

## **DRAFT FONVCA AGENDA**

**Wednesday February 17<sup>th</sup> 2016**

**Place:** DNV Hall 355 W. Queens Rd V7N 2K6

**Time:** 7:00-9:00pm

**Chair:** John Miller – LCRA – [jlmam@shaw.ca](mailto:jlmam@shaw.ca)

Tel: 604-985-8494

### **1. Order/content of Agenda**

a. Chair Pro-Tem Suggests:

### **2. Adoption of Minutes of Jan 20<sup>th</sup>**

\*a. <http://www.fonvca.org/agendas/jan2016/minutes-jan2016.pdf>

Please see agenda item 7(a) re: motion to council in 3. above

Note: (\*) items include distributed support material

- corrections to Roundtable discussions - cjk

b. Business arising from Minutes.

### **3. Roundtable on “Current Affairs”**

A period of roughly 30 minutes for association members to exchange information of common concerns.

#### **a. EUCCA**

- Capilano Library room “rental” costs : \$44 → \$119

\* - Update on Cap. Water Main & developments in area

**b. Delbrook CA** - Publish the “Delbrook Lands” SFU

Centre for Dialogue summary Ideas Report on February 22

**c. Blueridge CA**

**d. Others**

### **4. Old Business**

a) Update: OCPIC by Corrie Kost

**b) NVCAN update on Community Workshops**

### **5. Correspondence Issues**

\*a) Review of correspondence for this period

Distributed as non-posted addenda to the full package.

### **6. New Business**

a) Public Input & Local Democracy

[http://www.municipalaffairs.alberta.ca/documents/mdrs/ama\\_public\\_input\\_toolkit\\_Sept2014.pdf](http://www.municipalaffairs.alberta.ca/documents/mdrs/ama_public_input_toolkit_Sept2014.pdf)

\* <http://www.seattletimes.com/seattle-news/public-comments-how-much-talk-is-too-much/>

[https://www.fcm.ca/Documents/tools/International/Local\\_Government\\_Participatory\\_Practices\\_Manual\\_EN.pdf](https://www.fcm.ca/Documents/tools/International/Local_Government_Participatory_Practices_Manual_EN.pdf)

\* <http://www.firstamendmentcenter.org/speaking-at-public-meetings>

\* <http://www.nsnews.com/news/city-of-north-vancouver-s-cap-on-public-input-questioned-1.2156723>

## **7. Any Other Business**

**a) Insurance for Community Associations**

\* [http://www.richmond.ca/\\_shared/assets/gp15202.pdf](http://www.richmond.ca/_shared/assets/gp15202.pdf)

<http://www.jltcanada.com/our-specialties/public-sector/not-for-profit-local-community-insurance-services/>

\* <http://www.saanich.ca/parkrec/recreation/pdf/Form-SaanichInsuranceRequirements.pdf>

\* <http://www.prrd.bc.ca/board/agendas/2009/2009-19-4646885120/pages/documents/14-b-CA-2MIATidbits.pdf>

**b) Mountain Highway Interchange Project**

[http://www2.gov.bc.ca/assets/gov/driving-and-transportation/transportation-infrastructure/projects/hwy1atmountainhwy/displayboards\\_january\\_19\\_2016.pdf](http://www2.gov.bc.ca/assets/gov/driving-and-transportation/transportation-infrastructure/projects/hwy1atmountainhwy/displayboards_january_19_2016.pdf)

**c) \* Corporate Policy on Developer’s Public Art**

**d) \* How bad is the DNV Website?**

## **8. For Your Information Items (a) Mostly NON-LEGAL Issues**

i) News-Clips for the month of Feb 2016

<http://www.fonvca.org/agendas/feb2016/news-clips/>

Summary of titles:

\* <http://www.fonvca.org/agendas/feb2016/news-clips/summary.doc>

Some annotated newspaper clips may be worth a read!

ii) Open Town Hall

<https://www.peakdemocracy.com/>

iii) No Parking Here – The end to Parking?

<http://www.motherjones.com/environment/2016/01/future-parking-self-driving-cars>

iv) Land use regulation impact on affordable housing

<http://urbanpolicy.berkeley.edu/pdf/QR2005.pdf>

\* <https://pedestrianobservations.wordpress.com/2014/08/17/zoning-and-market-pricing-of-housing/>

\* <http://www.economist.com/node/21647614/print>

v) G3 Grain Terminal Impacts on North Shore

<http://www.portmetrovancover.com/wp-content/uploads/2015/11/January-5-2016-Discussion-Guide-G3.pdf>

## **(b) Mostly LEGAL Issues**

i) Registering as a non-profit charity not so onerous

ii) DNV Land Opportunity Reserve Fund Policy

<http://app.dnv.org/OpenDocument/Default.aspx?docNum=2611258>

details what must happen to land sale monies.

iii) Release of Councillour’s Private Emails

\* <http://www.airberlis.com/Templates/Newsletters/newsletterFiles/12324/Municipal%20and%20Land%20Use%20Planning%20Bulletin%20-%20Feb.%204.%202016.pdf>

iv) Closed meeting reasoning falls short

<http://www.terracestandard.com/opinion/364749591.html>

## **9. Chair & Date of next meeting**

**7pm Wed Mar 16<sup>th</sup> 2016**

## FONVCA Received Correspondence/Subject

18 January 2016 → 14 February 2016

LINKED or NO-POST	SUBJECT

**Past Chair Pro/Tem of FONVCA (Jan 2010→present)**

<b>Feb 2016</b>	<b>John Miller</b>	Lower Capilano Community Residents Assoc.
Jan 2016	Cathy Adams	Lions Gate
Nov 2015	Margaret Fraser	Lynn Valley C.A.
Oct 2015	Diana Belhouse	Delbrook C.A. & S.O.S.
Sep 2015	Val Moller	Assoc. of Woodcroft Councils
Jun 2015	Eric Andersen	Blueridge C.A.
May 2015	Val Moller	Woodcroft rep.
Apr 2015	Adrian Chaster	Edgemont & Upper Capilano C.A.
Mar 2015	John Miller	Lower Capilano Community Residents Assoc.
Feb 2015	Eric Andersen	Blueridge C.A.
Jan 2015	Diana Belhouse	Delbrook CA & S.O.S.
Nov 2014	Val Moller	Woodcroft rep.
Oct 2014	Brian Albinson	Edgemont & Upper Capilano C.A.
Sep 2014	John Miller	Lower Capilano Community Residents Assoc.
Jun 2014	Diana Belhouse	Delbrook CA & S.O.S
May 2014	Eric Andersen	Blueridge C.A.
Apr 2014	Val Moller	Woodcroft rep.
Mar 2014	Peter Thompson	Edgemont & Upper Capilano C.A.
Feb 2014	John Miller	Lower Capilano Community Residents Assoc.
Jan 2014	Dan Ellis	Lynn Valley C.A.
Nov 2013	Diana Belhouse	Delbrook CA & S.O.S
Oct 2013	Val Moller	Woodcroft rep.
Sep 2013	Eric Andersen	Blueridge C.A.
Jun 2013	Peter Thompson	Edgemont & Upper Capilano C.A.
May 2013	John Miller	Lower Capilano Community Residents Assoc.
Apr 2013	Paul Tubb	Pemberton Heights C.A.
Mar 2013	Dan Ellis	Lynn Valley C.A.
Feb 2013	Diana Belhouse	Delbrook C.A. & SOS
Jan 2013	Val Moller	Woodcroft & LGCA
Nov 2012	Eric Andersen	Blueridge C.A.
Oct 2012	Peter Thompson	Edgemont & Upper Capilano C.A.
Sep 2012	John Hunter	Seymour C.A.
Jun 2012	Paul Tubb	Pemberton Heights C.A.
May 2012	Diana Belhouse	Delbrook C.A. & SOS
Apr 2012	Val Moller	Lions gate C.A.
Mar 2012	Eric Andersen	Blueridge C.A.
Feb 2012	Dan Ellis	Lynn Valley C.A.
Jan 2012	Brian Platts	Edgemont & Upper Capilano C.A.
Nov 2011	Paul Tubb	Pemberton Heights
Oct 2011	Diana Belhouse	Delbrook C.A. & SOS
Sep 2011	John Hunter	Seymour C.A.
Jul 2011	Cathy Adams	Lions Gate C.A.
Jun 2011	Eric Andersen	Blueridge C.A.
May 2011	Dan Ellis	Lynn Valley C.A.
Apr 2011	Brian Platts	Edgemont & Upper Capilano C.A.
Mar 2011	Val Moller	Lions Gate C.A.
Feb 2011	Paul Tubb	Pemberton Heights ← Special focus on 2011-2015 Financial Plan
Jan 2011	Diana Belhouse	S.O.S.
Dec 2010	John Hunter	Seymour C.A. ← Meeting with DNV Staff on Draft#1 OCP
Nov 2010	Cathy Adams	Lions Gate C.A.
Oct 2010	Eric Andersen	Blueridge C.A.
Sep 2010	K'nud Hille	Norgate Park C.A.
Jun 2010	Dan Ellis	Lynn Valley C.A.
May 2010	Val Moller	Lions Gate C.A.
Apr 2010	Paul Tubb	Pemberton Heights
Mar 2010	Brian Platts	Edgemont C.A.
Feb 2010	Special	
Jan 2010	Dianna Belhouse	S.O.S

**Notetaker**

<b>Margaret Fraser</b>
Margaret Fraser
Arlene King
Arlene King
John Miller
John Miller
Cathy Adams
John Miller
Diana Belhouse
John Miller
Arlene King (Norgate)
Eric Andersen
John Miller
Diana Belhouse
Eric Andersen
Dan Ellis
John Miller
John Gilmour
Diana Belhouse
John Miller
Eric Andersen
Sharlene Hertz
John Gilmour
Cathy Adams
Dan Ellis
Sharlene Hertz
Sharlene Hertz
John Miller
Sharlene Hertz
Cathy Adams
Sharlene Hertz
Kim Belcher
Diana Belhouse
John Miller
Dan Ellis
John Hunter
John Miller
Cathy Adams
Eric Andersen
Paul Tubb
Dan Ellis
John Hunter
Cathy Adams
Brian Platts/Corrie Kost
Diana Belhouse
Eric Andersen
Brenda Barrick
None
John Hunter
Paul Tubb
Eric Andersen
Cathy Adams
Cathy Adams
Dan Ellis
Diana Belhouse
K'nud Hille

## **FONVCA**

### **DRAFT Minutes of Regular Meeting Wed. January 20<sup>th</sup> 2016**

**Place:** District hall – 355 West Queens Road, North Vancouver

**Time:** 7:00 – 9:00pm

Attendees:

Diana Bellhouse	Delbrook CA/Save our Shores
Val Moller	Association of Woodcroft Councils
Margaret Fraser (notetaker)	Lynn Valley CA
Eric Anderson	Blueride A
Cathy Adams (Chair pro-tem)	Lions Gate CA
Corrie Kost	Edgemont and Upper Capilano CA
Jane Chersak	Evergreen Park CA
John Miller	Lower Capilano Community Residents' Assoc.

### **1. Order/content of Agenda**

Additions to the agenda:

As 7e) Corrie – pre-federal budget – Jonathan Wilkinson presentation/workshop

As 7f) Eric – Community Building Fund

### **2. Adoption of Minutes of November 18<sup>th</sup> 2015**

<http://www.fonvca.org/agendas/jan2016/minutes-nov2015.pdf>

Moved/approved – Diana –CARRIED

Jane Chersak asked for a few moments to thank everyone for their support at Council meeting on Monday evening. Evergreen is reaching out to the Argyle parents to work together on solutions.

#### **Business Arising:**

- a) Request for expenses for FONVCA to be submitted this month.
- b) Our intended speaker for February has decided that she will not attend and it appears that she is removing herself from the issue. To see information, this is the link to her website: <http://twowheeledlocusts.blogspot.ca>
- c) Amend under “round table” Lions Gate is two words) and should read ...projects on the Capilano River near Woodcroft.

### 3. Roundtable on “Current Affairs”

#### EUCCA:

Note: Corrie to request some amendments to minutes

- a. concerns raised re: senior living project – size, amount of construction traffic
- b. proposal for new townhomes at corner of Ridgeway and Edgemont goes to public hearing Feb 9<sup>th</sup> – hope that goes on hold for two years!
- c. No supermarket in Edgemont Village as of March 2016
- d. Detour of traffic through Ridgeway concern to residents
- d. DNV asked developers not to interfere with current Capilano Rd watermain work, although that is not under District control

Discussion on loss of long-standing stores in Edgemont Village. Guarantee of 140 “public” parking spots under new supermarket.

EUCCA AGM will be on February 24<sup>th</sup> at the library at 7p.m.

Delbrook: January 28<sup>th</sup> – meeting to be held regarding sale of public assembly lands at Delbrook Community Centre/Rec centre site. Concern over limit to numbers able to attend at Lucas Centre (250); registration will include a wait list. SFU Consultant Jenna Dunsby has control over registration and it is alleged that information may be kept regarding who is for and who is against. Not comfortable with that scenario.

Blueridge: meet and greet – new residents are invited to meet agencies and organizations – about 65 people in attendance; new CA business card with contact information for anyone in the community; sub-committee involved with Syrian refugees through local church; 2nd annual Wine tasting event – asking people to walk there!

NOTE: option for business cards – VISTA Print – a good buy.

Woodcroft: concern over proposed 99 units on the river – traffic flow will be a nightmare! Opposition to density and height. Third time Woodcroft Council not advised of potential development.

NOTE: DNV is combining amendments to OCP/rezoning and public hearings. This is alleged to be a conflict since a public hearing does not provide for any opportunity to question and receive explanation about the amendment. It does appear that legally they are required to conduct OCP amendments separately. See page 19 of handout “An introduction to British Columbia Local Government Law” regarding required process when development requires an OCP amendment.

Lions Gate: Jan 21<sup>st</sup> drop-in at Grouse Inn re: Belle Isle Park reconfiguration/increase in size (miniscule) which entails merging of lots and roadways. Not enough park space for the increasing population.

LVCA: Issue of insurance – at the last minute, DNV denied LVCA coverage for Christmas Tree event – cost LVCA \$2700.00

**Lower Capilano CRA:** of note, Pemberton is registering as a Society as they have been asked by DNV to run a District amenity.

**General:** Issue of insurance for events as a whole – used to be covered under DNV umbrella insurance.

**Motion to be sent to Council:**

**NOTE:** Please see FONVCA Feb/2016 agenda item 7(a)

“That for all community sponsored events held on District land and property, the District of North Vancouver restores its insurance coverage under District’s umbrella insurance.” We look forward to a response within 30 days. **ACTION ITEM**

Moved: Corrie, Seconded John, CARRIED

#### **4. Old Business Update:**

**a. OCP Implementation Committee:** further to Novembers minutes, on December 14<sup>th</sup>, Council asked for a committee of Council NOT of staff to take this further. This was the end of the term of the OCPIC. Hope to hear back on next steps!

**b. Update on Community Workshops:** January meeting of the North Vancouver Community Associations Network – moving forward, next meeting February 6<sup>th</sup> where there will be more work on the actual structure of NVCAN. Request going out to complete survey to give some basic idea of how CA’s are structured now – many differences. All welcome.

**c. Revision to FONVCA e-mail list** – redundant at the moment - to be tabled to future NVCAN.

#### **5. Correspondence issues:**

Discussion re: concern over the number of e-mails received.

**Motion: that only e-mails received from North Shore residents will be circulated.**

Of the 6 emails only #2 is not to be posted

Moved – Eric, seconded Val – **CARRIED**

Anything untoward noticed on our website – contact Corrie

#### **6. New Business:**

- a. Metro Vancouver Alliance meeting on February 8<sup>th</sup> on affordable housing will be at St. Catherine’s Church from 1 – 3p.m.  
<http://www.metvanalliance.org/calendar>

- [http://www.metvanalliance.org/affordable\\_housing\\_assembly](http://www.metvanalliance.org/affordable_housing_assembly)
- b. Margaret will be following up on request that correspondence from planning department be through e-mail in addition to regular mail. Will advise.

## 7. Any Other Business:

a – d Corrie reviewed the listed websites and distributed information:

- BC Society Act  
[http://www.bclaws.ca/civix/document/id/complete/statreg/96433\\_01](http://www.bclaws.ca/civix/document/id/complete/statreg/96433_01)  
<http://www.bcregistryservices.gov.bc.ca/bcreg/societiesact/overview.page>
  - Charities vs Non-profit Organizations  
<http://www.cra-arc.gc.ca/chrts-gvng/chrts/pplyng/rgstrtn/rght-eng.html>
  - Getting Pro-Bono legal assistance  
<http://accessprobono.ca/legal-help-non-profits>
  - DNV Proposes Changes to CAC  
See Council Jan 18<sup>th</sup> Agenda item 9.6 of  
<http://app.dnv.org/OpenDocument/Default.aspx?docNum=2796413>
- e. Corrie attended a workshop session hosted by Jonathon Wilkinson, Liberal MP  
Good input and good questions. Expect to hear more.
- f. Eric referred to the community building fund which has gone from \$10,000 to \$5,000 to \$7,000. Now that all agencies and groups are able to access this, request that Council increase this in the budget to \$15,000.  
**AGREED to address this at budget input sessions.**

## 8. For Your Information: See all links on our website/agenda:

Non-legal issues:

- news clips for months of December 2015 and January 2016
- Climate Change

Legal Issues:

- local government reform;
- role of council councillors and staff;
- changes to aging strata properties;
- policy on dealing with abusive etc. complaints.

