

**Commercial Use of Public Space  
Minutes of Meeting from Thursday, August 28, 2003  
Council Chambers**

Present: Deputy Mayor Savoie, Councillors Coleman, Fleming, Fortin, Holland, Hughes, Madoff, and Thornton-Joe

Absent: Mayor Lowe

1. **APPROVAL OF AGENDA**

It was moved by Councillor Holland, seconded by Councillor Hughes, that the agenda be approved. Carried

2. **COMMERCIAL USE OF PUBLIC SPACE**  
Background and process for forum

Presentations:

Dan Scoones (Senior Bylaw Officer): The current application process for the use of public space is not in accordance with the *Local Government Act*. Currently, it is a "closed shop", there are a limited number of players including pedicabs, horse drawn carriages, and tour bus operators. The City needs a new system that is open and fair, there is a reasonable interval for the application process, and the program should run at market rate. The City circulated information and ran advertisements notifying the public of this meeting and, as a result, City staff will provide recommendations at the September 18, 2003, Committee of the Whole meeting. The recommendations will include feedback from the speakers tonight. He advised if there were more applications than spaces available, one option is a lottery or auction process to allocate limited space.

3. **FOOD VENDING**

**Councillor Coleman excused himself from the Council Chamber at 3:10 p.m., due to a potential conflict of interest.**

Presentations:

Elizabeth Low (Downtown Coordinator): The street vending program commenced in the mid 1980's when there were fewer restaurants and few outlets offering quick beverages and take away food. Most vendors were on Government Street and rotated amongst the approved locations. The program was revised in 1993 with beverage-only locations on the lower Casueway and Belleville Street was included. A proposal call was held each year and all vendors were required to apply. Vendors had no option to change what they sold; it was outlined in the application form. Vendors had minimum hours per day and a minimum number of days per year (from mid-May until mid-September, from 11:00 a.m. until 5:00 p.m.). In 1993, Council agreed to "grandfather" existing vendors – this meant if they had been operating in a particular location for one year, they would be able to apply for the same location. Eventually, complaints were received regarding the "grandfather" system that led to a request for a legal opinion on the policy. The finding was the City did not meet the requirements of the *Local Government Act* for an open and fair public process at regular intervals for awarding licenses. The purpose of this meeting is to discuss options on meeting those criteria for the allocation of licenses. Three areas open for discussion are: (1) let present operators continue, but discontinue each location as carts are sold or operators retire; (2) start a new program with a proposal call, or an auction, or a lottery, for all prospective vendors; or (3) cancel the program and no longer license vendors on public space.

Sandra Neumann (1112 Craigflower Road): She is one of the owners/operators for Sandrino's Espresso and they are in their 9<sup>th</sup> season. They have been serving coffee, lattes, espresso's, et cetera, since 1995. Victoria has a beautiful harbour and their cart provides more than just drinks. They provide directions for tourists who inquire where the museum, toilets, or other attractions are. They are a mini-information center for many sites Victoria has to offer. They have a very good working relationship with the Undersea Gardens, Wax Museum, various hotels, and other local businesses. She feels they are an asset to the Causeway, and for tourists. Not only do they provide services and information, they also provide safety. They are open until 10:00 p.m. but remain at the site until 11:00 p.m. while they clean up. It is extremely hard work but they wish to continue. The auction system is not a good system, as somebody who has the money may not do a thorough job. Often, tourists comment on the unique character and beauty of Victoria. She would like the City to leave the program as it is.

Ryan Gerhard (2216 Forbes Street): This is his first year as a street vendor and he is glad to have the opportunity to be an entrepreneur. The food vending business is an asset to Victoria and the carts here are unique to Victoria. Many large cities offer a cart program and it creates a nice atmosphere. He does not feel food vendors take business away from local restaurants. In fact, he recommends restaurants when someone inquires for a good place to eat. He, too, is an information center as he provides tourists with maps of the city. Many customers view vending carts as a convenience – especially cyclists or individuals with pets. Also, carts are easily accessible for people in wheelchairs. At present, the carts are designed to look nice and he recommends new carts stay in compliance with existing designs.

Clinton Andrew (411 Kingston Street): He has been an operator in the vending program for 10 years – he runs a family-run business. He employs three students full-time through the summer months. He agrees with Ms. Newman that this business is about hard work and long hours. His vending cart has a lot to offer – fresh squeezed juice. He has been complimented on their product from people all over the world, saying it is the best lemonade they have tried. They are the best place in Victoria for smoothies with fresh juices. Vending carts do provide safety to the community and the operators are good will ambassadors. He is proud to serve the City and the City should be proud of what the vendor operator's offer. In the guidelines, he feels seniority should be a factor in determining locations. He also suggests to re-establish 5 additional locations not currently being used so that there are 12 locations in total. He submitted a brochure designed for Japanese tourists that has a photo of his mum serving juice.

