





*THAT Council adopt the October 13 Special Council Minutes as presented.*  
CARRIED.

## 6.2 October 13, 2020 Regular Minutes

Council noted the following errors or omissions:

- Page 3 of the minutes should read "...to enact single-use plastic items regulation..." not "...to enact single-use item regulation...."
- Council noted that there was a typo in the resolution recommended in a report that was received in closed session which led to an error when Council Rose and Reported a motion made in that closed session under Item 15.2., on page 13 of the minutes. Resolution 1. should read **THAT**, due to evidence of non-compliance with District of Ucluelet Zoning Bylaw No. 1160, 2013..." not "**THAT** due to evidence of non-compliance with District of Ucluelet Zoning Bylaw No. 1309, 2013...."

2020.208.REGULAR **It was moved by Councillor McEwen and seconded by Councillor Hoar**  
*THAT Council adopt the October 13 Regular Council Minutes as amended.*  
CARRIED.

## 7. UNFINISHED BUSINESS

There was no unfinished business.

## 8. MAYOR'S ANNOUNCEMENTS

The Mayor reminded residents to practice COVID-19 Halloween precautions and noted the new health order related to gatherings in private residences.

## 9. PUBLIC INPUT & DELEGATIONS

9.1 Public Input  
There was no public input.

## 10. CORRESPONDENCE

10.1 **92nd BC Youth Parliament Session**  
*Rhonda Vanderfluit, Registrar, Youth Parliament of BC Alumni Society*

2020.209.REGULAR **It was moved by Councillor McEwen and seconded by Councillor Hoar**  
*THAT Council direct Staff to refer the letter from Rhonda Vanderfluit regarding the "92nd BC Youth Parliament Session" to the Ucluelet Secondary School administrators.*  
CARRIED.

## 10.2 Let's Talk Parks, Canada!



***Pacific Rim National Park Reserve***

**11. INFORMATION ITEMS**

There were no information items.

**12. COUNCIL COMMITTEE REPORTS**

**12.1 Councillor Marilyn McEwen**  
***Deputy Mayor January - March 2020***

- October 20 - Attended Committee of the Whole - Societies meeting.
- October 23 - Attended Strategic Planning - mid-term check-up.
- Will attend VIEA State of the Island Summit from October 27th to the 29th.

**12.2 Councillor Lara Kemps**  
***Deputy Mayor April - June 2020***

**12.3 Councillor Jennifer Hoar**  
***Deputy Mayor July - September 2020***

- October 20 - Attended Committee of the Whole - Societies meeting.
- October 23 - Attended Strategic Planning - mid-term check-up.

**12.4 Councillor Rachelle Cole**  
***Deputy Mayor October - December 2020***

- October 14 - Attended ACRD Board of Directors Meeting.
- October 20 - Attended Committee of the Whole - Societies meeting.
- October 23 - Attended Strategic Planning - mid-term check-up.
- Noted flu vaccines are or will be available at local pharmacies and through Island Health.

**12.5 Mayor Mayco Noël**

- October 20 - Attended Committee of the Whole - Societies meeting.
- October 23 - Attended Strategic Planning - mid-term check-up.

**13. REPORTS**

**13.1 Development Permit & Development Variance Permit for 1023 Tye Terrace**  
***John Towgood, Planner 1***

Bruce Greig, Manager of Community Planning, presented this report. He



explained that the proposed Development Variance Permit would allow a front yard setback of 4.5 meters, whereas the required setback is 6 meters, and a rear yard setback of 2.2 meters, where as the the required setback is 3 meters. Mr. Greig, also noted the correspondence item in the Agenda package related to this matter.

Council sought public input through Zoom, by email and from people watching the meeting in the overflow room.

There was no public input.