**Chair of next meeting:** John Miller





Note taker: Margaret Fraser

Date of next meeting: **February 17<sup>th</sup> 2016.**

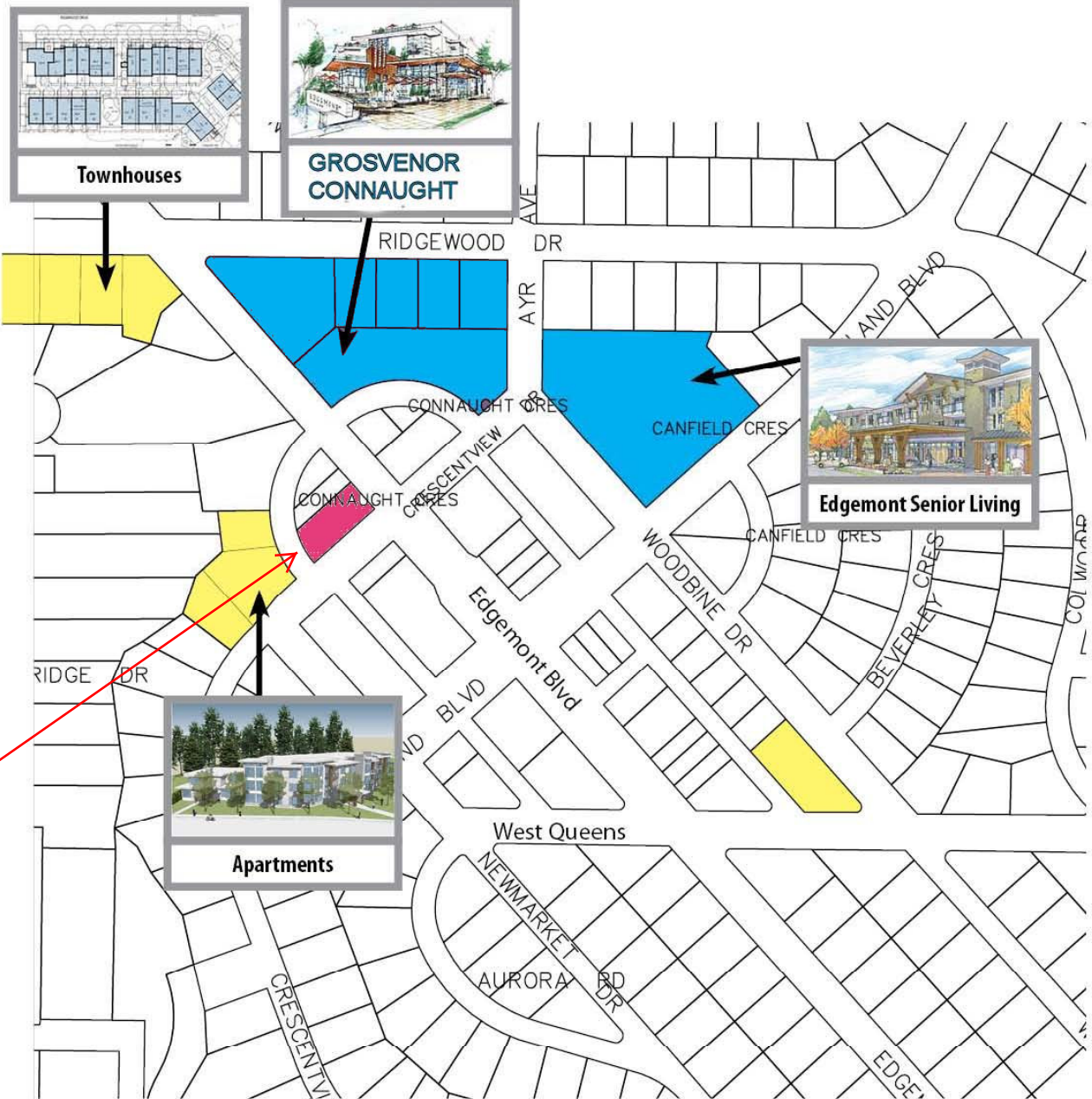
**FONVCA AGENDA ITEM 3(a)**

# Edgemont Village

## LEGEND

-  Prelim or Possible Application Stage
-  Rezoning Stage
-  Development Permit Stage
-  Approved or Under Construction

**CLOSED**



## Public comments: How much talk is too much?

<http://www.seattletimes.com/seattle-news/public-comments-how-much-talk-is-too-much/>

Originally published March 9, 2014 at 8:00 pm Updated March 9, 2014 at 11:46 pm



When asked if anyone wants to comment, Inez Petersen, 69, does not hesitate to raise her hand at a recent Renton City Council meeting.

By [Nancy Bartley](#)

Longtime Renton rabble-rouser and newly minted attorney Inez Petersen walked to the podium in the Renton City Council Chambers Monday. She wore a hat and silver jewelry and spoke in a soft voice as if she were giving cookies to a wayward waif, not about to wage weekly warfare.

Petersen, 69, cautioned city officials about a proposed nuisance-property ordinance. If the city targets low-income duplex owners in the Highlands for property liens and not the developer who places port-a-potties on a sidewalk, kills off the neighbors' trees and cordons off a sidewalk indefinitely, there are constitutional issues, she said.

“And,” as she said during a previous council appearance, “I would dearly love” to take on the case.

The city of Renton’s pain-in-the-butt has spoken, motivated by a sincere belief that city officials are “working on every front to reduce the citizens’ opportunity to fight City Hall.”



Voter turnout may lag. School bonds may fail. But when it comes to tinkering with opportunities to publicly address their elected officials or get information about government, citizens in the Northwest and around the nation take exception to being shut out, Petersen among them.

She joined a number of Renton residents in protesting a plan that would reduce City Council meetings from four to two a month, cut the public-comment opportunities from two to one per meeting, and hold council-of-the-whole study sessions in a room without videotape so public access would be limited.

Two periods not two people...



Any city has its frequent commenters, and now that most cities videotape their council meetings, officials believe there are more people interested in local government than ever before, thanks to the technology that makes it possible to view meetings on TV and online. Citizens no longer have to rely on the local media or go to a council meeting to know what's going on.

Sometimes that means citizens use public-comment time to try to stump for a political candidate, sell a product or, as Petersen did, promote a blog.

As she stood before the council, she noted that citizens watching on TV might want to know how to find her blog (“dot info, not dot com,” she advised potential visitors) and what it included. The blog just happens to target Mayor Denis Law, the driving force behind a move to reduce council meetings and public-comment time because, as he explained in an email to City Council President Don Persson, “a small handful of regular visitors,” Petersen included, “continually come up during the second comment period.” They are getting a “second bite at the apple,” he said.

A number of citizens consider Law an example of cronyism and an obstruction to openness, said City Council member Marcie Palmer. And they were especially incensed at Law's decision to hold a private meeting with business owners, developers and two of his council allies, Armondo Pavone and Persson, excluding all others on the council. It was a decision City Councilman Greg Taylor criticized as lacking in government transparency.

Law, however, argued that meeting with downtown “stakeholders” is his job and the city has no need to improve its transparency. And, he pointed out, the private meeting is not illegal under the state Open Public Meetings Act.

As a reflection of the political climate, citizens in Renton show up regularly at meetings, whether it's the council retreat or a regular council hearing.

“They've appointed themselves to be watchdogs,” Palmer said.

### “Stop being mean”

While public comments — and often the conflict that comes with them — may not always be welcome, it's a “natural part of the democratic decision-making process,” the Municipal Research Council, a private, nonprofit organization dedicated to effective local government,

advises city officials. And citizens everywhere become angry when they think their views are unheard.

Several weeks ago, citizens in Lubbock, Texas, went to the City Council meeting dressed as “Duck Dynasty” characters, claiming they had been censored just like the TV show’s star Phil Robertson, who is often in trouble for inappropriate remarks. The citizens protested the council’s decision not to televise public comments. In the past six months, Costa Mesa, Calif., and Ann Arbor, Mich., residents were also upset about lack of public access.

Every city, or county, has its controversies that make life difficult for elected officials.

Recently, King County Council member Larry Phillips warned citizens in the audience to not raise their voices beyond a conversational tone, to keep comments to one minute, and to stay on agenda topics after several people raised issues about council salaries and made disparaging remarks. Appearing before the Seattle City Council, the same individuals called a city council member a Nazi and an obscene name.

When a state legislator came to the Mercer Island City Council to discuss possible Interstate 90 tolls, one resident became so upset that officials turned off the microphone when he wouldn’t quit speaking during public comment time, said Katie Knight, Mercer Island city attorney.

About six months ago, the city began enforcing rules of conduct for public comment — limiting speaking time to three minutes and insisting that citizens stay on a topic on the agenda and not defame anyone, she said.

In the past, “some of the attacks were pointed and vicious,” Knight said. “This isn’t the place to be doing that.”

On the night SeaTac Mayor Mia Gregerson was sworn in, a citizen asked for her resignation because she held elected jobs as both the city’s mayor and as a state representative for the 33rd District.

“It’s the tone and character assassination people have used,” Gregerson said. “It’s hurtful and not progressive when people are telling the council members to fire someone. We just want them to stop being mean.”

In 2012, the SeaTac City Council was divided over the issue of reducing public comments from three to two minutes. City Council member Pam Fernald, who was not on the council then, stood outside City Hall holding a sign to remind officials that the “people insist on remaining informed” and involved. The time limit, initially supported by most of the council, was quashed. She was pleased with the result.

“My general feeling is the City Council is as close as we can get to the people,” she said. “They count on us; they look to us.”

### **Private meetings**

Time before the council isn’t the only controversy where public access to government is concerned.

Kirkland and Bothell city councils are among the relatively few that hold their three-person committee meetings in private and do so legally because no testimony is taken, no decisions are made and there are not enough members to have a quorum.

“We just had a council retreat ... where this was discussed,” said Kirkland City Councilmember Toby Nixon. “Some council members want to open it to the public” — Nixon among them.

In the end, the council members decided to keep the meetings closed. Their reasoning, he said, was that they liked being able to privately hash out ideas, letting them take shape before they appear in the public or media.

Kirkland has two public-comment sessions in regular City Council meetings, he said. Televising meetings has increased public engagement, he believes.

“We’ve had people who had been watching the council meeting at home and see something they didn’t like, hop in their car and come down to testify in the closing session,” he said. “Or we’ve had people send us an email” as the meeting is in progress.

“It’s a bad idea to not give people the opportunity to comment, and I think it’s a bad idea to give people only the opportunity to comment at the end of the meeting,” he said.

### **Welcoming feedback**

In Port Townsend, public comment is so welcome the city is purchasing new software that will allow citizens to comment from home during public hearings. And a few years ago, Newcastle added a second comment period to allow people to weigh in on what took place during the meeting, said City Manager Rob Wyman.

Auburn City Councilmember John Holman says possible unpleasantness and conflict are not reasons to do away with public comment.

“I’m an advocate for public process,” Holman said. “We do get our odd duck from time to time who wants to come in and pontificate.”

Having sessions televised seems to bring them out, he believes, and has not discouraged “the wackiness factor.” But he credits the public with having the ability to judge.

Says Holman, “We all need to give each other a little slack from time to time.”

*Nancy Bartley: [nbartley@seattletimes.com](mailto:nbartley@seattletimes.com) or 206-464-8522*

Nancy Bartley

## Speaking at public meetings

Posted By [David L. Hudson Jr.](#) On October 20, 2004 @ 12:00 am In [Personal and Public Expression](#) | [1 Comment](#)

A citizen feels strongly about an issue in the community. He or she attends a city council meeting to voice those concerns. Unfortunately, the powers that be prohibit the citizen from addressing the controversial topic. Have the citizen's First Amendment rights been violated?

Such a scenario is not a product of a healthy imagination. It is a daily reality for countless citizens across the country.

Sometimes government officials need to silence disruptive citizens or to prohibit endless repetition. However, other times the officials may be squelching citizen speech because they want to suppress the message. This article seeks to explain the legal parameters surrounding the regulation of citizen speech.

Many government meetings are open to the public and reserve a "public comment" time for citizen commentary on issues. The 9th U.S. Circuit Court of Appeals explained in its 1990 decision *White v. City of Norwalk*: "Citizens have an enormous First Amendment interest in directing speech about public issues to those who govern their city." These meetings, particularly the "public comment" period, are at the very least a limited [public forum](#) during which free-speech rights receive heightened protection.

### Types of public forums

In First Amendment jurisprudence, government property that has by tradition or by government operation served as a place for public expression is called a traditional public forum or a limited public forum. In a traditional public forum, such as a public street, speech receives the most protection and the government generally must allow nearly all types of speech. Restrictions on speech based on content (called content-based restrictions) are presumptively unconstitutional in a traditional public forum. This means that the government can justify them only by showing that it has a compelling state interest in imposing them, and that it has done so in a very narrowly tailored way.

At limited or designated public forums, however, the government designates certain types of subject matter. One court explained as follows: "After the government has created a designated public forum, setting boundaries on classes of speakers or topics, designated public fora are treated like traditional public fora." This again means that content-based exclusions face a high constitutional hurdle. Even in nonpublic forums, restrictions on speech must be reasonable and viewpoint-neutral.

One must be careful in discussing the public-forum doctrine, because courts do not apply the doctrine with consistency. For example, some courts equate a limited public forum with a designated public forum. Other courts distinguish between the two, as a 2001 federal district court in Pennsylvania did in *Zapach v. Dismuke*. That court noted that "there is some uncertainty whether limited public fora are a subset of designated public fora or a type of nonpublic fora."

Just because something is called a public forum doesn't guarantee a person unfettered freedom to utter whatever is on his mind. Public bodies can limit their meetings to specified subject matters. Also, the government may impose reasonable [time, place and manner](#) restrictions on speech as long as those restrictions are content-neutral and are narrowly tailored to serve a significant government interest.

In other words, the government could impose a 15-minute time limit on all participants as long as it did not selectively apply the rule to certain speakers. Council members would violate the First Amendment if they allowed speakers with whom they agreed to speak a full 15 minutes, but allowed speakers they did not agree with to speak for only five minutes.

It bears stressing that First Amendment rights are not absolute during public-comment periods of open meetings. Speakers can be silenced if they are disruptive. Disruption has been defined to include far more than [noisiness and interference](#). For example, a federal district court in Ohio wrote in *Luckett v. City of Grand Prairie* (2001) that "being disruptive is not confined to physical violence or conduct, but also encompasses any type of conduct that seriously violates rules of procedure that the council has established to government conduct at its meetings."

"A speaker may disrupt a Council meeting by speaking too long, by being unduly repetitious, or by extending discussion of irrelevancies," the 9th Circuit wrote in *White v. City of Norwalk*. "The meeting is disrupted because the Council is prevented from accomplishing its business in a reasonably efficient manner. Indeed, such conduct may interfere with the rights of other speakers."

Unfortunately, many situations arise in which citizens are silenced because of the content of their speech or because they have disagreed previously with a government official. This raises the specter of censorship.

Government officials may not silence speech because it criticizes them. They may not open a “public comment” period up to other topics and then carefully pick and choose which topics they want to hear. They may not even silence someone because they consider him a gadfly or a troublemaker.

In *City of Madison Joint School District No. 8 v. Wisconsin Employment Relations Commission*, (1976) the U.S. Supreme Court said in a collective-bargaining dispute case arising out of teachers’ speaking at a board of education meeting:

“Regardless of the extent to which the true contract negotiations between a public body and its employees may be regulated — an issue we need not consider at this time — the participation in public discussion of public business cannot be confined to one category of interested individuals. To permit one side of a debatable public question to have a monopoly in expressing its views to the government is the antithesis of constitutional guarantees. Whatever its duties as an employer, when the board sits in public meetings to conduct public business and hear the views of citizens, it may not be required to discriminate between speakers on the basis of their employment, or the content of their speech.”

A federal district court in Pennsylvania explained in the 1993 decision *Wilkinson v. Bensalem Township*: “Allowing the state to restrict a person’s right to speak based on their identity could quickly lead to the censorship of particular points of view.”

An Ohio appeals court refused to dismiss the lawsuit of an individual who sued city officials after being thrown out of a city commission meeting for wearing a ninja mask. In *City of Dayton v. Esrati* (1997), the Ohio appeals court reasoned that the individual wore the mask to convey his dissatisfaction with the commission. “The public nature of the legislative process and the right of citizens to participate in and voice their opinions about that process are at the heart of democratic government,” the court wrote. “The government may not impose viewpoint-based restrictions on expression in a limited public forum unless those restrictions serve a compelling state interest and are narrowly drawn to achieve that end.”

#### Other issues

Courts have also been wary of laws, rules or regulations that prohibit criticism or personal attacks against government officials. A federal district court in California invalidated a school district bylaw that prohibited people at school board meetings from criticizing school district employees. In *Leventhal v. Vista Unified School District* (1997), the court wrote: “It seems clear that the Bylaw’s prohibition on criticism of District employees is a content-based regulation. ... It is equally clear that the District’s concerns and interests in proscribing public commentary cannot outweigh the public’s fundamental right to engage in robust public discourse on school issues.”