Larry Murrell (930 Yates Street): He operates Victoria Oven Hot Dogs on the corner of Fort and Douglas Streets. He has no problem with the City, nor the program. He feels he has been treated fairly. Business is going well and thinks for the City to say the carts are redundant, especially at this point, is not true. Said businesses in his area are happy with him and competition is healthy amongst businesses. The *Local Government Act* does not stipulate the City cannot grandfather the current system. He quoted from the Act, stating each community has different needs; therefore, each community needs to have their own approach. Said the City should introduce a bylaw that creates fair market value for vending carts. He is not in a position to lose his license, especially without notice, as he has a family and a mortgage. He asked the City to give him time in order to find a new living, should the system change.

Mark Cookson (2705 Cook Street): He has been in the vending cart business for 10 years, operating Mr. Tube Steak. He has nine carts at present in his warehouse. He operates on private property and said the City should allow more space or property for vending carts. On the Causeway, there is room for an additional two carts. The City should be encouraging people to work by allowing more carts to be out there.

Roger Duff (4064 Cedar Hill X Road): He has been operating a vending cart for 6 years, but has been in the service industry for approximately 16 years. Said there should be a widespread usage of City property. In his business, he too acts as a tourist guide. Some customers have commented to him that it is strange there isn't more vending carts in the City, as they do generate good competition. Starting a vending cart business is much more reasonable and affordable than opening your own restaurant – the start up cost is approximately \$10,000.00. He is not in favour of the auction proposal because people with more money will be awarded licenses and just because they have money, does not make them a good vendor. The grandfather system is great as long as vendors do not have a problem with it.

Wendy Haymes (156 View Royal): All carts offer a unique and distinctive experience. Discussed the grandfather system and the *Local Government Act*, with specific reference to the *1934 City Act* and the regulations for the use of sidewalks. Vancouver has approximately 120 licensed food vendor sites and they are renewed to the same operator on a yearly basis. Advised other cities operate in a similar manner. Said there should be a public/private partnership.

Chris LeBlanc (3552 Sun Hills): Thanked the City for sending him information about this meeting. He is a small business owner and thinks there should be an endless number of business opportunities. Vendors offer a great stop for individuals in wheelchairs, people with pets, et cetera. Also, they are convenient for business people who do not have time to wait for lunch. The vending program has provided him a great opportunity and he employs five part-time students through the summer months. They buy their products locally and the success of many vendors carts adopt a similar purchasing system. There is competition, but his products are unique – fresh frozen yoghurt and fresh fruit. Each cart does offer a unique product, which adds diversity and a local flare. The success of a vending cart depends on the operator. He urges the City not to use an auction system as it cannot provide a guarantee for renewal of a license. Stated it is difficult to do their job if they cannot even obtain a license from year to year. There is a lot of hard work in the vending cart business but believes this is one of the more successful programs in the City. Asked City Council to think about the lives that will be affected.

Damian Kruz (819 Walker): He operates Canada Cone and works closely to Mr. LeBlanc. He started in this industry about 15-16 years ago and after the first year, he took a break. The carts were on a rotational basis and had a fixed menu. Now, the program is a wonderful opportunity for the City. The program should not stop as the carts are ambassadors to the City, provide employment, and bring livelihood to the City. For the carts on private land, they have no stipulations. The carts run continuously and he is not aware of any complaints towards the cart industry. Everyday, they remove their carts and put it into storage for the night. Asked Council to please keep this program with some changes, including regulation and increased locations. This program should not be removed.

**Councillor Coleman returned to the Council Chamber at 3:56 p.m.**

4.

## VEHICLES FOR HIRE

### Pedicabs

#### Presentations:

Dan Scoones (Senior Bylaw Officer): Currently there are 24 licenses for pedicabs divided as follows: 15 for Kabuki Kabs; 5 for Pacific Pedicabs; 3 for Victoria Pedicabs; and 1 for Easy Rider). In accordance with City bylaws, pedicabs are not allocated on-street parking. However, changes have been made in order to allow pedicabs to stop/stand/park on portions of yellow line. For this allocation, they must pay a fee. The options before Council are: (1) do not change the current program; (2) limit the number of licenses to 25, each for three years with an auction in the third year; (3) increase the yellow line charges; or (4) increase the number of licenses.

