

MINUTES OF THE 2002-AUG-19 MEETING OF THE TWENTY-FIRST COUNCIL  
OF THE CITY OF NANAIMO, HELD IN THE COUNCIL CHAMBER, CITY HALL,  
COMMENCING AT 7:00 P.M.

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PRESENT: His Worship Mayor G. Korpan, Chair

Members: Councillor T. J. Beech  
Councillor R. A. Cantelon  
Councillor W. J. Holdom  
Councillor T. K. Krall  
Councillor S. A. Lance  
Councillor L. D. McNabb  
Councillor D. E. Rispin  
Councillor L. J. Sherry

Staff:	A. C. Kenning	R. Harding
	B. N. Mehaffey	J. T. Bow den
	K. M. MacKenzie	K. L. Burley
	B. E. Clemens	D. Bryce
	P. Murphy	

1. ADOPTION OF MINUTES:

- (a) Minutes of the 2002-JUL-29 Meeting of the Twenty-First Council of the City of Nanaimo held in the Council Chamber, City Hall at 7:00 p.m.

Moved by Councillor Krall, seconded by Councillor Beech that the Minutes be adopted as circulated. The motion carried.

- (b) Minutes of the 2002-AUG-08 Special Open Meeting of Council held in the Council Chamber, City Hall at 6:48 p.m.

Moved by Councillor Holdom, seconded by Councillor Lance that the Minutes be adopted as circulated. The motion carried.

2. INTRODUCTION OF LATE ITEMS:

- (a) Mr. J. T. Bowden, City Clerk advised that the following late items had been circulated to Council prior to the meeting:

- (i) a Supplemental Delegation Request from Mr. Fred Taylor, regarding the removal of a sign at 1150 Terminal Avenue; and,
- (ii) a Supplemental Downtown Centre Standing Committee Report from the "In Camera" Meeting held 2002-AUG-16;

- (b) Councillor Krall advised that he would be requesting that Council authorize him to attend an Economic Development Seminar, under the Any Other Competent Business section of the agenda.

3. RECEIVING OF DELEGATIONS:

Moved by Councillor Krall, seconded by Councillor McNabb that the Delegations be permitted to address Council. The motion carried.

- (a) Mr. Robert I. Moss, Seniorcraft Construction Limited, #201 – 155 Skinner Street, Nanaimo, regarding his request to expand the development options for the properties located at 4777 and 4797 Island Highway, Nanaimo, by adding fastfood restaurants as a permitted use in the Official Community Plan (OCP).

Mr. Moss was previously authorized to address Council.

Mr. Moss stated that:

- he was in attendance as a Principle in Seniorcraft Construction Limited, the applicant for the OCP amendment concerning the 4777 and 4797 North Island Highway site.
- the site is the triangular piece of property located directly across the Highway from the Long Lake Inn and immediately south of the Real Canadian Wholesale Club.
- this 1.2-acre property was offered for sale by the Province of B. C., and his Company has a conditional agreement to purchase it.
- the property is unique, because it is separated from the surrounding commercial development by the E & N Railway on one side and by the North Island Highway on the other side.
- at the moment, there is no access to the property, but following discussions with the Ministry of Highways, his Company is proposing a right in, right out access from the southbound lane of the Island Highway.
- a full deceleration lane would be provided.
- the property is currently designated on the OCP as Service Industrial, but is located at the eastern edge of the OCP designated Boban Service Industrial Area and immediately across the Highway from the Rutherford Town Centre designation.
- the current Service Industrial designation supports a range of uses including gas stations, restaurants, repair shops and recreation vehicle sales.
- what he is seeking is a site specific text amendment which would add one use to those permitted, and that is "Fast Food".
- they understand that their application has been supported by the *Plan Nanaimo* Advisory Committee and by the Planning and Development Standing Committee; however, City Staff have concerns about the application and he would like to address those concerns.
- firstly, Staff have concerns that allowing Town Centre usage outside the boundaries currently designated in the OCP may ultimately weaken Town Centres.
- he strongly supports the principles of *Plan Nanaimo*, but his view is that it is a "broad brush" document and that the whole purpose of the semi-annual review process is to reconsider properties such as this one.
- further, the subject property is already surrounded by commercially zoned properties on three sides and those are not likely to be downzoned.

- secondly, Staff are concerned that proceeding with this application would add another access to and from the Island Highway.
- his view is that the uses already permitted under the OCP will require such access and that adding "Fast Food" as a permitted use would not significantly alter the requirement for acceleration or deceleration lanes.
- he noted that there is a scarcity of properties directly accessible from the southbound lane of the Island Highway along the entire length from Woodgrove to St. George Street.
- he can only identify two possible sites for such a development because of the location of the E&N right-of-way.
- those sites are the subject property and the Dot's Café/ESSO property located at Turner Road.
- he couldn't identify any other such properties.
- thirdly, and finally, Staff have concerns that the subject property was leased by the Province to the City in 1982 for use as Greenbelt Space and it remains so.
- the Province has told his Company it specifically offered this property for sale and that once a sale is unconditional, it will terminate the lease in accordance with the provisions of that agreement.
- he noted that such termination would take place coincident with any development on that site, permitted under the existing Service Industrial designation as well.
- in summary, he believes that the highest and best use for this location is some combination of gas station, convenience store and fast food restaurant.
- in his opinion, such a development would benefit the community by providing a service for south-bound commuters, by providing new service sector jobs and by providing substantial new tax revenue for the City.
- he did not think such a development would adversely affect any City property owners.
- he asked for Council's support.

Moved by Councillor Krall, seconded by Councillor Sherry that the presentation be received. The motion carried.

- (b) Ms. Barbara-Jane Godson, 281 Sockeye Drive, Mudge Island, regarding the proposed BC Hydro Gas Plant.

Ms. Godson was previously authorized to address Council.

Ms. Godson stated that:

- she was in attendance to voice her concerns about the proposed Vancouver Island Gas Plant.
- more than a decade ago, she stood at the same platform addressing some of the very same Councillors and she hoped that they would be as open minded this evening as they were then about the proposed Ferrochromium Plant.
- she is not a scientist and she is not an environmentalist but she has common sense; she is a person who cares and she was speaking from her heart.
- the individual who would speak after her would provide Council with more technical facts and details.
- she lives on Mudge Island where she has lived for seven and one-half years.
- what happens at Duke Point in the future will certainly impact her and all of her neighbours.