**2020.210.REGULAR It was moved by Councillor McEwen and seconded by Councillor Cole**

**1. THAT** Council, with regard to a single unit resort condo building at 1023 Tyee Terrace (Strata Lot 19, Plan VIS4490, Section 21, Clayoquot Land District, with interest in common property), approve the following:

*a. subject to public comment, issue Development Variance Permit DVP20-05 to allow:*

*i. a front yard setback of 4.5m whereas section CS-5.6.1 the District of Ucluelet Zoning Bylaw No. 1160, 2013, requires 6m; and,*

*ii. a rear yard setback of 2.2m whereas section CS-5.6.1 the District of Ucluelet Zoning Bylaw No. 1160, 2013, requires 3m.*

*b. issue Development Permit DP20-12 for a single unit resort condo building, associated site works, and landscaping.*

CARRIED.

**13.2 Lot 13 Marine Drive - Development Variance Permit  
Bruce Greig, Manager of Community Planning**

Mr. Greig presented this report. He noted that the subject Development Variance Permit relates to varying the minimum width of dedicated road right-of-way from on Lot 13 Marine Drive from 15 meters in width to 10 meters in width.

Council sought public input through Zoom, by email and from people watching the meeting in the overflow room. There was no public input.

**2020.211.REGULAR It was moved by Councillor Cole and seconded by Councillor McEwen**

**2. THAT** Council authorize issuance of Development Variance Permit 3090-20-DVP20-02 for the proposed 33-lot affordable development on Lot 13, District Lot 283, Clayoquot Land District, Plan VIP84686 as follows:

*a. vary the Ucluelet Subdivision Control Bylaw No. 521, 1989, to allow*



*development of a compact residential road and services within a 10m dedicated road right-of-way (instead of a 15m minimum road dedication).*

CARRIED.

**13.3 ICIP Investing in Canada Infrastructure Program - Rural and Northern Communities Grant Application**  
***Warren Cannon, Manager of Operations***

Mr. Cannon presented this report. He noted that the project aligns with the Draft Sewer Master Plan and the ICIP grant criteria.

2020.212.REGULAR **It was moved by Councillor Hoar and seconded by Councillor Cole**

1. ***THAT*** Council authorize Staff to submit a grant application to the Investing in Canada Infrastructure Program-Rural and Northern Communities to fund the Sanitary Sewer Collection System Expansion Sea Plane Base Road Area project; and

2. ***THAT*** Council commit to its share of any cost overruns related to the Sanitary Sewer Collection System Expansion Sea Plane Base Road Area project.

CARRIED.

**13.4 Hearing on Possible Business License Suspension - "Ucluelet Vacations" 1184 Helen Road**  
***Bruce Greig, Manager of Community Planning***

Council noted that this Agenda item should be titled "Hearing on Possible Business License Suspension - 'Ucluelet Vacation' 1183 Helen Road" not "Hearing on Possible Business License Suspension - 'Ucluelet Vacation' 1184 Helen Road".

Council provided Mr. Greig an opportunity to present. He appeared via Zoom. There was video. He noted the following:

- The most recent Staff report includes background, correspondence received from the business owners and recommends steps for conducting the hearing.
- The hearing relates to Ucluelet Business Regulation and Licensing Bylaw No. 922, 2003 (the "Business Bylaw").
- Section 5 of the Business Bylaw states that the business owners are responsible to ensure compliance with all bylaws and enactments.
- Section 8 of the Business Bylaw authorizes Council to suspend or cancel a business license in cases of misconduct.
- The report in Council's agenda states:
  - Ucluelet Vacations is a business that operates at 1183 Helen Road and offers short-term tourist accommodations



