

STAFF REPORT TO COUNCIL

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DATE: April 27, 2023

TO: MAYOR AND COUNCIL

NAME AND TITLE: Adam Davey, Director of Public Safety

SUBJECT: Encampment Update: Community Safety Options

ATTACHMENT(S):

1. Staff Report dated April 4, 2023 titled “Lower Patricia encampment: Enhanced security options & supporting the Province’s new “Homes For People” action plan, to close encampments”
2. BC Prosecution Service Media Statement, dated March 31, 2023 (backgrounder)

RECOMMENDATIONS:

THAT Council:

1. APPROVES increasing the RCMP contract by two regular members from 147 to 149 dedicated to the new Provincial Repeat Violent Offender Intervention Initiative (ReVOII) using existing funds for 2023 and DIRECTS Administration to incorporate this increase as a funded initiative in the 2024 operating budget;
2. SUPPORTS and authorizes Administration, upon suitable prior notice being provided to the occupants of the Lower Patricia Boulevard encampment area, to use roadwork machinery to clear a roadway area through the Lower Patricia Boulevard road allowance in proximity to the Lower Patricia encampment so as to establish a safe and passable roadway for vehicular passage, including emergency response vehicles, and to mark and border such roadway with no-post concrete barriers.
3. FURTHER SUPPORTS and authorizes Administration to thereafter maintain the safe and passable roadway through Lower Patricia Boulevard by seizing and disposing of objects or materials of any kind which obstruct, foul or damage the roadway area marked and bordered by the no-post concrete barriers, pursuant to Section 46 of the *Community Charter*, SBC 2003, c. 26 and the provisions of the Safe Streets Bylaw No. 9209, 2021, and with appropriate signage warning that such steps will be taken.
4. AUTHORIZES Administration to initiate a Crime Prevention Through Environmental Design (CPTED)/SmartGrowth pilot project in enhancing neighborhood safety options and to return a report containing cost options for Council’s consideration; and
5. DIRECTS Administration to initiate the planning and action process to stop overnight camping at Millennium Park and commence remediation of that site, subject to Council approving final reading and adoption of “Parks and Open Space Bylaw No. 7370, 2002, Amendment Bylaw No. 9389, 2023.”

PURPOSE:

At the Regular Council Meeting of April 12, 2023, Council postponed the procurement of private security services in order to gather additional information, consider alternative options and pursue further advocacy efforts with the Province, which is the level of government responsible for mental health, addiction, and homelessness. Council met with Premier Eby and confirmed the City's support for Provincial efforts and intervention in this area, and to volunteer Prince George as a pilot community for the Province's recently-announced initiatives to address homelessness, mental health & addictions and prolific criminal offenders. As of writing, the City remains actively engaged with the Province with regard to their initiatives to close encampments, provide housing and other supports.

The previous security options report is attached for context (Council Meeting of April 12). Further information and options to enhance security and safety within the vicinity of the Lower Patricia encampment and begin planning for the removal of the other encampment and site remediation project of Millennium Park are provided below, should Council opt to approve final reading and adoption of the proposed amendments to the Parks & Open Spaces Bylaw.

This report contains four components:

1. The overall intent of the proposed amendments to the Parks & Open Spaces Bylaw;
2. A policing enhancement opportunity to synchronize with the Province's Repeat Violent Offender Intervention Initiative (ReVOII, established under the 2022 Province's Safer Communities Action Plan). This recommendation replaces the previous report recommendation of hiring private security;
3. Private security options and increases to Bylaw Services hours, which are not recommended. This report does however recommend engaging with a specialized consultant on neighborhood crime prevention through environment design (CPTED) techniques through a pilot project. The Mayor has led initial discussions on this, and Administration and the RCMP are currently examining this further;
4. A recommendation to start the planning process to close the encampment at Millennium Park and remediate the site.