- there have been some huge expansion developments to the North End of Nanaimo but we can't pretend that the goings-on to the South don't exist because it's tucked around the corner of Jack Point.
- the air and water pollution, the noise level and the visual blight are still there even though you don't see, smell, or hear them on a day-to-day basis, but the residents of Mudge Island and Gabriola Island certainly do.
- as an outdoor enthusiast, an avid ocean swimmer and boater and as a local tour operator, she is most concerned about the myriad of negative side effects which could be caused by the installation of the Vancouver Island Gas Plant, which has yet to be proven necessary.
- regarding Tourism, 2 billion dollars was spent last year by 7.5 million tourists on Vancouver Island and the neighbouring Gulf Islands.
- these numbers tend to grow every year.
- if Nanaimo gets a bad reputation for inviting polluting industry, the City and the area may lose its potential share of tourists and its potential share of the pending baby boomer retirees.
- so often, when conducting tours in the area, she finds that the people are excited by the outdoor sports, the fabulous mountain backdrop, the new walkway, the diving, the Islands, the boating, the swimming and all that goes on around here.
- then, they get a whiff of Harmac or are awakened from their sleep at a Gabriola Island Bed and Breakfast by the letting off of steam at night and then, without fail, every time they go by Jack Point and down Northumberland Channel they are shocked by what has happened there.
- it is probably too late now because the zoning is in place but, can we stop and think about what else can go in that Duke Point area and not make it any worse?
- we have a gem in our area of the world, and it is a beautiful location, let's try to keep it that way.
- with respect to air and water pollution, one needs only to turn on the news or read the paper to hear how damaged our planet has become.
- she asked Council not to be responsible for adding to this horrendous global problem by contributing to it locally, even if they consider it to be just a very small part of the problem.
- she suggested that we leave a legacy of environmental care and concern and responsibility for future generations.
- she provided some global warming and environmental pollution statistics.
- she urged Council to investigate alternative forms of energy and wait for reports to be submitted on windpower, ocean waves and windmills.
- more than 500 pledge forms were sent to Victoria a few weeks ago by people who would be more than willing to voluntarily cut back on their households' hydro electric consumption by 5 percent.
- she urged Council to promote Nanaimo in a positive, eco-friendly, environmentally concerned manner and stop the construction of this gas plant, which hasn't even proved to be necessary, before it even starts.

Moved by Councillor Sherry, seconded by Councillor Krall that the presentation be received. The motion carried.

- (c) Mr. Lorne D. Catley, Nanaimo Citizens Organizing Committee, Nanaimo, regarding support for an integrated resource plan for power supply and generation in Nanaimo, on Vancouver Island and in B. C.

Mr. Catley was previously authorized to address Council.

Mr. Catley stated that:

- Ms. Dyane Brown would speak first regarding this matter followed by his presentation.

Ms. Brown stated that:

- the Nanaimo Citizen's Organizing Committee has serious concerns about the impact of the Vancouver Island Gas Generation plant, and the health of the community.
- she would be focussing on a lack of a thorough and independent review of this proposal.
- there have been some major developments since Council voted in February to support this project.
- there has always been the expectation that this project would be exhaustively scrutinized by Provincial regulatory agencies, but it appears that this might not be the case.
- the Environmental Assessment Office has begun its review of the project and has made it clear that a public hearing will not be part of this review.
- their office will also not examine:
  - the cost of the plan or its rate impact;
  - alternatives to the plant (e.g: conservation or other fuels) and whether this plant is superior to the alternatives;
  - the loss of control over our supply as it is routed through the USA;
  - loss of public control of our resources;
  - Hydro's partnership with Williams, an American company under investigation in California for manipulating electricity supply and pricing; and
  - the reliability of a gas supply to the plant.
- B. C. Hydro has made an application to bypass the usual review by the B. C. Utilities Commission, which would have examined the rationale and the cost of the plant and would compare it with the many alternatives.
- research published in May by Dr. Mark Jaccard of Simon Fraser University, and presented to Council on 2002-MAY-27, shows that more power is not needed in the short term and that there are viable, less risky alternatives to the Duke Point plant.
- Dr. Jaccard's 2002-JUL-29 update forecasts that the cost of power from Duke Point will be higher than Hydro's projections and higher than Dr. Jaccard's May study.
- a Study by Helimax Energy, Inc., commissioned by Greenpeace and made public on 2002-JUL-31, says that wind energy projects in three key areas, Port Hardy, Port Alice and Prince Rupert could expand B. C. Hydro's grid by 1,200 megawatts within 10 years, meeting the average consumption of 100,000 homes, attracting \$1 billion worth of investment and creating 8,000 job years of employment.
- such projects would supply electricity without the negative side effects of the proposed plant at Duke Point.
- B. C. Hydro's Electricity Conservation Potential Review of 1994 was not easily accessed in February.
- projecting to 2010, this Report estimates that "improving social practice as well as technology was found to reduce consumption a total of 77 percent.

- it is of great concern to the citizens in Nanaimo that there will be no adequate public debate on the implications of the Vancouver Island Gas Generation Plant.
- they will present Council with over 3,000 signature of people in our area opposed to the Plant.
- they enclosed a copy of the letter recently sent by community groups to B. C. Hydro asking them to hold off on this plan.
- they believe that if Council were to write a letter making a similar request, that Hydro would need to comply with its wishes.

Mr. Catley stated that:

- on a local radio interview recently, he heard Councillor McNabb state that his knowledge about solid waste disposal has changed dramatically over the past 15 years, that the Region and the City have done a good job with regard to solid waste disposal and have extended the life of the City dump, and also the planet.
- he remembered some of the early debates about recycling and about how we are dealing with our garbage, and perhaps we could have done better, but we have made progress and good progress.
- Councillor McNabb's statement about learning to do better is significant and important.
- when Council sent a letter to the National Energy Board in February asking it to support the approval for the Georgia Strait Crossing and for the Gas Plant, one has to ask what information they had and from whom did they get that information.
- at that time, most of the information came from B. C. Hydro and precisely from a group of lobbyists that had been hired explicitly by B. C. Hydro to get the project approved and into the building phase.
- what Council heard was that it had a new tenant and a taxpayer for Duke Point, new jobs for the community, a quick economic cure, clean, reliable and relatively cheap power for the community and the Island, the prevention of impending serious power shortages, blackouts and brownouts, and, lacking any serious economic alternatives, an independent, self-reliant and self-sustainable source of power.
- it made sense to support the proposal with that kind of information; however, since that time, many things have happened and more information has come forward.
- he requested that Council write at least two letters and possibly a third; one to B. C. Hydro, asking it, in good faith, to postpone its plans to proceed with the project until a fully integrated study by the B. C. Utilities Commission has been completed.
- the second letter, to the Minister of Energy asking that the proposed project be referred to the B. C. Utilities Commission until a fully integrated report has been prepared, especially since it promised to not bypass the Commission but to let it operate without Government interference.
- the third letter, to the National Energy Board to perhaps correct the first letter, which asked for approval of the plant, until the integrated study has been completed.
- he presented a petition representing 3,000 signatures in opposition to the project and a booklet outlining a quilting story about the Hydro Generation project (Ms. Miller came forward to present the quilting story booklet to Council).
- it seemed to him that there has been enough public concern expressed in the petition, in the press, at publicly funded and well attended meetings and at City Council presentations, that to receive this presentation simply would not be enough.

