

Subject: RE: The Need for a LVP Referendum Issues for Councillors

Date: Thu, 16 Sep 2004 23:45:35 -0700

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

To: "John Hunter" <hunterjohn@telus.net>, "Alan Nixon" <Alan_Nixon@dnv.org>, "Councillor Maureen McKeon Holmes" <mckeonholmes@telus.net>, "Richard Walton" <richard_walton@dnv.org>, "Lisa Muri" <lisa_muri@dnv.org>, "John McPherson" <John_McPherson@dnv.org>

CC: "Irwin Torry" <Irwin_Torry@dnv.org>, "Corrie Kost DNV" <kost@triumf.ca>, "Peter Thompson DNV" <bedeconsulting@shaw.ca>, "Bill Tracey DNV" <wrtracey@telus.net>, "Brian Platts DNV" <bplatts@shaw.ca>, "FONVCA" <fonvca@fonvca.org>, "James Ridge" <James_Ridge@dnv.org>

Dear John:

Cut the formality? - by all means.

For brevity's sake let me explain the situation from my vantage point. The District was (is) a jungle - a virus was introduced and was wreaking havoc. KPMG is but one example. The "L.V. Pedestrian Oriented Town Center" turned out to be not what was shown on the glossy brochures but merely a densification of the L.V. Core but sans all the other things that were promised.

With the existing Library in decay there was an opportunity to get a Library and a real community center. The concept was somewhat nebulous but eventually it was agreed to go ahead and build a Library 5 stories high with 70,000 square feet of which 15,000 square feet was for Museum and Archives and 15,000 square feet for community space. However, it was a trip through fantasy land.

First they separated the Museum and Archives from the Library while the cost escalated from \$ 1.5 million to \$ 3 million. The 70,000 square foot project had become 55,000 square feet.

The next blow was a reduction of the height from 5 stories to 3 stories and from 55,000 square feet to 40,000 resulting in a monumental change in the fiscal parameters. The whole project was in danger with some people working to kill the project altogether, each and everyone of them for their own reasons. Some even wanted to move the LV Library to the City. Some, who never gave a tinkers damn about the misuse of the Heritage Fund, all in a sudden developed hernias about using the Fund albeit that it was for something worthwhile. Most of the rest you know.

Did things go as they should have? No, but the people are at least getting something. Had I been in control things would have been done differently you may rest assured. As for your charges, you may well be right to some extent. In the District it may be the price for getting something for Lynn Valley or get something done period. I could not get more for you can only move as far and as fast as the people will allow. Recently I was attacked by the Chair of the Friends of the Library who claimed my fight for a community space was a fight against the Library. What can I say. And this is it John, for I am closing this chapter.

Thank you,

Ernie

-----Original Message-----

From: John Hunter [<mailto:hunterjohn@telus.net>]

Sent: September 16, 2004 4:13 PM

To: Ernie Crist; Alan Nixon; 'Councillor Maureen McKeon Holmes'; Richard Walton; Lisa Muri; John McPherson

Cc: Irwin Torry; 'Corrie Kost DNV'; 'Peter Thompson DNV'; 'Bill Tracey DNV'; 'Brian Platts DNV'; 'FONVCA'; James Ridge

Subject: RE: The Need for a LVP Referendum Issues for Councillors

Ernie let us cut the "mister" stuff for a start. We go back to far and we are too old for that - at least I am. And perhaps like you, my patience is wearing thin, so if my comments below are a bit "hot", so be it.

The few comments I have are interspersed in your text. Suffice it to say, I think you are off base. But to be fair, you were there, I was I Asia in most of that time.

