

Subject: FW: Notice of Motion :

Date: Wed, 19 Mar 2003 11:53:35 -0800

From: "Ernie Crist" <ernie_crist@dnv.org>

To: "FONVCA (E-mail)" <fonvca@fonvca.org>

> Notice of Motion:

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> That staff be instructed to take the necessary steps to revoke and/or to change the business license of the Avalon Hotel on Marine Drive in the District of North Vancouver from the current (closing) hours of operation to no later than 11 pm.

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> Reason for Report:

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> On Monday Mar 17, 2003 Mr. George Orr, residing at 1039 West Keith Road in the District of North Vancouver, appeared before Council to complain about an ongoing noise problem emanating from the premises of the Avalon Hotel on Marine Drive.

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> Mr. Orr pointed out that, despite numerous complaints to the RCMP, the owners and/or operators of the Avalon Hotel premises, Council and Mayor Don Bell personally no meaningful action to alleviate the problem has taken place - it continues unabated he stated.

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> Mr. Orr pointed out that the noise emanating from the Avalon Hotel premises is depriving him and other residents in the vicinity of his right to enjoy the peace and the quality of life he is entitled to under the existing rules and bylaws.

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> The matter appears to be a repetition of an incident occurring many years ago when, in the same vicinity, the operators of a car dealership had hooked up a telephone to an outside loudspeaker. The loudspeaker was heard all over the areas neighborhoods until the late evening hours with residents complaining on numerous occasions. When Councillor Crist requested a staff report it was determined that over a period of one year 7 complaints had been received. However when Councillor Crist investigated the matter further RCMP records revealed that no less than close to 80 complaints had been received by the RCMP during that period.

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> All warnings to the owners of the dealership had been ignored. It was only after the Council of the day threatened to revoke the business license that the situation improved.

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> However, in the meantime Councillor Crist initiated a program under which both the District Bylaw officers and the RCMP have been equipped with portable noise hand guns that can be operated by an individual from the complainants premises in any direction. The purpose is to determine the exact noise level and issue violation tickets to a noise offender. Whether this is practical in this case or not would have to be determined, Nonetheless, it is an important tool in the enforcement of noise bylaws although it appears that both District bylaws and/or the RCMP are not frequently taking advantage of these tools.

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> While the operators of the Avalon have failed to respond to the complaints of the adjoining residents, including Mr. Orr, the matter is somewhat more complicated by the following factor. The position of the owners of the Avalon, as it is indeed of other liquor dispensing premises, that the noise is caused not by the clients within the premises but by clients who have left the premises and the owner should therefore not be held responsible. This is a legitimate point.

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> On the other hand it is unreasonable for the residents of the area to be subjected to noise during the late evening and early morning hours depriving them of the peace and quiet they may expect under the law.

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> In those circumstances, the only "Solomon" way to remedy the problem is to change or shorten the closing hours from the present

> 1 a.m. to 11 p.m. The matter of fault in such a scenario becomes irrelevant. It is the effect that matters. The bottom line is that the public is entitled to a reasonable expectation of peace and quiet during the late evening or early morning hours. If there is an educational message in this method then it may be applied to both clients and operators of liqueur dispensing premises in the District.

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