

**REPORT OF THE PUBLIC HEARING HELD ON MONDAY, JANUARY 25, 2016
AT 5:00 PM IN COUNCIL CHAMBERS TO HEAR REPRESENTATION RELATIVE TO
PROPOSED AMENDMENTS TO THE ZONING BYLAW**

PRESENT:

Council: Mayor Ruttan (Chair)
Councillor Alemany
Councillor McLeman
Councillor Minions
Councillor Paulson
Councillor Sauvé
Councillor Washington

City Staff: Tim Pley, A/City Manager
Davina Hartwell, City Clerk
Scott Smith, City Planner

Members of the Public: approx. 38

The Chair explained the Public Hearing procedures for the meeting.

1. Description of the Application

The City Clerk provided a summary of the application:

The applicant, the City of Port Alberni, is applying to amend the Zoning Bylaw to include municipal regulations for the operation of a Medical Marijuana Dispensary within the City of Port Alberni.

The proposed bylaw is:

"Zoning Text Amendment No. T7 (Marijuana Dispensary Regulations), Bylaw No. 4893".

2. Background Information from the City Planner

The City Planner provided background information regarding the proposed amendments by way of summarizing his report of January 19, 2016, attached hereto and forming part of this report.

3. Correspondence

The following correspondence is attached hereto and forms part of this report:

Elaine McLeod

E-mail dated January 16, 2016 opposing medical marijuana dispensaries in our community due to a serious allergy to grass, including marijuana.

4. Input from the Public

Aaron Brevick, 5119 Athol, recommended review of the Medical Marijuana Access Regulations (MMAR) regarding safety. He stated he is not a fan of open glass-front doorways as people are entitled to privacy, there is a stigma attached to marijuana and people should not be forced to discuss their issues in a public setting. With regards to distance requirements, he suggested they should be further from schools than another dispensary.

Neil Anderson, 8th Avenue asked whether Council has the legal right to make regulations. He suggested Elaine McLeod made good points in her letter and feels Port Alberni is jumping the gun. He stated he has reviewed the definitions in the Bylaw amendment and there is no compliance for edibles.

Michael Stewart, North Cresc., indicated he has lived here for one year and was the first customer at Wee Medical. He stated he was delighted to have this service.

Freddy Hutter, 2182 Mozart, suggested Council's actions are premature. He said he had seen nothing on a fee structure to which the City Planner responded that the Business Licence fee will be \$220 and that fines will be \$100/150 depending on the issue with the ability to issue tickets daily.

Fred Mann, 4034 Rex Rd, questioned whether what we are doing here is legal and suggesting Council is putting the cart ahead of the horse. He stated his biggest issue is with the process – first the law should be changed, then adapt the processes. He commented on the RCMP failing to uphold the laws of the land and asked whether dispensaries are open now without a licence to which the Mayor responded that is correct.

Chuck Beyer, 3226 5th Ave. commented on the opportunity cost of not licencing suggesting the demand will be met from residential homes around the area. He stated that people can go into dispensaries and will not be offered crack, heroin or meth – they only sell pot. He commented that the RCMP knows charges will never see a court room, there has to be regulations and that local governments need to lead the way.

Gillian Shearwater, 4773 Angus St, commented on air pollution stating her house is situated immediately between two drug houses – the yard stinks and the odor penetrates. She stated the rights of everyone should be considered. She commented that if dispensaries are providing marijuana for medical use, then how many people in Port Alberni are being prescribed.

Matthew O'Donnell, 140 Terminal Ave, Nanaimo thanked Council for being open to regulations. He suggested bylaws address safety concerns and provide a safe service to the community. He encouraged Council to take a look at ECig

regulations and commented that his store windows (in Nanaimo) are frosted glass. He said it goes without saying that dispensaries should be kept away from schools but questioned the 1000m between dispensaries to let the free market decide.

Bruce _____, 4816 Bruce St, said he is turned off by the attitude displayed by those favouring legalization of pot. He is opposed to legalization stating we continue to see the lives of pre-teens and young people trashed.

