



CORPORATION OF THE CITY OF NEW WESTMINSTER

## COUNCIL IN COMMITTEE OF THE WHOLE

June 25, 2007 2:43 p.m.  
Committee Room 2, City Hall

### MINUTES

#### PRESENT:

Mayor Wayne Wright  
Councillor Jonathan Coté  
Councillor Calvin Donnelly  
Councillor Bill Harper  
Councillor Bob Osterman  
Councillor Betty McIntosh

#### REGRETS:

Councillor Lorrie Williams

#### STAFF:

Mr. Paul Daminato	- City Administrator
Ms. Judi Turner	- Acting Corporate Officer
Ms. Lisa Spitale	- Director of Development Services
Mr. Jim Lowrie	- Director of Engineering Services
Mr. Gary Holowatiuk	- Director of Finance
Mr. Dean Gibson	- Director of Parks and Recreation
Ms. Joanna Federici	- Recorder

#### ADDITIONS TO AGENDA

The following items were added to the Agenda:

- Letter of Support for Douglas College (Item 3(a))

#### PRESENTATION

1. [Parks & Recreation Comprehensive Plan – Council Consultation – Brian Johnston, Professional & Environmental Recreation Consultants \(“PERC”\)](#)

The Director of Parks and Recreation introduced Brian Johnston from the Professional & Environmental Recreation Consultants (“PERC”) who spoke

about the benefits based approach on how to prioritize decisions and needs, plan recreation services and set recommendations for the City of New Westminster. He advised there were two roles of government, one being the legislative function whereby it creates land use rules and bylaws to live, work and play in harmony and secondly, a service delivery function. He discussed how the public sector is different than the private sector. There was a lengthy discussion on the following issues:

- Demographics - Changing trends in recreation – baby boom curve;
- Delivery of services independent of ability to pay;
- Subsidizing of funds, why pay if not using the facility;
- Tax system to fund instead of user pay basis;
- Long term benefits, reduces taxes in other areas, less crime, livable community, all residents have access to all amenities;
- Core population of children utilizing parks and recreation facilities, shift to education – children in community driving need, invest in the children;
- Benefit Based Approach to public sector decision making – benefits distinguishes between direct benefit and indirect benefit;
- Indirect benefits accrue to all public sector – everyone benefits inescapably from the service quality of life, walkable community, reduced crime;
- Public Sector – not demand driven – needs driven;
- Public good is a public benefit to all;
- Police protection, fire service, building and maintenance of streets and roads, garbage collection - public health issue;
- Liquid waste management – clean water, sewage, disposable garbage;
- Equity investment – public good – grants, train volunteers, summer camps, pools;
- Maximize sense of community, pride, culture, target investments, healthier citizens, reduce crime, health care, better community to live;
- Foster growth of community, celebrations and special events, support local community groups, non-profit, sports, arts, leadership training, a place to meet;
- Encourage social interaction, seniors centre, youth centre, spaces for dances, social occasions, public good;
- Protect natural and historical resources, museums;
- Invest in parks, beautify the community;
- Invest in family unit; structure programs and facilities, family can recreate as a unit;
- Value in using recreation for mixed generations, ethnic groups, religious ceremonies, social community; and
- Investment in these services will benefit everyone, use recreation as a means to an end to achieve the public good.

Long range plans would include the following:

- Build on the basis the City is comfortable with;
- A subjective high-level analysis will be done to achieve public good in a major way and improve services;
- Improve on the dollars that are invested – cost to build and operate – what are the benefits;
- Values based service of parks and recreation;
- An evaluation would be done to see how to fill gaps and set priorities within existing budget;
- Look at priorities and see how many people would use it, it would be on a cost benefit analysis of what would be the public good; it would not respond to all the demands;
- Where is the equal benefit i.e. arts, culture, youth sports; and
- Need to be very careful and clear between two processes: Parks and Recreation Comprehensive Plan and City's benefit.

In further discussion, Council suggested the following:

- Engage in a workshop to determine which objectives need to be improved;
- Provide Council with opportunity to add to the list of potential objectives;
- Noted that many objectives are School Board responsibilities; allow them to continue with those while City addresses others;
- Consult with not-for-profit agencies which deliver services in the City to determine possible partnership opportunities in meeting needs;
- Need to accommodate growth; and
- Develop a 10 – 20 year plan from this exercise.

Mr. Johnston proceeded to advise Council that he would be pleased to work with the City to establish local priorities with regards to culture, changing demographics and the multicultural nature of the city.

## REPORTS FOR ACTION

### Director of Parks & Recreation:

#### 2. [New Westminster Arts Strategy Update](#)

The Assistant Director of Parks and Recreation reviewed the June 25, 2007 report presenting the progress of the Arts Strategy and seeking an additional member for the Task Force. She advised that the Questionnaire would be on line until the end of September targeting arts groups and organizations connected to the Task Force. She will be conducting the Arts Strategy interviews until the end of September. This will be advertised on the Web site and through

community events and will be targeting artists through all connections. As well, notices will be placed on the City Page.

- \*\* MOVED, SECONDED and CARRIED, this Committee recommends**  
*THAT Vagabond Players be advised that arts sectors are represented on the Arts Strategy Task Force and be encouraged to participate in the consultation process.*

All members of the Committee present voted in favour of the motion.