Randal Phipps (637 Cornwall): Kabuki Kabs and Pacific Pedicabs are consolidated under Kabuki Kabs (holding 20 licenses) while Victoria Pedicab Tours and Easy Rider Services are consolidated under Victoria Pedicab Tours (holding 4 licenses). He outlined the Request for Proposal process to obtain a license; however, irrespective of license term of length, the City retains the right of license revocation following due process as outlined in the Business License Bylaws. License holders retain the right to transfer ownership of those licenses and or corporate entities. Once transferred, there would be no extension/reduction in the current license term length. Said the auction process is unreasonable, it would be best if a more suitable compromise was reached. He discussed the fees paid for licenses and yellow-curb parking. The pedicab industry is facing insurmountable challenges caused by the current bylaw requiring pedicab operators to hold and maintain a class 5 Drivers License or out-of-province equivalent. The operators require an immediate change to allow for a minimum Class 7 N or out-of-province equivalent. He also discussed liability insurance costs as well as the cost of warehouse space to store the kabs. The pedicab industry must budget on a contingent basis for these potential threats to their stability while ensuring the continuation of quality controls, vehicle renewals (new units), and continuation of their regular repair and maintenance procedures. We need a fair and open process.

Brent Pollard (1028 Princess Avenue): He is the owner of Pedicab Tours and his biggest concern is the auctioning of licenses. He is in his fourth year of business and in order to recover his start-up costs, he needs to work for about another two years. He is in constant communication with Mr. Phipps even though they are competitors. They work together to maintain standards and their own reputation. It is a pleasure to run a business in Victoria and to serve the tourist industry. He hopes to be able to enjoy continued success.

### Horse Drawn Carriages

**Councillor Fleming excused himself from the Council Chamber at 4:10 p.m.**

#### Presentations:

Dan Scoones (Senior Bylaw Officer): This is the oldest tourism industry in Victoria (100 years). Currently, there are 18 licenses issued with each company holds six. Companies are allocated on-street parking/loading stands and pay the City an annual fee. The three companies rotate ticket seller and stand locations on a daily basis. The *Vehicles for Hire Bylaw* outlines many of the regulations for the horse drawn carriage industry, including fees and parking areas. Some of the issues to be considered include the number of licenses, the specific naming of companies in the Bylaw contradicts the *Local Government Act*, the number of bylaw enforcement issues (roughly 80% involve this industry). The options to consider are to make no changes to the current program, keep the number of licenses at 18 with different rules, or increase the number of licenses.

**Councillor Fleming returned to the Council Chamber at 4:12 p.m.**

Bruce Wright (2308 Victor Street): They have 23 employees. Currently, none of the three horse drawn carriage companies are named to have a specific location – they rotate. He applies for his license annually and the number of horse drawn vehicles has reached its maximum. If there is an auction system, he will be unable to run his business professionally. He has many contracts with foreign tourist companies and that is a direct reflection of his professionalism. It would be impossible for a company to gain recognition if they were only granted a license for three years. Also, it provides no return on their investment. He provided some history into the horse drawn carriage industry and he started working there in 1963 as a summer student. He wants to see this industry around for another 100 years. He thinks the proposal is unfair and the auction process is wrong.

Ted Jeglum (406 – 225 Belleville Street): He loves horses and was happy to buy into the business – it provided him with a sense of fulfillment. All operators understand how hard it is to work in this industry and keep the horses happy. Now, there is a degree of respect amongst the three operators and have established the Victoria Horsedrawn Carriage Association. He wants co-operation within the industry and this association is a means to police themselves. The street capacity is at its limit and he is content with the rotational basis. The 80% of enforcement complaints consisted of petty bickering amongst themselves and the formation of the VHCA will help reduce this number drastically. He is in business with his family and is very proud and feels privileged to be doing what he is. He loves animals and interacting with people.

Christopher Humble (151 St. Andrews Street): He is very pleased with the agreement the three operators just signed (himself included). Two of the three operators recently had a change of operators and hopefully things will settle down amongst them. Between the three companies, they see to approximately 100,000 tourists, 80% of their business being between May and September.

**Councillor Fleming excused himself from the Council Chamber at 4:20 p.m.**

Christopher Humble (con't): Thinks there is no need to change the current program – the three operators support one another completely. By working together, there has been an increase in the amount of tourists using their services. Said the rotational parking system works. Believes item #2 is not very clear and would like it clarified and item #3 is not feasible (from the COTW recommendations).

#### Tour Buses

**Councillor Fleming returned to the Council Chamber at 4:32 p.m.**

**Councillor Holland excused herself from the Council Chamber at 4:32 p.m.**

#### Presentations:

Dan Scoones (Senior Bylaw Officer): There are no limits on the number of licenses currently available. Companies are named in the *Vehicles for Hire Bylaw*, which allocates on-street tour bus zones. Gray Line and Royal Blue Line have designated parking areas and companies do not rotate use of the zones. Ticket sellers are permitted on City streets; however, their activities and locations are regulated by the bylaw.