Joan Race, 4922 2nd Ave. stated she has lived in the area for 11 years and sees the hookers, crackheads, drunks and dealers 24/7. She supports improvements in the uptown area towards a safer environment for families/seniors. She said she is not opposed to medical marijuana but hoped it would be in a controlled facility. She said permanent residents in the area need to be respected.

Leo Green, 744 Nicol, Nanaimo said people want privacy and to talk about their problems – they should be able to go into a store and do what they want and not be publically embarrassed.

Michael Kline, 3525 Gagne Rd, commented that he works on the street every day with at-risk youth, people in crisis, addictions – he has no problem with dispensaries and understands the need. He questioned where Council wants to go as a City noting we already have the highest number of liquor stores per capita. He suggested this is moving very quickly – do we need 5, 7, 9 dispensaries and commented on the intense amount of stores in a small area.

Jenny Michalenko, 3703 Maitland said she is a dealer. She has to go out and find the stuff for her husband and has to talk to young people to get it not knowing what you're getting. She said Wee Medical has been a lifesaver – there are people there she trusts and feels safer buying it in a storefront. She stated she is happy Council is doing this noting the difference between medical use and recreational use.

Neil Anderson, 8th Ave asked where dispensaries buy product. He also commented on the air quality issue.

The City Planner responded stating the City will not have knowledge about where dispensaries get their product.

Aaron Brevick said their product was produced as legally as possible and that dispensaries want to work with the community.

Richard Kudra, 3589 11th Ave. distributed a brochure entitled 'Defending Your Right to Cannabis and its Medicinal Use' (attached hereto and forming part of the record).

Aaron Brevick said that the signage/age requirements are a great idea but they could make age restrictions even higher – 25 for example.

Carol Neilson, 2962 Anderson suggested the City was jumping the gun. What if it is not legalized – how's the City going to look if we have 8 or 10 or 12 dispensaries.

Jim del Rio, 2527 15th Ave. said he is on the fence on the issue suggesting it is tough to put this decision on Council. He suggested the issue is worth putting to a vote and let the people decide.

5. Late Correspondence Regarding the Bylaw:

Late correspondence items opposing the proposed zoning amendment were received as follows and are attached hereto and form part of the record:

- Social media message from Stacey Manson requesting Council advocate for the termination of the unregulated medicinal marijuana storefronts.
- Tousaw Law Corporation letter dated January 23, 2016 acting for West Coast Hemp Inc. regarding the 1000m restriction between dispensaries and setting out their reasons as to why West Coast Hemp should be given priority over other applicants when considering business licence applications.

6. Questions from Council:

In response to a question from Council, the City Planner confirmed that the 1000m distance between dispensaries referenced in the Bylaw will restrict the issuance of business licences.

With regards to enforcement options in regards to dispensaries who choose not to close, the City Planner advised they would firstly be contacted in writing, a ticket issued, then ticketed on a daily basis, then the City could apply to the Courts for an injunction.

In response to a question from Council, the City Planner stated unpaid fines can not be added to taxes – they would be forwarded to a collection agency.

7. Calling for any Further Input:

The Chair asked for any further input from the public.

Freddy Hutter suggested Council was wandering into civil disobedience as a Council and the City would be a co-defendant in any action.

Gillian Shearwater stated she fails to see how medical marijuana is any different from something like Tylenol.

Neil Anderson asked the City Planner to re-state where dispensaries can buy product. The City Planner responded that Health Canada licencees are prohibited from selling in storefront locations.

The Chair called a second time for input.

Chuck Beyer noted the distinction between medical and recreational marijuana use suggesting everyone has some stress or pain and typically would take something like aspirin.

Leo Green expressed concern about open storefronts stating there is a need to address privacy concerns, including those of people walking by.

The Chair asked for input for a third and final time.

Joan Race questioned whether there is enough information in place to make these decisions at this time. Asked what Port Alberni is really all about.

Jay Ford stated liquor stores can't be put in the same category as dispensaries. They are trying to create jobs and new industry.

8. Closing Remarks by the Chair:

The Chair made closing remarks on the matters of the public hearing.