### **3. Moody Park Outdoor Pool Functional Program**

The Director of Parks and Recreation reviewed the June 25, 2007 report summarizing public input regarding features and functions for Moody Park outdoor pool. The Director circulated a supplementary memo and report regarding the Functional Program Report for Moody Park Outdoor Pool (which will be added to the Agenda package). He reported that he received a large number of responses from school-aged children informing that they are interested in the facility.

During discussion, the following points were made:

- The Director agreed to examine ways to open the new pool for summer 2008 (even without the change rooms);
- The Director confirmed that safety features will form a part of the pool design;
- The design will permit future renovations to add additional features; and
- Staff is working to filter and synthesize the community's wishes and will report to Council.

#### **MOVED and SECONDED**

*THAT the June 25, 2007 report from the Director of Parks and Recreation summarizing public input regarding features and functions for Moody Park outdoor pool be received.*

**CARRIED.**

All members of the Committee present voted in favour of the motion.

#### **3(a). Douglas College Letter of Support**

The City Administrator reported that he has received a letter from Douglas College regarding a project proposed at the corner of 8<sup>th</sup> and Royal (across the road from the park) to build an aboriginal gathering place for the College. There are a number of aboriginal students from different backgrounds who require a long house with offices and multi-use space for potlatches and other activities.

They would like to apply for a grant (due July 10, 2007) and they are requesting a letter of support from the City to build a long house.

- \*\* **MOVED, SECONDED and CARRIED, this Committee recommends**  
*THAT the City send a letter of support for the Douglas College grant application to build a long house at the corner of Eighth Street and Royal Avenue.*

All members of the Committee present voted in favour of the motion.

**Director of Engineering Services:**

4. **Award of Contract for Braid Street Safety Improvements – Bailey Bridge Signalization and Road Widening**

- \*\* **MOVED, SECONDED and CARRIED, this Committee recommends**  
*THAT the contract for construction of the Braid Street Safety Improvements be awarded to Winvan Paving Ltd. for the tendered amount of \$399,371.96, being the lowest qualified bidder meeting specifications, and representing best overall value to the City.*

All members of the Committee present voted in favour of the motion.

5. **2006 Annual Water Quality Monitoring Report**

**MOVED and SECONDED**

*THAT the June 25, 2007 report from the Director of Engineering Services, presenting the 2006 Annual Water Quality Monitoring Report, be received.*

**CARRIED.**

All members of the Committee present voted in favour of the motion.

6. **Twelfth Street Improvement Program**

Steve Day, Engineering Technologist responded to questions regarding the June 25, 2007 report from the Director of Engineering Services regarding the sidewalk improvement program for Twelfth Street. Members made the following comments:

- Shade will continue to be important to the community; and
- When replacing the sidewalk, consider the needs of the mobility challenged.

The Director of Engineering Services confirmed that a report outlining the scope of the work on Twelfth Street will be submitted to Council.

- \*\* **MOVED, SECONDED and CARRIED, this Committee recommends**  
*THAT the June 25, 2007 report from the Director of Engineering Services providing an update on the status of the sidewalk improvement program for Twelfth Street from Sixth Avenue to Tenth Avenue, be received.*

All members of the Committee present voted in favour of the motion.

7. **Award of Contract for the 2007 Pavement Management Program**

- \*\* **MOVED, SECONDED and CARRIED, this Committee recommends**  
*THAT the contract for the 2007 Pavement Management Program be awarded to Winvan Paving Ltd. for the tendered amount of \$1,360,557.70, being the bidder meeting specifications and providing best overall value for the City.*

All members of the Committee present voted in favour of the motion.

**Director of Finance and Information Technology:**

8. **2006 Annual Report**

The Director of Finance and Information Technology reviewed the June 25, 2007 report presenting the 2006 Annual Report.

- \*\* **MOVED, SECONDED and CARRIED, this Committee recommends**  
*THAT the 2006 Annual Report be forwarded to the Regular Council meeting of June 25, 2007, for consideration.*

All members of the Committee present voted in favour of the motion.

9. **2006 Statement of Financial Information**

The Director of Finance and Information Technology reviewed the June 25, 2007 report presenting the Statement of Financial Information (SOFI) for 2006. He agreed to check into the discrepancies in the Acting Mayor salaries.

Members discussed a cap on Council expenses. Staff was directed to compare with other cities.

- \*\* **MOVED, SECONDED and CARRIED, this Committee recommends**  
*THAT the Statement of Financial Information (SOFI) for 2006 be forwarded to the Regular Council meeting of June 25, 2007, for consideration.*

All members of the Committee present voted in favour of the motion.

**Director of Legislative Services:**

**10. [Corporate Communication Strategy](#)**

The City Administrator reviewed the June 21, 2007, report from the Director of Legislative Services presenting the Executive Summary of the Corporate Communications Plan. He noted the summary will be publicly circulated.

- \*\* MOVED, SECONDED and CARRIED, this Committee recommends *THAT the Executive Summary prepared by Kennerley Consulting Group be received; and* *THAT Council authorize the Legislative Services Department to proceed with the immediate recruitment of a Communications Officer for the City of New Westminster.***

All members of the Committee present voted in favour of the motion.

**Director of Human Resources:**

**11. [Emergency Water Mobile Response Unit](#)**

The Director of Human Resources confirmed that a policy will be written to guide the leasing of the Emergency Water Mobile Response Unit to other communities in case of emergent need when it is not in use by the city.