- at that location.
  - 1183 Helen Road lies within the R-1 Single Family Residential Zone which is designated in the District of Ucluelet Zoning Bylaw No. 1160, 2013 (the "Zoning Bylaw").
  - The one principle permitted use in the R-1 Zone is Single Family Dwelling.
  - Bed and Breakfast is a permitted secondary use in the R-1 Zone.
  - Section 404 of the Zoning Bylaw contains regulation for Bed and Breakfast uses.
  - The pertinent regulations provide that a Bed and Breakfast:
    - must be accessory to a permanent Residential Use;
    - must be offered and administered by the full-time and present resident; and
    - is limited to a maximum of 3 guest rooms.
- Early on August 1, 2020, RCMP and Bylaw Staff attended the property at 1183 Helen Road in response to a noise complaint.
  - They observed a gathering of 19 people on the property, with no sign of a full-time resident operating or administering the commercial tourism accommodation.
  - A guest stated that they were renting 4 suites for the weekend; two up and two down.
- The business license issued for "Ucluelet Vacations" was issued for 3 guest rooms on the lower level. The upper level of the house is supposed to be the residence of a full-time occupant.
- Council has received legal advice that the suspension of a business can be for a fixed minimum period of time. If Council does move in that direction then Council should deliberate on what would be a reasonable period of suspension.
- That Council should use this opportunity to clarify the facts as presented orally and in the agenda and provide the business owners with an opportunity to challenge or dispute the facts as presented by Staff.
- Council can also use this opportunity to ask questions of Staff or the business owner to clarify the facts.

Council provided the owners of Ucluelet Vacations with an opportunity to be heard. Michael Rhodes, one of the four owners of Ucluelet Vacations, appeared via Zoom. There was no video. He noted the following in response to the allegations:

- There has been a full-time and permanent resident living on site for the last two and a half years who was administering the property. The tenant began residing on the property immediately after the business owners were informed that this is a



- requirement of the Zoning Bylaw.
- On August 1, 2020 the full-time resident may not have been in attendance. The owner's understanding was that the full-time resident did not have to be on site at all times. The owners also do not believe that there were 19 people in attendance on August 1, 2020 and their guests report that 11 people were staying at the house and the rest of the people were staying at another accommodation. The visitors left when they were notified of the noise complaint. Bylaw did not have to reattend the property on August 1, 2020.
- The business currently only offers three rooms, all of which are situated on the lower level of the house.
- Throughout their ownership and operation of the Bed and Breakfast, the owners have adjusted their practices to achieve compliance as their understanding of the Zoning Bylaw evolved.
- The owners have changed their website and other advertising platforms to only advertise the three rooms on the bottom floor of the house for short-term rental.

Council asked the following questions and the owners and Staff responded as follows:

- Would it be fair to say that it took two years to bring the business into compliance with Zoning Bylaw in terms of the full-time resident requirement? Mr. Rhodes explained that there was a permanent full-time resident on site who paid a lower rate to compensate for her role as administrator of the property.
- At what point in time were you operating without a business license? Mr. Rhodes noted that the property was purchased in 2016 at which time the owners inadvertently overlooked applying for a business license for a period of time. The owners were notified of the oversight in 2017 and applied for a business license.
- Council requested that the business owners review the timeline presented in the Agenda package. The owners noted the following:
  - The November 21, 2017 complaint relates to short-term rentals, which is a permitted use of the property.
  - In response to the April 3, 2018 cease and desist letter, the owners noted that they could not rent the full house because there was a tenant living in the house.
  - In response to the January 15, 2019 VRBO advertisement for a five bedroom whole-house short-term rental, the owners noted that there was a full-time renter at that time so it was impossible to rent the entire house. Mr. Rhodes attributed the advertisement to an old listing with VRBO which may have inadvertently been automatically renewed by VRBO. The advertisement was subsequently removed.