**Councillor Holland returned to the Council Chamber at 4:36 p.m.**

Steve Powell (853 Selkirk): Currently, two operators have allocated space in the Causeway. Up until the review process, it was impossible for anyone else to obtain parking privileges in the highly traveled areas. In order for a business to survive, it is mandatory they are given the opportunity to operate their company and have a presence in the downtown area. He would like to see fair and equitable use of high-density traffic areas between all tour bus companies. The grandfather system gives exclusive rights to Grayline and Royal Blue Line and as there is not bid process, it is unfair to other operators. In front of the Empress, there are three 40 foot-long spaces for parking (unloading and loading of passengers). This space should be allocated equally and affordable for small businesses.

**Councillor Fortin excused himself from the Council Chamber at 4:41 p.m.**

Gary Gale (543 Sternaway Drive): The Gray Line of Victoria has been in business under various names since 1909. They operate four core lines, including an Inter-City Coach service. During the summer months, they offer many different sightseeing tours. They have been permitted to park in front of the Empress Hotel since 1945. Gray Line employs over 140 people in Victoria during the high season, 50 of which hold full time, year-round employment. The two companies who can park in front of the Empress pay fees to do so. Gray Line remains the largest customer for attractions such as The Butchart Gardens, Butterfly Gardens, Craigdarroch Castle, to name a few.

**Councillor Fortin returned to the Council Chamber at 4:44 p.m.**

Gary Gale (con't): There is also a close relationship with several whale watching companies, kayaking operators, and Horse Drawn Carriage operators. Without the access to parking in front of the Empress Hotel, Gray Line's infrastructure would be jeopardized. They are the only year round service providers in Victoria and are a huge asset to Victoria's tourism industry.

Larry Fletcher (181 West Burnside Road): Classic Car Tours has absolutely no representation in the downtown area. Six years ago, he discussed this matter with Deb Turner in business licensing yet no new sites have been issued. One of the problems is the lack of a bylaw for limousine operations. A quick remedy would be to share the taxi zone on Government Street with limousines, as that area is usually vacant. Victoria is not offering the most executive choice for travel and many things could be improved. Under the *Vehicles for Hire Bylaw*, there should be a separate section outlining rules and regulations for limousines. He just wants the opportunity to conduct his business.

Ernie Hawkins (724 Belton Avenue): Stated it does take time to recover costs after starting a business. Feels a lottery or auction-based system would be impossible. He does not oppose extra space for buses and it could boost the economy and number of tourists visiting Victoria. His company employs 14 people and they offer competitive wages. He referred to the winter of 1996 and the impact the snowstorm had on Victoria. He asked Council to be very careful and would like to be consulted in the future.

## 5. BUSINESS ORGANISATION PRESENTATIONS

#### Presentations:

Lorne Whyte (Tourism Victoria): suggested the following recommendations:

**STREET VENDING:** Tourism Victoria would support a reduction in the number of licences. We need to ensure that those that do have licences offer unique products and are given 3 year contracts to do business.

**HORSEDRAWN CARRIAGES:** We do not recommend an auction process be included in any of these solutions:

**PEDICABS:** Tourism Victoria would support recommendation number 3 without the auction process. Cost of City of Victoria administration and bylaw enforcement should be covered.

**TOUR BUSES:** This is the highest investment area. It is critical to maintain the type of infrastructure that currently exists. Offer long term contracts recognizing the level of investment and infrastructure required to provide non subsidized transportation for sightseeing and sufficient motor coaches to service Victoria not only our leisure sightseeing business but also our meeting, convention and incentive travel business.

**AUCTIONS:** Tourism Victoria does not support auctions. We do recognize the City needs for increased revenue to service the use of public space.

6.

## **PUBLIC PRESENTATIONS**

### Presentations:

Betty Gibbens (933 Convent Place): She wants the City to maintain and preserve public open spaces for amenities that the private sector does not provide. There are only six acres of public open space downtown. They must be preserved and maintained as special places to provide balance. The "Railyards" lands should provide open space for recreational amenities, not sold for residential development. The City should consider providing a park to meet the needs of Victoria's growing population. Markets are common everywhere. Commerce intrudes into every corner of our lives, including our homes, and open space should be free from commerce. She then went on to discuss some of the problems associated with Beacon Hill Park.

7.

## **ADJOURNMENT**

It was moved by Councillor Holland, seconded by Councillor Fleming, that this meeting be adjourned.  
Time: 5:09 p.m.

Carried

CERTIFIED CORRECT:

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ACTING CORPORATE ADMINISTRATOR

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DEPUTY MAYOR OF THE CITY OF VICTORIA