- \*\* MOVED, SECONDED and CARRIED, this Committee recommends *THAT staff be authorized to purchase one Emergency Water Mobile Response Unit from "The Key Water & Air International Inc." at a purchase price not to exceed \$130,000.00 including delivery and set up.***

All members of the Committee present voted in favour of the motion.

**Director of Development Services:**

**12. [Development Permit 010 \(BH\) for 525 Eleventh Street](#)**

Staff was directed to look into long range plans for modifications and upgrades, rental costs, etc. and report back at a future meeting.

- \*\* MOVED, SECONDED and CARRIED, this Committee recommends *THAT Development Permit 010 (BH) to permit upgrading of the exterior of the building at 525 Eleventh Street with rain screen cladding and to improve landscaping of the site, be approved for issuance.***

All members of the Committee present voted in favour of the motion.

**13. Development Permit 019 (S) for 15 and 25 Capilano Way**

The Director of Development Services reviewed the June 25, 2007 report regarding an application to add to the existing truck terminal and build a tractor service building at 15 and 25 Capilano Way.

**\*\* MOVED, SECONDED and CARRIED, this Committee recommends**  
*THAT Development Permit 019 (S) to permit an addition to the existing truck terminal and construction of a tractor service building at 15 and 25 Capilano Way, be approved for issuance.*

All members of the Committee present voted in favour of the motion.

**14. Development Permit 020 (S) for 10 Spruce Street**

**\*\* MOVED, SECONDED and CARRIED, this Committee recommends**  
*THAT Development Permit 020 (S) to permit a 9,600 square foot pre-engineered steel, multi-tenant building at 10 Spruce Street, be approved for issuance.*

All members of the Committee present voted in favour of the motion.

**15. Development Variance Permit No. 463 for 1719 Eighth Avenue**

Jim Hurst, Senior Planning Analyst, reviewed the June 25, 2007 report from the Director of Development Services regarding an application for development permit for 10 Spruce Street. Further consideration was deferred pending receipt of the design.

Further action was taken on this item as the last item of business.

**RECESS:**

**MOVED and SECONDED**  
*THAT the Committee of the Whole Meeting of Council recess.*

**CARRIED.**

All members of the Committee present voted in favour of the motion.

The Committee of the Whole Meeting of Council recessed at 4:25 p.m. and reconvened at 4:30 p.m. with all members of Council present except Councillor Williams.

**LEGAL MATTERS:**

**4:30 p.m. Show Cause Hearing:**

19. [Show Cause Hearing – Benny’s Mart, 101 – 1102 Ewen Avenue, Queensborough/Status of Business Licence – Assistant Director of Development Services](#)
- (a) Staff Report – Deputy Chief Licence Inspector
  - (b) Representation by license holders
  - (c) Decision.

The following persons joined the meeting at 4:30 p.m. Benny Jow, Mary Jow and Tony Jow, Reece Harding, Solicitor, Lorne Zapotichny, Chief Constable, Keith Coueffin, Manager of Licensing and Inspections, Sgt. Daryl Tottenham, Supervisor of New Westminster Police Service’s Special Projects Team and Oonagh Tyson, Manager of Environmental Health Services for Fraser Health Authority.

Mayor Wright acknowledged the delegation and reviewed the process which would be followed during the Show Cause Hearing for 101 – 1102 Ewen Avenue, New Westminster, BC.

Tony Jow, representing Benny’s Mart introduced himself and stated his father and mother were also present and that he had no questions about the process.

Keith Coueffin, Manager of Licensing and Inspections, joined the table.

The Manager of Licensing and Inspections advised that City staff recently became aware of concerns relating to Benny’s Mart with police, public health and violations of the business license bylaw including displaying adult magazines and drug paraphernalia. Tickets were issued for these violations. He referred to his June 6, 2007 report, which outlines the concerns and which represents his evidence on these matters. Mr. Coueffin advised that Sgt. Darryl Tottenham of the New Westminster Police and Oonagh Tyson from the Fraser Health Authority were also raise and would address their concerns.

The Mayor asked if Council had any questions for Mr. Coueffin.

Council Member:

- Is stealing goods a violation of a bylaw or a criminal matter?

Manager of Licensing and Inspections:

- This is a policing issue that the police will speak to.

Tony Jow:

- Are the tickets in dispute?

Manager of Licensing and Inspections:

- Yes, they are and a Provincial court date will be set in a week or two.

Tony Jow:

So currently it is speculative – they are alleged. Is it illegal?

Manager of Licensing and Inspections:

- Staff have observed violations and tickets have been issued.

Tony Jow:

- That is not what I am asking. They are in dispute and are purely allegations and are going to be disputed.

Manager of Licensing and Inspections:

- They have been disputed in which case a Judge will make a decision on the matter.

Tony Jow:

- The worst penalty is a minimum fine of \$50 for drug paraphernalia and a minimum of \$50 fine for the pornography.

Manager of Licensing and Inspections:

- The Municipal Ticketing Bylaw specifies fine amounts of \$250 for drug paraphernalia and \$200 for improperly displaying adult magazines – no that's not correct, it's \$200 for drug paraphernalia and \$250 for improperly displaying pornographic magazines.

Tony Jow:

- I don't know if you are qualified to answer this question. The word "paraphernalia" is a broad word which the Criminal Code does not have a classification for other than what the bylaw states as drug paraphernalia and the amount in question is one pipe. It may or may not be classed as drug paraphernalia. But it is just a single pipe and was not visible but located far behind the shelf in the store. It may or may not have been drug paraphernalia. That issue will be disputed next week.