DISCUSSION:

1. Limited Intent of the Proposed Amendments to the Parks & Open Spaces (P&OS) Bylaw:

The present blanket prohibition against camping in City parks has been unlawful since a 2008 BC Supreme Court decision *City of Victoria v. Adams*. That is the case in which the court identified a limited protected right to "security of the person" under Section 7 of the *Charter of Rights and Freedoms* for unhoused people to take temporary overnight shelter in a municipal park in circumstances where there is insufficient shelter space in the community.

As a result of that decision and number of subsequent court decisions which have addressed this issue, many municipalities in British Columbia have adopted amendments to their respective "Parks" bylaws, most commonly in a manner which suspends the prohibition against camping in parks on a temporary, overnight basis where there is insufficient accessible shelter space available. Administration is not aware of any city in the province which has "sufficient accessible shelter space".

Staff understand that in *Adams* and subsequent decisions, the courts have not considered whether the protected *Charter* right to temporary overnight sheltering must apply to many parks or may just apply to one park. Instead, the courts have indicated that decisions as to the number of parks made

available for temporary overnight sheltering, and the location of those parks, is a decision appropriately made by municipalities.

To clarify, the *Charter*-protected right, in circumstances where it applies, is simply a right for unhoused people to shelter overnight temporarily in a public space without being subject to a bylaw prohibition against camping in all public spaces.

Staff understand that municipalities have only a limited role as it relates to the care and support for the unhoused. Quoting from the Court of Appeal in the *Adams* decision: the *Charter*-protected right to temporary overnight sheltering does not “impose positive obligations on the City to provide adequate alternative shelter, or to take any positive steps to address the issue of homelessness. The decision only requires the City to refrain from legislating in a manner that interferes with the s. 7 rights of the homeless.”

The practical meaning of this is that there is no obligation upon municipalities to provide shelter, utilities or other supports to unhoused individuals. Rather, staff understand that the courts have made it clear that the Province is “the level of government that is responsible for providing public benefits for the support of [unhoused] persons ... through the Ministry of Municipal Affairs and Housing” (*Maple Ridge v. Scott*, BC Supreme Court). This reflects the jurisdiction and authority of the Province as it relates to housing, health-care and poverty-reduction.

Since staff were first instructed to report to Council on potential amendments to the Parks and Open Space Bylaw, staff have presented two approaches, specifically: whether amendment will apply to one park (which has been referred to in staff reporting as “centralized”) or will apply to more than one park (which has been referred to in staff reporting as “decentralized”).

In this context, the term “centralized” was intended to identify that the amendment would apply to a single park (which, for example, would allow those providing services to unhoused people to deliver those services at a centralized location).

The use of the term “centralized” in staff reporting was at no point intended to convey any other meaning and, specifically, its use was not intended to imply the creation of a sanctioned encampment for unhoused people or a forced relocation of unhoused people. However, staff have observed that some correspondence and media reports have adopted this interpretation in opining upon the City’s authority, responsibilities and intentions in relation to the unhoused community.

In order to clarify the intention, and to allow the focus to shift from the terminology to the actual issues, we will from here on refer to the options as “*single site*” and “*multiple site*”.

The primary intention of the proposed amendment is to bring the Parks and Open Space Bylaw into conformity with current state of the law. The bylaw as it currently stands prohibits overnight camping on all municipal property which, as staff understand, the court has said is not constitutional.

The secondary intention is to clarify where it is lawful to temporarily shelter overnight in the City, and where it is not. Presently, the prohibition against camping cannot be reasonably enforced because there is nowhere for those who cannot access shelter space to lawfully shelter overnight which, again, is not constitutional. Once one or more sites become designated as a lawful temporary overnight camping area, the City will be at liberty to consider enforcement steps in areas where camping remains prohibited.

Recommendation: Give Final Reading/Adoption of the proposed Amendments to the Parks & Open Spaces Bylaw to ensure it is constitutionally compliant. This allows the City to:

- ensure that the City’s bylaws make provision for the limited constitutionally-protected right of unhoused people to temporarily overnight shelter when sufficient accessible shelter space is not available; and
- declare where such activity is permitted and to maintain the prohibition on overnight sheltering where it is not permitted, such as Millennium Park.