Similarly, a federal district court in Virginia struck down a school board bylaw that prohibited personal attacks during public comments at meetings. (See *Bach v. School Board of the City of Virginia Beach*, 2001.)

However, a higher court – the 4th U.S. Circuit Court of Appeals – questioned the reasoning of the federal district court decision in *Bach*. In *Steinburg v. Chesterfield County Planning Commission*, the 4th Circuit wrote: “We conclude that a content-neutral policy against personal attacks is not facially unconstitutional insofar as it is adopted and employed to serve the legitimate public interest in a limited forum of decorum and order.” The appeals court reasoned that the policy was content-neutral, as people could still present their viewpoints and messages disagreeing with certain policies without resorting to personal attacks.

Another kind of restriction on citizen speech at public meetings involves residency. One federal appeals court determined that a city council rule prohibiting nonresidents from addressing the city council was constitutional. In *Rowe v. City of Cocoa* (2004), a three-judge panel of the 4th Circuit determined that a resident rule was reasonable and viewpoint neutral. “A bona fide residency requirement ... does not restrict speech based on a speaker’s viewpoint but instead restricts speech at meetings on the basis of residency.”

#### Conclusion

When a government decides to offer a “public comment” period at an open meeting, it provides that citizens may exercise their First Amendment rights. Government officials can limit comments to the relevant subject matter, control disruptive or overly repetitive speakers and impose reasonable time, place and manner restrictions on speech. However, when government officials create a public-comment forum, they have created a limited public forum in which greater free-speech protections apply. The government may not silence speakers on the basis of their viewpoint or the content of their speech. The government must treat similarly situated speakers similarly. In essence, the government must live up to the values embodied in the First Amendment.

*Updated January 2013.*

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Article printed from First Amendment Center: <http://www.firstamendmentcenter.org>

URL to article: <http://www.firstamendmentcenter.org/speaking-at-public-meetings>

**FONVCA AGENDA ITEM 6(a)(v)**

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**City of North Vancouver's cap on public input questioned**

Justin Beddall / North Shore News

January 22, 2016 12:00 AM



file photo Cindy Goodman, North Shore News

There's a line forming at the sign-up sheet for the public input period at City of North Vancouver council meetings.

Last summer, after contemplating eliminating the input period, council instead tweaked the rules governing the public session, capping the number of speakers allowed at five. Previously, there was no limit to the number of residents who could register to share their opinions with council.

The new council procedures bylaw does allow for more than five speakers to have their turn at the mic but any extra speakers now require a unanimous vote by council.

Since the introduction of the new rules on June 15 there haven't been more than five speakers sign up to make submissions to council – that was until the Jan. 11 meeting.

When the sixth speaker approached the table he was informed there wouldn't be added public input. **The motion to hear all speakers on the list was moved by Coun. Don Bell and seconded by Coun. Rod Clark but it didn't receive unanimous council support.**

The sixth speaker on the list, Kerry Morris, who ran for mayor in the last municipal election, said he was "shocked" that he wasn't allowed his turn.

"In all the years that I've gone to council, it has never once declined any speaker even when the speaker is speaking off-topic," he said. "The topic for my discussion on Monday night was to highlight the fact that my own home property assessment had arrived and I had experienced a massive increase. I come to council as a resident because I have an entitlement to have my opinion heard in a venue where I can speak directly to the people whose votes will affect my life and spend my money."

This Monday, when the sign-up sheet was put out 30 minutes prior to the start of the council meeting a line quickly

formed and 15 speakers signed up.

But only five got a chance to speak because again there wasn't unanimous support.

Coun. Clark requested a recorded vote and he and Coun. Pam Bookham voted in favour of added speakers, while Mayor Darrell Mussatto and councillors Holly Back, Linda Buchanan, and Craig Keating voted against it (Coun. Don Bell was absent).

Ivan Leonard was the ninth speaker on Monday's list.

The Lower Lonsdale resident wanted to make some supportive comments about the new museum planned for the Shipyards.

"Why was I refused an opportunity to read this at the public input period?" he wrote in a note to the North Shore News. "There was no warning this would happen. This has never happened before."

During the new items of business portion at the end of the regular meeting, Bookham revisited the topic of public input.

"This is the second week in a row this has happened and prior to last week, to my knowledge, we have never denied anybody the opportunity to use the public opinion period," she said.

"I guess I'm asking the four that did not wish to go beyond five (speakers) is that their intention going forward that from now on we will only hear from five speakers?"

Bookham mused that if that was the case they could have "fistfights in the corridor" at the sign-up sheet. "So could I have response from council: is it their intention to limit the public input period to five speakers only?"

Mussatto said he would not allow that type of questioning. "I will respond on behalf of the bylaw we have in place, which basically says that in order to hear more than five speakers it has to be unanimous."

Bookham, acknowledging her understanding of the new bylaw, said she was trying to understand "the principles on which those votes took place. So, whether it's a case of in order to make our council meetings more efficient..."

Mussatto suggested she could directly contact her fellow council members, "but it's not something we are going to discuss at the council table in that fashion."

"Fine. I'll do that but I think people -- the public -- might have an interest in whether or not we have a new policy in place," said Bookham.

The District of North Vancouver allows a 30-minute public input period with speakers being given three minutes to talk on an item of interest. In West Vancouver, attendees may address council on agenda items by signing up on the speakers' list. At the end of the regular council meetings there is a public questions and comments period that gives people three minutes to address council.

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[http://www.richmond.ca/\\_\\_shared/assets/gp15202.pdf](http://www.richmond.ca/__shared/assets/gp15202.pdf)

**City of Richmond**

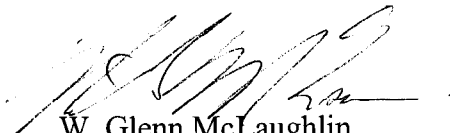
**Report to Committee**

**To:** General Purposes Committee **Date:** October 5, 2006  
**From:** W. Glenn McLaughlin **File:** 01-0395-30-01/Vol 01  
 Manager, Purchasing & Risk  
**Re:** **Community Associations' Special Event Insurance**

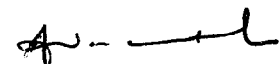

**Staff Recommendation**

That this report be forwarded to the staff group addressing Council's referral of June 12, 2006 relating to the Parks Recreation and Cultural Services Master Plan,

*"to assess the financial effectiveness of the current operating models to benchmark their efficiency and effectiveness and to potentially restructure or adopt new models to meet any shortfalls."*



W. Glenn McLaughlin  
 Manager, Purchasing & Risk  
 (4136)

FOR ORIGINATING DEPARTMENT USE ONLY					
<b>ROUTED TO:</b>	<b>CONCURRENCE</b>		<b>CONCURRENCE OF GENERAL MANAGER</b>		
Recreation & Cultural Services .....	Y <input checked="" type="checkbox"/>	N <input type="checkbox"/>			
Parks .....	Y <input type="checkbox"/>	N <input type="checkbox"/>			
<b>REVIEWED BY TAG</b>	YES <input checked="" type="checkbox"/> 	NO <input type="checkbox"/>	<b>REVIEWED BY CAO</b>	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>



## Staff Report

### Origin


At the General Purpose Committee meeting of July 4, 2006 the following referral was passed:

“That staff review the City’s policy on insurance provisions for Community Associations special events and other similar activities and report to Committee on:

1. The feasibility of a yearly policy that encompasses all community societies and;
2. The issues around the City providing the above coverage.”

This report addresses the staff referral.

### Background

The City’s operating agreements with partner Association’s require the City to name the Society as an additional insured on our liability insurance policy. This protection is provided to an Association member when they volunteer to “...participate in the delivery of services. ...under the *supervision* of an officer or employee of the municipality...”. The Associations contribute 2.5% toward the City’s annual liability insurance policy premium. 

The City responds to claims made against the Community Associations and has been responsible for the cost of those claims.

The agreements also require the Associations to provide insurance for their special events and have the City as an additional insured. (Attachment 1)

The following chart summarizes our partner Associations annual special event activity:

Event	Association /Location	Date
Burkeville Days	Sea Island	June
Community Picnic	Hamilton	June
Salmon Festival	Steveston	July 1
City Centre Celebration	City Centre / Minoru Park	August
Multifest	East Richmond/Cambie	August
Nibbles & Bites	Thompson	September
Halloween Fireworks	Sea Island/ Hamilton/ West Richmond	October
Festival of Lights	Kinsmen /Nature Park	December

The attached correspondence from Community Associations indicate that the cost of a special event insurance policy in today’s marketplace may encumber their ability to “host future events” or to “put back into equipment for the future.”

## **Analysis**

The purpose of a Special Event Insurance Policy is to insure the risks associated with these events that attract large numbers of visitors in activities that are outside of the norm of our typical programs. A special event policy provides insurance in front of the City's own liability policy to pay against a claim. This approach, of an insurance policy in front of the City's liability policy, is consistent for any third party carrying out activities on City property that we do not control.

A Special Event Insurance policy protects the City's \$1 million per claim deductible by insuring all parties including organizers, property owners, individuals and participants unless specifically excluded.

The event organizer will insure the overall event and/or transfer the risk of an activity to a specific service provider that may be excluded under the event policy. The attached Special Event Guidelines have been provided to the Community Associations to support their efforts.

***Item 1 of the Referral*** - The feasibility of a yearly policy that encompasses all community societies.

Special event insurers address each events policy coverage and cost based on the events duration, attendance, presence of rides, food services, alcohol, etc. Through discussions with those firms, staff understood that it is not feasible to obtain a single yearly policy to encompass all community societies special events.

***Item 2 of the referral*** - The issues around the City providing coverage.

The key issues surrounding the City providing coverage are:

- Cost of the event policy
- Financial capacity of the event promoter
- Managing the risks of the event
- Independence of the event organizer
- Allocation of City resources to support the event
- Precedence of the City supporting event expenses
- Current work programs and Council Referrals

### **Cost of the event policy**

As noted, the cost of an event policy will depend on the events duration, attendance, presence of rides, food services, alcohol, etc. The policy pricing for the events listed above range from \$500 for the community festivals at Hamilton and Sea Island to \$8,650 for Salmon Festival.

The ability of the event to absorb this expense depends on the degree of commercial activity taking place at the event and the contribution received by the promoter from this commercial activity.

### **Financial capacity of the event promoter**

A small scale individual event may not be able to support the expenses associated to hosting the event. Conversely large events with commercial activity have the ability to return a profit to the event organizer.

Notwithstanding a specific event profit or loss, the overall financial position of the event's promoter at the end of their fiscal cycle would indicate if they have the financial capacity to support producing a special event. Apart from City Centre, the most recent year end financial position of the Association's organizing significant special events shows those Associations could have the financial capacity to support producing a special event.

### **Managing the risks of the event**

The promoter of an event is in the best position to manage its risks based on their knowledge of the event activities. They will insure the event, transfer the risks or control an events activity to ensure no third party is harmed by the event. Managing the risks also includes responding to claims that may arise from an event.

In addition there will be last minute situations that must be dealt with immediately. The organizer must be in a position of authority to expediently respond to those issues as they arise.

### **Independence of the event organizer**

Historically the Association's have been in charge and responsible for the event with volunteers watching and directing the activities of the event.

In order for the City to accept liability and thus responsibility for the event, would require the City to demonstrate the supervision requirement under our insurance policy. In effect this would have City staff (or officer) fulfilling a critical watching and directing role of the event activities.

### **Allocation of City resources to support the event**

City staff's role in the production of these special events varies in terms of the number of staff and the amount of their time either as staff or in a volunteer role. Their function is intended primarily in a support role to the Association's allowing them the autonomy for organizing and supervising the delivery of the event.

Should the City be fully responsible for the production of the event, a greater number of staff and time would be required to replace the efforts of the volunteers currently carrying out the many functions required.

In the event the City was responsible for the event, and if the activities and attendance were outside of the norm of our programming, we would likely purchase a special event policy to protect our \$1 million per claim deductible.

### **Precedence of the City supporting event expenses**

City staff are currently developing criteria to determine the qualifications for a Council supported community event. This approach will address other non-profit Associations' that may request Council support. In addition, Association events may change over time and new events

may be introduced. As such, the criteria for determining which community events qualify for Council support will be included in a Community Events Strategy which will be brought forward for Councils consideration in early 2007.

**Current work programs and Council Referrals**

The Parks Recreation and Cultural Services Master Plan, adopted by Council on June 12, 2006 includes the following recommendation in the financial section:

*“to assess the financial effectiveness of the current operating models to benchmark their efficiency and effectiveness and to potentially restructure or adopt new models to meet any shortfalls.”*

The 2005 – 2008 Action Plan directs staff to analyze current financial effectiveness of operating models and develop strategies to meet community needs for the future. The issues surrounding special events and the City’s insurance needs and interests are part of this initiative.

**Financial Impact**

Significant special events taking place on City property should have an event policy in place regardless of who pays for it since the expense associated to purchase a policy is cheaper than taking on the risks of potential claims. The key issue is to have indemnity and insurance protection in place to protect the City’s financial interests.

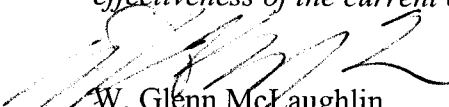
The responsibility for the cost of an insurance policy for special events should be considered in context with the overall capacity of each partner involved with organizing the event.

**Conclusion**

Large Community Association organized special events have a positive impact on our community and provide the following benefits:

- Significant economic and social benefits
- Increase in community identity and spirit
- Enrich the quality of life for residents
- Showcase the City to out-of-town visitors

Staff are currently working with City Council on a Parks Recreation and Cultural Services Master Plan. The organizing of special events is included in the review of the *“financial effectiveness of the current operating models”* that are being considered in this broader context.

  
W. Glenn McLaughlin  
Manager, Purchasing & Risk  
(4136)

*Attachment 1*

Sample Insurance Clause in Community Association  
Operating Agreements

8. **Insurance**

8.1 The City will name the Society, at a yearly stated cost to the Society, as an additional insured in its liability insurance for all activities of the Society. The City is responsible for insuring the facilities and City property. The Society is responsible for insuring the property owned by the Society.

8.2 The Society will provide insurance for its special events and name the City as an additional insured.

8.3 The Society will develop policies that will ensure that renters of the facilities have the required liability insurance outlined in the Licence to Occupy agreement.



SEP 15 2006

cc: Glenn McLaughlin  
TO: MAYOR & EACH  
COUNCILLOR  
FROM: CITY CLERK'S OFFICE

THOMPSON COMMUNITY ASSOCIATION  
5151 GRANVILLE AVE., RICHMOND, B.C. V7C 1E6  
TEL: (604) 718-8422 FAX: (604) 718-8433

September 15, 2006

Mayor Brodie and Richmond City Council  
6911 No. 3 Road  
Richmond, British Columbia V6Y 2C1

Dear Mayor Brodie and Councillors  
Re: Insurance for Special Events

It has been brought to our attention that some consideration may be soon be given by Council to the idea of a joint insurance policy to cover the large special events organized by community associations. As many of you attended, you know Thompson's annual big event, Nibbles & Bites was held this past weekend. Insurance costs rose from \$1375 in 2005 to \$2475 to this year achieve the \$5 million liability limit suggested by the City. Thompson Community Association takes seriously our responsibility to insure events we organize on City property but the increasing costs of insurance make budgeting more difficult each year. Any initiative that would help to stabilize and, even better, reduce insurance costs would be a huge benefit to community events and the Richmond residents who enjoy them.

		INT
	DW	
✓	GJ	✓
	KY	
	DAW	
	DB	
	WB	

0395-03-01

The aim of Nibbles & Bites has always been that of a community 'fun-raiser', not a fund-raiser, and as such, we budget to break even. In the past three years, we've seen a 'profit' of about \$3000 per Nibbles & Bites, which we've put back into equipment for the future. This year we chose to invest in some youth activities that included rentals of two large inflatables and a dunk tank. With the insurance rising in price, our 'wriggle room' was reduced and we anticipate we may lose money on Nibbles & Bites 2006 as a result. Of much greater concern is the future of events held by our smaller community association partners and, in the event that our own resources are stretched, even Nibbles & Bites and Salmonfest. Another very significant concern is that of the time, effort and difficulty of searching out, comparing and choosing appropriate insurance coverage by our volunteers. Not only has the insurance coverage proven impossible to accurately budget, but it is also confusing and concerning, given the importance of this service.

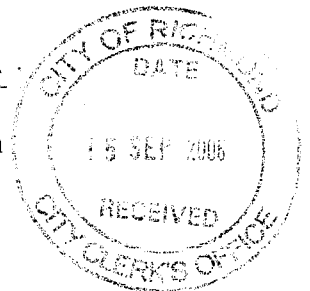
Volunteers created Nibbles & Bites 15 years ago with City assistance and we sustain it today with a minimum of City help, most of which we pay for. Anything that makes it easier for the volunteers who dedicate their efforts to Nibbles & Bites and to those on Thompson's Finance Committee who craft our budgets and manage our risk, will be much appreciated. We have long thought that the City is in a position to negotiate an insurance package for the larger special events and we encourage Council to support such an initiative.