Mayor Wright asked if there were any further questions. There were none. The Mayor called for the next speaker.

Sgt. Daryl Tottenham, Supervisor of New Westminster Police Service's Special Projects Team joined the table. As a member of the Special Projects Team, Sgt. Tottenham made his statements:

- Everyone received the report submitted on behalf of the New Westminster Police. I don't plan to go over it piece by piece but will do an overview and respond to questions.
- The New Westminster Police Service Special Projects Team (SPT) received information dating back to March 2007 regarding the operations of Benny's Mart. As a result, they entered into an investigation. The report that I have filed included the history of the business itself and any complaints regarding the business. A subsequent report outlines details in the history dating back to February 2004 in terms of violations in relation to the kind of activities we were advised were going on out there. The information received was that the owners of the store were involved in buying stolen property, having drug addicts purchase and bring in stolen property to resell through their store.
- Going back through CPIC and another crime computer, we located an incident in February 2004 through the Fraser Health Authority (FHA) which indicated there was a previous incident which involved someone collecting meat pies out of a dumpster and taking them to Benny's Mart. The Fraser Health Authority was involved and corrective action was taken at that time.
- In June 2005 there was a similar incident involving Overwaitea Foods. Their store was being used for theft of meats, namely steaks and pork loin products, taken to Benny's Mart, repackaged and sold through the store. The owners of the store were identified at that time as Benny Jow and his son Tony Jow. Also present at that time was Mary Jow (owner's wife) and another son. Warning letters were given to owners at that time regarding contamination issues and resale of the meats which were not properly purchased through a retailer.
- In September 2006 another incident was reported from Fraser Health Authority involving dairy products, in particular, ice cream products taken into the store. Two males unloaded a large amount of ice cream containers out of a truck and into Benny's Mart. The product was found to be half-melted and was subsequently taken out of the store by another unknown male who disappeared down the street with the product. There was intervention through the FHA. Warnings were issued over that activity.
- On February 10, 2007 the police received a crime stoppers tip that indicated the owners of Benny's Mart were again buying stolen property and hiring local criminals and drug addicts to steal various products to re-sell in their store for profit. The owners would make lists of products for criminals to steal from area businesses and then paid them small amounts of cash for the stolen products.
- A warning letter was sent to Benny's Mart on May 26, 2006 from City Hall Business Licence division to the owners of Benny's Mart regarding the sale of drug paraphernalia.
- From March 2007 to May 2007 Constable Charpentier from the New Westminster Police Service received numerous complaints from area residents - three different people independent of each other - regarding the large amounts of stolen property being purchased by the owners of Benny's Mart, that these activities were going and it was a concern even to them.

Constable Charpentier spends a great deal of time in the Queensborough area and is very familiar with local residents and businesses in the area and in terms of the number of problems of theft in the area. He has a good handle on who the active criminals are. The sources confirmed that most of the people recruited to steal for Benny's Mart were local drug addicts who were being directed over to the Wal-Mart store and areas shops with lists of items to be stolen. They were being paid in cash for the stolen goods, which included food products, merchandise, cigarettes and anything that can be re-sold through Benny's Mart. It is getting well known that if people steal from local stores and take the goods to Benny's Mart, they could receive cash for them.

- We have spent a considerable amount of time in the area of Benny's Mart and noticed a huge increase in foot traffic, drug activity and drug dealing in front of the store, also in the parking lot by the store. Many people we know as active criminals are going in and out of the store with duffel bags. This traffic was out of character for the area and is a huge concern to us.
- In May 2007, SPT members initiated a surveillance project utilizing an undercover operator to make contact with the owners of Benny's Mart with the sole purpose of becoming friendly and trusted and participate in the criminal activity related to this business. He would take property in with the idea of selling property that was stolen to get cash or buy drug paraphernalia. He made it clear the property was stolen and when and where it was stolen.
- He made contact a number of times and bought multiple purchases and went so far as to mark the items in an inconspicuous manner so he could identify it at a later date. He attended at Benny's Mart who took the items and gave the undercover operator \$10.00 in toonies. Part of the operation was to send in another person to purchase the same product and they were quite successful in doing that. They were purchased back at an inflated price for the same product we sold them. The undercover operator was dressed to resemble a drug addict with open sores and grubby clothing.
- There were a number of times we were in there. On the first three attempts, we were successful after the first attempt. We started to receive requests from the owner's wife to get specific items that she needed for the store. This included specific types of Advil and razors and lighters. She was specific about what she wanted. It was not just a case of buying items that were available. When we purchased products from Wal-Mart and sold them to her and bought them back, the price of these items was quadrupled to what she paid the undercover operator.
- On one scenario the undercover operator asked if the owner's wife had any glass crack pipes for sale. It was taken out from behind the counter under the shelf and she cut him some cotton wool, then charged him \$5.00 for the product. The cotton wool is used as a nest for smoking cocaine rocks and has no other use when sold in conjunction with a crack pipe – it is very specific – a key component - that is to have a piece of cotton to push it down. It is not something you would normally buy in a store. It has a purpose specific for smoking crack. The undercover operator gave back the \$5.00 he

