



**Council Member Motion
For the Committee of the Whole Meeting of July 18, 2024**

To: Committee of the Whole **Date:** July 15, 2024
From: Councillor Hammond
Subject: Ending daytime sheltering/camping in Victoria parks, and on Victoria streets, boulevards and sidewalks

Late Motion

As per the City's Council Procedures Bylaw, under *Motions Generally*:

19 (1) A member of Council must give notice of a motion that is to be introduced at a Council meeting, by depositing a written copy of the motion with the City Clerk:

- (a) By noon on the Friday before that meeting to be included as an item of New Business for the meeting; or,
- (b) After the time noted in section 19(1)(a) of this Bylaw but at least 48 hours before that meeting, the item will be placed in "Introduction of late items".
- (c) In order for a motion to be added to the agenda for that meeting as late item by the City Clerk, the report presenting it must include rationale noting the reason for the time sensitivity for the matter to be considered at that meeting.

Late Motion Rationale:

This request to put a late motion on the agenda for the Thursday July 18, 2024, Committee of the Whole meeting, abides by the terms of the Council Procedures Bylaw as noted above, submitted after noon July 12 and before 9am July 16. The precipitating matter was an incident involving an unprecedented police response, noted below, which took place in the evening of Thursday, July 11, 2024. However, all the circumstances of the incident were not publicly known until past the noon deadline for motions on Friday, July 12, 2024. Due to changes in response procedures for police and emergency services for the 900 block of Pandora, potential life safety concerns make this matter urgent.

BACKGROUND

On October 18, 2008, the Supreme Court of British Columbia ruled in *Victoria (City) v. Adams* that certain provisions of the City of Victoria bylaws were unconstitutional. The Court stated that certain sections of the City's bylaws "are of no force and effect insofar and only insofar as they apply to

prevent homeless people from erecting temporary shelter.” Therefore, as long as “the number of homeless people exceeds the number of available shelter beds” the city had to allow homeless persons to protect themselves from the elements.

The Court stated that certain provisions of the City’s bylaws “violate s.7 of the Canadian Charter of Rights and Freedoms in that they deprive homeless people of life, liberty and security of the person in a manner not in accordance with the principles of fundamental justice and are not saved by s.1 of the Charter.”

On December 9, 2009, the City lost its appeal at the Court of Appeal for British Columbia, with that court upholding the substantive parts of the lower court’s decision which allow for temporary sheltering. However, the Court of Appeal added an important provision, to ensure the decision only applied to “temporary overnight shelter.”

To be specific, at paragraph 160 of the Court of Appeal decision, the judges wrote, “There are some other difficulties with the order. We are told that the phrase ‘temporary shelter’ has been a source of dispute. There has been disagreement as to whether ‘temporary’ refers to the nature of the shelter’s construction, or to the length of time that it is able to remain in place. The evidence in this case was directed at the need for homeless persons to erect temporary overnight shelter, in order to be able to sleep outside. The declaration granted should, therefore, refer to ‘temporary overnight shelter’ rather than simply to ‘temporary shelter’. This should clarify the intention that the city is required to allow shelters to remain in place only for the overnight period.”

Since that time, Victoria has dealt with significant temporary sheltering by homeless persons. Often, instead of taking down their temporary overnight shelters, many people keep them up during the day. The City’s Bylaw Services and the Victoria Police Department do their best to enforce the “no daytime sheltering” sections of City bylaws, requiring people to take down their shelters and move along, only to have, a short time later, the same people return to shelter in the same location or to set up shelters at a nearby location.

On the evening of Thursday, July 11, 2024, police from throughout greater Victoria arrived at the 900 block of Pandora Avenue to support Victoria Police officers who were being “swarmed” when a paramedic was kicked in the face while providing medical assistance to an unconscious person. As reported in the Times Colonist newspaper, “Victoria City Police Union president Angela Van Eerd, a constable with VicPD, said the man became violent while being arrested. When a crowd of 60 people closed in, one Victoria firefighter held an axe to his chest as a shield, she said.” “Van Eerd described the scene as ‘a very hostile environment,’ and said it’s the third time this year that officers have been swarmed. One of the previous incidents was also in the 900-block of Pandora, outside Our Place, while the other was in Rock Bay, she said.”