John

-----Original Message-----

From: Ernie Crist [mailto:ernie_crist@dnv.org]

Sent: September 16, 2004 3:21 PM

To: John Hunter; Alan Nixon; Councillor Maureen McKeon Holmes; Richard Walton; Lisa Muri; John McPherson

Cc: Irwin Torry

Subject: RE: The Need for a LAP Referendum Issues for Councillors

Dear Mr. Hunter:

The \$ 6 million approved by referendum was TOWARDS a Library. ERNIE SHOW ME THE PROOF - SHOW ME A DOCUMENT THAT SAYS IT COULD BE WELL OVER \$6 MM. I ACCEPT IT WAS A LAST MINUTE "GRAB" - THE MOTION YOU MADE IN 1996 SHOWS THAT, BUT PLEASE DO NOT CLAIM ABSENT WRITTEN EVIDENCE, THAT YOU OR DNV TOLD THE PUBLIC THAT. THE REFERENDUM QUESTION TO THE PUBLIC IS CLEAR AND NOTHING RE "TOWARD". IT SAID "APPROXIMATELY 25,000 SQUARE FEET, AND \$6 MM". I SEE YOUR CLAIM AS INVENTION AFTER THE FACT, BUT EAGERLY AWAIT DOCUMENTARY PROOF THAT I AM WRONG. ARE YOU SAYING THE DISTRICT LIED TO THE ELECTORATE? We never counted on having to pay for the (civic square) commercial building ourselves. TRUE. ORIGINAL DIRECTION TO STAFF WAS A PPP, BUT COUNCIL LATER AGREED TO DROP THAT (SEE IRWIN'S MEMO). YOU WERE THERE. THE FACT YOU VOTED AGAINST, IF YOU DID, DOES NOT CHANGE HISTORY. It certainly was not my idea. It came about as a result of the "intelligentsia" reducing the height of the building from 5 stories to 3 with the result that the private entrepreneur walked away from it. I objected but nobody listened to me, certainly not Councillor Muri. ALL THESE CHANGES WERE AGREED TO BY COUNCIL UNLESS IRWIN'S MEMO IS WRONG, WHICH BASED ON MY EXPERIENCE WITH IRWIN, I SERIOUSLY DOUBT. THE FACT THAT YOU LOST ON A VOTE - AN INCREASINGLY FREQUENT OCCURRENCE - DOES NOT MEAN NOBODY KNEW!

However, with this ploy in place, the proceeds from the lease of the commercial building could go into General Revenue. At least it would make it easier. It was "cute" and was done by asking the gullible people "do you think that 3 stories would be better than 5 so the mountains are more visible and the good people said "Yes" not realizing that they just played into the hands of the community space killers. SO THE LYNN VALLEY COMMITTEE ARE NOT TOO BRIGHT? IS THAT YOUR POINT? Even the Lynn Valley Community Association agreed. They invited the planners and the guardians of the Lynn Valley Town Square project who congratulated them on their vision - I was not invited to speak. NOW ERNIE, WHEN HAS THAT EVER HELD YOU BACK FROM GOING TO THE PAPERS OR THE COMMUNITY? YOU HAVE MADE YOUR POINTS AT EVERY AVAILABLE OPPORTUNITY. THE PROBLEM ITS - IT'S "NO SALE". AS C. MURI POINTED OUT MONDAY, NOT ONE PERSON AT THE PUBLIC MEETING MADE THIS POINT - YOU ARE ON YOUR OWN ON THIS ISSUE APPARENTLY. It also opened the way to use the proceeds from the old

Library site NOT to replenish the Heritage Fund as is being claimed now but to use it for other purposes when the time is ripe just as is the case with Northlands - at least it will make it easier. WHERE THE MONEY FROM THE HF GOES IS A QUESTION, BUT AS JOHN M pointed out, legally I believe any proceeds from the library lands sale must go to the HF. This is why the real cost is over \$40 million not \$ 34 as the NEWS would have it. Some of us at least are quite familiar with the District of North Vancouver. THE NET COST IS \$34.5 mm ESTIMATED; THE BIDS WILL PROBABLY COME IN AT \$40 mm AND I SUSPECT COUNCIL WILL ADOPT THE "MEDICARE APPROACH" - JUST THROW MORE MONEY AT IT. BUT THE REQUIRED BRIDGE FINANCING DOES NOT CHANGE THE TOTAL COST.