- he feels that a serving member of Council needs to make a motion in a public arena, to send these requested letters, and that a serving member of Council needs to second the motion so that it can be voted on, and that the motion needs to be voted on.
- the public needs to know exactly where Council stands on this issue, especially since this new information has been presented to Council.

Moved by Councillor Cantelon, seconded by Councillor Sherry that the presentation be received. The motion carried.

Moved by Councillor Holdom, seconded by Councillor Cantelon that Staff be directed to prepare a report to provide clarification of the process that the B. C. Hydro Power Authority has followed to date with respect to the Public Meeting procedures being followed for the proposed Vancouver Island Generation Project, and to also clarify whether or not there is a move to circumvent a review of the project by the B. C. Utilities Commission, and further, that the MLA's representing Nanaimo be informed of Council's direction with respect to this issue. The motion carried.

Moved by Councillor Holdom, seconded by Councillor McNabb that Staff be directed to forward a letter to the B. C. Hydro Power Authority, urging them to continue and intensify their work on power generation alternatives that will not contribute to the increase of the world's greenhouse gases. The motion carried.

- (d) Mr. Norman Abbey, Society Promoting Environmental Conservation, #54 - 650 Terminal Avenue, Nanaimo, regarding enforcement of the bylaw prohibiting emissions that cross property lines and requesting the City to join the "*Partners for Climate Protection*" program.

Mr. Abbey was previously authorized to address Council.

Mr. Abbey stated that:

- on behalf of the Society Promoting Environmental Conservation, he requested that Council join a program called "*Partners for Climate Protection*" which is run by the Federation of Canadian Municipalities.
- the program is a group of municipal and regional governments across Canada who are working together to reduce greenhouse gas emissions.
- the primary objective of the program is to encourage municipalities to undertake a sustained effort to reduce global warming emissions.
- the ultimate goal is to reduce greenhouse gas emissions from municipal operations by 20 percent below the 1990 levels within ten years of joining the program and to reduce community-wide greenhouse gas emissions at least 6 percent below the 1990 levels within ten years of joining the Program.
- he reviewed the benefits of the Program as outlined on a report he had submitted to Council and which appeared on the agenda.
- there are approximately 25 municipalities already in B. C. who are members of the Partnership including Campbell River, Victoria and Saanich.
- the question is, how does a municipality join this program?
- Nanaimo would be asked to make a public commitment to reduce 1990 levels of greenhouse gas emissions by 20 percent and an additional commitment to reduce community-wide emission levels by at least 6 percent within 10 years.

- the public commitment would come in the form of a resolution of Council.
- he would be happy to see this request referred to Council's Environment Committee for a recommendation.
- he would like to see this Council go on record as moving in this direction by taking this position and leaving this legacy as something achievable as far as global warming is concerned, before the November 2002 election.
- he read the following sample resolution which he believes could be put forward by Council:

"WHEREAS the Federation of Canadian Municipalities and the International Council for Local Environmental Initiatives have established a Partners for Climate Protection to provide a forum for municipal governments to demonstrate their leadership on climate change issues and undertake to share their knowledge and experience with other municipal governments;

BE IT RESOLVED that the Municipality of Nanaimo appoint the following corporate Staff person to oversee implementation of Partners for Climate Protection milestones and build commitment: (name of person appointed)."

- municipal governments already active in climate protection and already involved in this Partnership are benefiting from local job creation and reduced energy costs.
- there is a decreased flow of dollars from the community, increased local employment, decreased air pollution and improved quality of life.
- the most important thing is that municipal governments can exercise a leadership role in responding to global environmental concerns and they can also contribute to Canada's effort to meet Federal commitments.
- the Partners for Climate Protection can help members sort through various initiatives, promote partnerships with others concerned with climate change and help create a tailored greenhouse gas emission reduction strategy which addresses our local needs in Nanaimo, and to build on the success of others.

Moved by Councillor Krall, seconded by Councillor Rispin that the presentation be received. The motion carried.

Moved by Councillor Holdom seconded by Councillor Beech that Staff be directed to forward this issue to the Advisory Committee on the Environment for input and recommendation as to whether Council should give consideration to joining the "Partners for Climate Protection" program. The motion carried.

4. RECEIVING OF SUPPLEMENTAL DELEGATIONS:

- (a) Mr. Fred Taylor, 204 Emery Way, regarding the removal of a sign at 1150 Terminal Avenue.



Mr. Taylor was previously authorized to address Council.

Mr. Taylor stated that:

- the sign located at 1150 Terminal Avenue has not been in use for over 6 months, thereby losing its legal non-conforming status.
- at the Meeting of Council held 2002-JUL-29, Council directed Staff to save a roof top sign on Stewart Avenue.
- he is of the opinion that Council should enforce the City's bylaws on a fair and equitable basis throughout the entire community.
- evidence shows that the business at 1340 Stewart Avenue ceased operation in November 2000 and reopened June 2002.
- an 18-month period of no business operation should result in loss of legal non-conforming status of a rooftop sign.
- if Council's direction was to save the rooftop sign at 1340 Stewart Avenue, he is of the opinion that Council must also allow the rooftop sign at 1150 Terminal Avenue to remain.
- the property owner at 1150 Terminal Avenue has continued to pay taxes and to provide space for tenants and his sign is part of the improvements to his property.
- in his opinion, the property owner should not be penalized for this community's action of creating a never-ending glut of commercial space in competition with established rental spaces.
- he pointed out that due to the present practice of business licence record-keeping in the City, when one business licence may cover several businesses having the same address and ownership, it results in not being able to track the closing of any of the businesses.

Moved by Councillor Sherry, seconded by Councillor Beech that the presentation be received. The motion carried.

5. MAYOR'S REPORT:

General Information

- (a) On behalf of Council and the citizens of Nanaimo, Mayor Korpan congratulated the 4,200 volunteers who worked tirelessly and for months to host the very successful B. C. Summer Games in the City of Nanaimo.
- (b) Mayor Korpan also congratulated the volunteers who worked so hard to bring the 103<sup>rd</sup> Annual Vancouver Island Exhibition to our community.

Proclamations:

- (a) Ms. Theresa Noble, Vice President, Nanaimo Branch, Taoist Tai Chi Society of Canada, Pacific Region, 1724 Bowen Road, Nanaimo, requested that 2002-SEP-07 be proclaimed "TAOIST TAI CHI AWARENESS DAY" in the City of Nanaimo.

