

REPORT TO: MAYOR AND COUNCIL

FROM: COUNCILLOR M. D. BRENNAN, CHAIR
LIQUOR CONTROL ADVISORY COMMITTEE

RE: LIQUOR CONTROL STRATEGY IMPLEMENTATION PLAN

RECOMMENDATION:

That Council defer consideration of the following recommendations for a period of two weeks:

That Council:

- (a) give first three readings to "PUBLIC NUISANCE BYLAW 2003 NO 5648", (a bylaw to prohibit nuisances and disturbances) which will appear under the bylaw section of the 2003-NOV-03 Council agenda;
- (b) provide Staff with direction in terms of whether or not adult entertainment should continue to be allowed in all zones that permit nightclubs, or require site specific rezoning to permit any form of adult entertainment;
- (c) instruct Staff to prepare the necessary Zoning Bylaw amendment for the definition and condition of use of "Neighbourhood Pub", "Lounge" and Nightclub/Cabaret;
- (d) instruct Staff to leave Nightclub/Cabaret Business Licence Fees status quo at \$1,100 per year, and to review the issue in one year to determine if the other measures recommended by the Committee have helped to reduce policing costs associated with nightclubs;
- (e) instruct Staff to implement a *Good Neighbour Agreement*, which would apply to the Liquor-Primary establishments in downtown Nanaimo and any other establishment identified by the R.C.M.P;
- (f) endorse and actively support the efforts of Nanaimo's downtown liquor establishments to develop and operate a *Bar Watch* Society and Program; and,
- (g) endorse the new *Liquor-Primary Licence Application Process and Checklists*.

BACKGROUND:

Earlier this year, Council endorsed 23 recommendations contained within the Neilson-Welch Liquor Control Strategy Report. The recommendations received strong support from the public and community advocacy groups and were viewed as a positive step towards dealing with liquor control issues within the City of Nanaimo. The Neilson-Welch Report provided direction on how to respond to Provincial Regulation changes. The Report also proposed new policy for regulating licensed establishments and proposed that new processes be implemented to evaluate future liquor license and liquor store applications. In order to develop these new policies, Council created a new Liquor Control Advisory Committee consisting of a nightclub owner, 2 neighbourhood pub owners (one of which has a private liquor store), representatives of the Downtown Nanaimo Partnership and the Social Planning Advisory Committee (SPAC) and three members of Council. The Committee was also supported by Staff from the Departments of Corporate Administration, Planning and

Development, Business Licenses, Bylaw Enforcement and the R.C.M.P. With such divergent interests, Committee members did not always agree with each other; however, the discussions often proved to be very interesting and enlightening. By the end of the process, the Committee and Support Staff had developed an excellent working relationship.

The Committee met on a regular basis since 2003-MAY-15 and is now in a position to forward its work to Council for consideration. The Committee created 7 new documents to help deal with public concerns created from liquor licensed establishments. The documents are based on the 23 recommendations contained within the Neilson-Welch Report. Council will recall that it has already endorsed one of the documents, *Rezoning Criteria for Licensee Retail Stores (LRS)*, which was forwarded by the Committee to the Regular Meeting of Council held 2003-AUG-18.

Attached to this report are the following new documents for Council's consideration:

1. "PUBLIC NUISANCE BYLAW 2003 NO. 5648 – A Bylaw to Prohibit Nuisances and Disturbances
2. Proposed Zoning Bylaw Definitions for Liquor Uses
3. Nightclub Business Licence Fee Options
4. City of Nanaimo *Bar Watch* Program
5. City of Nanaimo *Good Neighbour Agreement*
6. City of Nanaimo new *Liquor-Primary Licence Application Process and Checklists*

The remainder of this report will provide a brief overview of each of these documents.