Sincerely

*(Signature)*  
Gerry Galasso  
President

cc: Anne Stevens, Karen MacEachern

*(Signature)* PER:  
Bernie Smerdon  
Nibbles & Bites 2006 Chairman





TO: MAYOR & EACH  
 COUNCILLOR  
 FROM: CITY CLERK'S OFFICE

**STEVESTON COMMUNITY SOCIETY**  
 4111 Moncton Street, Richmond, BC V7E 3A8  
 Tel: 604-718-8080 Fax: 604-718-8096  
 Salmon Festival Tel: 604-718-8094  
 www.stevestonsalmonfest.ca

pc: GM - Business + Finance  
 Manager, Purchasing + Risk

		INT
✓	DW	DW
	GJ	
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	DB	
	WB	

01-0395-00

September 6, 2006

Mayor Malcolm Brodie and Councillors  
 Richmond City Hall  
 6911 No. 3 Road  
 Richmond, BC V6Y 2C1

Dear Mayor Brodie and Councillors;

**RE: Blanket Insurance Policy**

We are asking you today to please re-examine a blanket insurance policy for all city recognized community events.

To cite an example, the price of insurance for one day for the Steveston Salmon Festival three years ago was approximately \$2500.00; this year was \$8650.00. If insurance rates continue to rise like this, community centres will not be able to afford to host future events. We would like to see an arrangement similar to what was done at the Maritime Festival this year.

Sincerely,

*Ben Branscombe*  
 Ben Branscombe  
 President

*Jim Kojima*  
 Jim Kojima  
 Vice President, Finance

cc: All Community Associations

**PHOTOCOPIED**

SEP 11 2006

**& DISTRIBUTED**

July 4 GP referral  
 => Finance  
 Glenn McG.



## SPECIAL EVENT GUIDELINES

The City and its respective partner Associations organize and host various special events. In doing so, they are exposed to liability for potential accidents that occur at these events.

The nature of our business includes delivering recreation and cultural programs and as such we accept liability arising from events that form part of those programs, including but not limited to:

- Displays
- Demonstrations – no participant participation
- Merchants – that have their own liability insurance.

The City *will not* accept liability for parties, functions or other events which we do not supervise or control. The activities of Association volunteers and employees must be supervised/consented to by the appropriate City staff for insurance protection to be provided.

When planning for events, the following things must be considered:

- Buildings & facilities – site layout, use of lands, buildings, and tents – **the location of the event must be suitable for the event activities.**
  - conduct inspections
    - lighting
    - parking
    - walkways
    - pedestrian flow & egress
  - needs for washrooms
- First Aid – stations, action plans
- Fire / Safety – cooking – fireworks - evacuation
- Traffic Control – proper use of barriers, cones, signage, parking
- Site security - Law enforcement - Communications
- Clean-up
- Required permits – building (tents), fire, liquor, health (food)
- Food Services - Activities involving food preparation and/or the sale of food draw additional exposures. If these services are provided by the City and/or Association, a Special Event Insurance Policy must be obtained.  
If these services are provided by the commercial sector, each concessionaire must provide a certificate of insurance with a \$2 million liability limit showing the sponsoring Association and the City of Richmond as an additional named insured at least 10 days prior the event.
- Rides – Mechanical rides also introduce additional liability exposures which the City will not accept nor will a special event insurer. All ride “contractors” must carry their own liability insurance with a \$5 million limit and provide a certificate of insurance showing the sponsoring Association and the City of Richmond as an additional named insured 10 days prior the event.



## Special Event Insurance

The City's property and liability exposures are increased when large numbers of visitors attend special events on our property. Events being put on by the City or community associations with 1,500 or more attendees should secure a special event insurance and the premium paid for by the sponsoring party. Depending on the activities planned for the event, a policy may be required for events with fewer than 1,500 participants. A complete listing of planned activities is required by the City prior to making this determination.

Special event policies will assist to:

- protect the City's interests
  - insurance deductible
  - added property exposures from use of site for event
  - liability from activities of the event
  - defence costs in event of claim
- protect all organizers, property owners, individuals and participants
- provide a single defence for all parties in event of claims.

The requirement for Special Event coverage depends on the activities taking place on site. A qualified insurance broker can review the activities and provide risk management recommendations, determine exposures and ensure that coverage is in place.

**FESTIVAL & SPECIAL EVENT OUTLINE**

\_\_\_\_\_  
(Name of Department or Appointed Committee)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Phone No.)

PRINCIPAL CONTACT PERSON (for this event)

\_\_\_\_\_  
Phone No. \_\_\_\_\_

NAME OF EVENT: \_\_\_\_\_

DATE[S] OF EVENT[S]: \_\_\_\_\_

LOCATION[S] OF EVENT: \_\_\_\_\_

HOURS OF OPERATION: \_\_\_\_\_

ANTICIPATED ATTENDANCE: \_\_\_\_\_

DESCRIPTION OF EVENT :

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*[Attach site lay out for fairs, entertainment etc.]*

City Facilities Required

_____	_____	_____
_____	_____	_____
_____	_____	_____

City Equipment Required

_____	_____	_____
_____	_____	_____
_____	_____	_____

Parade Information

NUMBER AND TYPE OF UNITS \_\_\_\_\_

ASSEMBLY AREA (attach sketch)

\_\_\_\_\_  
DISPERSAL AREA (attach sketch)

\_\_\_\_\_  
ROUTE

\_\_\_\_\_  
City Departments Required to Assist

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ACTIVITIES INVENTORY

This event includes:

Alcoholic beverages.....

yes    no

\_\_\_    \_\_\_

Food preparation.....

\_\_\_    \_\_\_

Merchandise or food selling.....

\_\_\_    \_\_\_

Temporary structures (stages, tents, etc.) .....

\_\_\_    \_\_\_

Entertainment.....

\_\_\_    \_\_\_

Amplified music/speeches .....

\_\_\_    \_\_\_

Fireworks .....

\_\_\_    \_\_\_

Other (explain) .....

\_\_\_    \_\_\_

The following participants, exhibitors and sponsors will be involved in this event

<u>NAME</u> <u>Company/Group/Individual</u>	<u>INVOLVEMENT</u> <u>i.e.: Volunteer/Vendor etc.,</u>	<u>CONTACT PERSON</u> <u>and Phone Number</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

SCHEDULE OF EMPLOYEE AND VOLUNTEER REQUIREMENTS  
FOR EVENT BY DEPARTMENT

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

Schedule of Permits & Inspections

<u>Permits Required</u>	<u>Yes</u>	<u>No</u>	<u>N/A</u>	<u>Copy Received</u>
Building Permits	_____	_____	_____	_____
Fire Permits	_____	_____	_____	_____
Health Permits	_____	_____	_____	_____
Electrical Permits	_____	_____	_____	_____
Plumbing Permits	_____	_____	_____	_____

Liquor License	_____	_____	_____	_____
Parade Permits	_____	_____	_____	_____
Insurance Certificate	_____	_____	_____	_____
<u>Inspections Required</u>	<u>Yes</u>	<u>No</u>	<u>N/A</u>	<u>Report Received</u>
Building Department	_____	_____	_____	_____
Fire Department	_____	_____	_____	_____
Health Department	_____	_____	_____	_____
Police Department	_____	_____	_____	_____
Public Works	_____	_____	_____	_____
Recreation / Parks	_____	_____	_____	_____

# The Corporation of the District of Saanich

## CERTIFICATE OF INSURANCE



<http://www.saanich.ca/parkrec/recreation/pdf/Form-SaanichInsuranceRequirements.pdf>

This form must be completed and signed by your Insurer or Insurance Broker and returned to:

**Risk Management Division  
The Corporation of the District of Saanich  
770 Vernon Avenue Victoria, BC V8X 2W7  
Phone: (250) 475-5455 Fax: (250) 475-5429**

Proof of Insurance Coverage is required before the Corporation of Saanich can approve works or activities on municipal property, road allowances and/or rights-of-way.

<b>NAME OF BUSINESS OR GROUP INSURED:</b>		
<b>NAME OF PERSON APPLYING:</b>		<b>PHONE NO:</b>
<b>ADDRESS:</b>		<b>FAX NO:</b>
<b>Policy No.:</b>	<b>Effective Date:</b>	<b>Expiry Date:</b>

The undersigned agent/broker confirms that the following coverage has been effected through the policy noted above:

- ' **Commercial General Liability** insuring against liability arising from the above-named insured's activities within the Municipality of Saanich or within areas for which the Corporation of Saanich is responsible or on behalf of the Corporation of Saanich. **Coverage not to exclude Host Liquor Legal Liability or claims arising out of injury to participants.**
- ' **Minimum Liability Coverage of \$2,000,000.**
- ' Coverage effective for the duration of the activity or until policy expiry date, whichever occurs first.
- ' **The Corporation of Saanich, its officers, officials, employees and volunteers are added as Additional Insureds.**
- ' A Cross Liability endorsement is included.
- ' Any Deductible or Reimbursement Clause contained in the policy shall not apply to the Corporation of Saanich and shall be the sole responsibility of the party named above.
- ' **Thirty days prior written notice of cancellation or reduction in coverage shall be provided to the Corporation of the District of Saanich.**
- ' This policy shall provide coverage as respects the Corporation of Saanich, its officers, officials, employees and volunteers, but only in respect to the legal liability of the named insured arising out of the work or activity performed.

This certificate is executed and issued to the aforesaid Corporation of Saanich, the day and date herein written below.

<b>Name of Insurance Co., Agent or Broker</b> _____		
<b>Address:</b> _____		<b>Agent/Broker Name (Print)</b> _____
<b>Phone No.:</b> _____	<b>Date:</b> _____	<b>Signature:</b> _____

***Note: In lieu of this Certificate, a certified copy of the policy will be required.***



MUNICIPAL INSURANCE ASSOCIATION  
of British Columbia

# Tidbit Exchange<sup>CA-2</sup>

September/October 2009

<http://www.prrd.bc.ca/board/agendas/2009/2009-19-4646885120/pages/documents/14-b-CA-2MIATidbits.pdf>

## The MIABC Board of Directors is Pleased to Announce the New Risk Management Grant Program

The Risk Management Grant Program is designed to assist members in the financing of risk management initiatives to reduce liability claims.

### Maximum Grant Amount

Members will be eligible for a maximum grant of 1% of their Subscriber Account balance each year to fund risk management initiatives. Unused eligible funds may be carried over into subsequent years. Members with account balances under \$50,000 will be eligible for grants of up to \$500 each year.

### Time Period

The program will run for two years using the 2009 and 2010 opening balances. The Board may announce at the 2010 Annual General Meeting that the program will be extended into 2011. The grant must be requested and expenses incurred between October 1, 2009 and December 31, 2010, unless the program is extended.

### Qualified Expenses

Any goods or services acquired with the primary purpose of reducing liability claims will qualify. Examples of qualified expenses include equipment for inspections, costs associated with fulfilling any recommendation in a loss control report, policy reviews, safety equipment, signage, risk management studies, and site inspections. The emphasis will be on promoting the undertaking of new initiatives, rather than funding existing services.

### Other Conditions

- Members can apply for multiple grants each year provided they have not reached their maximum amount.
- Grants are payable to the local government unless a Council resolution or letter from the Treasurer authorizing otherwise is provided.
- A copy of the quote, purchase order, or receipt should be provided.
- MIABC may publish details of approved initiatives with the view of encouraging other local governments to undertake similar initiatives.



### To Apply

You can complete the grant application form on our website under the Forms tab of the Members section. Please contact Mitch Kenyon at [mkenyon@miabc.org](mailto:mkenyon@miabc.org) if you have any questions.

**Nov 26 2009**

## Community Groups, Special Events and Liability Insurance

Every year various groups approach their local government requesting that they insure their community group or special event. In most cases, their reasoning is that the event will benefit the community, the residents and/or bring visitors to the community. In other cases it is the cost of insurance that they find overwhelming.

Community Groups provide valuable services to their respective communities and do so independent of local government. Their funding comes from a variety of sources and they direct and control the activities of their service. They are a separate legal entity operating as an independent and therefore require their own General Liability Insurance as well as Directors & Officers Insurance.

Special events organized, supervised and under the direct control of local government are insured under the Local Government's MIABC Liability Protection Agreement (LPA), however not all events may be insured. For example if the special event includes participation by a local service group who will operate and manage a Beer and Wine Garden, or serve food, in conjunction with the event, they would not be insured under the LPA. This operation is neither organized, supervised or under the direct control of local government. If other local vendors are invited to sell food, operate an air filled castle,

their activities are not insured either under the LPA. Special events organized by local Chambers of Commerce or other Community Associations cannot be added to the MIABC Liability Insurance Program and these groups should be directed to a professional insurance broker. When an event is to be held on local government lands and/or facilities, even if there is no fee charged to the organizer by local government, the organizer should be required to add the name of the local government to the organizer's insurance policy as an "Additional Insured". The reason for making this requirement is to ensure that the local government is not exposed to the financial costs associated with a liability claim for which local government had no responsibility. If local government is responsible, MIABC would assume responsibility for the management of the claim on behalf of the local government.

In most cases identifying and managing the exposures to loss by preventing injuries, including damage to property, is the real issue, the cost of insurance to a Community Association is a cost of doing business and therefore should be budgeted.

A Risk Management Guideline for Local Government Festivals & Special Events is available on the MIABC Website, [www.miabc.org](http://www.miabc.org)





*Legal*



*Tidbits*

## **Trip and Fall Claims – All Municipal Property is not Created Equal: Variations in Standards of Care for Municipal Property**

In defending trip and fall claims, municipalities are often successful in relying on their inspection and maintenance policies applicable to the type of property in question, whether it is on municipal sidewalks, parking lots or roadways. However, where a policy defence is not available, for example if the municipality did not have a policy



or failed to follow its policy, then in assessing whether the municipality was negligent, a court will analyze the standard of care that the municipality ought to be held to when inspecting and maintaining an area where a trip and fall has occurred.

“Standard of care” is a legal principal in the law of negligence wherein a court assesses the degree of care that a reasonable person should exercise in a given situation. Case law suggests that the standard of care that a municipality will be held to can vary depending on the type of area where an accident occurs. For example, areas that are intended solely for pedestrian use

(sidewalks) will be held to a higher standard than those areas that are not exclusively intended for pedestrian use (parking lots and roadways). The differences in standards of care arise from the varying degrees of foreseeability that an accident may happen in a particular type of area. Factors to consider are the types of traffic using an area, the frequency of use of the area and prior history of incidents.

In practice, and in terms of pedestrian safety from trip and falls, the inspection and maintenance of walkways are held to a higher standard of care than parking lots, which will in turn be held to a higher standard of care than roadways. Further, areas that are undeveloped or rural will be held to a lower standard of care.



The variations in standards of care for municipal property mean that it is not necessary for a municipality to adopt the same level of inspection and maintenance policy for all municipal property where pedestrians may be expected to walk. Rather, different policies can be implemented for different types or areas of property while still meeting the standard of care.



## Ask Ann Slanders:

CA-2

**Dear Ann Slanders:** Why does MIABC staff settle some claims when the local government has proper procedures in place?

**Dear Well Intentioned:**

*As a matter of policy, MIABC staff do not settle claims unless we are of the opinion that there is some risk of liability in that case. So we do not engage in nuisance or economic based settlements like many private insurance companies do. However, sometimes the facts of a case are such that there is a risk that a Court may find liability even in cases where proper procedures are in place. For example, there are times when:*

- 1. the policy or procedures are not actually followed by staff;*
- 2. the actions by staff are not documented and so there is insufficient evidence that appropriate action was taken by staff in that case; or*
- 3. the allegation is that staff ought to have noticed a nearby hazard while on site in accordance with the local government's policy.*

*Where it is determined that there is a risk of liability, MIABC staff take steps to settle the claim with the settlement taking into account a deduction from the Plaintiff's overall claim to account for the risk to the Plaintiff that its claim against the Local Government may fail. Thus, if it is determined that the Plaintiff has a 50% chance of success, MIABC staff may settle the action by contributing 50% towards the Plaintiff's overall claim.*

*If our members have any questions or concerns about its liability position in any case, we encourage you to contact our MIABC staff to discuss the claim and our intended approach.*

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Please send your questions to Ann Slanders c/o Adrienne Atherton at [aatherton@miabc.org](mailto:aatherton@miabc.org), and Ann's response to your question may be published in a future edition of Legal Tidbits.

## Twisted Legal Briefs



If you have a lawyer joke or comic, please send it to Twisted Legal Briefs, c/o Adrienne Atherton at [aatherton@miabc.org](mailto:aatherton@miabc.org), and it may appear in a future edition of Legal Tidbits.

Nov 26 2009



# FONVCA AGENDA ITEM 7(c)

The Corporation of the District of North Vancouver

## CORPORATE POLICY MANUAL

Section:	Social & Community Services Planning	10
Sub-Section:	Cultural Planning	4794
Title:	DEVELOPER PUBLIC ART PROGRAM	4

### POLICY

Please see attachment A to this policy

### REASON FOR POLICY

To develop appropriate guidelines, procedures and budgetary allocations for private sector development, public/private partnerships and temporary public art projects.

### AUTHORITY TO ACT

As outlined in Attachment A of this Policy.

Approval Date:	February 5, 2001	Approved by:	Regular Council
1. Amendment Date:	March 10, 2003	Approved by:	Regular Council
2. Amendment Date:	<u>July 21, 2003</u>	Approved by:	Regular Council
3. Amendment Date:		Approved by:	

### **A.5.3 DEVELOPER PUBLIC ART PROGRAM**

#### **1. Definitions, Value & Guiding Principles**

Refer to Public Art Policy (10-2794-2; Sections A.1, A.2, A.4)

#### **2. Goals**

To include private sector developments in the enhancement of the community through installation of public art.