- In response to the noise complaint in 2020, Mr. Rhodes noted that this was the only noise complaint in four years.
- Council noted that there seems to have been four years of non-compliance. Council further noted, there there was a lack of communication between the owners and the District. Mr. Rhodes explained that every time that the owners were informed that their interpretation of the Bylaw was incorrect they changed their practices to comply with the District's interpretation of the Zoning Bylaw. Mr. Rhodes noted that there were communication problems on the part of the District.
- When the business advertised the rental of the whole house, were you aware that your business license only allowed you to rent three rooms? Mr. Rhodes noted that he was not sure that they had ever advertised the entire house. They had advertised a certain number of people and had advertised the five bedrooms. He explained there may have been some confusion between the advertising three bedrooms with x number of people or five bedrooms with x number of people or a configuration of those rooms. He went on to note that on occasions, years ago, guests would ask to use additional rooms in the house and the owners would allow them to use those rooms because they were not occupied. The owners stopped this practice once they were informed that renting more than three rooms was not allowed. Mr. Rhodes also explained that it has been years since the the home was advertised for entire home rentals for larger guest parties.
- Council noted the advertisement on page 84 of the agenda package and read it to the owners. Council noted that the ad was from October 8, 2020 and asked if Mr. Rhodes knew at the time the ad was published that they were only permitted to rent three of the rooms? Council noted that it seems that before this date, the owners were informed that they were only allowed to rent three rooms. Mr. Rhodes noted that they met with Mr. Greig and Mr. Ashton on October 10, 2020. At this meeting they discussed the rule that they were only allowed to rent the rooms downstairs and could not rent other rooms in the home. After the meeting the owners changed the ad.
- Council noted that the ad on page 84 says rent all five rooms. The owners noted that there are actually six rooms in the house. They further noted that the ad was on their website, it has been taken down and it was used as a way to start a conversation with potential guests who are looking for larger sleeping arrangements. The owner acknowledged that the image on Page 84 of the agenda package was from their website as of October 8, 2020.
- Council asked when the full-time tenant lived on site? Mr. Rhodes explained that the tenant lived there for about two and a half



years, between April of 2018 and September of 2020. He noted that the tenant was living in the upper part of the house and there is a new tenant lined up to administer the property.

- Council asked what the tenant's duties were? Mr. Rhodes explained that she was the property caretaker, she greeted guests, looked after the garbage and took care of the hot tub. The owners managed the online bookings. Mr. Rhodes explained that prior to April of 2018 there was no full-time resident, but a tenant moved in as soon as the owners were informed of the residency requirement. The owners further noted when they were informed of the residency requirement they were not informed that the resident had to run the business. The owners noted that they were confused about what constitutes the administration of the business.
- Council noted that the intended purpose of the tenant is to control the guests and asked if the tenant was able to do this? Mr. Rhodes responded in the affirmative and noted that there has only been one noise complaint in four years of operations.
- Council asked if the tenant was aware that she was responsible for administering the vacation rentals? Mr. Rhodes answered yes and noted that this is why her rent was subsidized.
- Council noted that the District requested a statement from the resident about her role administering the Bed and Breakfast, but have not received it.
- Council noted that in 2017 the owners were informed that whole home rentals are not permitted but continued to advertise whole home rentals until 2020. Mr. Rhodes noted that it was not a whole house rental as there was a tenant living on site.
- Council noted the ad on page 120 of the Agenda and asked if it did not advertise rental of the entire house? The owners explained that the the house has 7 bathrooms and 6 rooms.
- Council noted that the owner's business license was for three rooms only and noted that they were advertising five rooms which contravenes their business license. The owners confirmed that they were advertising five rooms but were renting only three rooms and have now changed their advertisement. The owners noted that business licenses regulate the numbers of room which can be rented not the number of rooms which can be advertised and reiterated that advertising additional rooms was a way of starting a conversation with potential guests. The owners further noted that the two rooms on the upper story of the property are not rented but instead used by friends and family.
- Council asked Mr. Greig to confirm that the three rooms on the bottom floor were the rooms designated for Bed and Breakfast use? Mr. Greig noted the business license on page 86 of the agenda as well as the floor plans on page 87 and 88 of the



agenda package. He noted that the areas highlighted in pink in the drawings on page 87 are the owners' space and the areas highlighted in yellow on page 88 are the designated Bed and Breakfast units.