But to go back to the Library, nobody ever suggested that the \$ 6 million from the referendum would cover the total cost. WITH ALL DUE RESPECT, NONSENSE! YOU ARE SAYING THE REFERENDUM QUESTION LIED TO THE ELECTORATE! I HAVE IT HERE. READ IT! In addition to the \$ 6 million, we expected to receive \$ 4 million from the sale of the old Library site (IF REZONED APPROPRIATELY, AS C. MURI (AND ONLY HER) POINTED OUT), \$ 2 million from the Federal government (FEDERAL MONEY IS ZERO RISK????) and the rest we agreed should be taken from the Heritage Fund. SHOW ME THE DOCUMENT THAT SAYS THIS, OR PLEASE DROP THIS LINE. IF YOU BELIEVE THIS, YOU ARE CONCEDED THAT THE COUNCIL OF THE DAY, YOU INCLUDED, LIED TO THE ELECTORATE, IN MY VIEW. I HAVE AN OPEN MIND - I WAS NOT THERE. PLEASE PROVIDE PROOF - EVIDENTIARY PROOF This we did to the tune of \$7.4 million dollars. The total amount is therefore \$ 19.4 million which is adequate to pay for the Civic Square project sans commercial building and then some. But even in the last minute, to avoid adding the cost of the commercial building to the taxes via a loan, I suggested that we take the additional funding from the Heritage Fund. Did you notice that there was no support? YES, AND FOR GOOD REASON. THERE IS NO HOPE OF THE PROJECT EVER REPAYING THE HF. TO SHOW THAT IT DOES, YOU HAVE TO TREAT PROBABLY \$18 MM OF THE TOTAL COST AS "SUNK COSTS", WHICH STAFF SEEM TO HAVE CONCEDED IN THE PUBLIC MEETING IS NOT SUPPORTABLE. (MY REQUEST FOR THE FIGURES SUPPORTING CLAIMS TO COUNCIL OF REPAYMENT REMAINS UNANSWERED).

As for the original \$ 7.4 million from the Heritage Fund Fund?...it is in line with the policy. It would be curious to say the least going to referendum for a project approved long before the last election and in line with existing policy and see it defeated by people who don't want the Library but who were silent when the District siphoned off (mismanaged) hundreds of millions of dollars for "projects" contrary to policy; ERNIE, MANY OF US HAVE QUESTIONED THE USE OF HF MONIES TO PAY OPERATING COSTS, MYSELF INCLUDED, AND YOU KNOW THAT.

IT IS NOT ABOUT "NOT WANTING THE LIBRARY". THE ISSUE ARE PROCESS, AND VOODOO ECONOMICS. AS FOR YOUR INDICATION THAT THE 1996 REFERENDUM APPROVED THIS PROJECT, I JUST CANNOT THINK OF ANY WORD OTHER THAN "BULLSHIT". Six times the cost, total change of scope - give me a break!

As for the additional cost over and above the \$ 19.4 million. This is not my fault, but, in any case, I voted against it. You were at the meeting therefore you will know that this is so. The bottom line is that the total amount for the project, excluding the commercial building, was approved long before the last election. Therefore I accept no responsibility for the charges made by you. AS TRUMAN SAID, KEEP YOUR WORD, AND YOU WON'T BE ACCUSED". YOU MADE A PROMISE AND BROKE IT. THEN. A LA JESSE HELMS, YOU SAID, IN EFFECT, "WE'D HOLD A REFERENDUM IF WE THOUGHT WE COULD WIN IT".

You may not agree, but this is how I see it.

SORRY ERNIE, "NO SALE". LISA AND RICHARD HAVE THE VOTE OF MOST NEUTRAL WATCHERS ON THIS ONE, I SUSPECT - CERTAINLY MINE. THEY ACTED WITH INTEGRITY AND KEPT THEIR PROMISES.

But thanks for taking the time to respond.

Regards

John

Ernie Crist

inal Message-----

From: John Hunter [<mailto:hunterjohn@telus.net>]
Sent: September 16, 2004 11:07 AM
To: Ernie Crist; Alan Nixon; 'Councillor Maureen McKeon Holmes'; Richard Walton; Lisa Muri; John McPherson
Cc: Irwin Torry
Subject: RE: The Need for a LVP Referendum Issues for Councillors

Dear C. Crist

Below is your election promise and that of C. MMH.

Perhaps you could explain to me - and the public - why your actions in opposing a referendum on this project did not break your promise. And please don't use the excuse that it was approved in 1996 - that approval was a library ONLY, much smaller, at about one-sixth the cost, and with NO MENTION of a town center. To claim that the 1996 referendum was approval of THIS project is not credible.