#### **3. Objectives**

The main objective of the District of North Vancouver's Developer Public Art Program is to create incentives for developers to contribute toward the creation and installation of public art. The description of the Program as set out in this Attachment A is a guideline only for the purpose of directing municipal staff and informing the public as to some considerations that Council will likely wish to take into account in respect of rezoning applications to which this policy applies, as set out in section 6.1 below. For greater certainty nothing in this Policy in any way binds or fetters Council in the exercise of any of its statutory powers and duties.

#### **4. Benefits**

##### Benefits to the development

- provides an impetus and flexible framework for integrating high quality public art works on or near private developments.
- provides evidence of the developer's commitment to and investment in the community.
- reveals some aspect of the social, historical, physical or commercial context of the site
- adds to the attractiveness and value of the site, presenting a positive image to potential clients and investors.
- creates a landmark feature, helping a building stand out from the crowd.

##### Benefits to the community

- establishes common requirements for public art in both municipal and private developments.
- revitalizes the urban landscape of the community
- links private and public spaces creating harmonious, accessible, people-friendly places in the municipality
- offers an opportunity for artists to contribute to the shape and feel of their community

#### **5. Roles**

**Developer Public Art Program:** The Developer Public Art Program is designed to encourage developers to commission site-specific works of art that are integrated into exterior architectural features, landscape elements and/or public spaces adjacent to or part of the development project. Because public art is enjoyed and experienced in the public domain, the sites identified should be the most publicly accessible parts of the development.

**Developers:** The policy allows the developer considerable latitude in selecting artists and site/location of the art, making recommendations on thematic content and materials, determining funding options, and participating in the artist selection process. Staff will encourage developers to submit a public art plan in their detailed application. After the public hearing, an artist selection process is undertaken, the artwork is commissioned, fabricated and installed, and a detailed description of the work is prepared. Developers are encouraged to contact the municipal staff about the Developer Public Art Program as early as possible in the development process.

**Artist:** The artist is commissioned specifically to create public artwork for the development site or collaborate with other design team members. Incorporating the artist's perspective early in the planning allows for creative solutions in the design process, and for public art to be successfully integrated into the site design. Artists should have a broad knowledge of the current practice of public art and demonstrate capability of working in public and development contexts.

**Public Art Consultant:** Developers may wish to hire an independent consultant to provide advice on public art opportunities, potential locations for public art, artist resources and, if desired, to act as the developer's agent throughout the implementation phase. .

**Selection panel:** The Selection Panel is the preferred method of selecting an artist. It involves a time-limited jury appointed by the Public Art Advisory Committee. Composition should include resident(s), artists, architect, landscape architect and a developer representative. The Selection Panel's role is to select the best artist and artwork to meet the project's design, technical, and budgetary parameters, theme, site requirements, and public art criteria.

**District staff:** Municipal staff will advise developers of the existence of the Developer Public Art Program, and work with the developer to manage the public art selection as outlined in this policy. Members of Staff will act as liaisons between the developer and the Public Art Advisory Committee.

**Public Art Advisory Committee:** The Public Art Advisory Committee assists the developer and municipal staff in preparing a public art plan, establishing selection panels, recommending approval for projects to Council, and advising on implementation of the project. The comments and recommendations of the Public Art Advisory Committee are incorporated into the staff report to Council that accompanies any rezoning application.

## **6. Guidelines**

### *6.1 Eligibility*

The Developer Public Art Program will apply to rezoning applications involving:

- a) residential building proposals with five or more units
- b) non-residential building proposals with a gross floor area of 500 sq. meters or more. Not counted in the square footage are: public amenity space, corridors, stairwells, parking, utility areas (except where they are the primary use, e.g. parking garage). Rezoning applications relating to non-profit housing, non-profit senior's housing and

provincially subsidized housing developments are exempted from this requirement.

## 6.2 Budget

In order to ensure high quality art, the recommended budget for a Developer Public Art Contribution should be calculated on the basis of 1% of the gross construction costs as noted on the building permit. The budget for public art should be sufficient to provide for: careful planning and integration of the art into the project, durable and effective materials and workmanship, appropriate compensation for the artist, and long term maintenance of the public art work.

Staff will encourage developer's to secure any commitments they make under this Developer Public Art Program by cash or letter of credit prior to adoption of the rezoning bylaw. Any letter of credit provided will be released upon completed installation of the artwork and receipt of final project documentation.

### Eligible costs

- Preparing a public art plan
- Artist selection and consultation costs
- Artist commission
- Design, materials and fabrication of original art work
- Site preparation, shipping, insurance and other ancillary expenses directly related to installation of the art work
- Project documentation
- Public relations costs that recognize and celebrate the public art (e.g. unveiling ceremonies, educational/promotional materials, interpretive signage)
- Funds deposited to DNV Public Art Reserve Fund

The District will not assume any responsibility for continued maintenance of public artworks installed on private lands. If privately initiated artwork is intended for public lands, staff will encourage the developer to submit 10% of the public art budget to DNV Public Art Reserve Fund to maintain the art work.

### Ineligible costs (as per PAP, Section B.2.6.)

Public art funding does not apply to costs normally associated with capital projects such as design and engineering, insurance, fees and permits, development cost charges, building demolition, relocation of tenants, contingency funds, land acquisition, environmental testing or other engineering project costs.

## 6.3 Developer Options

There are three recommended options associated with the Developer Public Art Program:

**Option A** Developer funds and municipality manages the public art component

Developers may authorise the municipality to manage the public art project on the development site. The process would involve municipal staff and the Public Art Advisory Committee in preparing the proposal call, making siting decisions, the selection of artist(s), and the fabrication and installation of the public art commission in coordination with the

developer. Developers will have a representative on the selection panel. A portion of the project budget will be used by the municipality to cover administration costs for the public art selection process. (See Public Art Policy B.2.5)

**Option B** Developer funds and manages the public art component

Developers may directly commission public art works for their development site, retaining a public art consultant and/or artist to supervise the process. The developer must ensure the artwork is safe and conforms to relevant building codes, and that the municipal engineer approves any artwork encroaching on municipal rights-of-way. Municipal staff can help organize the selection process and provide a listing of public art consultants and artists experienced in creating site-compatible works, if requested.

**Option C** Developer contributes to District's Public Art Statutory Reserve Fund.

Developers may contribute an amount equal to 1% of construction costs to the municipality's Public Art Statutory Reserve Fund. This option is designed to allow for the pooling of public art budgets that are less than \$25,000 in order to ensure that quality public art can be funded. Funds collected will be spent on public art within the local area of the developer's projects.

## 7. Reporting

Municipal staff are directed to report on public art contributions as an item under a separate heading on every report to Council relating to any rezoning application for a private development to which this policy applies.

### Preliminary Application

Developers are encouraged to consider the inclusion of public art at the earliest possible stage to enable the artist to work closely with the developer's design team. The ultimate success of many public art projects depends on the timely integration of art, design, purpose and location.

Developers should arrange an initial meeting with municipal staff to review the approved guidelines and procedures.

### Detailed Application

1. Upon submission of the detailed application, staff will encourage the developer to file a letter of commitment specifying:
  - Preferred funding option
  - Budget allocation
  - Project schedule
  - Appointment of public art consultant/artist on design team
  
2. Prior to public hearing/public information meeting, staff will encourage the developer to present a public art plan to the Public Art Advisory Committee, specifying:
  - Location(s) for public art on development site
  - Artistic theme/concept and material options
  - Artist Selection Process – type of competition, schedule & jury composition
  - Detailed budget for public art

3. Prior to issuance of the development permit, if applicable, staff will encourage the developer to confirm the artist and project design.
4. At the completion of the project the developer staff will encourage the developer to submit the following information to the municipality to confirm that the public art commitments have been fulfilled:
  - Artist Statement & Biography
  - Specifications of art work and placement on site
  - Long-term Maintenance Plan
  - Final accounting of public art project expenses
  - Photo/slides for DNV public art inventory

The Public Art Advisory Committee will review the public art plan and submit recommendations to Council for final approval. The developer's plan should conform to the objectives and principles in the District's Master Plan for Public Art and any local area streetscape guidelines approved by Council.

## **8. Policy Review**

The Developer Public Art Program will be evaluated after three years to determine if any changes are required.

Adopted by Council: February 5, 2001  
Amended by Council: March 10, 2003



## Critique of DNV Website

In my humble opinion, the DNV website home page does not work well for its visitors. The “I want to...” lacks depth and focuses mostly on revenue services as opposed to community services.

The square labeled “Get in touch” mimics the same departmental services that deal with revenue to the DNV as opposed to human services such as community engagement, and consultation principles.

Information about the various departments should provide details such as email address, phone number or even their job description/responsibilities.

One should readily be able to print the page currently being viewed. Try and do this for the home page and see what happens!

I believe that the public desires access to municipal information (current and historical) that enriches, and illuminates their lives as members of the community – not act as a server to meet the demands of local government.

Say we searched for “council policies” on the home page and followed the first “hit” to <http://www.dnv.org/our-government/corporate-policies>

The idea of dividing the search into categories has both strengths and weaknesses. It allows one to focus on different categories - but it’s hard to search through the entire list of policies since opening up a section closes up the previous one. It would have been simple code tweak to allow multiple categories to be viewed, or even the entire list of all sections. Adding a tool to search using keywords, which focus only on the current viewed page, would have greatly assisted in finding the right policy (or policies). Simple design oversights can easily cripple the utility of a page.

A home page which gathers and displays “top requests” (and displayed at the top of the home page) would be welcomed. It should be self learning so it requires little manpower to maintain.

It came as a shock to me, when the new website was released, that all the historical information further back than about 2011 was no longer available. “History is prologue” and is invaluable for future visions of our community. Please restore all available prior information of the old website – label it “archival” with the usual caveats and disclaimers if required, but please bring it back.

A friendly route to Geoweb was only partially restored by having an entry in the home page “I want to...”. I suggest having an additional dedicated square on the home page pointing to <http://geoweb.dnv.org/>

There are many websites that review how to design a great government website – not the least being found at <http://media.navigatored.com/documents/CDG15-Snapshot-BOW-V.pdf>

Finally, asking users to share their views on how to improve the website should be front and centre – not relegated to a level that many users will not be able to find (<http://www.dnv.org/contact-us/share-your-views-our-website>).

## FONVCA AGENDA ITEM 8(a)(i)

### News-clips collected from Jan 19/2016 to Feb 14/2016

Wrong type of trees' in Europe increased global warming - BBC News.pdf  
A crisis in Vancouver.pdf  
Achieving a legitimate vote -SUN- 22 Jan 2016.pdf  
Affordable housing advocates\_ stand together.pdf  
Blasting proposed for Seymour rock slide.pdf  
Braemar, Argyle parents-We are stronger united.pdf  
Braemar, Argyle parents\_ 'We are stronger united'.pdf  
Car2go gone from Capilano, Norgate.pdf  
Casino developer sues lottery corp.pdf  
Charitably speaking.pdf  
City bike lift may hold appeal for older cyclists.pdf  
City of North Vancouver's cap on public input questioned.pdf  
City of Vancouver proposes 20 affordable housing sites.pdf  
Curb foreign ownership to halt rising house prices.pdf  
Demolition in a vintage rental neighbourhood.pdf  
Density debate pits ex-mayor against former chief planner -SUN- 22 Jan 2016.pdf  
District nixes Braemar development.pdf  
District of North Vancouver mulls affordable housing.pdf  
District's Braemar decision sends strong message.pdf  
Do cities require too many parking stalls be built\_.pdf  
Edmonton May Be Template For Legalizing Ride Sharing In Other Cities.pdf  
Fewer homes lead to even higher prices -SUN- 3 Feb 2016.pdf  
Flipping mad.pdf  
Full disclosure needed on museum decision.pdf  
G3 grain terminal plans raise ire in North Vancouver.pdf  
Grain terminal concerns aired.pdf  
Grain terminal concerns raised.pdf  
Hail, hail.pdf  
Heads up, Metro Vancouver mayors\_ A revolt is brewing.pdf  
heritage week-cnv.pdf  
Homeowners on easy street.pdf  
Hot on the trail.pdf  
Housing scheme again takes aim at municipal governments.pdf  
How Do Property Assessments Impact Property Taxes.pdf  
It's history.pdf  
It's time we elected Metro representatives.pdf

Jilted museum lovers get the cold shoulder.pdf  
Kudos to council for stand on school lands.pdf  
Land squeeze threatens to choke economy -SUN- 22 Jan 2016.pdf  
Let taxpayers decide on museum.pdf  
Lynn Valley legion abruptly closes.pdf  
Mayors pledge affordable housing action.pdf  
Metro Affordability - Sun - 12 Feb 2016 - Page #9.pdf  
Neighbourhood plan for Moodyville East-p2.pdf  
Neighbourhood plan for Moodyville East.pdf  
Neighbours want 'real consultation'.pdf  
New housing incentives promised for B.C.pdf  
North Vancouver councils raise grain terminal concerns.pdf  
North Vancouver waterfront museum plans are history.pdf  
Old versus new school.pdf  
On Transit - we don't want to pay for anything.pdf  
Ottawa to increase federal share of infrastructure funding.pdf  
Pipe Shop event space holds youth appeal.pdf  
Plea to CRTC - don't change that channel.pdf  
Plebiscite loss is one for the books -SUN- 12 Feb 2016 - Page #23.pdf  
Political correctness obfuscates truth in housing dilemma.pdf  
Preserving history builds community.pdf  
Property transfer tax windfall- Sun - 13 Feb 2016 - Page #4.pdf  
Province boosts funding for affordable housing units.pdf  
Province does abrupt U-turn to arrival of ride-sharing Uber -SUN- 21 Jan 2016.pdf  
Province should fund rebuild.pdf  
Province trying to strong-arm school board, parents say -SUN- 21 Jan 2016.pdf  
Pulling together.pdf  
Rainforest regrowth boosts carbon capture, study shows - BBC News.pdf  
Real estate restrictions needed.pdf  
Real Estate Technique Fueling the Housing Market.pdf  
Reaping the benefits of a wise investment.pdf  
Rejection of museum plans a loss to the city.pdf  
Rental buildings are a hot reale state commodity.pdf  
Rental market distorted-SUN- - 22 Jan 2016.pdf  
Reunification study going ahead in district.pdf  
Ruling may help ease tax sting.pdf

Saving Our Museum - Open Letter.pdf  
Scaled-down Argyle rebuild considered.pdf  
School land sales not the answer.pdf  
School-based child care gets the squeeze.pdf  
Self interest fuels real estate Wild West.pdf  
Sewage plant waiting on federal cash.pdf  
Shipyards an inspired setting for museum.pdf  
Skin in the game.pdf  
Small claims, strata disputes go digital.pdf  
Social housing sites proposed -SUN- 3 Feb 2016.pdf  
Space case.pdf  
Stop viewing renters as second class citizens.pdf  
Sunshine Coast fixed link questioned.pdf  
Terminal project stirs city, district worries.pdf  
THE COST OF GREEN -SUN- 30 Jan 2016 - Page #3.pdf  
THE HOUSE TAX SHUFFLE - SUN- 13 Feb 2016 - Page #1.pdf  
The port wants more land, but so does everyone else.pdf  
Tight Metro Vancouver markets push average house price to new record.pdf  
Traffic, development big issues for business.pdf  
Trail saboteur avoids house arrest.pdf  
Trail users hope for new era of co-operation.pdf  
TRANSLINK driving away ridership.pdf  
Trustees vote to replace Handsworth.pdf  
Vancouver offers city land in bid for social-housing cash from Ottawa.pdf  
Warehousing our seniors.pdf  
Washington says computers can take the wheel - 12 Feb 2016 - Page #44.pdf  
Weakest link.pdf  
Will 2016 be the Year of the Condo.pdf  
Wood stoves under fire.pdf

## Pedestrian Observations

For Walkability and Good Transit, and Against Boondoggles and Pollution

2014/08/17

### Zoning and Market Pricing of Housing

The question of the effects of the supply restrictions in zoning on housing prices has erupted among leftist urbanist bloggers again. On the side saying that US urban housing prices are rising because of zoning, see anything by Daniel Kay Hertz, but most recently [his article](#) in the Washington Post on the subject. On the side saying that zoning doesn't matter and the problem is demand (and by implication demand needs to be curbed), see the [article Daniel is responding to](#) in Gawker, and anything recent by Jim Russell of Burgh Diaspora, e.g. [this link set](#) and his [Pacific Standard article](#) on the subject.

This is not a post about why rising prices really are a matter of supply. I will briefly explain why they are, but the bulk of this post is about why, given that this is the case, cities need to apportion the bulk of their housing via market pricing and not rent controls, as a matter of good political economy. Few do, which is also explainable in terms of political economy.

But first, let us look at the anti-supply articles. Gawker claims that San Francisco prices are rising despite a building boom. We'll come back to this point later, but let me note that in reality, growth in housing supply has been sluggish: Gawker links to a [SPUR article](#) about San Francisco's housing growth, which shows there was high growth in 2012, but anemic growth in previous years. [The Census](#) put the city's annual housing unit growth last decade at 0.8%. In New York, [annual growth was 0.5%](#), as per a London study comparing London, Paris, New York, and Tokyo. In contrast, Tokyo, where zoning is relatively lax, growth was 2%, and [rents have sharply fallen](#). The myth that there is a building boom in cities with very low housing unit growth is an important aspect of the non-market-priced system.