- got paid for the property (lighters) he sold her and left the store. This resulted in the owners getting property in return for supplying an apparent drug addict with a dollar crack pipe.
- A SPT member attended Wal-Mart and purchased meat and cheese. Later we specifically waited until both the male and female were inside and approached the male who was not involved in the first three dealings. The male was Benny Jow. The member carried in the duffel bag full of packaged meat and cheese thrown into a pile. It was obvious it was not coming from a delivery outlet. The undercover operator made it very clear that it was stolen property and received a small amount of money for the property.
  - In our dealings with this project the operator would go to Wal-Mart and buy the products. If she wanted cheese or meat we would buy multiples of 8 or 10 packages and put them in duffel bags with other items for effect and go back into the store to sell the items. Under the Criminal Code of Canada, possession of stolen property is an offense. In this project, we were legitimately buying the items. It is not actually stolen property. So we cannot process it as stolen under the Criminal Code. This is a common scenario for undercover operations.
  - Specific to this, on May 16, 2007 we requested that another warning letter be sent and personally delivered regarding the sale of drug paraphernalia and items of pornographic materials left out on display. We waited for approximately one week. We went in one week later with the sole intent of buying drug paraphernalia and took \$45 worth of products in and were given \$5.00. The undercover operator then asked for another glass pipe and cotton wool, which the female took from behind the counter. He traded \$45 worth of good products for the crack pipe.
  - The residents and the neighbourhood are concerned with the crime and health concerns that are continuing at Benny's Mart.
  - One of our biggest concerns is health.
  - One of the huge concerns on the part of Fraser Health Authority and the City has a concern regarding the liability on behalf of the City.
  - There is a concern with the problem of tampering with the Advil, concern with the purchase of cheese and meat products from someone who looks to be a drug addict. The owners have no idea where the products have been, they are buying them off someone who brought the goods in a nap sack. They are products that you would suspect. People are trusting and assuming products would be handled and packaged properly. The health concern is huge to us.
  - The repeated warnings go back to 2004 – there have been a number of incidents – you have the history before you - same types of violations – more infractions, more warnings; in fact the behaviour never stops
  - It got to the point where he had been in there six or seven times and the store owner was getting cranky because he wasn't stealing as much as she wanted. She encouraged him to steal and steal more often. This goes to the criminal element side of things.

- There is a significant issue in terms of drug addicts and the problems we have out there – the criminal problems we have out there. This is demonstrated by the huge amount of drug activity.
- There is a spin-off concern with crime occurring over at the mall – it is a big mall where a lot of stores are operating legally and now being pillaged on a daily basis by the drug element to steal items to take to sell to Benny's Mart.
- The police have kept all records and receipts, we have a complete report and kept track of all marked products purchased back from Benny's Mart, including marked items and on two occasions we purchased a crack pipe with wool.
- On May 25, 2007, I attended with Constable Fayle at Benny's Mart and checked both male and female owners in the store, using picture identification to confirm their identifies as Mr. Benny Jow and Mrs. Mary Jow. The undercover operator confirmed that they are the same two people he had been dealing with throughout this project, Mary and Benny Jow.
- Other matters are in the report.
- I will now open for questions.

The Mayor asked if Council members had any questions. During questioning by members of Council, Sgt. Tottenham responded as follows:

- No other City departments have been to Benny's Mart to see to bylaw infractions or to the safety and soundness of the building other than the police department, which was dealing with police side of this and the criminal component and have taken it off the police computer that we have access to.
- It is clear the undercover operator is a sworn member of the police service.

The Mayor asked if Mr. Jow had any questions for the Sergeant.

Tony Jow:

- I have quite a few questions. In general have my parents been charged with any criminal offence?

Sgt. Tottenham:

- No, there is no criminal offence because the property was not stolen – it was only put out as stolen.

Tony Jow:

- According to the New Westminster Bylaw 6926, written in 2004. all the bylaw is pertaining to business licences and processing of business licences which have to be adhered to and which is administered by a City inspector or Deputy Licence Inspector. So to involve the police in a civil matter isn't that a contravention of the Charter of Rights? If there is no criminal intent, there is no criminal offence.

Tony Jow:

- He is not an agent of the City of New Westminster - he works for the Police. He is not a civil servant.

Sgt. Tottenham:

- This offence has nothing to do with the Criminal Code. It has to do with licencing.

Tony Jow:

- My mom bought pies out of a dumpster – the Fraser Health Authority said it came out of a dumpster. It paints a bad picture. How was mom to know it came out of a dumpster? She did not know it came from a dumpster. The FHA said these came out of dumpster.

Sgt. Tottenham:

- This was not part of the police file but part of the history of the business. We worked with the undercover cop which involved a police officer informing your mother and father.
- We dealt with an undercover operator – a police officer going in and advising your mother and your father that the property was stolen. They believed it was stolen.

Tony Jow:

- You are arbitrarily putting in numbers that are not known if they are true or false. I'd like to see the receipts.

Sgt. Tottenham:

- I have those. We have all the receipts and notes from all purchases bought from Wal-Mart and sold at Benny's Mart and cash that was received for the stolen goods purchased by myself – stolen property that was marked.

Tony Jow:

- This is very damaging. My parents have been in business since 1967 and what you are saying paints a very bad picture. Our family is not responsible for the drug traffic. Do you think my parents want criminals in the store? The surveillance of Benny's Mart business is attracting a large amount of criminals, Benny's Mart has been robbed – our family takes no personal pleasure in that element of Queensborough. There was supposed to be a police department in Queensborough and there isn't.