DISCUSSION:

1. "PUBLIC NUISANCE BYLAW 2003 NO. 5648" – A Bylaw to Prohibit Nuisances and Disturbances

Bylaw 5648 has been developed in order to give the R.C.M.P. and the City's Bylaw Enforcement Officers the ability to ticket individuals for acting in an uncivil manner. For example, any individual participating in a fight would be fined \$150. This bylaw will serve as a deterrent and will provide the R.C.M.P. with the ability to deal with incidents without having to go through the lengthy and costly court process. The bylaw is based upon a similar bylaw that has proven to be effective in the City of Edmonton. It is worth noting that the City of Vancouver is also in the process of developing such a bylaw.

2. Proposed Zoning Bylaw Definitions for Liquor Uses

Historically, the Zoning Bylaw has relied upon Provincial Liquor Licensing to regulate the type of uses that could occur in liquor establishments, such as neighbourhood pubs and nightclubs. With the recent changes at a Provincial level, amendments are now required to the City Zoning, in order to differentiate between these Liquor-Primary uses. The proposed amendments will ensure that neighbourhood pubs are maintained in a traditional form and scale and do not become nightclubs, which tend to accommodate a more intensive form of entertainment, including adult entertainment.

Neighbourhood Pub

At present, the Zoning Bylaw definition is as follows:

"Neighbourhood Pub" means an establishment operating under an appropriate license, issued pursuant to the *Liquor Control and Licensing Act* and amendments thereto.

In order to ensure that neighbourhood pubs maintain their scale and character, the proposed definition and associated condition of use is recommended:

"Neighbourhood Pub" means an establishment licensed to serve liquor in conjunction with live entertainment and/or dancing as a Liquor-Primary establishment under the *Liquor Control and Licensing Act* and amendments thereto and shall offer full lunch and dinner menus with hot and cold meals.

Condition of Use: Maximum occupancy of 175 persons.

Lounge

The Downtown Zoning Stakeholders Group has identified, through its review of the proposed downtown zoning, the need for a form of Liquor-Primary establishment that is smaller than Nightclubs, but that does not have the food-service requirements of a Neighbourhood Pub. As such, the following definition and associated condition of use is proposed:

"Lounge" means a limited-scale establishment licensed to serve liquor in conjunction with live entertainment and/or dancing as a Liquor-Primary establishment under the *Liquor Control and Licensing Act* and amendments thereto.

Conditions of Use: Maximum occupancy of 50 persons.

Nightclub/Cabaret

The Liquor Control Advisory Committee is not proposing any changes to the existing definition of nightclub/cabaret. The current definition is as follows:

"Nightclub/Cabaret means an establishment which offers the sale of liquor in conjunction with live entertainment and/or dancing and which is licensed in accordance with the *Liquor Control and Licensing Act* and amendments thereto." In this definition, live entertainment includes all forms of adult entertainment.

The Downtown Stakeholders Zoning Group has recommended that the definition be amended to specifically exclude forms of adult entertainment. This would require property owners to apply for site specific zoning amendments in order to open any adult entertainment facilities in the future.

The Liquor Control Advisory Committee does not concur with the recommendations of the Downtown Stakeholders Zoning Group and are recommending that Council continue with the current status quo of allowing all forms of entertainment in nightclub/cabarets, including adult entertainment uses.

Council's direction with respect to this specific issue is sought.

Option A

Continue with the status quo of allowing all forms of entertainment including adult entertainment within nightclub/cabarets (recommended by the Liquor Control Advisory Committee).

Option B

Amend the definition of nightclub to exclude adult forms of entertainment, which would require a site specific rezoning to permit adult forms of entertainment (recommended by the Downtown Stakeholders Zoning Group).

3. Nightclub Business Licence Fee Options

The Neilson-Welch Report recommended that business licence fees more accurately reflect the cost of policing the nightclubs in the downtown. The R.C.M.P. calculated the actual policing costs for each nightclub to be approximately \$4,000 per annum based on “straight time” (as opposed to overtime).

