delegation
Proclamation
Correspondence

Meeting Date: 2014-OCT-06