Sgt. Tottenham:

- The police report indicates our observations show a huge increase in drug addicts and criminals hanging around there and it is a direct result that there is a business operating in criminal matters inviting criminals to bring stolen property in to resell and supplying drug paraphernalia, smoke drugs and

cause a large number of people to hang in that area. It has an impact on the store and the businesses and residents in the area. The criminals will stay in close proximity to that store. It will cause a number of people to move into that area.

Tony Jow:

- There is a brand new mall, Sleep Country, Foot Locker, selling mattresses, shoes. Have you ever seen any mattresses for sale? Have you ever seen any shoes for sale?

Sgt. Tottenham:

- Your mom (Mary Jow) was very specific about what she wanted to buy from the drug addicts. So not everything from the mall was for sale.

The Mayor asked if there were any further questions. There were none.

Oonagh Tyson, Manager of Environmental Health Services representing the Fraser Health Authority came forward. Ms. Tyson made the following statements:

- She is the Manager of Environmental Health Services for the Fraser Health Authority in New Westminster and approves and enforces the *Health Act* and Food Premises Regulations. She advised that the City had contacted her and asked her to present any concerns that her department had with Benny's Mart. In response she wrote a letter dated June 7, 2007 and you all have a copy of that.
- To outline the concerns from the past: On two separate occasions there were incidents where food was on the premises from unapproved sources.
- On February 20, 2004 a public complaint was received and her department responds to all public complaints. Someone called her department stating that Benny's Mart purchased meat pies that someone had retrieved from a dumpster. An investigation was conducted. The complainant gave a description of the pies and they were found on the premises. This was a direct violation and was presented to the owners of Benny's Mart.
- On September 25, 2006 another incident of food from an unapproved source occurred. During the course of a routine inspection the Public Health Inspector saw a delivery truck outside. It was an unrefrigerated vehicle with a large quantity of ice cream being delivered to the store. The inspector noticed it did not comply with legislation and tried at the time to determine the source of the ice cream. They could not because there were no receipts from the driver or from Benny's Mart. It was noted that the ice cream was partially melted. This was temperature abuse – insufficient transport of ice cream goods. From Fraser Health Authority's standpoint, this is a serious violation. Anywhere we have jurisdiction has to conform – any food received by a store or restaurant must be inspected by a government agency to ensure food is maintained safe and in a sanitary manner, that there is no bacterial growth. It is up to the owner not to purchase food from improper sources.

- A complaint about having food coming from a dumpster is something that can happen when you don't purchase food from approved sources. I believe six separate occasions since 2003. We do inspections two times a year.
- In addition, we had numerous times the Public Health Inspector notices expired foods in Benny's Mart. I believe on six separate occasions since 2003. We do inspections twice a year. Some food noted during inspections were up to two years past expiry date and one item was baby food, this was a huge concern as babies can be immuno-compromised. Expired food is not a direct violation, but can cause a problem – spoilage can occur. We also have quality concerns.
- Also, the Tobacco Department noted a violation on October 21, 2006, that tobacco products were being sold to minors which is a violation of the *Tobacco Sales Act* that we are responsible for enforcing.
- These violations have been repeated and the concern to Fraser Health Authority is that Benny's Mart is not getting the message – not understanding the serious direct health concerns this poses, especially food from unapproved sources
- This summarizes my concerns.

Ms. Tyson asked if Council had any questions and made the following comments in response to questions from members of Council:

- We are responsible for pest and rodent control, maintenance and cleanliness, and freezer temperatures in our inspections. I have not personally inspected Benny's Mart store, it is done by my staff and this is a summary of their information.
- There was a concern with bug and rodent cleanliness, temperatures of freezers and concern if the store was being run in a safe adequate condition.
- On January 28, 2005 there was a noted evidence of pests and mice droppings in the back and general cleaning required during routine inspection.
- On July 22, 2005 routine inspection also noted general cleaning required.
- On a follow-up inspection the areas had been cleaned.
- On June 5, 2007, subsequent to the letter, an inspection noted mice droppings in the cupboard and a large number of cheese, sausages and deli meats all past "best before" dates.
- There will most likely be continued inspections.
- Conduct risk assessments are done two times per year at Benny's Mart, grocery stores are normally inspected one time per year – issues would be addressed with follow-ups, two incidents is a lot. A grocery store would not be considered a high risk. There is definitely a health hazard on two instances.

The Mayor asked if Mr. Jow had any questions for Ms. Tyson.

Mr. Tony Jow:

- Do you know if my parents knew they were from unapproved sources? Would my parents know if it was approved or not? If the pies were from a dumpster how would they know?

Ms. Tyson:

- It is the operator's responsibility to ensure that all products are from approved sources and all deliveries would have documentation of that. Premises are inspected and told this.

Mr. Tony Jow:

- Did Benny's Mart get a Certificate for passing inspection for 2007?

Ms. Tyson:

- We issues decal for permits that is based on paying a permit fee. When you pay your permit fee you are issued a decal.

Mr. Tony Jow:

- On these inspections is one inspection average, or two for a retail store of this size?

Ms. Tyson:

- One is not. It is hard to say what is average. Many grocery stores are inspected once a year.

Mr. Tony Jow:

- Could my parents have any knowledge that the pies were not from an approved source? It paints a bad picture. They may have unknowingly bought pies that were from a dumpster. Everytime Fraser Health Authority found dated products my parents always got rid of everything that was expired. It could be any food product. There has never been a problem with my parents disposing of it.

