



RESTORATIVE JUSTICE COMMITTEE

September 25, 2018 – 5:00 p.m.
Boardroom A, City Hall

MINUTES

VOTING MEMBERS PRESENT:

Councillor Chuck Puchmayr	- Chair, City Council Member
Wes Everaars	- Community Member
Stacey Ferguson	- Community Member
Gurinder Mann	- CERA Representative
Laura Roberts	- SD #40 Representative
Amanda Semenoff	- Vice Chair, Community Based Arts Sector Representative

REGRETS:

Constable Tim Callaghan	- NRPD Representative
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GUESTS:

Judge Garth Smith	- Judge of the First Nations Court of New Westminster
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STAFF PRESENT:

Carilyn Cook	- Committee Clerk
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The meeting was called to order at 5:07 p.m.

1.0 ADDITIONS / DELETIONS TO AGENDA

1.1 Additions/Deletions to Agenda

MOVED AND SECONDED

THAT the September 25, 2018 Restorative Justice Committee meeting agenda be adopted as circulated.

CARRIED.

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

2.0 ADOPTION OF MINUTES

2.1 Adoption of the Minutes of May 29, 2018

MOVED AND SECONDED

THAT the May 29, 2018 Restorative Justice Committee minutes be adopted as circulated.

CARRIED.

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

3.0 PRESENTATIONS

3.1 Indigenous Court System – Judge Garth Smith

Judge Smith commenced with his presentation, sharing that the First Nations Court of New Westminster began in November of 2006 with Judge Marion Buller and was developed in consultation with Elders from across Canada (representing First Nations locally and across Canada), community corrections, crown counsel, defence lawyers, and other support service groups such as the Native Courtworker and Counselling Association of British Columbia. He added that the New Westminster court house is the most easily accessible courthouse for those travelling from across the region to attend hearings. Judge Smith provided the following outline of the Indigenous Court System process including but not limited to:

- Holistic healing approach is used to reduce criminal behaviour, considering the causes of an offender's crime and criminal behaviour for adults and youth who self-identify as First Nations while also recognizing the unique circumstances of First Nations offenders within the framework of existing laws;
- Elders are encouraged to participate in court proceedings;
- Acknowledgement and repair of harm done to victims and the community;
- Offenders must accept responsibility for their criminal behaviour and, usually, plead guilty to a criminal charge;
- All charges (except murder) are considered and must be approved by the crown for inclusion in the First Nations Court, including provincially and federally prosecuted offences;
- The Court sits once a month with no pre-court meetings to ensure transparency of decisions;
- Offenders are referred to as "clients" of the court;

Procedural note: Amanda Semenoff, Community Based Arts Sector Representative, left at 5:45 p.m.

- Generally, clients appear in the First Nations Court for sentencing within approximately eight weeks from the date the Pre-sentence Report is ordered;
- Sentences are referred to as “Healing Plans” and take into consideration the Pre-sentence Report, Gladue Report (occasionally), and input from Elders, defence counsel, crown counsel, Native Court Workers and, possibly, victims;
- Healing Plans are typically community based in order to create balance for the client, the client’s family, and the community;
- The duration of a Healing Plan is determined by taking into consideration the circumstances of the offense as well as the circumstances of the client. Often, community-based sentences range from six months and two or three years;
- The community has a direct and immediate effect on the sentencing and monitoring process, including on the continuing growth and healing of each client, by way of Elders attending court and each person attending the session being able to speak directly with the client and Judge in order to assist the Judge with creating a healing plan;
- Review hearings take place either monthly or bi-monthly, once a community-based healing plan is imposed, allowing the client to return to the court to speak to the Judge, Elders, the Native Court Workers and other members of the community, during which it is determined if problems with the Healing Plan need to be corrected;
- Clients may apply to the court to cancel the remainder of the sentence if the Healing Plan has been completed prior to the expiration of the sentence and, if the crown prosecutor agrees, the First Nations Court Judge may terminate the sentence early;
- Upon completion of a Healing Plan, clients may graduate from the First Nations Court of New Westminster with a blanketing ceremony which would take place in the court room; and,
- Challenges include finding services quickly and easily for clients.