Moved by Councillor Lance, seconded by Councillor Cantelon that 2002-SEP-07 be proclaimed "TAOIST TAI CHI AWARENESS DAY" in the City of Nanaimo. The motion carried.

- (b) Lee Mason, Executive Director, United Way of Nanaimo and District, No. 204 - 2290 Bowen Road, Nanaimo, requested that the week commencing 2002-SEP-08 to 2002-SEP-14 be proclaimed "UNITED WAY WEEK" in the City of Nanaimo.

Moved by Councillor Krall, seconded by Councillor Holdom that the week commencing 2002-SEP-08 to 2002-SEP-14 be proclaimed "UNITED WAY WEEK" in the City of Nanaimo. The motion carried.

- (c) Ms. Lynne Wheatley, Nanaimo Fetal Alcohol Syndrome Working Group, No. 405 -495 Dunsmuir Street, Nanaimo, requested that 2002-SEP-09 be proclaimed "FETAL ALCOHOL SYNDROME AWARENESS DAY" in the City of Nanaimo.

Moved by Councillor Lance, seconded by Councillor Holdom that 2002-SEP-09 be proclaimed "FETAL ALCOHOL SYNDROME AWARENESS DAY" in the City of Nanaimo. The motion carried.

- (d) Ms. Grace McCarthy, O.C., President, Children with Intestinal and Liver Disorders Foundation, Suite 1150 - 1188 West Georgia Street, Vancouver, requested that 2002-SEP-19 be proclaimed "SUBWAY DAY FOR CHILD" in the City of Nanaimo.

Moved by Councillor Lance, seconded by Councillor Holdom that 2002-SEP-19 be proclaimed "SUBWAY DAY FOR CHILD" in the City of Nanaimo. The motion carried.

- (e) Ms. Jennifer Grenz, Projects Coordinator, Outdoor Recreation Council of BC, #334 -1367 West Broadway, Vancouver, requested that 2002-SEP-29 be proclaimed "BC RIVERS DAY" in the City of Nanaimo.

Moved by Councillor Krall, seconded by Councillor Holdom that 2002-SEP-29 be proclaimed "BC RIVERS DAY" in the City of Nanaimo. The motion carried.

## 6. REPORTS OF STANDING COMMITTEES:

### (A) Downtown Centre Standing Committee

#### (1) Supplemental Report of the Meeting held 2002-AUG-16

##### (a) Vancouver Island Conference Centre – Water Lot Lease

Committee's Recommendation: That Council indicate that it will consent to the Head Lease between the Nanaimo Port Authority and Nanaimo Waterfront Centre Inc. only on the condition that the Nanaimo Port Authority advise the City, in writing, that:

"The parties shall, upon execution of this Agreement, commence negotiations in good faith with a view to a land exchange that would provide for a transfer of title to the leased premises from the Nanaimo Port Authority to the City of Nanaimo or Nanaimo Waterfront

Centre Inc. in exchange for other lands of similar value in the area of Nanaimo harbour that are owned or acquired by the City, subject to receipt of approval from the Federal Government of Canada, through the issuance of Supplementary Letters Patent to the Nanaimo Port Authority.”

Moved by Councillor Krall, seconded by Councillor Rispin that the report and the late items be received and the recommendation of the Standing Committee be adopted.

Councillor Cantelon requested a recorded vote.

IN FAVOUR

OPPOSED

Mayor Korpan  
Councillor Beech  
Councillor Cantelon  
Councillor Holdom  
Councillor Krall  
Councillor Lance  
Councillor McNabb  
Councillor Rispin  
Councillor Sherry

The motion carried unanimously.

(2) Conference Centre Update

Councillor Rispin provided a verbal update with respect to the Conference Centre.

Moved by Councillor Krall, seconded by Councillor Holdom that the verbal report be received. The motion carried.

(B) Planning and Development Standing Committee

(1) Report of the meeting held 2002-AUG-13

(a) Plan Nanaimo Advisory Committee (PNAC) – Official Community Plan (OCP) Amendment Review Period May 2002 – October 2002

(i) 5425 Dunster Road

Committee's Recommendation: That Council direct Staff to prepare an amendment to the OCP to redesignate a portion of 5425 Dunster Road as Service Industrial and remove the watercourse shown on Schedule B.

Moved by Councillor Sherry, seconded by Councillor Lance that the report be received and the recommendation of the Standing Committee be adopted.

(ii) 4777 and 4797 Island Highway

Committee's Recommendation: That Council direct Staff to prepare an amendment to the OCP to permit "fastfood" as a use at 4777 and 4797 Island Highway North, subject to the resolution of the "greenbelt" lease between the City and the Province registered in regard to these two properties.

Moved by Councillor Sherry, seconded by Councillor McNabb that the report be received and the recommendation of the Standing Committee be adopted. The motion carried.

(iii) Cluster/Green Space Development

Committee's Recommendation: That Council direct Staff to proceed with an amendment to the OCP for cluster/green space developments in neighborhoods.

Moved by Councillor Sherry, seconded by Councillor McNabb that the report be received and the recommendation of the Standing Committee be adopted. The motion carried.

(iv) Residential Facilities in "Suburban" Designated Areas

Committee's Recommendation: That Council direct Staff to prepare an amendment to the OCP to include a policy to allow residential care facilities in Suburban Neighbourhood designated areas.

Moved by Councillor Sherry, seconded by Councillor McNabb that the report be received and the recommendation of the Standing Committee be adopted. The motion carried.

(iv) Nanaimo Parkway Development Permit Area

Committee's Recommendation: That Council direct Staff to prepare an amendment to the OCP to eliminate the need for developers to apply for a Parkway Development Permit if their property does not fall within the first two tree/character protection areas adjacent to the Parkway; or impact a view corridor as defined in the Development Permit Area Guidelines.

Moved by Councillor Sherry, seconded by Councillor Lance that the report be received and the recommendation of the Standing Committee be adopted. The motion carried.

Moved by Councillor Beech, seconded by Councillor Holdom that Council direct Staff to forward a letter to the Province requesting that it honour the lease on the greenbelt area. The motion was defeated.

7. CITY MANAGER'S REPORT:

DEVELOPMENT SERVICES:

PLANNING:

- (1) Report of the Public Hearing Held Thursday, 2002-AUG-08 to Hear Bylaws No. 4000.300, No. 4000.305 and No. 4000.306

Bylaw 4000.300: This bylaw, if adopted, will rezone part of property located at 6640 Seabold Road from Single Family Residential Zone (RS-1) to Single Family Residential Small Lot Zone (RS-6) and Single Family Residential Triplex And Quadruplex Zone (RM-2) in order to permit the development of a new 36-lot phased subdivision.