The big issue here, in my opinion, is not the funding makeup. It's the issues I flag below in the earlier e-mail. And the issue you and C. MMH will face at the next election - can we expect our politicians to keep their promises?

And with all due respect, I think a fair reading of the council meeting tape would suggest that it was not C. Muri who was confused. The decisions on the project scope and size were made by council several years ago - it is all documented in Irwin Torry's memo of July 16, 2003. You may not like those decisions, but you can hardly claim with a straight face, I suggest, that people were duped.

Ernie Crist:
Referendums should be held on all major capital projects.

Maureen McKeon Holmes:
Major capital projects should go to referendum with a price tag attached.

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-----Original Message-----

From: Ernie Crist [mailto:ernie_crist@dnv.org]
Sent: September 15, 2004 8:38 PM
To: John Hunter; Alan Nixon; Councillor Maureen McKeon Holmes; Richard Walton; Lisa Muri; John McPherson
Subject: RE: The Need for a LVP Referendum Issues for Councillors

Dear Mr. Hunter.

It is the present funding for the project which is in violation of the spirit of the promise made to FONVCA. The financial plan I proposed, but which Council did not adopt is not. The "violation" of the promise to FONVCA arises from financing the project via a loan which I did not support.

I do not think Councillor Muri was aware of the details of this issue. Had she been she could never have made the kind of statements she made last Monday, especially her claim that I had changed my mind in the 11th hour. Clearly she was confused. It may be because she was absent for quite a while.

Taking money (\$ 7.4 million) from the Heritage Fund already allocated previously for a project which is of benefit to the community and has the capacity to repay both principle and interest is fully in line with existing policy and is perfectly legal. That the present plan has been changed to insure that that this will not happen anymore than is the case with "Northlands" is not the fault of the policy nor is it my fault.

To use \$ 7.4 million from the Heritage Fund for this project is not only legal but also ethical. What is not ethical, however, is to take money from the Heritage Fund to the tune of hundreds of millions of dollars and use it for operating expenses as has been done without a veritable murmur from this community. What is also unethical is to repeat this (Northlands) ploy and charge the public \$ 35 million for a Library worth \$ 18 or \$ 20 million while at the same time depriving them of the community space as was originally planned. In short, the District has messed up. Let those who voted in favor of this scheme apologize to FONVCA.

Ernie Crist

[Ernie Crist]

-----Original Message-----

From: John Hunter [<mailto:hunterjohn@telus.net>]
Sent: September 15, 2004 4:09 PM
To: Alan Nixon; 'Councillor Maureen McKeon Holmes'; Richard Walton;
Ernie Crist; Lisa Muri; John McPherson
Subject: The Need for a LVP Referendum Issues for Councillors

Just some thoughts for you

Frankly, if I were a councillor, I would be supporting a referendum for the following reasons:

-Council owe it to the electorate; you don't just work for Lynn Valley. There were referenda for all other major projects including ParkGate

-Councillor's election promises to FONVCA. Only C. Nixon is on safe ground here in that his promise was nebulous. C. Muri and Walton tried to keep their promises; C. Crist and McKeon Holmes so far have broken theirs. Harris' promise could be debated if she claimed this project has no controversy, which I do not think is supportable. MHM and EC promises are unequivocal and broken. The optics will be "buying votes". Sorry, but that is the perception that will be generated.

-both the legal and ethical issue of taking a 1996 referendum approval of a \$6 MM, 25,000 square foot library as approval for this project. Staff claim a legal opinion that the diversion of \$6 MM to a different project is legal despite section 337 of the LGA (which was the governing act when it was done). An opinion also claimed Canlan was legal. (only those who voted for use of that money to buy land are at risk, but if you approve these diverted funds for this project, you might be caught too - I do not know).

-Council directed staff to, in effect, ignore the conclusions of the CBFAC (as I read the resolution) and that is a public document and there is no business plan, no broad based risk assessment, etc for our largest ever project - traditionally recipes for disaster. This leaves Council exposed. Council cannot claim "we didn't know".