Based on this information, the Committee reviewed three business licence fee options. After considerable discussion, the Committee is recommending that business licence fees for nightclubs remain at the current rate, \$1,100 per year, and that the issue be reviewed in one year to determine if other initiatives recommended by the Committee have helped to reduce policing costs associated with the nightclubs. Business licence fees in other municipalities range from \$100 - \$2,500.

4. City of Nanaimo Bar Watch Program

One of the recommendations in the Neilson-Welch Report was to support the establishment of a Bar Watch Program. To assist the Committee with identifying how a bar watch program functions, representatives from the Vancouver Bar Watch Society attended a Committee meeting and outlined their program. The representatives advised that they have found that in order for Bar Watch to be successful, it must be driven by the licensees, with support from the City and the R.C.M.P. Based upon this information, the Committee is recommending that the licensees be encouraged to establish a Bar Watch Program but that the Program not be forced upon them or initiated by the City. The Committee is also recommending that if the licensees establish a program, that it be strongly supported by the City and R.C.M.P. The Committee has established guidelines that have been modelled after Vancouver’s very successful program for use by the licensees should they wish to institute a program here. Based upon the guidelines, the goals of Bar Watch would address the following issues related to licensed establishments:

- discouraging and ultimately preventing patrons from engaging in unlawful and uncivil behaviour that endangers other patrons, staff and police;
- unlawful, gang-related activities;
- gang presence;
- rowdyism and related types of uncivil behaviour;
- video surveillance cameras and signage;
- increasing communication between licensed establishments;
- policing and Liquor Inspector involvement; and,
- promoting the liquor industry’s image in the community.

5. City of Nanaimo Good Neighbour Agreement

The proposed Good Neighbour Agreement has been modelled after Good Neighbour Agreements that are currently in place in Kelowna, Kamloops, Ottawa, Whistler, Vancouver and New Westminster. The goals of the Good Neighbour Agreement would address the following issues related to licensed establishments:

- noise emissions;
- orderly dispersal of patrons at closing time;
- uncivil behaviour;
- criminal activity (i.e. selling drugs, stolen goods and prostitution);
- weapons, controlled substances;
- minors;
- “cheap drinks”;
- adult entertainment (advertising for);
- employee identification;
- garbage;
- graffiti; and,
- discouraging drinking and driving.

The Committee is recommending that the downtown establishments, and other licensed establishments outside the downtown that Staff and the R.C.M.P. have identified as causing a public concern, be required to sign the Good Neighbour Agreement. Should other establishments be the cause of concern in the future, recommendations will be put forward annually to require them to sign a Good Neighbour Agreement prior to a new business licence being issued. The Committee is recommending that the issuance of a business licence be contingent upon the identified licensees signing the Good Neighbour Agreement.

6. City of Nanaimo New Liquor-Primary Licence Application Process and Checklists

Council has requested that a new licensing review process be established that places the onus on each applicant to demonstrate to the community exactly how the proposed establishment would contribute positively to the development of Nanaimo. The proposed *Liquor-Primary Licence Application Process and Checklists* provides details of how the new process will work. It is worth noting that the process will require that a public meeting be held at which the applicant will present an overview of the proposed establishment.

The Liquor Control Advisory Committee is optimistic that the proposals outlined in this report will help to address many of the liquor-related issues that face the City of Nanaimo. The Committee believes that the attached documents will provide direction on how to respond to changing Provincial Regulations; serve as new regulatory policy for licensed establishments; and provide new criteria to evaluate future liquor licence and liquor store applications.

Note: In order for Council, the public, the media and the liquor industry to have reasonable time to review these documents, Staff have recommended that the report be received for information tonight, and be brought back on 2003-NOV-03 for consideration.

RECOMMENDATION:

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- (f) endorse and actively support the efforts of Nanaimo's downtown liquor establishments to develop and operate a *Bar Watch* Society and Program; and,
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Respectfully submitted,

Councillor M. D. Brennan, Chair
LIQUOR CONTROL ADVISORY COMMITTEE

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