It was moved and seconded:

That the Public Hearing terminate at 6:15 pm.

CARRIED

Pursuant to Sections 464, 465 and 466 of the *Local Government Act*, I hereby certify the foregoing to be a fair and accurate summary of the representations made at the Public Hearing held January 25, 2016 regarding:

- "Zoning Text Amendment No. T7 (Marijuana Dispensary Regulations), Bylaw No. 4893"

Davina Hartwell
City Clerk



CITY OF PORT ALBERNI

PLANNING DEPARTMENT PUBLIC HEARING REPORT

TO: Tim Pley, Acting City Manager
FROM: Scott Smith, City Planner
DATE: January 19, 2016

SUBJECT: Zoning Amendments for Medical Marijuana Dispensaries

Issues

To consider an application for amendments to the Zoning Bylaw for medical marijuana dispensaries.

Background

Under the current federal laws, it is illegal to sell marijuana as a storefront operation. Notwithstanding this, the City of Vancouver has chosen to regulate medical marijuana dispensaries and the City of Victoria is considering similar regulations. City Council directed that amendments be prepared for Council's consideration to regulate medical marijuana dispensaries in the City of Port Alberni.

Discussion

Although the public hearing technically only covers the Zoning Bylaw amendments, the proposed changes to the business licence bylaw are also included in this report as they relate to medical marijuana dispensaries.

The following is a summary of the regulations that are being considered through the proposed amendment to the Zoning Bylaw and Business Licence Bylaw.

Zoning Bylaw regulations

1. Add a definition of Medical Marijuana Dispensary to the Definition section.
2. Add Medical Marijuana Dispensary as a permitted use in the following commercial zones, subject to provisions in the General Regulations section:
 - C2 – General Commercial;
 - C3 – Service Commercial;
 - C4 – Highway Commercial and
 - C7 – Core Business

3. Add the following to the General Regulations of the Zoning Bylaw:
 - a) A Medical Marijuana Dispensary is not permitted within 300 metres of the nearest property line of a site containing a school.
 - b) A Medical Marijuana Dispensary is not permitted within 1000 metres of the nearest property line of a site containing another Medical Marijuana Dispensary.
 - c) A Medical Marijuana Dispensary is not permitted in conjunction with any other use.
 - d) A Medical Marijuana Dispensary is not permitted in conjunction with an Automated Teller Machine (ATM) use.

Business Licence Bylaw

1. Add a definition of Medical Marijuana Dispensary to the Interpretation section of the Business Licence Bylaw.
2. Add a new section to the business licence bylaw related to Medical Marijuana Dispensaries as follows:
 - a) Requirement for a business licence from the City of Port Alberni.
 - b) Requirement to sign an acknowledgement that a City of Port Alberni business licence only represents local government compliance and is not a representation that the dispensary complies with other laws, including provincial and federal laws.
 - c) A Medical Marijuana Dispensary shall be conducted within a completely enclosed building.
 - d) No minors (i.e. under 19 years) may enter a Medical Marijuana Dispensary and signage to this effect is required to be posted.
 - e) Must have a monitored security and fire alarm system, including video surveillance.
 - f) Limit hours of operation between 8:00 am and 8:00 pm.
 - g) Shop fronts must be transparent.
 - h) No smoking or consumption of marijuana in the business or within 3 metres of doors.
 - i) Requirement for product warning signage. An example of the sign is attached.
3. Add business licence fee of \$220.00 for Medical Marijuana businesses.
4. Add some additional fines related to Medical Marijuana Dispensary regulations.

Status of the Application

At the December 17, 2015 meeting of the Advisory Planning Commission the following motions were carried:

1. That the Advisory Planning Commission recommends that Council consider the regulations proposed by the City Planner in his report dated December 9, 2015 to be reasonable and appropriate for the operation of a legal Medical Marijuana Dispensary and: that the Commission would preface their concurrence with the proposed regulations by indicating that they do not feel comfortable endorsing or supporting the illegal operation of a Medical Marijuana Dispensary.
2. That the Advisory Planning Commission recommends that Council consider including a requirement, in the Business Licence Bylaw, that non-profit societies operating a business within the City of Port Alberni, be required to obtain a City of Port Alberni business licence.