-the process was badly flawed, with a public meeting AFTER Council made our decision, and with key information re the Community Charter given

Council a few days before the public meeting, with therefore no time for Council or the public to review it.

-The key is: Council went off on a project with significant risk, especially based on DNV history, on its own, refusing elector assent. There is significant risk to individual reputations, and potential legal risk, if, as in Maple Ridge, a court challenge is launched. This could involve councillor's personal financial risk and being barred from office, from which we may not be protected even if staff gave Council the wrong information unless staff was guilty of dishonesty, gross negligence or malicious or wilful misconduct (see LGA section 338 below. Com. Charter language is the same). Council had a legal opinion that Canlan was legal when citizens said otherwise; the citizens were right and NOT on the basis of the technicality claimed by one report.

I would hope that ethics and principles, not legal risk, might induce C. MHM and AN to reverse their stance. There is no reason to delay the project for a referendum; for some slight, the engineering and other stuff can continue.

Purposes for which
money may be used

<http://www.civicinfo.bc.ca/LocalGovernmentAct/data/qsdoc150_983.html##>
Jan 01/00

337.

(1)

Subject to this section, money borrowed by a municipality under any Act must not be used for a purpose other than that specified in the bylaw or agreement authorizing the borrowing.

<http://www.civicinfo.bc.ca/LocalGovernmentAct/data/qsdoc150_983.html##>

(2)

A council may, by bylaw adopted with the assent of the electors, use all or part of money borrowed for a specific purpose and not repayable in the current year for any other lawful purpose of the municipality.

<http://www.civicinfo.bc.ca/LocalGovernmentAct/data/qsdoc150_983.html##>

(3)

If some of the money borrowed for a specified purpose remains unused after payment of the costs related to that purpose, a council may, by bylaw, provide for the use of the unused money for one or more of the

following:

<http://www.civicinfo.bc.ca/LocalGovernmentAct/data/qsdoc150_983.html##>

(a)

to retire debentures issued for the purpose;

<http://www.civicinfo.bc.ca/LocalGovernmentAct/data/qsdoc150_983.html##>

(b)

to purchase and cancel debentures issued for the purpose;

<http://www.civicinfo.bc.ca/LocalGovernmentAct/data/qsdoc150_983.html##>

(c)

for expenditures of a nature similar to the purpose in the bylaw authorizing the money to be borrowed;

<http://www.civicinfo.bc.ca/LocalGovernmentAct/data/qsdoc150_983.html##>

(d)

for a reserve fund for matters in paragraph (a), (b) or (c), in which case Part 13 applies.

1999-37-81.


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Liabilities for use of money
contrary to Act

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<http://www.civicinfo.bc.ca/LocalGovernmentAct/data/qsdoc150\_983.html##>
Jan 01/00
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338.

(1)

A council member who votes for a bylaw or resolution authorizing the expenditure, investment or other use of money contrary to this Act is personally liable to the municipality for the amount.

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<http://www.civicinfo.bc.ca/LocalGovernmentAct/data/qsdoc150\_983.html##>
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(2)

As an exception, subsection (1) does not apply if the council member relied on information provided by a municipal officer or employee and the officer or employee was guilty of dishonesty, gross negligence or malicious or wilful misconduct in relation to the provision of the information.

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<http://www.civicinfo.bc.ca/LocalGovernmentAct/data/qsdoc150\_983.html##>
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(3)

In addition to any other penalty to which the person may be liable, a council member who is liable to the municipality under subsection (1) is disqualified from holding municipal office for 5 years from the date of the vote.

<http://www.civicinfo.bc.ca/LocalGovernmentAct/data/qsdoc150_983.html##>

(4)

Money due a municipality under this section may be recovered for the municipality by

<http://www.civicinfo.bc.ca/LocalGovernmentAct/data/qsdoc150_983.html##>

(a)

the municipality,

<http://www.civicinfo.bc.ca/LocalGovernmentAct/data/qsdoc150_983.html##>

(b)

an elector or taxpayer of the municipality, or

<http://www.civicinfo.bc.ca/LocalGovernmentAct/data/qsdoc150_983.html##>


(c)

a person who holds a security under a borrowing made by the municipality.

1999-37-81.

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for J. Hunter & Associates Ltd.

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