In a VicPD statement July 12, 2024, titled “Response To Increased Tensions Around Street Disorder” VicPD Chief Del Manak stated:

“Today I held an emergency meeting with the City of Victoria Mayor, Marianne Alto, and leaders from Victoria Fire Department and BC Emergency Health Services (BCEHS). We determined that for the safety of their staff, Victoria Fire and BCEHS will not respond to calls for service in the 900-block of Pandora Avenue without police presence. Let me be clear:

this is a required step in response to escalated tensions we have observed, but it is going to create significant workload pressures on VicPD and reduce timeliness of medical response, in situations where every second counts. This will also reduce our ability to respond to other calls for service, directly impacting Victoria and Esquimalt residents when they need us most.”

In the last part of Chief Manak’s statement, he said:

“Next week, I will be meeting with members of our VicPD Senior Leadership Team to ensure we have a comprehensive strategy that includes support from service providers in the block and the City of Victoria, to address these legitimate safety concerns. Our strategy will include a marked increase in the visible police presence in the 900-block of Pandora Avenue as we rebuild relationships with our street community.

In the interim, I have provided direction to our frontline supervisors to exercise a high degree of vigilance when officers are deployed to the 900-block of Pandora, and several other areas in the city where there is a higher propensity for violence against our officers. It is critical that we respond to calls for service with sufficient resources to maintain a level of safety while officers are engaged in the lawful execution of their duties.

Officers and other first responders have every right to feel safe during the course of their duties, and to return home safely at the end of their shift.

It is time we send a clear message that those who put their lives on the line to protect and to serve this community deserve our respect and support. My thoughts are with the paramedic who was injured and the psychological impact events like this have on all first responders. It is my priority that we do all that we can to prevent this trend of aggressive behaviour from continuing.”

When too many people without housing congregate in something that is or becomes similar to a “tent city”, there are greater dangers to the people within the tent city and the public surrounding it. When a “tent city” was formed on the provincial courthouse lawn years ago, residents called for more police protection. Police Chief Del Manak addressed city council, asking for tens of thousands of dollars to give the neighbourhood better protection until the province could finally get their injunction to remove those illegally occupying the courthouse property. City Council granted Chief Manak’s request, with sufficient money for his department to give the neighbours greater protection. And on July 5, 2016, B.C.’s Chief Justice Christopher Hinkson ordered the encampment to be disbanded, writing, “I have come to the conclusion that the encampment is unsafe for those living there and for the neighbouring residents and businesses and cannot be permitted to continue.”

As the Police Chief noted, the 900 block of Pandora, as well as a few other locations, cause a similar threat to safety. Grant McKenzie, Director of Communications for Our Place Society, spoke about “mob mentality” when speaking, on CFX radio on Friday, July 12, 2024, about the incidents that took place the night before, saying “The people on the block become a community. And if someone in that community is threatened, especially if it’s someone that they know needs help, hasn’t received that help, and is now, you know, being arrested by the police, it’s quite easy for that sort of mob mentality to bubble over.”

Without interfering in the ongoing processes that the Police Chief, our Mayor, our City Manager, the Police Board, and others in emergency services are creating to respond to this incident and the heightened dangers in some areas of our city, the city, through the direction of Victoria City Council must do its part. We must find a way for the City to effectively enforce the legal prohibition of daytime sheltering in Victoria parks and on city streets, sidewalks and boulevards.

RECOMMENDATION

(1) That Council direct the City Manager to work with her senior leadership to put an end to illegal daytime temporary sheltering in Victoria parks and on city streets, sidewalks and boulevards by:

- identifying what it will take to achieve this goal, including processes, personnel and costs;
- giving estimates of time by which a realistic outcome could take place;
- identifying from which existing budget areas, including reserves, needed financial resources can be taken, and the implication of using those resources for these purposes (including what, if any City projects may need to be put on hold).

(2) In the interim, and until a realistic plan can be put in place to end illegal daytime temporary sheltering, that Council directs the City Manager to work with all people necessary (police, fire, emergency services, provincial government agencies, city staff, etc.) to find ways to ameliorate the harm arising from illegal daytime sheltering.

That this motion be forwarded to the daytime council meeting of July 18, 2024, for further consideration.

Respectfully submitted,



Courcillor Hammond.