At its January 11, 2016 regular meeting, City Council received the APC recommendations and gave 1st and 2nd reading to Zoning Text Amendment T7 (Marijuana Dispensary Regulations), Bylaw No. 4893.

Conclusions

In considering the Zoning amendments, City Council should consider whether the proposed amendments are appropriate for the community.

Respectfully submitted,



Scott Smith, MCIP
City Planner

ATTENTION

To all of our customers:

Please be advised that all Marijuana products sold or provided on this premises are not provided by a Licensed Producer and are not approved by Health Canada. These products are currently unregulated.

From: [Elaine & James](#)
To: [Scott Smith](#)
Subject: Proposed Regulations for Marijuana Public Hearing
Date: Saturday, January 16, 2016 10:17:20 PM

Dear Honorable Council Members,

I write to you today in regards to the upcoming hearing on medical marijuana dispensaries in our city. I wanted to attend this meeting but cannot due to a grass allergy. Unfortunately this allergy includes marijuana and as my allergist Dr. Kingsley Lee stated, "A grass is a grass is a grass, they all have similar components." The possibility of people who smoke or carry marijuana will be high at the hearing so I cannot attend due to the health risk.

I want you to know how this allergy has affected my life since the dispensaries have been opened. For the past 7 & 1/2 years I have worked in a job with marginalized people which occasionally exposed me to marijuana. I have been able to control the exposures with medication, air purifiers and public notifications; however, since the dispensaries have opened, I am exposed to marijuana in my workplace repeatedly on a daily basis, all day, every day. The increase in marijuana use is staggering and sadly I am limited to the amount of medication I can take. We have worked diligently to keep this out of my workplace but when people are high; they either don't care or are oblivious to what's around them. I have now had to order a allergy mask costing over \$100 just to be able to breathe at work. Somehow people think that their right to get high trumps someone's right to breathe and because marijuana is still illegal, WorkSafe has no policies or provisions for this. You can't take a flower into a hospital yet you can go wherever you want reeking of marijuana.

I fear I will no longer be to continue my career which I have worked so hard to build due to a substance that is being allowed to be sold in our community while it is still illegal. I fear I will go to work, have a bronchial spasm and be hospitalized or worse just because someone wants to get high. Furthermore, I cannot shop at any of the businesses near the dispensaries as the smell and pollen are carried out the door with the patrons. I used to shop at Flandangles but can't now. It not only affects me, it affects every business beside these dispensaries as people can't or won't shop there.

I'm not talking about medical marijuana, because that has always been and is properly regulated. I'm talking about the dispensaries where you can just has to go in sign a paper saying you have a disease and boom you're a purchasing member. You can even sign up online for WeeMedical membership. The Port Alberni Cannabis Club is not even a registered nonprofit and is run by a man with a criminal record. My medicine to counteract my reaction has to be prescribed by a doctor and I have to go to a pharmacy as true medicine is regulated and I know my pharmacist has had strict training and does not have a criminal record.

What you are doing is allowing people to conduct illegal activities under the guise of helping the ill. Marijuana is still illegal and our city should not condone illegal activities. I'm sure if I opened a business without a business license and sold illegal items besides marijuana, the city would not be considering anything. The police would have it shut down in an instant. So before you decide to put guidelines in place allowing such businesses, please think of the business owners around these facilities and how it can affect their business. They are long standing, taxpaying, licensed and legal businesses, following all the regulations and laws set before them, unlike the dispensaries. Also please consider their patrons who can or will no longer shop there due to the dispensaries. Lastly please consider us, the ones that are allergic, who could stop breathing because you have made a choice to allow an illegal substance to be sold in our city and carried anywhere in our community.

Sincerely,

E. McLeod

Elaine McLeod

You have a right to reasonable access to medical cannabis

Since the days of the R v. Parker decision in 2000, courts of all jurisdictions in Canada have recognized that you have a right to use cannabis medicinally with the approval of your doctor. In 2015 the Supreme Court of Canada, in a landmark decision known as R v. Smith, ruled that medically approved patients have the right use cannabis in all its forms. However, the government has repeatedly failed at providing a reasonable framework for this to happen.

