

**Subject: FW: Notice of Motion - Request to reconsider a motion submitted by Councillor Crist re Canal;**

**Date:** Thu, 27 Mar 2003 10:33:01 -0800

**From:** "Ernie Crist" <ernie\_crist@dnv.org>

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

> -----Original Message-----

> From: Ernie Crist

> Sent: Thursday, March 27, 2003 10:30 AM

> To: Nathalie Valdes

> Subject: Notice of Motion - Request to reconsider a motion submitted by Councillor Crist re Canal;

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> Notice of Motion - Report Councillor Crist;

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> That paragraph 1a ) of the motion submitted by Councillor Crist under "Canlan Agreement" dated Mar 3-2003 as printed below and dealt with by Council in Camera on March 17-2003 be reconsidered since several members of Council including Mayor Bell, Councillor Janice Harris and Councillor Lisa Muri who participated in the debate were in a conflict of interest situation when they voted on this motion thus making this decision illegal and further

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> that as a result of this conflict of interest by the 3 members of Council namely Mayor Bell, Councillor Janice Harris and Councillor Lisa Muri, they be requested to excuse themselves during debate of this motion and further

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> that since the "Canlan" issue is no longer legally sensitive this item be considered in public as opposed to In Camera as was the case on Mar 17-2003 when this item was dealt with by Council.

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> Reason for Report:

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> On Mar 17-2003 District Council In Camera debated a motion submitted by Councillor Crist printed below. As there was no seconder, the motion was lost. While several aspects raised in the motion have been clarified in the meantime, one item is still outstanding namely that the Mayor provide an explanation as to why he failed to prevent the agreement between the District of North Vancouver and Canal when as reported in the press he knew that it was contrary to the stipulations of the Municipal Act.

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**COUNCIL AGENDA/INFORMATION**

<input type="checkbox"/> In-Camera	Date: _____	Item # _____
<input type="checkbox"/> Regular	Date: _____	Item # _____
<input type="checkbox"/> Info Package	Date: _____	Item # _____
<input type="checkbox"/> Agenda Addendum	Date: _____	Item # _____

_____ Dept. Manager	_____ Director	_____ Municipal Manager
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**The District of North Vancouver  
REPORT TO COUNCIL**

March 3, 2003  
File: 1970-30/--  
Tracking Number: RCA - 01256

**AUTHOR:** Councillor Ernie Crist

**SUBJECT:** **Canlan Agreement**

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**RECOMMENDATION:**

THAT

1. Mayor Don Bell provide Council with a written explanation as to why:
  - a) as reported in the press, despite his knowledge that an Agreement between the District of North Vancouver and Canlan for the financing and operation of an Ice Rink facility in Seymour, was contrary to the provisions of the *Local Government Act*, he failed to prevent such an Agreement; and
  - b) the public was not provided with an opportunity to vote on this matter, either via a referendum and/or a counter-petition, as called for in the *Act*;
2. the District now seek legal advice on the implications to both the District and all members of Council regarding this matter. (This advice should be sought from a law firm other than the present firm under contract to the District and/or any other firm in the past involved in any contract between the District and Canlan; and
3. All findings should be made public.

**REASON FOR REPORT:**

In 1999, the District signed a contract with Canlan for the construction and operation of an Ice Rink in Seymour. Mayor Bell, in *The Outlook* of February 27, 2003 is quoted as saying that the public private partnership (signed between Canlan and the District) "was crafted on the understanding that the soon-to-be-in place LGA (*Local Government Act*) would provide for what the municipality was doing". But, Mayor Bell, according to *The Outlook*, continued, "the new *Act (Local Government Act)* only removed the need to hold a referendum and replaced it with the right for citizens to hold a counter petition on the proposal" and further that "We did what we thought would be the right intention, and if for some reason, it did not fall in line with the (Provincial) legislation, we would address it".

The situation, arising from this statement, has potentially serious consequences not only for the taxpayers of the District, in general, but also for members of Council. Not only did the District, as revealed by Mayor Bell, sign an Agreement with Canlan in full knowledge that it was illegal, but as recent court proceedings in another Municipality (Maple Ridge) have shown, an illegal agreement of that nature also makes individual members of Council personally liable. Neither was a referendum ever held by the District, nor did Council ever provide an opportunity to the citizens for a counter-petition.

In the case of Maple Ridge, the court failed to take into consideration that its Council was unaware that signing of a similar agreement was illegal and that the Council of Maple Ridge subsequently may have acted in good faith. But, in any case, this is not so in the District, where the Agreement between the District and Canlan, as has now been revealed by Mayor Bell, was made in full knowledge that it was illegal.

The Agreement in the District was signed even though two members of Council, namely Councillor Munroe and Councillor Crist, pointed to the serious shortcomings of this Agreement, and voted against it. This included the concern regarding a tax concession to Canlan, which is clearly in contravention of the spirit of the *LGA*. Notwithstanding such warnings, three members of the present Council voted in favor of the Agreement.

In light of the serious implications of this issue, including for individual Councillors, it behooves the District to get a comprehensive legal opinion on all salient points of this matter. However, this opinion should be sought from a law firm which has not acted on behalf of the District of North Vancouver in connection with Canlan, either presently or in the past.

Submitted by:



Councillor Ernie Crist

Xc: Gord Howie, Municipal Manager