Jim's arguments are more interesting. He quotes a Fed study showing that housing vacancies in the most expensive US cities have not fallen, as we'd expect if price hikes came from lack of supply. (In San Francisco, vacancies went up last decade, at least if you believe that the Census did not miss anyone.) This is too not completely right, because in Los Angeles County, as noted on PDF-page 18 [here](#), vacancies did recently fall. But broadly, it's correct that e.g. New York's vacancy rate has been 3% since the late 1990s, as per its [housing surveys](#). But I do not think it's devastating to the supply position at all. The best way to think about it is in analogy with natural rates of unemployment.

Briefly: it's understood in both Keynesian and neo-classical macroeconomics that an economy with zero employment will have high and rising inflation, because to get new workers, employers have to hire them away from existing jobs by offering higher wages. There is a [minimum rate of unemployment consistent with stable inflation](#), below which even stable unemployment will trigger accelerating inflation. In the US, this is to my understanding about 4%; whether the recession caused structural changes that raised it is of course a critical question for macroeconomic policy. A similar concept can be borrowed into the more microeconomic concept of the housing market.

There's also the issue of friction, [again borrowed from unemployment](#). There's a minimum frictional vacancy, in which all vacant apartments are briefly between tenants, and if people move between apartments more, it rises. For what it's worth, the breakdown of [2011 New York vacancies](#) on pages 3-4 by borough and type of apartment suggests friction is at play. First, the lowest vacancy by borough is

2.61%, in Brooklyn, not far below city average. Second, the only type of apartment with much lower vacancy than the city average is the public housing sector, with 1.4% vacancy, where presumably people stay for decades so that friction is very low; rent-stabilized units have lower vacancy than market-rate units, 2.6% vs. 4.4%, which accords with what I would guess about how often people move.

So if high rents are the result of supply restrictions, and it appears that they are, the way to reduce them should be to relax zoning restrictions. If this is done, then this allows living even in currently expensive areas without spending much on rent. Urban construction costs are lower than people think: [New York's condo average is \\$2,300 per square meter](#), and London's is not much higher, entirely eaten by PPP conversions; [Payton Chung](#) notes the much higher cost of high-rises than that of low-rises, but the cost of high-rise apartment buildings is still only about \$2,650/m<sup>2</sup> in Washington, and (using [the same tool](#)) about \$3,100 in New York, and at least based on the same tool, mid-rises are barely any cheaper. For [US-wide single-family houses](#), construction costs are 61.7% of sale prices, but the \$3,100 figure already includes overheads and profit. Excluding land costs, which are someone else's profit, construction, profit, and overheads are 92.5%; so let's take our \$3,100/m<sup>2</sup> New York high-rise and add the rest to get about \$3,300, which is already more than most non-supertall office skyscrapers I have found data for in other major cities. The metro area appears to have a [price-to-rent ratio](#) of about 25, and with the caveat that this may go down slightly if the city gets more affordable, this corresponds to a monthly rent of \$11 per square meter, at which point, a 100-m<sup>2</sup> apartment, sized for a middle-class family of four, becomes affordable, without subsidies, to families making about \$44,000 a year and up, about twice the poverty line and well below the median for a family of that size. If we allow some compromises on construction costs – perhaps slightly smaller apartments, perhaps somewhat lower-end construction – we could cover most of the gap between this and the poverty line.

But given that demand for housing at prices that match construction costs, there has to be a way of allocating apartments. Under market pricing, they're allocated to the highest bidder. If there is a perfectly rigid supply of 2 million housing units and a demand for 4 million at construction costs, the top 2 million bidders get housing, at the rent that the 2 millionth bidder is willing to pay.

I do not know of any expensive city with low home ownership that uses market pricing: too many existing residents would lose their homes. High home ownership has the opposite effect, of course – Tel Aviv may have rising rents, and high price-to-income ratios, but since home ownership is high, the local middle class is profiting rather than being squeezed, or at least its older and slightly richer members are.

Instead, cities give preference to people who have lived in them for the longest time. Rent control, which limits the increase in annual rent, is one way to do this. City-states, i.e. Singapore and Monaco, have citizenship preference for public housing to [keep rents down](#) for their citizens. Other cities use regulations, including rent control but also assorted protections for tenants from eviction, to establish this preference. Instead of market pricing allocation, there is allocation based on a social hierarchy, depending on political connections and how long one has lived in the city. People who [moved to San Francisco eight years ago, at age 23](#), organize to make it harder for other people to move to the city at this age today.

Going to market pricing, which means weakening rent controls over the next few years until they're dead letter, is the only way to also ensure there is upzoning. Although rent control and upzoning both seem to be different policies aimed at affordability, they're diametrically opposed to each other: one makes it easy for people to move in, one makes it hard. As I mentioned [years ago](#), rent-controlled cities tend to have parallel markets: one is protected for long-timers, and for the rest there is a market that's unregulated and, because so much of the city's housing supply is taken off it, very expensive. In exchange-rate dollars, I pay \$1,000 for a studio of 30 square meters, of which maybe 20 are usable, the rest having low sloped ceilings. In PPP dollars it's \$730, still very high for the size of the unit. If I put

my name on a waiting list, I could get a similar apartment for a fraction of the price; to nearly all residents, rents are far lower than what I pay, because of tight rent controls. Stockholm at least has a relatively short waiting list for rent-controlled apartments, 1.5 years, for international visitors at my university; American cities (or perhaps American universities) never do foreigners such favors.

The problem here is entirely political. Cities have the power to zone. Thus, supply depends entirely on whether local community leaders accept more housing. This housing, almost invariably, goes to outsiders, who would dilute the community's politics, forming alternative social networks and possibly caring about different political issues. It's somewhat telling that ultra-Orthodox Jews in the New York areas support aggressive upzoning, since the new residents are their children and not outsiders; Stephen Smith has written before about the [Brooklyn Satmars' support for upzoning](#), and the resulting relatively low prices. In the vast majority of the first world, with its at- or below-replacement birth rates, this is not the case, and communities tend to oppose making it easier to build more housing.

There is a certain privilege to being organized here. We see the pattern when we compare how US minorities vote on zoning to what minority community leaders say. In San Francisco specifically, activists who oppose additional development have made appeals to white gentrification in nonwhite neighborhoods, primarily the Mission District. Actual votes on the subject reveal the exact opposite: see the discussion on PDF-pp. 13-15 of [this history of Houston land use controls](#), which notes that low-income blacks voted against zoning by an overwhelming margin because of scare tactics employed by the zoning opponents. (Middle-income blacks voted for zoning, by a fairly large margin.) Polling can provide us with additional data, less dependent on voter turnout and mobilization, and in [Santa Monica](#), Hispanics again favor new hotel development more than whites. In areas where being low-income or nonwhite means one is not organized, low-income minorities are not going to support restrictions that benefit community leaders.

The result is that organized communities are going to instead favor zoning, because it gives them more power, as long as they are insulated from the effect of rising prices. In suburbs with high home ownership, they actually want higher prices: my rents are their property values. In cities with low home ownership, rent controls provide the crucial insulation, ensuring that established factions do not have to pay higher rents. Zoning also ensures that, since the developers who do get variances can make great profits, community groups can [extort them into providing amenities](#). This is of course the worst in high-income areas: every abuse of power is worse when committed by people who are already powerful. But the poor can learn to do it just the same, and this is what happens in San Francisco; TechCrunch has a [comprehensive article](#) about various abuses, by San Franciscans of all social classes, culminating in the violent protests against the Google shuttles, and in many cases, the key to the abuse was the community's ability to veto private developments.

The risk, of course, is displacement. As the gap between the regulated and market rent grows, landlords have a greater incentive to harass regulated tenants into leaving. This is routine in New York and San Francisco. Community groups respond by attacking such harassment individually, which amounts to supporting additional tenant protections. In California, this is [the debate over the Ellis Act](#). The present housing shortages are such that supporting measures that would lower the market rent has no visible short-term benefits, and may even backfire, if a small rent-controlled building is replaced by a large unregulated building.

So with rent controls, community groups have every incentive to support restrictive zoning, and none to support additional development. With market pricing, the opposite is the case. What of low-income city residents' access to housing, then? Daniel mentions housing subsidies as a necessity for the poor. To be honest, I don't see the purpose, outside land-constrained cities like Hong Kong and Singapore. If it is possible through supply saturation to cut rents to levels that are affordable to families making not much

more than the poverty line, say 133% of the US poverty line, the Medicaid threshold, then direct cash benefits are better. In the [ongoing debate](#) over a guaranteed minimum income, the minimum should be slightly higher than the US poverty line, which is lower as a proportion of GDP per capita than most other developed countries' poverty lines, as seen in the government programs with slightly higher limits, led by Medicaid.

Leftists have spent decades arguing for state involvement in health care and education – not just cash benefits, but either state provision, or state subsidies combined with some measure of cost control. There are many arguments, but the way I understand them, none applies to housing:

1. Positive externalities: Ed Glaeser has [noted](#) that if some people in a metro area get more education then there is higher income growth even for other people in the area. In health care, there are issues like [herd immunity](#).
2. Very long-term benefits: if college is as expensive as it is in the US today, it takes many years for graduates' extra incomes to be worth the debt. With health care, the equivalent is preventive care. When benefits take so much time to accrue, first some people face poverty traps and don't have the disposable income today to invest in their own health and education, and second, the assumptions of rational behavior in classical economics are less true.
3. Natural monopolies outside large cities: hospitals, schools, and universities have high fixed capital costs, so there can only be sufficient competition in very large cities. The same is of course true of rail transit.
4. Asymmetric information: students and parents can't know easily whether a school is effective, and patients face the same problem with doctors; short-term satisfaction surveys, such as student evaluations, may miss long-term benefits, and are as a result very unpopular in academia.

With housing, we instead have competitive builder markets everywhere, no appreciable benefits to having your neighbor get a bigger or better apartment, and properties that can be evaluated by viewing them.

The only question is what to do in the transition from the present situation to market pricing. This is where a limited amount of protection can be useful. For example, rent controls could be relaxed into a steady annual gain in the maximum allowed real rent. While market-rate housing remains expensive, public housing is a stopgap solution, and although it should be awarded primarily based on need rather than how long one has lived in the city, a small proportion should be set aside to people in rent-controlled small buildings that were replaced by new towers. None of this should be a long-term solution, but in the short run, this may guarantee the most vulnerable tenants a soft landing.

What this is not, however, is a workable compromise. Community organizations are not going to accept any zoning reform that lets in people who are members of out-groups. They have no real reason to negotiate in good faith; they can negotiate in bad faith as a delaying tactic, which has much the same effect as present zoning regimes. What they want is not just specific amenities, but also the power to demand more in the future; it's precisely this power that ensures the neighborhoods that are desirable to outsiders are unaffordable to them. What they want is a system in which their political connections and social networks are real resources. A city that welcomes newcomers is the exact opposite. Expensive housing is ultimately not a market failure; it's a political failure.

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## 43 comments

1.  [2014/08/17 - 18:29](#) [Matthew](#)

That's funny: I also thought of the NAIRU when I read Jim's article. He self-refutes at the end, anyway.

So the question now is, how do you create a political equilibrium around reasonable market priced housing?

Things like rent control or zoning are easier to organize around. There's a boogeyman: the big bad landlord. Or the big bad apartment building that's going to "change the character of the neighborhood" (in other words, allow people different-from-you to live nearby you). So you rally to the blunt political instrument that will strike down the immediate danger, damn the long term consequences.


I guess you have to find some way of convincing the residents that there's something in it for them. Appeals to high-minded principles like diversity and vitality don't seem to be enough. People are jealous: a developer comes in and makes a profit easily, it seems. Nevermind that the whole situation was created by their obsession with exclusionary zoning. Even though many folks I know are older than zoning, they cannot imagine a world without it.

Politically connected developers also have a vested interest in zoning: they can manipulate it to keep the riff-raff out of their market, leaving most of the jobs to themselves and their army of lawyers/friendly politicians. Laws that prevent the construction of significant buildings are not objectionable to developers who are able to pull a variance when they need it.

That's how it looks in Boston anyway. Community groups clutch zoning as a means of extracting concessions out of developers, who are big enough not to really care, and who are frequent donors to politicians. Mixed with groups trying to build or preserve some amount of "affordable" housing according to some weird, esoteric definition of affordable. If you are a small time developer then you are only allowed to build unaffordable 1 or 2-family homes, even if the demand is sufficient for an apartment building, because you won't make it through the process otherwise in most cases.

[Reply](#)




- o  [2014/08/18 - 17:44 Shane Phillips](#)

Just as a quick reply to your first question about building political support for rational zoning, I've recently been thinking that one of the best coalitions you could build would be a group that pushed for greater supply of market housing and also strongly defended and promoted renters' rights. These groups are often antagonistic in most places, but I don't think that needs to be the case. Renters are weak politically, but in many cities they're actually the majority of residents so if they could be spurred into action to protect their own rights (including the right to not have endlessly-increasing rents due to a perpetually and deliberately restrained supply), they could actually change things pretty dramatically. Without a focus on renter's rights, including things like evictions and abusive landlords, I think you'll have trouble convincing many renters that a market-forces political objective is really in their interest.


This idea is still far from fleshed out but I think it's an important piece of the puzzle.

[Reply](#)

-  [2014/08/19 - 04:15 Alon Levy](#)

The problem with this is that, at least in New York and San Francisco, *market-rate* renters are a minority; the majority of renters are rent-regulated, so their incentives are mainly to tighten rent regulations to prevent landlords from evicting them.


[Reply](#)

-  [2014/08/19 - 13:31 Adirondacker12800](#)


People own in New York City. Owners are part of the market. Even among rental units they aren't a majority. Almost but not quite. It's been declining as a percentage of the market for decades.

[http://furmancenter.org/files/publications/HVS\\_Rent\\_Stabilization\\_fact\\_sheet\\_FINAL.pdf](http://furmancenter.org/files/publications/HVS_Rent_Stabilization_fact_sheet_FINAL.pdf)


[Reply](#)

-  [2014/08/19 - 14:15 Alon Levy](#)

You should add public housing to the mix. As the link notes, market-rate rentals aren't yet a majority of all rentals, and are barely a quarter of all housing units in the city (and owners have an incentive to raise rents – my rents are their income).

-  [2014/08/20 - 01:37 Adirondacker12800](#)

People aren't inclined to rent the housing they occupy, whether they own it or rent it, and wander the streets.


2.  [2014/08/17 - 21:47 Joseph Musco](#)

Minneapolis is considering zoning changes that would allow granny flats (mother-in-law apartments, accessory apartments) to be built in existing single family residential zones.

<http://www.ci.minneapolis.mn.us/cped/projects/WCMS1P-126877>


The recent lengthy recession opened the eyes of a lot of home owners to the benefits of a little flexible income and is perhaps going to transform the view of tenant from “outsider” to “a friend of a the family who needs a place”. Building legal accessory apartments where single family homes exist is a step with the potential to satisfy homeowners, city planners, and renters. Commercial developers might not light it but the home remodeling/construction industry is a powerful player that would be supportive. The alternative to legalizing this type of unit in an expensive rent market is to have tons of unlicensed rentals pop up — see every other basement in Queens, NY.

[Reply](#)

-  [2014/08/18 - 06:27 Alon Levy](#)

There's been a similar discussion of duplexes in Austin, but there, the NIMBYs kept viewing duplexes as something meant for outsiders, figuring that people would rent out both units rather than live in one unit and rent out the other. See for example [here](#).

[Reply](#)

3.  [2014/08/18 - 03:15 betamagellan](#)

Although for someone occupying a home there's no problem if your neighbor has a newer, bigger apartment, it is an issue if you're a landlord—although I'm more familiar with this happening in commercial real estate, existing property owners often oppose new construction because it means extra competition for renters (which sometimes gets dressed up in anti-density character/“livability” arguments).

Stockholm's situation seems a lot better than Amsterdam's—when I was looking for a studio the prices were similar with 2/3 the usable area (or similar area and 3/2 the price), and many of my acquaintances either live far off in the boonies or some kind of arrangement with their family. I didn't look into social housing (don't think my visa includes eligibility anyway), but a Dutch acquaintance who just returned to the Netherlands found out that he'd be stuck with a ten-year waitlist (shorter in the boonies, of course, where wait times are short and the prices make Texas

look expensive). People here tend to plan their lives around their housing situation, which is a pretty untenable prospect for younger, more mobile professionals.

Incidentally, the only Dutch city with a “normal” housing market is Rotterdam, which doesn’t have the same sort of aesthetic concerns of Amsterdam and has a more American-style downtown area.

[Reply](#)


4. 2014/08/18 - 10:30 Pingback: [To Prevent Distracted Driving, New App Distracts Drivers | Streetsblog.net](#)



5. [2014/08/18 - 10:47 Ben Ross](#)

Your political analysis excludes the possibility of organization on a class basis. Strong labor movements advocate for both rent control and increased housing supply. That is partly because they see that rent control won’t work if the gap between market and controlled rents is too big, and partly because they represent the people looking for housing just as much as the people already in the housing. Labor-governed cities regularly have big housing construction programs. The classic case is Vienna in the 1920s (see Gulick, Austria from Hapsburg to Hitler). New York in the LaGuardia era built lots of housing too.


