

Subject: FW: Lidstone, Young, Anderson's opinion re additional legal clarification in the matter of Mosaic Development as requested by Councillor Muri;

Date: Sat, 21 Feb 2004 00:21:25 -0800

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

To: <kost@triumf.ca>

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

> From: Ernie Crist

> Sent: February 21, 2004 12:17 AM

> To: Mayor and Council - DNV

> Cc: James Ridge; Agnes Hilsen

> Subject: Lidstone, Young, Anderson's opinion re additional legal clarification in the matter of Mosaic Development as requested by Councillor Muri;

>

>

> Mayor and Council;

>

> Requests by an individual member of Council for additional clarification pertaining to a Bylaw before Council as is the case in the "Mosaic Application", is, in my opinion, in order and has in the past always been accommodated by requesting such information in writing through the office of the Municipal Manager and /or the Clerk.

>

> I cannot accept nor does it ring credible that an individual elected representative may receive such information only if the Council as a whole agrees to such a request as claimed by the Solicitor.

>

> The rationale provided by the solicitor to back up his interpretation of the law as outlined in his letter of Feb. 19,2004 is illogical.

>

> 1) To begin with such requests in the District in the past have always been accommodated through the office of the Municipal Manager. Such requests are therefore not new and, in my opinion, are legal by virtue of precedent unless the law has been specifically changed which does not appear to be the case.

>

> 2) The argument by the solicitor that a member of Council might abuse this right and hold up the process is equally specious. In any case, to avoid any abuse, the request has to be made in writing to the Municipal Manager and/or the Clerk which is what was done in the past.

>

> 3) If, as the solicitor claims, it is up to Council as whole to accommodate such a request, it could be argued that this, in itself, is fraught with the potential of political interference and bias. For example, a majority of Council might have been endorsed and/or belong to a specific political party and may, for political, reasons deny a member of Council such a request. I believe the argument by the solicitor is based on a fundamental lack of understanding that the essential purpose of any and all effort is to guarantee the right to all information and to protect both the elected representatives as well as the electors. Surely the solicitor is not going to argue that his interpretation is in line with this fundamental premise.

>

> 4) Be that as it may, in the past, such requests have always been accommodated by the Manager independent of the will of the Council as a whole. I do not accept the solicitor's ruling and I believe that, if necessary, Council should seek a second and independent legal opinion. In the meantime, I maintain that the solicitor is in error and that Councillor Muri is entitled to the information she has requested.

>

> If not, I suggest that Councillor Muri refuse to vote on this matter on the grounds that she did not receive all the necessary information to make a responsible decision.

>

> Ernie Crist,

>

>

>