In response to questions from the Committee, Judge Smith provided the following comments:

- Clients are supervised by probation officers in their community; and,
- Crown counsel will notice if a client is indigenous through reports they receive on the case and a crown prosecutor will see that the appropriate person sends it to the First Nations court.

Judge Smith announced the Aboriginal Family Healing Case Conference pilot program which commenced in March 2017 and shared the following information:

- The program was developed through the cooperation of many BC Government departments, the judiciary, and Elders;

- The court typically sits once a month in New Westminster Law Courts with mediations led by a BC Provincial Court Judge for Aboriginal parents and children who are involved in child protection court proceedings; and,
- Hearings are confidential and closed to the public and include a judge, parent(s) and other family members, band representatives (when available), child protection social workers (Ministry of Children and Family Development), community resource coordinators and Elders who work with each family through the process. Monthly reviews are held.

Lastly, Judge Smith advised that in development is the Canadian Association of Indigenous Courts which is a Canada-wide association of persons and communities involved with Indigenous courts that are in operation or in development. The Association will hold a national conference each year, focussing on best practices and sharing and learning from each other about our Indigenous Courts including resources, governance and staffing models, communicating with various entities, and assessing what is and is not working in the system.

At this point in the meeting, the following motion was passed by Committee members:

MOVED AND SECONDED

THAT the Restorative Justice Committee request that Council approve the Union of BC Municipalities (UBCM) resolution as follows, to ask the Canadian Federal and Provincial Governments to fund and expand the Indigenous Court System:

Whereas a disproportionate rate of First Nations men and women are represented in the Canadian Federal and Provincial criminal incarceration systems; and,

Whereas existing Indigenous courts within the current court systems present a positive step toward reconciliation and rehabilitation;

Therefore be it resolved that the Union of BC Municipalities (UBCM), Federation of Canadian Municipalities (FCM), and Lower Mainland Local Government Association (LMLGA) lobby the Canadian Federal and Provincial Governments to fund and expand the Indigenous Court System.

CARRIED.

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

Judge Smith advised that upcoming court session dates include October 25th, November 22nd, and December 20th and invited members to attend the planning meeting scheduled to take place during the December 20th session lunchbreak.

Discussion ensued, with the following points being made:

- At many court locations it is difficult to find a volunteer agency to supervise a community work service;
- CERA has two contract facilitators and a group of volunteers that assist with their cases; and,
- Organizations that CERA would like to send their youth to may request that someone to attend with the youth, and that can be a challenging request to fulfill.

Gurinder Mann, CERA representative, shared that the Organization is interested in building a preventative piece with the New Westminster school district and that a member of the CERA team spoke with them about restorative justice and the desire to see it grow in New Westminster.

With respect to instituting a liaison at the New Westminster Police Department, Mr. Mann queried whether Chief Constable Dave Jones could nominate someone for the position. The position would include overseeing the 100s of files involving youth that are not referred to CERA and bringing to mind the restorative justice systems to patrol officers and inspectors. Councillor Puchmayr offered to set up a meeting with Chief Jones and Constable Tim Callaghan to set up the criteria for the position.

4.0 UNFINISHED BUSINESS

There were no items.

5.0 NEW BUSINESS

5.1 Committee Meeting Start Time – Group

After a brief discussion, members agreed that the current meeting start time worked well with their schedules.

6.0 REPORTS AND INFORMATION

6.1 Report – Constable Callaghan (to be provided by Councillor Puchmayr)

No report was received.

7.0 CORRESPONDENCE

There were no items.

8.0 NEXT MEETING DATE

Tuesday, November 27, 2018 at 5:00 p.m. – Boardroom A, City Hall

9.0 ADJOURNMENT

ON MOTION, the meeting was adjourned at 7:00 p.m.

Certified Correct,

Original Signed _____
Councillor Chuck Puchmayr
Chair

Original Signed _____
Carilyn Cook
Committee Clerk