Ms. Tyson:

- I can't speculate if your parents knew the pies came from a dumpster. If you don't know what supplier your food is coming from, then you can get food from a dumpster along the chain of delivery.

Mr. Tony Jow:

- In terms of your report, they look at cooler temperatures, general temperatures and mice droppings. It is Queensborough. There has been a lot of development. They have hired exterminators. We are taking care of those in terms of coolers. They have had some problems, but it is Queensborough and there are lots of mice there. In terms of the report, it shows we have always passed.

Ms. Tyson:

- I do have the entire file in front of me. It mentioned about mice droppings.
- On March 8, 2007, the inspector noted that there was food stored on the floor of the walk-in cooler. It was noted that the coolers were functioning satisfactorily and no other issues were noted.
- Previous to that, on July 26, 2006, there was cheese and crab paste with soy bean oil that was expired, there were cleaning issues with the sandwich preparation area which was cited as a violation of cleanliness, the cooler was 7 – 10 degrees and the required degree is 4 so bacteria cannot grow.

Mr. Tony Jow:

- In your experience is this a severe health risk or an average health risk? Does it require general or immediate attention?

Ms. Tyson:

- It depends in the issue, if it is a serious issue it needs to be addressed immediately, general cleanliness does not need to be addressed right away. The main serious issue is the food coming from an unapproved source, and cleanliness can be required to be addressed right away.

Mr. Tony Jow:

- Other than the one issue, is the store working generally well?

Ms. Tyson:

- The major issue is food from unspecified suppliers – food two years past expiry dates. The prevalence of expired food is a concern. Some items were two years past the expiry date. Also that it has been pointed out on so many different inspections. There is a concern that instructions have not been carried out. The other issues such as cleanliness, cooler temperatures, regulator requirements – so any time there have been violations it is a concern and it will be during inspections and should be rectified.

Mr. Tony Jow:

- It is not a dilapidated building. In general, the building is well maintained.

The Mayor invited Mr. Jow to state his case.

Mr. Tony Jow:

- I have gone over the allegations and my parents have no problem taking recommendations from Council, but there is a serious problem with losing the business licence. They have been in business 35 years. My parents are just business people who are both in their sixties and this is what they do. The police have spent inordinate amounts of time trying to deal with the problems in Queensborough. But my parents are not the cause and effect of social problems. My parents have befriended drug addicts – I don't know why, and this is not good for them. I blame my mom for doing that. They are honest

hard-working individuals and you will be taking their livelihood away. They work hard to keep the place clean and they have done everything the City has asked them to do. They built the building six years ago and they sunk money into the building and they have done all the things they were asked to do. Yet five years after having the building built, my parents could have their licence lost. It seems like a personal vendetta. It seems there are too many unsubstantiated allegations towards my parents. Thank you for your time.

The Mayor asked if there were questions from members of Council.

Council Member:

- What is your relationship with this business?

Tony Jow:

- I am the oldest son and I come in the morning do the bank deposits and I help when I can and when they go somewhere. My brother lives upstairs – he works there. I can't afford to hire staff. The building cost a lot to build and this is what my parents wanted to do when they bought the building in 1967. My relationship is that I am the oldest son and I take care of the banking and paperwork. I work graveyard shift and I get there at 7:00 a.m. My brother works at Pepsi in the afternoon and helps out where he can. They have been broken into twice and robbed. To say that they are associated with the criminal element when they have been affected by that element is nonsense.

Council Member:

- As to the Fraser Health Authority report - are you denying that those incidents occurred?

Tony Jow:

- No.

Council Member:

- The expired food pies?

Tony Jow:

- No, what I am saying is that my parents have rectified it each time there has been a problem.

Council Member:

- There is also the issue of the Police report, selling stolen property, crack pipes, pornography, are you denying those?

Tony Jow:

- Those are debatable. I made sure that it is not pornography. It is what you sell that comes at Great Pacific News, Jim Pattison's company. It is the same material you get from the wholesalers.

Council Member:

- Are you denying it?

Tony Jow:

- It is Playboy and Penthouse. I make sure it is above 47". There were books below that level but they were novels. Under the current bylaw statute it doesn't say anything above novels. I put them up there. I do the magazines. Pornographic or gentlemen's magazines are 47" above the ground and I am bringing this issue up next week. The other items are novels.
- Regarding the drug paraphernalia and crack pipes, I told my parents to throw it out and they threw it behind the shelf and it was there. I am not aware of other allegations – the crack pipes and cotton wool – I have never seen my parents sell them. I told them not to.

Council Member:

- What about the stolen property?

Tony Jow:

- My mom does lots of favours. People come in and say they don't have any money to buy anything. I am not denying it but I don't know if she has any knowledge of it. My mom feels sorry for people when they tell her they have no money. They ask to trade things in for something else. There has to be intent. My mom can plead ignorance - if there is no criminal intent or knowledge it is not really a crime. We are not talking about crime – it is about licencing. if there was a crime committed they should be prosecuted, but there has been no crime. Your own bylaw states that police can't act on behalf of the City Council – it's a criminal investigation. The representatives of the City are listed in the bylaw. The Building inspector has to announce himself and do something about it - that is what the City of New Westminster has.

There were no further questions.

The Mayor advised the representatives of Benny's Mart that Council about the next steps in the process.