- Council asked Mr. Greig when the floor plans were highlighted? He said it was when the business license was issued in March of 2018.
- Council asked why it took five months to issue the business license? Mr. Greig noted that he was not directly involved in the review of this business license, but that a delay like that is usually due to the District waiting for the applicant to provide missing information.
- Council noted the requirements for operating a Bed and Breakfast in an R-1 Zone, noted the owners have contravened these requirements and asked the owners if they were unaware of the Zoning Bylaw's requirement when they applied for the business license? The owners explained that they learned about the Zoning Bylaw requirements and corrected their mistakes over time, which is why they have a full-time tenant looking after the property. The owners further noted that they may have been pushing the edge of compliance or pushing boundaries at certain points but they were working towards compliance. The owners stated that they are now in compliance with the Zoning Bylaw. Their advertising is in compliance as well as the number of rental suites that they have. The owners further noted that the property is currently for sale.
- Council noted the three requirements of the Zoning Bylaw as presented in the Agenda package and that Council has not received a statement from the resident who was purportedly administering the business. The owners noted that there was a full-time resident, the short-term rentals were an accessory to the single-family dwelling and the owners have - over time - come to understand the nuances of the Zoning Bylaw. The owners further noted that their biggest mistake was the advertising which has been rectified.
- Council asked Mr. Ashton what the level of compliance is with other Bed and Breakfasts in town compared to the compliance issues with this property? Mr. Ashton, Bylaw Officer, explained that there are about 200 Bed and Breakfast in town and typically compliance is achieved early on and that in the case of stubborn business it can take a couple of month but most businesses achieve voluntary compliance after the first point of contact or upon follow up.
- Council asked Mr. Rhodes why there are three years of infractions with the property? The owners noted there is not a long list of complaints as there was only one complaint in terms of



noise and one in terms of the number of short term rentals in the property.

- Council asked why the owners advertised five rooms when they were only allowed to rent three rooms? The owners noted that it was an advertising strategy to increase enquiries and distinguish themselves from other short-term rentals. They further noted that they now recognize that the advertising was not permissible.
- Council asked what the owners would do if 12 guests planned to stay at the property? Would the owners turn them away and would that not result in negative advertising? The owners explained that they would not turn guests away as the three rooms can accommodate 12 guests.
- Council noted that businesses are responsible for knowing the rules that apply to them and Council has been working hard to deter this kind of behaviour and ensure fairness among business owners. Council further noted that there appears to be years of back and forth between the owners and District Bylaw Enforcement Staff to address compliance issues.
- The owners asked if they would have to receive confirmation from District Staff that their advertisements are permissible? Council noted that it seems that the owners intended to advertise five rooms. Which shows their intent to rent those rooms. In response, the owners noted that the advertisement has now been changed. Council noted that the bylaw is very clear. The owners noted that they are now in compliance, which they have been informed is the goal of Bylaw enforcement.
- Council asked who the permanent tenant currently is? The owners explained Mr. Rhodes will be staying at the property until November 1, when a new tenant has agreed to move in. Mr. Rhodes noted that his name is on the BC Hydro bill.
- Council noted that they do not usually see this level of non-compliance and disrespect for bylaws as well as the pushing of boundaries. They noted that bylaws are there to protect neighbourhoods and it is very important to send a clear message of compliance to the community. Council went on to note that three years of non-compliance and back and forth between the owners and the Bylaw enforcement are at issue. The owners explained that when they purchased the property they did not think of themselves as business owners, but instead as two couples who thought this was a great idea. They noted that the owners live in the community full-time, they are not absentee landlords, and their understanding is that the goal is compliance. The owners noted that compliance has been years in the making, and over the years you could call it cat and mouse or pushing the envelope.
- Council asked why it took so long to get into compliance? The



owners explained that they were trying to get into compliance and they apologized for the fact that they had to come to Council to resolve this issue. The owners went on to request some leeway because they are now in compliance, the property is for sale, and the property is expensive to maintain without the income generated from the short-term rental units.

Council began reviewing the submissions made by the owners and noted concerns with associated with COVID-19 and group accommodations. In response the Mr. Rhodes noted that it is safer for a single group to stay in the three rental units than three unrelated groups because they are in the same cohort or bubble.

Council continued to deliberate and noted:

- that the property is now in compliance;
- that this Council has never suspended a business license before;
- that this Council has never considered a matter where there have been this number of infractions or the pushing of the rules to this extent;
- that this is a small town where many residents know one another;
- that it is essential not to consider who the specific business owners are;
- that their response must have a deterrent effect on other Bed and Breakfast operators who may not be complying with the Zoning Bylaw; and
- that their response must ensure fairness for the rest of the community.