Nine members of the public attended the Public Hearing to speak to this issue and twenty written submissions were received.

At the Public Hearing, the applicant's representative Mr. Richard Stuckenberg made reference in his presentation to the applicant providing \$30,000 for landscaping of the Seabold right-of-way between the subject property and the proposed trail. This is in addition to the \$15,000 for trail construction that was previously proposed as the community contribution. The \$30,000 is offered to provide additional landscaping of the Seabold right-of-way from the subject property up to the east side of the trail and for a "gateway entrance" to the trail at Groveland Drive. Unless Council directs otherwise, this additional \$30,000 for landscaping will be secured as a condition of rezoning.

In response to questions from Council, the applicant's representative also committed to limiting the height of the proposed RS-6 lots to 1 storey. As with the monetary contribution, Staff will secure this item unless Council directs otherwise.

This bylaw appeared before Council for consideration of third reading only. Prior to Final Adoption, the Ministry of Transportation's approval and registration of a covenant is required.

Bylaw No. 4000.305: This bylaw, if adopted, will rezone property located at 1650 Island Highway North from Highway Commercial Zone (C-12) to Mixed Use Commercial Zone (C-4) in order to permit a mixed-use commercial/residential development.

One member of the public attended the Public Hearing to speak to this issue and one written submission was received.

This bylaw appeared before Council for consideration of Third Reading only. Prior to Final Adoption, the Ministry of Transportation's approval and registration of a covenant is required.

Bylaw No. 4000.306: This bylaw, if adopted, will add a site specific text amendment to "ZONING BYLAW 1993 NO. 4000", subsection 9.2.1 to allow retail as a permitted use at 6201 Blueback Road.

No members of the public attended the Public Hearing to speak to this issue and no submissions were received.

This bylaw appeared before Council for consideration of Third Reading only. Prior to Final Adoption, Ministry of Transportation approval is required.

Recommendation: That Council receive the report and adopt the Minutes of the Public Hearing held on Thursday, 2002-AUG-08.

Moved by Councillor Sherry, seconded by Councillor Holdom that the report be received and the recommendation be adopted. The motion carried.

(2) Development Variance Permit No. DV P00048 – 4142, 4148, 4154, 4166, 4172 and 4178 Gulfview Drive

At the Regular Meeting of Council held 2002-JUL-29, Council authorized Staff to commence the statutory notification procedure to authorize the issuance of a Development Variance Permit to Mr. Rob Borden, Remax Nanaimo, on behalf of Todai Enterprises Ltd., to vary the height calculation for 4142, 4148, 4154, 4166, 4172, and 4178 Gulfview Drive and David and Linda Coles, to vary the height calculation for 4160 Gulfview Drive. The notification procedure has now been completed and the subject Development Variance Permit is presented for Council's consideration.

The applicant would like to establish an easy, common uniform way of determining height on each of the seven lots that would not impact the view of the houses being built on the upsloped side of the street (Lots 9 through 16). The applicant has suggested a height calculation from the existing curb height fronting the lot. This type of calculation has been used successfully on the developed (down the slope) portion of Gulfview Drive, south of Tiki Way. The applicant is proposing the following height calculation:

1. Pitched roofs - The maximum building height is 5 metres above the concrete curb fronting the lot at the mid point of the lot frontage.
2. Flat roofs - The maximum building height is 3.5 metres above the concrete curb fronting the lot at the mid point of the lot frontage.

Staff support this application. The previous report was attached for Council's information.

Recommendation: That Council hear anyone wishing to speak with respect to this Development Variance Permit application and either:

1. issue the Development Variance Permit for this application; or,
2. reject the application.

Mayor Korpan inquired if there was anyone in attendance who wished to speak to the report pertaining to the above Development Variance Application.

Mr. Robert Myronuk, owner of the property at 4169 Gulfview Drive, came forward to address Council respecting this application.

Mr. Myronuk stated that:

- he lives at 115 Peveril Avenue, Vancouver, BC.
- he owns lot No. 12 across the street from the lots mentioned in the Development Variance Permit application.
- it is unclear to him whether this variance will allow an effective increase in the height of the roof above the street level.
- he went to the City's Engineering Department and they were unable to clarify that for him.
- reference has been made to a successful development downslope on a portion of Gulfview Drive south of Tiki Way.
- he has a copy of that particular Covenant in which the height above the curb in that area is 4.5 metres above curb.
- if there is no effective allowable increase in the maximum roof height over the existing wording, he is not really against it, but if it does effectively increase the allowable height, then it could impact his view and he would be opposed to it.
- he questioned if the effective maximum roof height going to be increased by the variance.
- he purchased the lot based on the potential view.
- he knew there was a Covenant in place when he purchased the property and now, after the fact, they are looking at changing it.
- it doesn't sound like a big variance, but even a small change in height could potentially effect a very nice view.

Mr. Clayton Millan, owner of the property at 4153 Gulfview Drive, came forward to address Council respecting this application.

Mr. Millan stated that:

- he lives at 6601 Applecross Road and he is in the process of building a house at 4153 Gulfview Drive which is directly across the Road from these properties.
- he was in agreement with everything that Mr. Myronuk previously stated about the requested variance.
- he did a very non-technical test to determine if the variance would have any effect on his view and even though it would be minimal, it would impede the view somewhat.
- he bought his property with the intent of having a view and anything that would effect his view detrimentally, he doesn't feel should be allowed.

Moved by Councillor Krall, seconded by Mayor Korpan that the report be received and that Council reject the Development Variance Permit for this application.

Moved by Councillor Krall, seconded by Councillor Holdom that consideration of this matter be deferred pending a further report from Staff regarding this Development Variance Permit application. The motion carried.

PERMITS, BYLAW AND PROPERTY SERVICES:

(3) Proposed Property Acquisition at 1980 Richardson Road

As part of a construction project to replace a bridge across Richards Creek, it was necessary for the new bridge works to encroach onto the property at 1980 Richardson Road. The encroachment area, comprised of abutments and lock block support structures together with a buffer area, totals 173.0 m<sup>2</sup> (1,862.2 square feet). The subject property at 1980 Richardson Road comprises over 23 acres of farm property within the Agricultural Land Reserve. The property is zoned Rural Agricultural/Residential (A2) Zone.

Staff originally intended to complete a minor road exchange to slightly realign the current road dedication. The area occupied by the new works would then be included in the realigned road dedication area. However, because of the nature of the legal survey required for that realignment, Staff discovered it could acquire the additional property and simply dedicate it as road at a lesser expense than proceeding with an exchange.