The Cannabis Rights Coalition is your defense against unlawful government interference

All levels of government in Canada continue to take actions that put patients, communities, and caregivers at serious risk to their health and well-being. The Cannabis Rights Coalition was formed by patients in order to protect their right of access to their doctor-recommended medicine. To that end the Coalition engages in litigation against various levels of government and bureaucracy to protect the rights of its members.

The Cannabis Rights Coalition represents your interests in the public sphere

As the nation's largest cannabis patient advocacy group the Cannabis Rights Coalition fights to preserve access to this medicinal plant. We educate the public on the medicinal value of cannabis and seek not only an end to prohibition, but the formation of a free and fair market in cannabis that respects the rights and needs of patient and caregiver alike.

JOIN US TODAY!
cannabisrightscoalition.ca



STAND UP AND FIGHT WITH US!

Free membership!

By becoming a member of the Cannabis Rights Coalition you will join a community of thousands nationwide that are organizing for the defense of their rights. We are a federally-registered non-profit organization. Our members are regularly informed of legislative, legal, and other developments and invited to numerous events across the country put on by our amazing volunteers.

Donate today!

202-1252 Burrard St, Vancouver, BC, V6Z 1Z1

info@cannabisrightscoalition.ca

cannabisrightscoalition.ca



**DEFENDING YOUR RIGHT
TO CANNABIS AND ITS
MEDICINAL USE**

2012

NOVEMBER

Coalition founder Jason Wilcox begins organizing to fight the MMPR, which would strip patients of their right to grow their own medicine.

2013

NOVEMBER

Health Canada breaches patient confidentiality by sending out letters publicly identifying them as medical marijuana patient growers, ordering them to destroy their gardens. The Coalition begins organizing to prosecute this betrayal of trust. Jason Wilcox, along with 41,000 patients represented by Branch MacMaster LLP file suit in federal court in a mass privacy lawsuit.

2014

MARCH

The Coalition successfully challenges the constitutionality of the MMPR and obtains a \$70,000 federal injunction prohibiting the government from criminalizing and destroying existing medical gardens.

AUGUST

The Coalition spearheaded the assistance for Baby MJ to secure a BC Supreme Court injunction that in effect has extended Baby MJ's life. The Coalition continues to advocate on all levels of cannabis rights.

JULY

The Coalition obtains certification of the privacy class-action lawsuit against Health Canada and the case can now proceed.

MARCH

The Coalition represents patients everywhere in an appeal hearing on the constitutional validity of the MMPR.

2015

DECEMBER

The Coalition successfully defends its injunction against the Federal Government, preventing an all-out assault on patient growers.

NOVEMBER

The Government of Canada appeals the decision and continues to threaten patients with the loss of their gardens. The Coalition also files a motion to certify a class-action lawsuit against Health Canada for their breach of privacy.

NOW

The City of Vancouver has introduced new by-laws that will decimate the number of cannabis dispensaries in the region. The by-laws include a blanket ban on edible products and extracts to the extent that only "tinctures, capsules or edible oils, in sealed containers" may be sold. There are also onerous regulations on how these businesses may operate. It also creates a compassion club licensing monopoly through the co-opting of CAMCD rather than the City setting out the definition of a compassion club. These rules are unconstitutional and represent a gross overreach of municipal powers, as well as threaten the ability of patients to access cannabis in the form and manner that they prefer.

What We Stand For



- ✓ A free and fair market in cannabis
- ✓ Responsible policy based on science, not propaganda
- ✓ Preserving home gardens and plant genetics
- ✓ A strong voice for patients and providers
- ✓ Collective action and advocacy at Municipal, Provincial and Federal levels
- ✓ A flourishing community of businesses supporting cannabis as a preventative medicine

LATE ITEM
PUBLIC HEARING
JAN 25, 2016
5:00 PM

Davina Hartwell

Subject: davina_hartwell wants to share this story

Stacey Manson: Dear Mayor and Council, Please advocate for the termination of the unregulated medicinal marijuana storefronts. As we move forward to re-invent Port Alberni, our community needs to be seen as welcoming for families. Please consider the image of our great community and work to eliminate the marijuana stores.