Council discussed what would be an appropriate minimum suspension period:

- Councillor McEwen recommended a 6 month suspension.
- Councillor Cole recommended taking a strong stance to deter other business and ensure fairness among businesses. Councillor Cole further recommended using the duration of the non-compliance as a reference point for determining the length of the suspension period.
- Councillor McEwen noted that she hopes not to see other cases where non-compliance goes on for three years. She agreed that the duration of non-compliance should be used as a reference point in determining the length of the suspension.
- Councillor Hoar noted that six months would result in two months for every year of non-compliance.
- Mayor Noël noted that the goal is compliance but the suspension period should also make a clear statement to the community. He went on to reason that the suspension period should also give the



Bylaw Officer the tools needed deter breaches and encourage compliance. The Mayor recommended a three months suspension.

- Councillor Hoar noted that a three months suspension equals one month per year of non-compliance. She further reasoned that three months may be appropriate because the business owners are now in compliance.
- Councillor Cole noted that suspensions are necessary in some circumstances to achieve compliance and that she hopes that anyone who is not currently compliant becomes compliant immediately. She reasoned that one month per year of non-compliance makes sense in the event that the business owner is in compliance at the time that their license is suspended.
- Councillor Hoar reasoned that since there are fines it is appropriate for their to be a suspension once a business has not been in compliance for a year.
- Council noted the MTI tickets in the agenda package and Mr. Greig explained that these tickets have not been settled and the owners have questioned the manner of service. He explained the tickets can be served up to six months after the infraction. Councillor Cole noted that the tickets are now a mute point.
- Mayor Noël argued that service of the MTI ticket is not relevant to the issue of business license suspension. He noted that he would vote in favour of a six month suspension.
- Councillor Hoar noted that not being in compliance for three years is egregious. She noted that if Council is setting a precedent for other suspensions, three months is a good start.
- Councillor Cole noted the financial hardship that suspending the business license could have on the owners but she also noted that the fall and winter months may be slower times for this business.

2020.213.REGULAR **It was moved by Councillor Hoar and seconded by Councillor McEwen**

*THAT, due to repeated non-compliance with section 404 of District of Ucluelet Zoning Bylaw No. 1160, 2013, Council suspends the business license issued to Jefferey Swann, Naomie Swann, Michael Rhodes and Jennifer Rhodes to operate the business known as "Ucluelet Vacations" at 1183 Helen Road for a period of six months and until the business owners present to Staff:*

*a. an executed lease agreement or a signed statement from the individual who is the full-time resident occupying the single-family dwelling; and,*

*b. a signed statement from the individual occupying the single-family dwelling that states that they are administering and operating the business known as Ucluelet Vacations.*



CARRIED.

**14. OTHER BUSINESS**

**14.1 Letter to MLA Osborne**

2020.214.REGULAR **It was moved by Mayor Noël and seconded by Councillor McEwen**

*THAT Council direct Staff to send a letter of congratulations to Mayor Osborne regarding her recent victory in the race for the Mid Island Pacific Rim MLA seat.*

CARRIED.

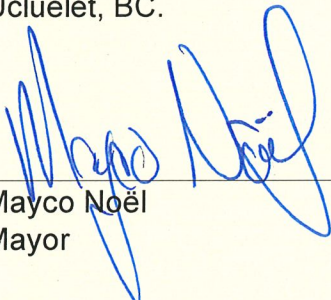
**15. QUESTION PERIOD**

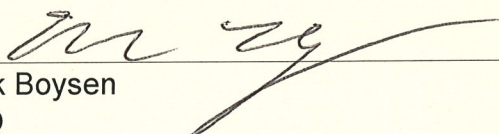
There were no questions.

**16. ADJOURNMENT**

The meeting was adjourned at 5:20 PM.

**CERTIFIED CORRECT:** Minutes of the Regular Council Meeting held on Tuesday, October 27, 2020 at 3:30 pm in the George Fraser Room, Ucluelet Community Centre, 500 Matterson Road, Ucluelet, BC.

  
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Mayco Noël  
Mayor

  
\_\_\_\_\_  
Mark Boysen  
CAO