The delegation of Mr. and Mrs. Benny Jow and Mr. Tony Jow, left the meeting at 5:35 p.m.

**RECESS:**

**MOVED and SECONDED**

***THAT*** the Committee of the Whole Meeting of Council recess.

**CARRIED.**

All members of Council present voted in favour of the motion.

The Committee of the Whole Meeting of Council recessed at 5:35 p.m. and reconvened at 5:50 p.m. with all members of Council present except Councillor Williams.

Members discussed the matters presented during the Show Cause Hearing on Benny's Mart and made the following comments:

- Confirmed the name of Anthony Russell Jow, son, and that he is the owner of Benny's Mart Business License 110066 with his father, Benny Jow.
- Cited health concerns due to expired foods, food products expired for over two years, meat pies that came from a dumpster; source of foods is a serious matter.
- Cited a concern over risk to the public and the community and the need to protect the community.
- Cited police costs, and related activities in Queensborough that relate to the drug trade, impact on the neighbourhood regarding the sale of products that are not properly endorsed by a distributor.
- Cited neighbourhood concerns and impacts; the neighbourhood has made the community aware that they don't like the activity around the business.

**\*\*** **MOVED, SECONDED and CARRIED, this Committee recommends**  
***THAT** business licence #110066 for Benny's Mart located at 101 – 1102 Ewen Avenue is cancelled effective immediately.*

All members of the Committee present voted in favour of the motion.

The Show Cause hearing completed at 5:50 p.m.

#### **REPORTS FOR ACTION (Continued):**

**16. Development Variance Permit No. 468 – Plaza 88 (808 Carnarvon Street)**  
(tabled from June 18, 2007) **and supplementary report** (circulated separately)

Lance Berelowitz, Consultant, responded to questions regarding:

- Discussing bicycle storage and co-op cars with developers.
- Number of parking stalls in relation to numbers of two and three bedroom units.

Direction was given to staff to obtain the numbers for extra parking spaces that would become available through the variance and obtain suggestions for their use.

**MOVED and SECONDED**

*THAT the Committee of the Whole meeting be extended beyond 6:00 p.m.*

**CARRIED.**

All members of the Committee present voted in favour of the motion.

**\*\* MOVED, SECONDED and CARRIED, this Committee recommends**

*THAT the City give notice that it will consider a resolution to issue Development Variance Permit 468 with the following variances to permit construction of Phase II of the Plaza 88 development which consists of Tower 3 over a parking structure plus the balance of commercial/retail uses on the site east of McInnes Overpass:*

- *A residential parking ratio of 1 stall per suite*
- *Compact parking stalls at 33%*
- *Calculation of usable open space to include balconies with dimensions of less than 10 feet; and*
- *Elimination of the 1.5 meter (5 feet) parking structure setback from the Carnarvon Street property line.*

Opposed: Councillor McIntosh.

**17. [Development Variance Permit No. 467 for 625 Fifth Avenue](#)**

Jim Hurst Senior Planning Analyst, responded to questions regarding the June 21, 2007 request from the Director regarding an application to vary the parking requirement for the building at 625 Fifth Avenue.

**\*\* MOVED, SECONDED and CARRIED, this Committee recommends**

*THAT the City give notice that it will consider a resolution to issue Development Variance Permit 467 to permit the applicant to provide 64 surface parking spaces at 625 Fifth Avenue and lease 33 parking spaces at 615 Belmont Street for a total of 97 parking spaces.*

All members of the Committee present voted in favour of the motion.

**COMMITTEE MINUTES AND RECOMMENDATIONS:**

**18. [Youth Advisory Committee meeting held May 24, 2007](#)**

**MOVED and SECONDED**

*THAT the minutes of the Youth Advisory Committee held on May 24, 2007, be received and adopted.*

**CARRIED.**

All members of the Committee present voted in favour of the motion.

**(a) Radio ad – Funding – Sub-Committee Report.**

Staff was directed to investigate whether the Youth Advisory Committee radio ads can be broadcast in the City's Emergency Broadcast Radio Band.

**\*\* MOVED, SECONDED and CARRIED, this Committee recommends *THAT a grant in the amount of \$1,000.00 be approved for radio ads and that the Board of School Trustees be approached with the same request.***

All members of the Committee present voted in favour of the motion.

**(b) Community Policing**

Staff was directed to research the Youth Advisory Committee recommendation to amend Parks Regulation Bylaw No. 3646,1959 Section 17 to include the School Properties.

**15. Development Variance Permit No. 463 for 1719 Eighth Avenue**

Jim Hurst, Senior Planning Analyst, circulated elevations illustrating the appearance of the proposed project (which will be added to the Agenda package) and responded to questions.

**\*\* MOVED, SECONDED and CARRIED, this Committee recommends *THAT the City give notice that it will consider a resolution to issue Development Variance Permit 463 with the following variance to permit construction of a new two-story single family dwelling at 1719 Eighth Avenue:***

- *A second storey whose size is 118.7% of the storey below.*

**CARRIED.**

All members of the Committee present voted in favour of the motion.

**ADJOURNMENT**

**ON MOTION**, the meeting adjourned at 6:30 p.m.

Certified Correct,

\_\_\_\_\_  
**WAYNE WRIGHT, CHAIR**

\_\_\_\_\_  
**JUDI TURNER,  
ACTING CORPORATE OFFICER**

**\*\*** Denotes recommendations referred to Regular Council meeting of June 25, 2007 for ratification.