<http://www.facebook.com/messages/?action=read&tid=mid.1453690674547:547aa666ac422abd77>

Click below to easily share or schedule to Twitter, Facebook and LinkedIn:

<http://ow.ly/XvrQd>

LATE ITEM
PUBLIC HEARING
JAN 25, 2016
5:00 PM



TOUSAW LAW CORPORATION

January 23, 2016

To Whom It May Concern:

RE: West Coast Hemp, Inc.

I act, for purposes of this letter, for West Coast Hemp, Inc. As I understand it, Port Alberni is considering implementing a bylaw to regulate the operation of medical cannabis dispensaries. One aspect of that bylaw will be a location restriction that provides that no dispensary may operate within 1000 meters of another dispensary. In addition, I understand that licences will be granted on a "first-come, first-served" basis.

This letter sets out for Council's consideration the factors that I believe compel the conclusion that West Coast Hemp should be considered to have priority over other applicants despite not having engaged in the unlicensed sale of medical cannabis previously. Those factors are:

- West Coast Hemp has operated pursuant to a business licence issued by Port Alberni since 2010. It has never contravened the terms of its business licence and has, at all time, sought to be a responsible a positive contributor to the local community and economy. It is operated by life-long Port Alberni residents with a demonstrated track record of compliance with all applicable regulations.
- West Coast Hemp has, almost since its inception, been in dialogue with Port Alberni officials about the possibility of also operating a medical cannabis dispensary, either at a different location or at the West Coast Hemp location. My client reasonably relied on the statements of these officials to the effect that (a) dispensaries were unlawful and could not even apply for business licensing; and (b) that if West Coast Hemp sold medical cannabis pursuant to its existing business licence that licence would be revoked.
- When a medical dispensary began operating in Port Alberni recently, my clients again had discussions with Port Alberni to the effect that that dispensary was unlicensed, had not applied for a licence to operate and that any such application would be futile because Port Alberni was not accepting such licence applications. My client reasonably relied on those representations in deciding not to either apply for licensing as a dispensary nor to commence sales of medical cannabis at its existing location.

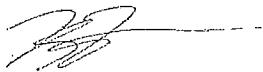
- Another dispensary then opened and my clients again contacted Port Alberni and were advised that applications for licences were not being accepted and that Port Alberni would not advise my clients to being operating as a dispensary.
- After several more calls, my clients were finally advised that Port Alberni had accepted four (4) applications for licensing. This was obviously quite distressing as, to this point, my clients had relied on prior statements from Port Alberni officials that no licensing applications would be accepted. Their dismay grew when they were advised that the new bylaw would be interpreted in such a way that the unlicensed and unlawful dispensaries that opened for business prior to the bylaw being enacted would have preference over West Coast Hemp because West Coast Hemp had acted precisely as they had been advised to act by Port Alberni officials.

Based on the foregoing, West Coast Hemp is entitled to first priority in any de-clustering or application process. It has operated in Port Alberni longer, by years, than any other applicant. It sought advice from Port Alberni officials on this exact issue and relied on the advice that it was provided to its detriment. If it is not now permitted to operate pursuant to licensing that it has been seeking for five years, it will sustain significant damages as a result of its reasonable reliance on the statements of Port Alberni officials. This is unfair and, perhaps, actionable.

My client has had a positive relationship with Port Alberni for years. Its principals are life-long residents. It has conducted itself professionally and transparently and has, at all times, relied on Port Alberni officials for guidance and direction. It has taken that advice, rather than simply ignoring it and opening an unlicensed dispensary. It should not now be punished for its good faith.

Thank you for your consideration of the facts set out in this correspondence. I trust that these factors will be considered by Council in its deliberations and that my client can expect fair treatment from Port Alberni in its medical cannabis dispensary licensing process.

Thank you.



Kirk Tousaw
Tousaw Law Corporation