[Reply](#)

- o  [2014/08/18 - 11:12 Alon Levy](#)

Okay, so now the question is why this is no longer the case – why these cities no longer build housing in large quantities. For instance, Sweden had its Million Program, but no longer does. In Sweden at least, the answer is the same us-and-them issue: the Million Program enabled the working class to live in larger apartments in the same area; it was not about accommodating immigrants, or about making it easier for people from peripheral cities to move to the capital. The same was true of Depression- and postwar-era US urban renewal, at least insofar as it was aimed at white people (when aimed at black people, it was about removal from city centers rather than any provision of services).

I do not know what the city-province politics in Sweden are like, so I don’t know whether the idea of state involvement in construction in the Stockholm area would be acceptable to voters in the north, or in Malmö. If it’s anything like Israel, it would not be. In Israel, the idea of new public housing construction in the Tel Aviv area gets opposition from power brokers in peripheral areas, who want the state to prioritize construction in their own already affordable regions as a way of investing in them, and make nationalistic arguments about settling the entire country. Presumably Tel Aviv could take charge itself and submit an upzoning plan for state approval, which the state would probably approve; but once the decision is made by local interests rather than national ones, the same us-and-them politics rears its head.


[Reply](#)

6.  [2014/08/18 - 11:40 Alon Levy](#)

A couple points that I did not make in the post for length reasons but that are equally pertinent:

1. In California, Prop 13 is essentially rent control for homeowner property taxes, and has contributed to the intransigence of suburban homeowners. That said, in the New York suburbs, NIMBYs are equally opposed to letting in poorer people; they just happen to face very high property taxes funding the local schools. The effect has not been to get them to support upzoning, but to get a few to leave these suburbs and move back to New York.
2. Although I'm focusing on zoning restrictions and on the community's use of variance applications to extort developers, there are plenty of other examples of harassment aimed at tenants who are in the them-group. When used by the middle class against the poor, examples include limits on unrelated adults living together (because of group homes, students, and maybe also low-income immigrants), minimum dwelling and lot sizes, and parking minimums. San Francisco doesn't just have NIMBYs who vandalize tech shuttles; it also has NIMBYs who fight microapartments.
3. When I excluded land costs from the cost calculation, I also excluded the cost of buying out the existing apartments for infill. For example, if you're demolishing a building and replacing it with one with three times the floor area, you need to add one third to the per-unit cost. This is why replacements of buildings tend to be so out of scale: to financially pan out, they need to raise the floor area ratio several times over, which means raising height by an even greater factor because of setbacks. (This also helps explain the negative correlation between housing stock growth and lifetime of a building: if you're replacing buildings by buildings three times as tall, then 2% annual housing growth means buildings last  $\log_{1.02} 3 \approx 55$  years, whereas 0.5% growth means they last 220.) In the future, it is prudent to require new high-rises to make it easy to extend their heights, on the model of the [Blue Cross Blue Shield Tower](#), which may raise average costs somewhat but avoid letting marginal costs go far above average costs.

[Reply](#)

7.  [2014/08/18 - 11:58 Adirondacker12800](#)

*Excluding land costs, which are someone else's profit,*


Which then has to be reflected in the price of the housing unit built on it. It's the reason McMansions built on the periphery are cheap, the land under them is cheap. You can't ignore the cost of the land and the existing building on it. Amortizing that cost is going to show up in your rent or mortgage payment.

[Reply](#)

- o  [2014/08/18 - 13:00 Alon Levy](#)


There's a very specific reason I made this exclusion: urban land costs depend on the profitability of development. If, through zoning restrictions, an apartment that costs \$300,000 to build sells for \$500,000, then the landowners will bid up the cost of land, and the cost to the developer will be not much less than \$500,000. Allowing more development would lower the price, which would lower the cost of land per apartment; depending on what the elasticity of demand is, it's likely that the cost of land would go down per unit of land area, too, reducing existing owners' cut. In contrast, allowing more development would not really reduce the price of any other component of home price: at the scale in question, marginal construction costs are basically constant, with neither economies of scale or significant rise in cost as the building gets taller; financing, marketing, etc., are also largely unchanged. So the more expensive an area is, the higher the land share of the cost is. For American single-family houses, land is 20% of the cost, which is presumably an average of many cheap Sunbelt suburbs and a few restricted suburbs of expensive cities, where a house that costs \$250,000 to build sells for \$1,000,000 (and if it's in California then it still gets taxed as a \$250,000 property). In the cities, it's much more than that. Those \$2,300/m<sup>2</sup> New York condos sell for \$10,000/m<sup>2</sup>.

[Reply](#)

-  [2014/08/18 - 14:12](#) *Adirondacker12800*


It's very difficult to build housing without any land under it.

[Reply](#)

-  [2014/08/19 - 11:47](#) *anonymouse*

But it's easy to minimize the amount of land you need for a given amount of housing: just build upward. The taller your building, the less land each unit ends up using, and the less the land cost matters to the per-unit price. Of course, at some point, you have to pay more for the expense of high rise construction, but engineering (and economics) is full of those sorts of tradeoffs.

[Reply](#)

-  [2014/08/19 - 13:32](#) *Adirondacker12800*

Land and the buildings on it are very very expensive in places like New York and San Francisco. That gets reflected in the rent or purchase price.

-  [2014/08/20 - 02:58](#) *threestationsquare / Anon256*

@Adirondacker12800: It's the other way around. Developable land is expensive in NYC and SF because they have strong zoning cartels that guarantee that you can charge a lot for housing built on the land. (Land with un-evictable rent-controlled apartments on it can be pretty cheap.) If more development were permitted citywide then land prices would fall.



- [2014/08/20 - 12:36 Adirondacker12800](#)

Most of Manhattan is zoned for densities higher than what it has, Those pesky pesky incumbent residents don't want to move. Same thing in other big cities, to outbid them makes anything that gets built expensive.



- [2014/08/20 - 13:02 Alon Levy](#)

...is that actually true? I know that there are parts of Manhattan where the opposite is true, i.e. buildings are taller than present FAR limits (to say nothing of parking requirements north of East 96th and West 110th, because in Manhattan everyone needs a car).



8. [2014/08/18 - 15:39 mclaren](#)

This is so obviously shockingly wrong that it seems remedial to even have to point out the utter wrongness of the entire economic argument. But (sigh) let's run through once again, shall we?

The essence of the argument here focuses on supply and demand. Unfortunately, out here in the real world, we know that significant parts of the actual economy don't operate according to supply and demand. Or, to be more precise, significant parts of the actual economy operate according to a perversely inverted version of the law of supply and demand. Namely, the more supply there is, the higher demand goes, and the higher prices become.

Let's take a specific example: freeways and traffic. Supply and demand tells us that if we build more freeways, the supply of available roadways will increase, and the density of traffic will drop. What actually happens is the reverse. Urban planners have repeatedly found, to their incredulity, that when they build more freeways, traffic increases. And as a result, the more freeways you have, the worse traffic density becomes. So we get this paradoxical result that if you build twice as much freeway mileage as you had before, traffic stalls and travels twice as slowly as it before. The real way to reduce traffic is to eliminate the free market for freeway traffic and impose external controls, as in the diamond carpool lanes now being used in various high-traffic urban areas. Eliminating the free market for freeway traffic represents a recognition that the law of supply and demand has broken down. The market doesn't work in this particular instance.

We see the same process with health care. More doctors don't reduce the cost of health care, they increase it. Likewise, real estate in desirable cities. The more housing you build, the higher prices


become. Build enough housing, and eventually nobody but rich people can live in that city. Building housing makes cities unaffordable.

Economists can't wrap their heads around these kinds of paradoxes because they're unable to understand that not all parts of the real world function in the idealized way described by Econ 101. In the real world, there is infinite (or effectively infinite) demand for some goods, and creating more supply creates exponentially more demand in a vicious feedback loop. That's not true in the toy world of Econ 101, but out here in the real world, there is no substitute for your life. If you die, you can't get another life — you're done. So people are willing to pay anything, absolutely anything, to avoid dying when they get sick. There is no limit to what people are willing to pay. The only limit is what people are able to pay. Creating more doctors just creates more opportunities to charge people money for health care, which increases the cost of health care without limit. The way to reduce health care costs is not to let the "magic of the market" create more doctors and nurses and radiological technicians, but to eliminate the market entirely and deliver health care by a nationalized single-payer system.

Likewise, building more housing in America's most desirable cities doesn't reduce housing costs, it just lets more people move to those cities who otherwise wouldn't. Why wouldn't you, as a resident of Keokuk Iowa where wages run \$8 an hour and jobs are scarce, move to Seattle WA, where the minimum wage is \$15 an hour and jobs are plentiful? Obviously you would if you could. And when Seattle builds more housing you do move. So do lots of other people. But the number of people who move is always exponentially greater than the number of housing units built. This increases the population density in Seattle by a far greater amount than anyone expects (it's always greater than anyone expects, courtesy of the exponential feed-forward effect) and drives housing costs up. And because there is always limitless (or effectively limitless) demand for housing in desirable cities like Seattle, many more people always move to Seattle (or New York or San Francisco) than housing units that are built. The result? Rents rise without limit. As with health care, the only way to reduce the cost of housing in America's most desirable cities is to impose external controls on prices. Left to themselves, the "magic of the market" will push housing costs and health care costs and traffic density in urban areas to infinity.

The plain fact of the matter is that the free market doesn't work in some areas of life. Economists are unwilling to admit this, but it remains a brutal reality: privatized fire departments just don't work. Privatized municipal water services are a bust. Privatized police are a no-go. Privatized health care is a disaster. And letting the market set housing prices in our major cities is an equally huge disaster. But economists just can't accept the fact that large parts of everyday life, from universal public education to fire suppression to policing, cannot operate according to the free market. Economists just can't accept the shocking reality that the law of supply does not apply to much of everyday life, from housing to traffic control to water and sewer services to health care.

[Reply](#)

- o  [2014/08/22 - 04:36 Alon Levy](#)

(Rescued from spamfilter; I have no idea why it tagged your comment as spam.)

First, I question your analogies. Having more doctors would reduce the salary of each doctor. That's why the AMA keeps the supply of doctors in the US so scarce, by

restricting available residencies and refusing to recognize foreign doctors' credentials. It may or may not reduce the overall cost of health care, depending on what the elasticity is; this doesn't really matter, since the issue with housing is not to reduce overall spending on housing in the economy but the amount of money paid per unit of housing in rent.

Second, you're discounting elasticity. Housing, like other staple goods, tends to be inelastic, so that overbuilding by a slight amount causes prices to freefall, and underbuilding by a slight amount causes them to go up to stratospheric levels. For a quick-and-dirty example, Detroit was built for 2 million people and has maybe a third as many today, but its housing prices have dropped by far more than a factor of 3 – if I'm not mistaken, the median house price there is \$13,000, which is around a tenth or less of local construction costs. The same thing is the case with food – a small increase in demand, such as what happened around 2007, can cause large increases in the price of food. The difference is that the large majority of productive farmland in the world is already under cultivation, usually intense cultivation, whereas urban land is not used to nearly its maximum extent.

Third, there are a lot of reasons why education, health care, and to a lesser extent infrastructure don't follow any rules of basic economics. They're outlined at the end of the post, and none of them applies to housing.

And fourth, the feedforward effect is only true in one specific circumstance: if the entire city is tightly zoned, and one small area is upzoned, then it signals that there may be upzoning in surrounding blocks, and then developers buy them up expecting greater profits. At close enough level of zoom, upzoning does not reduce prices because the swing in supply is too small to matter. But when an entire city has lax zoning, things behave exactly as basic economics would predict. In Tokyo, 2% annual growth in the housing stock, more than the city's population growth, has led to falling rents; in Toronto and Vancouver, which also have fast housing growth, people bemoan high rents and rising purchase prices, but rents are neither high nor rising fast by US rich city standards. And in the American Sunbelt, the ease of building more suburban sprawl has kept suburban sprawl prices low, barely above construction costs. There's a lot of demand for living in dense cities like Seattle; there's also a lot of demand for the Texas sprawl. But in the Texas sprawl this demand translates to population growth, whereas in New York and San Francisco this translates to high rents.

[Reply](#)



o [2014/08/22 - 13:11](#) *Joey*

Your freeway argument doesn't hold because freeways don't charge for access. Congestion could be eliminated by setting toll prices right.

[Reply](#)



o [2014/08/22 - 15:08](#) *threestationsquare / Anon256*



We need to build enough housing in the economically-active cities that EVERYBODY who wants to can move there (at which point prices will of course stop rising). Anything less would be an injustice against the people in Keokuk, who have just as much right to live in the cities as the people who already do.

[Reply](#)



o [2014/08/28 - 09:46 Lewis Lehe \(@LewisLehe\)](#)

“Let’s take a specific example: freeways and traffic. Supply and demand tells us that if we build more freeways, the supply of available roadways will increase, and the density of traffic will drop. What actually happens is the reverse. Urban planners have repeatedly found, to their incredulity, that when they build more freeways, traffic increases. And as a result, the more freeways you have, the worse traffic density becomes.”

I have never seen evidence that building more lane-miles increases average traffic density on the network, only claims about traffic flow (veh-km traveled). What is your citation? What is the “magic of the market” for traffic density? There are not prices for road access nor any meaningful market provision. Finally, you should know that raising mobility is only a tangential part of transportation planning and engineering. Mobility is a subgoal to the real goal: is to supply simultaneous access to destinations, which building roads certainly accomplishes. It is kind of like an amusement park with lines at the rides: building more rides will not notably shrink the exiting lines, but it is nonetheless a net benefit because more people can enjoy rides. But it is more beneficial than in the amusement park case, because at their destinations people interact with each other positively. Hence places with high accessibility also have high office rents, wages, productivity per hour, and variety of interesting products.

[Reply](#)



▪ [2014/08/28 - 10:45 Alon Levy](#)

The specific claim about traffic density is wrong (too strong, really), but the general issue about induced demand is environmental. Building more roads induces more driving, which raises overall environmental damage, e.g. pollution and accidents. Occasionally you see pro-car contrarians claim that building more roads will reduce these environmental problems, e.g. more free-flowing traffic means higher fuel economy for cars, freeways have lower accident rates; this is true per car or per vehicle- or passenger-km, but the growth in driving means that overall fuel consumption and accident rates grow.

This driving-specific example has turned into general, and unjustified, disdain for arguments about increasing supply of other things. I suppose it works if you think the fact that people live in central cities is itself a social problem (and this was historically the impetus for suburbanization and separate-use, single-family zoning).

[Reply](#)



- [2014/08/30 - 11:23 Andre Lot](#)

Traffic density is not a proxy for price equilibrium. The whole analogy on @mclaren's post is extremely flawed. It is like arguing that supply and demand doesn't work because if you start giving out free sandwiches from a food truck, the number of people waiting in line will exponentially increase in the short term.

Moreover, one cannot possibly make the case for induced demand based on driving patterns looking at a small part of the infrastructure availability spectrum. This is easy to demonstrate with counterfactuals:

1) if demand for traffic was infinite, we'd see backroads on rural areas and national parks filled all the time.

2) With exception of some enthusiasts, most people will only drive so much as they find it feasible to attain certain lifestyle including locational decisions – even if cars were given out for free, and fuel cost \$0.01/metric ton, most people would not spend their whole days driving aimlessly. On my free sandwich truck example, there is only so much people for whom going to the food truck is a feasible proposition, and there is only so much sandwiches this set of people can eat before filling their stomachs to the max. The marginal cost of water is minimal for most households on developed countries, that doesn't mean people take 4-hour showers.

3) There are several contemporary or relatively recent examples of massive road building programs that didn't end up with "road filling up again in one year". I could cite Spain, Portugal, Netherlands and Poland as examples of that.

I actually dislike, a lot, these usual gratuitous attacks on whole disciplines of science like @mclaren's. He is the one who apparently doesn't know much about even Econ 101, which wouldn't be any problem had it not devolved into calling the whole professional class as stupid.

[Reply](#)




9. [2014/08/19 - 22:51 kaleberg](#)

Based on my experience with the New York City real estate market, builders aren't building less expensive housing, because they can build and sell more expensive housing. The zoning rules really aren't that tight in Manhattan. There are all sorts of high rise office buildings and apartments and more being built, but it doesn't make sense to build for the \$44,000 a year market. You can make more money selling to the \$144,000 or \$444,000 a year market. I think the situation is similar in London. There is a huge capital glut among the world's wealthy, and they will buy just about anything you build in certain major cities. They are willing and able to pay a lot. There is no point in building for anyone of lesser means. When a new building goes up


in Manhattan and doesn't sell out at or near list price in short order, then I'll be willing to believe that the high end market is saturated. We are nowhere close.

[Reply](#)

- o  [2014/08/20 - 03:03 Alon Levy](#)


It's an artifact of there not being enough new housing to go around. I forget who it was who first said that, if car manufacturers were only allowed to sell a thousand cars a year, they'd all be luxury cars, and then people might think that there's no way the private auto industry would ever want to make cars for the mass market.