Staff have met with the owners and the owners have signed an Agreement to Transfer the lands for \$500 compensation. Staff have prepared an application to the Land Reserve Commission to dedicate the land for non-farm use (road). A survey plan has also been completed for the additional road dedication. Total costs for the acquisition are less than \$2,000. In comparison, costs to complete the road exchange originally contemplated were estimated at \$4,000.

Accordingly, Staff seek Council authorization to proceed with the proposed property acquisition of 173.0 m<sup>2</sup> square feet of property from 1980 Richardson Road.

Recommendations: That Council authorize:

1. the acquisition of 173.0 m<sup>2</sup> (1,862.2 square feet) of property from 1980 Richardson Road for bridge works as outlined in the report;
2. the Mayor and City Clerk to execute the necessary documents required to dedicate land for road purposes; and
3. Staff to proceed with the necessary application to the Land Reserve Commission to permit the land to be dedicated for road purposes.

Moved by Councillor Holdom, seconded by Councillor Beech that the report be received and the recommendations be adopted. The motion carried.



(4) Unresolved Building Deficiencies/Illegal Suites/Grow Operations  
(Authorization to place 700 Notice on title)

The following properties have unresolved building deficiencies in contravention of "BUILDING BYLAW 1988 NO. 3220" and "ZONING BYLAW 1993 NO. 4000":

- (a) 4 Rosamond Street  
Property Owners: Hardev and Mohinderjeet Grewal  
Parmajeet and Paul Mehat  
PO Box 5340  
Squamish BC V0N 3G0

Building Deficiency: Illegal Suite

- (b) 37 Haliburton Street  
Property Owners: Angelo Toscan  
Virginia L. Toscan  
260 Deer Lane  
Nanaimo BC V9T 4Y2

Building Deficiency: Illegal Suite

Recommendation: That Council, by resolution, instruct the City Clerk to file a Notice respecting the above properties in the Land Title Office under Section 700 of the *Local Government Act*.

Mayor Korpan inquired if there was anyone in attendance who wished to speak to the report pertaining to any of the above items.

No one in attendance wished to make representation with respect to these items.

Moved by Councillor Sherry, seconded by Councillor Rispin that the report be received and the recommendation be adopted for Items (a) and (b). The motion carried.

(5) Unsightly Premises

The following properties have been identified as having unsightly premises:

- (a) 571 Albert Street  
Property Owners: Ram S. Grewal  
Jasbir K. Saroya  
144 Victoria Road  
Nanaimo BC V9R 4P5

- (b) 1140 Vancouver Avenue  
Property Owner: Pacific Royalties Inc.  
348 Wesley Street  
Nanaimo BC V9R 2T6

- (c) 202 Wedge Place  
Property Owners: Alida Van Zinderen Bakker  
Eduard M. Van Zinderen Bakker  
105 Brandon Place  
Nanaimo BC V9V 1E8
- (d) 1803 Extension Road  
Property Owner: Blair G. Nicholls  
11142 River Road  
Delta BC V4C 2S4

Recommendation: That Council, pursuant to "PROPERTY MAINTENANCE BYLAW 1990 NO. 3704" and amendments thereto, direct the owners of the above properties to remove from the premises those items as set out in the resolutions within fourteen (14) days, or the work will be undertaken by the City's agents at the owners' cost.

Mayor Korpan inquired if there was anyone in attendance who wished to speak to the report pertaining to any of the above items.

No one in attendance wished to make representation with respect to these items.

Moved by Councillor Sherry, seconded by Councillor Rispin that the report be received and the recommendation be adopted for Items (a) to (d). The motion carried.

#### COMMUNITY SERVICES:

#### ENGINEERING AND PUBLIC WORKS:

- (6) Tender for: Location 1, Uplands Drive between Turner Road and Parkwood Drive (East Side) - Proposed Sidewalk and Streetlight Improvement; and, Location 2, Cedar Road – Fielding Road – Intersection Upgrade

On 2002-JUL-23, tenders were called for:

1. Uplands Drive between Turner Road and Parkwood Drive (East Side) - Proposed Sidewalk and Streetlight Improvement, and
2. Cedar Road – Fielding Road Intersection Upgrade

The following three tenders were received by the City Clerk on Tuesday, 2002-AUG-07, and opened in the Board Room at 2:15 p.m.

1.	Fournier Excavating Ltd.	\$273,951.07
2.	Hazelwood Construction Services	274,927.53
3.	Chet Construction Ltd.	308,315.15

The low tender of \$273,951.07 is within the City's capital budget.

Recommendation: That the City of Nanaimo award the City contract to low tenderer Fournier Excavating Ltd. for the low bid of \$273,951.07.

Moved by Councillor McNabb, seconded by Councillor Sherry that the report be received and the recommendation be adopted. The motion carried.

8. INFORMATION ONLY ITEMS:

- (a) Report from Councillor Beech, Chair, Advisory Committee on Environment, re: Co-sponsorship of Vehicle Emissions Clinic.
- (b) Report from Mr. J. Ritchie, Financial Manager, Community Services, re: Bay Addition to Fleet Service Centre at Public Works Yard.
- (c) Minutes of the Planning and Development Advisory Committee Meeting held Thursday, 2002-JUL-11.
- (d) Minutes of the Parks, Recreation and Culture Commission Meeting held Wednesday, 2002-JUL-24.

Mayor Korpan requested that Staff provide a verbal report with respect to complaints received regarding a recent concert held at Maffeo Sutton Park Lion's Pavilion Band Shelter.

Mr. Richard Harding, Acting Director of Parks, Recreation and Culture provided a verbal report with respect to this issue.

Moved by Councillor Sherry, seconded by Councillor McNabb that the Information Only Items (a) to (d) be received. The motion carried.

9. RECONSIDERATION OF BYLAWS:

- (a) "ZONING BYLAW AMENDMENT BYLAW 2002 NO. 4000.300" (RA000071 - to rezone property at 6640 Seabold Road from RS-1 to RS-6 and RM-2 to allow the development of a 36-lot subdivision.)

Moved by Councillor Holdom, seconded by Councillor Lance that "ZONING BYLAW AMENDMENT BYLAW 2002 NO. 4000.300" pass third reading.

Councillor Sherry requested a recorded vote.

IN FAVOUR

Mayor Korpan  
Councillor Beech  
Councillor Cantelon  
Councillor Lance

OPPOSED

Councillor Holdom  
Councillor Krall  
Councillor McNabb  
Councillor Rispin  
Councillor Sherry

The motion was defeated.

- (b) "ZONING BYLAW AMENDMENT BYLAW 2002 NO. 4000.302" (ZA 1-67 - Map amendments to the Zoning Bylaw.)