[Reply](#)

10.  [2014/08/20 - 04:45 threestationsquare / Anon256](#)


Great post. Now what do we do about it? Artificial housing scarcity in the cities with the most jobs seems to be strangling the Western World, and I've not seen any strategy that works well against the systemic causes you explain in this post.

[Reply](#)

- o  [2014/08/20 - 14:40 Eric](#)

It's strangling NY and SF, and probably London and Paris too. Is it a major issue in any other Western cities?

[Reply](#)

-  [2014/08/20 - 14:58 Alon Levy](#)

Stockholm, Vienna, Amsterdam... European countries tend to have huge income disparities between rich regions (typically the capital and its suburbs) and poor ones (often the entire country except the capital and maybe a few small cities).

In the US, it's a problem in not just New York and the Bay Area but also Boston, Washington, Los Angeles, and to some extent also Chicago. LA and Chicago have vast areas that aren't expensive, but these tend to be poor and undesirable for most people. One of the factors that strength racial segregation in Chicago is the difficulty for black people of finding affordable housing outside black neighborhoods. Whites of course have the same difficulty, but avoid most black neighborhoods, so they either don't move to Chicago at all or move to small apartments on the North Side.

[Reply](#)



- [2014/08/20 - 15:02 Adirondacker12800](#)

It's a function of city size or importance or both.

[Reply](#)



- [2014/08/21 - 02:48 Eric](#)

Vienna and Amsterdam have historical preservation considerations that can't be blamed on greed by the current inhabitants. DC has a similar issue with its height limit. I don't know about Stockholm, but it might have similar issues.

In LA and Chicago, while whites will not move into the middle of a poor black neighborhood, they (particularly the young, gay, and/or childless) will move into the marginal regions between rich white and poor black neighborhoods, and gentrify those regions. This is a slower process, but it does mean that in the longer term the "acceptable" housing supply is not in fact limited.

[Reply](#)



- [2014/08/21 - 10:19 Alon Levy](#)

The historical preservation argument is a standard one used by the NIMBYs. Even in Indianapolis, once a neighborhood started to gentrify, the early gentrifiers petitioned (and got) historic district status, making sure their early investments would pay off.

Stockholm's housing stock seems to be of similar vintage as the low-rise parts of Manhattan. The building I currently live in, at the outer end of central Stockholm, is from 1907, about the same as the Columbia dorm building I lived in.

EDIT: I'm not sure about LA, but in Chicago, the racial issue is that the black areas are on the South Side and the white ones on the North Side, so in principle, the in-between zone is the Loop. In practice there's some gentrification starting on the Near South Side, but this north-south division has slowed down the process, while simultaneously enshrining segregation.



- [2014/08/21 - 23:52 calwatch](#)

In LA the primary gentrification is towards Hispanic neighborhoods, which is why you see Boyle Heights, Highland

Park, etc. gentrifying, brought on by proximity to downtown and mass transit. Meanwhile the Blue Line corridor is not gentrifying, although there is a huge handicap in that much of South LA is in the flight path of LAX and as such is more undesirable than equivalent areas in the north. Even so, you would expect places like Inglewood or Willowbrook to do better. They don't.



- [2014/08/25 - 03:45](#) *Yoav*

I think it is a problem with black/white division, because a single white person in a black neighborhood or a single black person in a white neighborhood would really stand out. That sure can feel not so nice.



- [2014/08/21 - 09:42](#) *Sascha Claus*

Munich and Hamburg have a housing shortage with nation-wide media attention and Berlin has one at least inside the old pre-WWII quarters. Berlin is trying to fight it with some populist measures that are carefully crafted to avoid possible useful side effects.

[Reply](#)

11. 2014/08/20 - 13:35 Pingback: [Housing Is Expensive Because Everyone Wants it That Way](#)



12. [2014/08/30 - 11:47](#) *Andre Lot*

I think a critical issue to be examined on the political arrangements is the extent by which many people become vested to their outer financial skin on keeping housing prices as high as possible.

Being not a cyclical consumption good that is periodically exhausted – at least not on a human lifespan scale -, housing bubbles or cycles of appreciation can be very difficult to defuse back to their pre-heat levels, from a political standpoint. You can only sew together so much support for keeping housing affordable for newcomers while also preserving value of existing real estate holders. I'll examine some of these circumstances that conspire against that, in no particular order, in a context of Western(alized) real estate markets:

1. When housing prices increase across the board, it has become easier for homeowners to extract in cash the appreciated value and refinance. Details vary per country, but the process usually works – you end up with a lot of people who reap a windfall, and then increase their debt levels based on that windfall.
2. Underwater mortgages, in its various national iterations, on the other hand, damage the short-term consumption. Serious projects that would increase supply enough to bring the overall real estate prices in a metro area down by a significant margin would also put many households on a financially perilous situation, possibly reducing their access to credit and creating all sorts of moral hazard involving underwater mortgage – especially in countries where there is no such

thing as “declaring bankruptcy and walking away from the home giving the keys to the bank and being done with it”. Plug (1) and (2) and you have governments and pretty much all incumbents keen on not letting prices go down much.

3. Unless you have a city where renters are an extremely large share of all residents (say, like Berlin with 84%), the short term interests of incumbent renters are on direct collision with newcomers (renters or homeowners). More people coming implies more competition for the housing stock. This will almost always affect more the population with lower incomes, and these pressures usually also come with other effects (more crowded transit, more trouble to put kids on the first-choice schools) that make it much easier for anyone with 2 politically-savvy neurons to explore and blame on the “new people” (whatever they might be)

Then, you have the market interventions of all sorts.

Here in the Netherlands we have an hybrid institution called the housing corporation. It is not a government agency, it is a sort of semi-public independent entity that operates on real estate markets with great autonomy without a profit motive but under commercially sound principles with targets for affordability. There are several dozen housing corporations in the country. They account for roughly 32% of all building stock of Netherlands.

The model is not perfect, and has problems (such as very long waiting times in some cities/areas). However, it has a great advantage in that it focus on renting based on capital costs of what had been built already, not seeking to extract the every last eurocent based on present market value. But they are not aiming for zero-surplus either, as they use the financial surplus to then leverage their financial position and build more housing.

But I’m not the model is entirely replicable elsewhere, because land development is subject to very tight and rather draconian general planning laws, which reduces the inherent developable premium value of empty land.

[Reply](#)



13. [2014/10/10 - 18:07](#) *Zmapper*

If the state has the power to give a beneficial regulatory regime, they also have the power to take away that regulatory regime. Therefore, I’m not convinced that centralized power is a good long-term strategy; even if statewide liberalized zoning could pass, political winds could shift in such a way that zoning rules are tightened for all. At least under the “let 1000 flowers bloom” philosophy it is possible (albeit empirically unlikely) that one city could structure their zoning differently than another city.

Instead of the state telling cities what they must do, how could the regulations be written in a way that tells lower authorities what they can’t do?

Consider the following verbiage as a rough idea: “It is prohibited for any city (etc) to restrict residential development except as a legitimate extension of police powers in response to clear and direct health, safety, and/or public welfare concerns, and only when said restrictions are the least restrictive means of addressing these governmental concerns.”

**FONVCA AGENDA ITEM 8(a)(iv)****The  
Economist**<http://www.economist.com/node/21647614/print>**Urban land****Space and the city****Poor land use in the world's greatest cities carries a huge cost**

Apr 4th 2015 | From the print edition

BUY land, advised Mark Twain; they're not making it any more. In fact, land is not really scarce: the entire population of America could fit into Texas with more than an acre for each household to enjoy. What drives prices skyward is a collision between rampant demand and limited supply in the great metropolises like London, Mumbai and New York. In the past ten years real prices in Hong Kong have risen by 150%.

Residential property in Mayfair, in central London, can go for as much as £55,000 (\$82,000) per square metre. A square mile of Manhattan residential property costs \$16.5 billion.

Even in these great cities the scarcity is artificial. Regulatory limits on the height and density of buildings constrain supply and inflate prices. A recent analysis by academics at the London School of Economics estimates that land-use regulations in the West End of London inflate the price of office space by about 800%; in Milan and Paris the rules push up prices by around 300%. Most of the enormous value captured by landowners exists because it is well-nigh impossible to build new offices to compete those profits away.

The costs of this misfiring property market are huge, mainly because of their effects on individuals. High housing prices force workers towards cheaper but less productive places. According to one study, employment in the Bay Area around San Francisco would be about five times larger than it is but for tight limits on construction. Tot up these costs in lost earnings and unrealised human potential, and the figures become dizzying. Lifting all the barriers to urban growth in America could raise the country's GDP by between 6.5% and 13.5%, or by about \$1 trillion-2 trillion. It is difficult to think of many other policies that would yield anything like that.

**Metro stops**

Two long-run trends have led to this fractured market. One is the revival of the city as the central cog in the global economic machine (see [article](http://www.economist.com/news/briefing) (<http://www.economist.com/news/briefing>



/21647622-land-centre-pre-industrial-economy-has-returned-constrainton-growth) ). In the 20th century, tumbling transport costs weakened the gravitational pull of the city; in the 21st, the digital revolution has restored it. Knowledge-intensive industries such as technology and finance thrive on the clustering of workers who share ideas and expertise. The economies and populations of metropolises like London, New York and San Francisco have rebounded as a result.

What those cities have not regained is their historical ability to stretch in order to accommodate all those who want to come. There is a good reason for that: unconstrained urban growth in the late 19th century fostered crime and disease. Hence the second trend, the proliferation of green belts and rules on zoning. Over the course of the past century land-use rules have piled up so plentifully that getting planning permission is harder than hailing a cab on a wet afternoon. London has strict rules preventing new structures blocking certain views of St Paul's Cathedral. Google's plans to build housing on its Mountain View campus in Silicon Valley are being resisted on the ground that residents might keep pets, which could harm the local owl population. Nimbyish residents of low-density districts can exploit planning rules on everything from light levels to parking spaces to block plans for construction.



[Why land has returned as a constraint on growth](http://www.economist.com/news/briefing/21647622-land-centre-pre-industrial-economy-has-returned-constrainton-growth) (<http://www.economist.com/news/briefing/21647622-land-centre-pre-industrial-economy-has-returned-constrainton-growth>)

A good thing, too, say many. The roads and rails criss-crossing big cities already creak under the pressure of growing populations. Dampening property prices hurts one of the few routes to wealth-accumulation still available to the middle classes. A cautious approach to development is the surest way to preserve public spaces and a city's heritage: give economists their way, and they would quickly pave over Central Park.

However well these arguments go down in local planning meetings, they wilt on closer scrutiny. Home ownership is not especially egalitarian. Many households are priced out of more vibrant places. It is no coincidence that the home-ownership rate in the metropolitan area of downtrodden Detroit, at 71%, is well above the 55% in booming San Francisco. You do not need to build a forest of skyscrapers for a lot more people to make their home in big cities. San Francisco could squeeze in twice as many and remain half as dense as Manhattan.

Property wrongs



Zoning codes were conceived as a way to balance the social good of a growing, productive city and the private costs that growth sometimes imposes. But land-use rules have evolved into something more pernicious: a mechanism through which landowners are handed both unwarranted windfalls and the means to prevent others from exercising control over their property. Even small steps to restore a healthier balance between private and public good would yield handsome returns. Policymakers should focus on two things.

First, they should ensure that city-planning decisions are made from the top down. When decisions are taken at local level, land-use rules tend to be stricter. Individual districts receive fewer of the benefits of a larger metropolitan population (jobs and taxes) than their costs (blocked views and congested streets). Moving housing-supply decisions to city level should mean that due weight is put on the benefits of growth. Any restrictions on building won by one district should be offset by increases elsewhere, so the city as a whole keeps to its development budget.



[US property: Interactive county map & guide](http://www.economist.com/blogs/graphicdetail/2015/04/daily-chart-2) (<http://www.economist.com/blogs/graphicdetail/2015/04/daily-chart-2>)

Second, governments should impose higher taxes on the value of land. In most rich countries, land-value taxes account for a small share of total revenues. Land taxes are efficient. They are difficult to dodge; you cannot stuff land into a bank-vault in Luxembourg. Whereas a high tax on property can discourage investment, a high tax on land creates an incentive to develop unused sites. Land-value taxes can also help cater for newcomers. New infrastructure raises the value of nearby land, automatically feeding through into revenues—which helps to pay for the improvements.

Neither better zoning nor land taxes are easy to impose. There are logistical hurdles, such as assessing the value of land with the property stripped out. The politics is harder still. But politically tricky problems are ten-a-penny. Few offer the people who solve them a trillion-dollar reward.

From the print edition: Leaders

# Municipal & Planning Law

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## IPC Orders the Release of Email Sent From City Councillor's Personal Account

By John Mascarin, Jody Johnson and Laura Dean

Municipalities and their councillors are advised to pay close attention to a recent decision of the Information and Privacy Commissioner of Ontario ("IPC") which has ordered the release of an email sent from a city council member's private email account.

### Facts

Two years ago, the City of Oshawa was mired in a very controversial and public dispute with its Auditor General respecting allegations of wrongdoing related to the acquisition of land by the city. At a meeting of the council on May 21, 2013, a motion to appoint a well-known municipal lawyer to investigate the allegations of misconduct on the part of city employees and departments was passed. A few hours prior to the meeting, a city councillor had emailed the lawyer from the councillor's own personal email account, asking for the lawyer's feedback on a draft motion to appoint him as investigator.

A subsequent request was made under the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56 ("MFIPPA") for "all communication" between the councillor in question and the lawyer between March 1 and October 1, 2013.

The city refused the request on the grounds that:

all records responsive to [the] request, should they exist, would have been generated by the Councillor in their personal capacity as an elected official and not as an officer or employee of the City of Oshawa. Accordingly, access cannot be granted as the records are not within the custody and control of the City.

The requestor appealed the city's decision to the IPC.

### Issue

Subsection 4(1) of MFIPPA provides that every person has a right of access to a record or a part of a record in the custody or under the control of a municipality unless one of the statute's exceptions apply.

The issue considered by the IPC in this decision was whether the email was "in the custody" or "under the control" of the city under subsection 4(1) of MFIPPA.

### Decision

In Order **MO-3281**, the IPC determined that records held by municipal councillors may be subject to an access request under MFIPPA in two situations:

- where a councillor is acting as an "officer" or "employee" of the municipality, or is discharging a special duty assigned by council, such that they may be considered part of the institution; or
- where, even if the above circumstances do not apply, the councillor's records are in the custody or under the control of the municipality on the basis of established principles.

Previous decisions and orders from the IPC have consistently determined that some records to or from municipal councillors are not records that are necessarily subject to disclosure. These determinations, while consistent, have attempted to justify the refusal to disclose on various disparate grounds. Despite the principles underlying the right to disclosure of information which provides that municipal records should be available to the public and that any exceptions should be limited and specific, the IPC has enunciated that "personal," "constituency" and "political" records are not subject to disclosure (none of these types

of records are expressly set out in any exemptions under MFIPPA).

Many decisions have held that councillor records are not in the custody and under the control of the municipality because municipal councillors are not considered employees or officers of the municipality. Where a councillor may be acting as an officer or employee of the municipality, however, related records may become subject to disclosure.

In this case, the IPC found the councillor was not acting as an employee or officer of the city at the time in question and could not, therefore, be considered to be part of the city. As such, the IPC turned its analysis to whether the email was in the custody or under the control of the city on the basis of established principles.

In conducting this analysis, the IPC considered the test for “custody or control” set out in *Canada (Information Commissioner) v. Canada (Minister of National Defence)*, 2011 SCC 25 (CanLII), [2011] 2 SCR 306:

(1) Do the contents of the document relate to a city matter?

The IPC found that the record related to a city matter. In making this determination, the IPC determined that the creation of the record at issue played an integral part in council’s decision to retain the investigator.

(2) Could the city reasonably expect to obtain a copy of the document upon request?

The IPC placed considerable weight on the circumstances surrounding the use and creation of the record. The IPC noted that the records contained, in effect, negotiations between the councillor and the investigator relating to the city’s potential hiring of him and that this related directly to the city’s mandate and functions. The IPC further found that the city relied on the record in order to secure the engagement of the investigator. Given those circumstances, the IPC found that the city could reasonably expect to obtain a copy of the email from the councillor upon request. As such, the IPC found the email record was under the city’s control within the meaning of subsection 4(1) of MFIPPA.

The IPC specifically distinguished this case from Order **MO-2842**<sup>1</sup> in which it refused to order the disclosure of councillor communications exploring the possibility of bringing an NFL team to Toronto. The IPC noted that in that case the records in question related to a city matter that was speculative or hypothetical whereas here, the hiring of the investigator was contingent on a vote of council members that was imminent. The IPC found that another significant difference was the fact that the record in the present case related to an agreement that materialized, noting that mere hours after the councillor sent the email, council made the decision to hire the investigator. The logic of both determinations can be certainly questioned.

Based on the above, the IPC ordered the release of the email.

The determination in Order MO-3281 marks a significant departure from past decisions of the IPC which have, to date, refused to treat councillor emails as records within the custody and control of the municipality. **Whether this decision signals a shift in IPC policy is yet to be seen but councillors should be advised that emails relating to municipal business, whether sent from a municipal account or a private account, may no longer be protected from disclosure.**

<sup>1</sup> This problematic decision was analyzed by John Mascarin in “Sheltering Council Records from Disclosure,” 6 *D.M.P.L.* (2d) (April 2013) No. 4, pp 1-7.

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