Moved by Councillor Holdom, seconded by Councillor Beech that "ZONING BYLAW AMENDMENT BYLAW 2002 NO. 4000.302" be finally adopted. The motion carried.

- (c) "ZONING BYLAW AMENDMENT BYLAW 2002 NO. 4000.305" (RA000076 - to rezone property at 1650 Island Highway North from C-12 to C-4 to allow the development of a mixed use project.)

Moved by Councillor Holdom, seconded by Councillor Krall that "ZONING BYLAW AMENDMENT BYLAW 2002 NO. 4000.305" pass third reading. The motion carried.

- (d) "ZONING BYLAW AMENDMENT BYLAW 2002 NO. 4000.306" (RA000077 - to provide for a site-specific text amendment to permit retail in the existing vacant unit at 6201 Blueback Road.)

Moved by Councillor Holdom, seconded by Councillor Krall that "ZONING BYLAW AMENDMENT BYLAW 2002 NO. 4000.306" pass third reading. The motion carried.

- (e) "FIRE PROTECTION AND CONTROL BYLAW AMENDMENT BYLAW 2002 NO. 5578" (Housekeeping amendments.)

Moved by Councillor Holdom, seconded by Councillor Krall that "FIRE PROTECTION AND CONTROL BYLAW AMENDMENT BYLAW 2002 NO. 5578" be finally adopted. The motion carried.

- (f) "STRUCTURE REMOVAL BYLAW 2002 NO. 5579" (To authorize the removal or upgrade of a single family dwelling converted to accommodate an illegal grow operation at 59 Fifth Street.)

Moved by Councillor Holdom, seconded by Councillor Krall that "STRUCTURE REMOVAL BYLAW 2002 NO. 5579" be finally adopted. The motion carried.

- (g) "STRUCTURE REMOVAL BYLAW 2002 NO. 5580" (To authorize the removal or upgrade of a single family dwelling converted to accommodate an illegal grow operation at 3430 Hammond Bay Road.)

Moved by Councillor Holdom, seconded by Councillor Krall that "STRUCTURE REMOVAL BYLAW 2002 NO. 5580" be finally adopted. The motion carried.

- (h) "STRUCTURE REMOVAL BYLAW 2002 NO. 5581" (To authorize the removal or upgrade of a rooftop sign advertising "FOR LEASE 1345 SQ FT" at 1150 Terminal Avenue.)

Moved by Councillor Holdom, seconded by Councillor Krall that "STRUCTURE REMOVAL BYLAW 2002 NO. 5581" be finally adopted. The motion carried.

- (i) "DEVELOPMENT APPROVAL PROCEDURES AND NOTIFICATION BYLAW AMENDMENT BYLAW 2002 NO. 5582" (To reflect the changes in the Committee structure and to delete the fee schedule.)

Moved by Councillor Holdom, seconded by Councillor Krall that "DEVELOPMENT APPROVAL PROCEDURES AND NOTIFICATION BYLAW AMENDMENT BYLAW 2002 NO. 5582" be finally adopted. The motion carried.

10. INTRODUCTION OF DEVELOPMENT BYLAWS:

- (a) "OFFICIAL COMMUNITY PLAN BYLAW AMENDMENT BYLAW 2002 NO. 6000.039" (To redesignate a portion of 5425 Dunster Road as Service Industrial and to remove a watercourse as shown on Schedule B.)

Moved by Councillor Holdom, seconded by Councillor Krall that "OFFICIAL COMMUNITY PLAN BYLAW AMENDMENT BYLAW 2002 NO. 6000.039" pass first and second readings. The motion carried.

- (b) "OFFICIAL COMMUNITY PLAN BYLAW AMENDMENT BYLAW 2002 NO. 6000.040" (To permit "fastfood" as a use at 4797 and 4777 Island Highway North, subject to the resolution of the "greenbelt" lease between the City and the Province, and other substantive and housekeeping amendments.)

Moved by Councillor Holdom, seconded by Councillor Krall that "OFFICIAL COMMUNITY PLAN BYLAW AMENDMENT BYLAW 2002 NO. 6000.040" pass first and second readings. The motion carried.

11. CORRESPONDENCE:

- (a) E-mail dated 2002-AUG-03, from Mr. Iain Cuthbert, R. P. Bio., CEA, 786 Quilchena Crescent, Nanaimo, requesting Council to seek a complete review of the potential impacts of the proposed Vancouver Island Gas Plant project.
- (b) Letter dated 2002-AUG-07 from Mr. Bill M. McGuire, Commodore, Loyal Nanaimo Bathtub Society, 51 A Commercial Street, Nanaimo, expressing thanks to Council and all Staff involved in the 2002 "Great" International World Championship Bathtub "Race" and Nanaimo Marine Festival.

Moved by Councillor Sherry, seconded by Councillor McNabb that Correspondence Items (a) and (b) be received. The motion carried.

Item (a)

Moved by Councillor Sherry, seconded by Councillor McNabb that this item be included in the Staff report requested by Council respecting this issue. The motion carried.

12. ANY OTHER COMPETENT BUSINESS:

(a) Use of E & N Railway Right-of-Way – Councillor McNabb

Enforcement action related to the use of the E & N Railway right-of-way across from Westwood Power and Marine Limited, 3653 Shenton Road, Nanaimo and Steve Marshall Ford, 3851 Shenton Road, Nanaimo.

Moved by Councillor McNabb, seconded by Councillor Lance that Staff be directed not to take enforcement action related to the use of the E & N Railway right-of-way across from Westwood Power and Marine Limited, 3653 Shenton Road, Nanaimo, and Steve Marshall Ford, 3851 Shenton Road, Nanaimo, subject to the limitation of signage and other forms of advertising.

Mayor Korpan requested a recorded vote.

IN FAVOUR

Councillor Beech  
Councillor Krall  
Councillor McNabb  
Councillor Rispin

OPPOSED

Mayor Korpan  
Councillor Cantelon  
Councillor Holdom  
Councillor Lance  
Councillor Sherry

The motion was defeated.

(b) Councillor Krall – Permission to Attend Economic Development Conference

Councillor Krall requested permission to attend the International Economic Development Council Annual Conference being held in Oakland, California. The Conference is entitled *Innovation Investment and Initiatives*, and it will deal with the topic of economic well-being of Cities and their downtown and their waterfront areas. The Conference is being hosted by the same organization that hosted an outstanding Conference related to the Conference Centre approximately 18 months ago which was attended by Councillor Cantelon and Councillor Krall.

Moved by Councillor Holdom, seconded by Councillor Beech that Councillor Krall be authorized to attend the above-noted Conference. The motion carried.

13. DELEGATIONS PERTAINING TO ITEMS NOT ON THE AGENDA:

(a) Mr. Jack Whitlam, South End Community Association, 937 Highview Terrace, Nanaimo, regarding zoning for the property located at the corner of Woodhouse and Haliburton Streets.

Mr. Whitlam was previously authorized to address Council.

Mr. Whitlam stated that:

- recently, there was a notification in the local newspapers referring to the sale of a right-of-way between two pieces of land owned by Coastland Wood Industries.
- concern regarding the use of this land has been expressed by owners of the Harbourview Days Inn and the South End Community Association.
- the owner of the Harbourview Days Inn and the Inn's Manager were in attendance at the meeting.
- the South End Community Association, on behalf of the citizens in the area, requested that Council clarify in which specific areas dry land storage and raw log storage activities may take place.
- of particular concern to the residents of the area is "storage yard" use in the General Industrial I-3 Zone.
- the property located on the corner of Woodhouse and Haliburton Streets has this zoning and is owned by Coastland Wood Industries Ltd.
- he consulted with City Staff to determine if the designation of "storage yard" would in fact prohibit the use of the land being used as a raw log storage and sorting area for raw logs that are being shipped there.
- he was told that if it was not prohibited use, it could be used as a raw log sorting area.
- the local residents and the owners of the Harbourview Days Inn are worried that this area may be used as a log storage and sorting and dumping area.
- since this activity requires large machines which make a great deal of noise and dust, he suggested that such activity be a stated specific use in a heavy industrial zone such as Duke Point.
- present owners of the Coastland Mill have advised the owners of the Harbourview Days Inn that they do not intend to use this land for these purposes; however, it might be an attractive use to new owners or to new management in the future if the types of permitted usage are not clarified now.
- log storage, sorting and dumping is a very noisy and hazardous use to be taking place adjacent to a residential area.
- considering the many improvements recently made to the Harbourview Days Inn, he believes that the concerns of the hotel owners as well as the concerns of the residents should be given full consideration.

Moved by Councillor Cantelon, seconded by Councillor Sherry that the presentation be received. The motion carried.

Moved by Councillor Cantelon, seconded by Councillor Holdom that Staff be directed to prepare a report regarding possible alternatives to I-3 zoning on the property or a covenant on the property. The motion carried.

- (b) Mr. Fred Taylor, 204 Emery Way, Nanaimo, requested Council to reconsider its decision made at the 2002-JUL-29 Council Meeting, regarding the enforcement of the bylaw to restrict the height of the hedge located at 6311 Garside Road, Nanaimo.

Councillor McNabb vacated the Council Chamber on the basis of a perceived conflict of interest due to the fact that his brother was one of the developers of the subdivision which includes the Garside Road property.

Mr. Taylor was previously authorized to address Council.

Mr. Taylor stated that:

- he requested that Council reconsider its previous direction of enforcing the fence height bylaw with respect to the row of trees referred to as a hedge at 6311 Garside Road.
- he raised concern as to the authority of Council to regulate the height of hedges.
- the report to Council dated 2001-MAR-20 stated that it is important to note that unlike structures or use, hedges cannot be extended legal non-conforming status under Section 911 of the *Local Government Act*.
- this statement contradicts a very questionable definition of "fence" in the City's Zoning Bylaw.
- in the Bylaw, "fence" is defined as a structure used as an enclosure or screening around all or part of a lot or site.
- in this case, hedges and similar landscaping features shall be considered fences.
- to consider anything as a fence means a structure as per the fence definition.
- he is of the opinion that the authority under Section 903 of the *Local Government Act* for a Zoning Bylaw is the regulation of the "use of land, buildings and structures," and that the *Local Government Act* permits non-conforming use of the land, buildings or structures to continue (Section 911) at the time of the enactment of a Zoning Bylaw.
- City Staff stated that "hedges are not structures or use" and he thinks he would also include buildings.
- he questioned, if hedges are not considered as "structures" or "use", how Council would even have the authority to regulate hedges under the Zoning Bylaw.
- he also questioned any actions of the City which violate questionable regulations such as construction of overheight fences by the City, trimming of hedges to any height by the City, etc.
- the purpose of restoring and enhancing the natural environment would also be subject to Section 911, non-conforming.
- if you go back to their presentation made by the owners of the property, whether purposely or not, there is no picture of what the yard looked like in the bare strip which was removed and has caused all the argument.
- in fairness, maybe it is of a greater density than what has been replanted.
- all this discussion about views – we live in a forest and he lives on a hill – Bowen Park looks like a big hedge to him.
- this type of thing occurs everywhere – let the buyer beware.
- he believes that this is a "buyer beware" situation and there is a problem with selling agents and not the City; however, the City has participated in the action that has taken place.

Moved by Councillor Cantelon, seconded by Councillor Holdom that the presentation be received. The motion carried.

Councillor McNabb returned to the Council Chamber.

- (c) Mr. Jim Pearce, agent for Mr. Fraser Farquhar, No. 3 Pirates Lane, Nanaimo, regarding Mr. Farquhar's property located on Protection Island at 143 Captain Morgan's Boulevard.



Mr. Pearce was previously authorized to address Council.

Mr. Pearce stated that:

- there were two properties involved in the original Staff report presented to Council last year.
- it was stated in that report that "in both cases the property owners had recently constructed sheds on their property in contravention of zoning".
- we now know that one of the buildings on the property had been constructed in the early 1980's.
- the bylaw in force at that time did not have a minimum size restriction.
- the shed is small, but its size is not unique to Protection Island.
- there are numerous other properties on the Island containing small buildings, which were also constructed prior to the implementation of Bylaw 4000.
- he has copies of letters from 10 adjoining property owners stating that they have no objection to the presence of the buildings.
- as the City has accepted taxes and user rates from this developed property for 18 years, and the neighbours do not object to its presence, he questioned why it must go.
- the owner therefore requests that Council rescind that portion of its original motion, as it applies to the property at 143 Captain Morgan's Boulevard and clear the title of the Notice registered against it.

Moved by Councillor Cantelon, seconded by Councillor Sherry that the presentation be received. The motion carried.

Moved by Councillor Cantelon, seconded by Councillor Krall that Staff be directed to prepare a report clarifying the condition and the status of the buildings on Protection Island. The motion carried.

14. ADJOURNMENT:

Moved by Councillor Sherry, seconded by Councillor McNabb at 9:18 p.m. that the meeting terminate, with the next Meeting of Council to be held Monday, 2002-SEP-09, commencing at 7:00 p.m. in the Council Chamber, City Hall. The motion carried.

\_\_\_\_\_  
MAYOR

CERTIFIED CORRECT:

\_\_\_\_\_  
CITY CLERK