2. Enhanced security & safety options:

The previous report (attached) examined private security, RCMP OT patrols, and physical barriers. With the BC Prosecution Service (BCPS) announcement to operationalize the ReVOII teams established in the fall 2022 Provincial Safer Communities Action Plan as early as next month (see attached Provincial media release), Administration recommends re-prioritizing the proposed private security funding (unbudgeted) toward an RCMP enhancement of two dedicated officers to serve on Prince George’s ReVOII Team and be deployed as part of an expanded Downtown Safety Unit (DSU). This *may* allow for some extended hours of the City’s dedicated RCMP downtown team. Should Council wish to increase security funding to address encampments, this is assessed as a more effective allocation of that potential funding in order to reduce crime and improve public safety both within and outside the encampment areas. More details are contained below:

Proposed RCMP enhancement to serve on the Provincial Prince George ReVOII Team to address repeat violent offenders:

Several initiatives have been pushed forward by the Provincial government under the broad Safer Communities Action Plan that provide opportunity for the City to align and synchronize our efforts to provide a more seamless “whole of government” teamed response to address homelessness, mental health & addictions, and prolific criminal behavior. Perhaps the most tangible of those is the Repeat Violent Offending Intervention Initiative (ReVOII) starting up as early as May, 2023.

ReVOII was initiated in response to the findings of the *Rapid Investigation into Repeat Offending and Random Stranger Violence in British Columbia*, released in September, 2022.¹ While many details of ReVOII are still being worked out, the Provincial government has provided resources in the BCPS and BC Corrections and has mandated that they work with police on this initiative. It appears there will likely be some limited funding available for police agencies to access for project-based enforcement, but no funding will be forthcoming for police FTE’s to participate.

As described in the *Police Resource Review* of the Prince George RCMP Detachment that was presented to Mayor and Council on December 14, 2022, the City of Prince George has a criminal case rate significantly higher than the average of municipalities in the province of BC.² The Prince George RCMP Detachment is fully taxed in responding to calls for service and investigating serious offences. With five homicides already having occurred this year, the current workload on members at the detachment is extraordinary. By comparison, Vancouver with a population over eight times larger than Prince George has had six homicides so far this year.

While the Prince George RCMP Detachment will participate in the ReVOII initiative, it does not have resources available to assign in a dedicated manner to this initiative in a manner similar to the recently announced provincial resources, such as those for BCPS. This lack of capacity will prevent Prince

¹ The report is available here: <https://news.gov.bc.ca/files/InvestigationRecommendations.pdf>

² The executive summary is available here: <https://pub-princegeorge.escribemeetings.com/filestream.ashx?DocumentId=18535>

George Detachment from fully exploiting the potential benefit of this program. The majority of individuals involved in committing repeated violent offences (particularly against strangers and random members of the public) frequent the downtown core on a regular basis. This violence often manifests itself in incidents such as a street robbery of a random member of the public, a small business owner being threatened by a known offender loitering in their doorway who had refused to move along, or a shoplifter who assaults or threatens store security or staff with a needle or other weapon.

Annual recurring funding of \$400,000 was proposed at the April 12 Council Meeting, for private security related to homeless encampments in the city. This expenditure would have little effect in reducing crime or improving public safety. It would largely be an exercise in optics. This funding could be used to fund two additional FTEs in the RCMP service agreement. These additional FTEs would be frontline Constables who would be tasked with taking the lead role in ReVOII enforcement initiatives for the Prince George RCMP Detachment. These two Constables would be attached to the existing Downtown Safety Unit, providing additional capacity to that unit while at the same time allowing the City of Prince George to exploit the full potential benefit of the ReVOII initiative and associated components of that program that have now been funded by the Provincial government.

Recommendation: Increase the RCMP Detachment strength from 147 to 149 by pre-approving a 2024 budget enhancement service request of approximately \$420,000 to hire two additional RCMP members.³

Other options - assessments:

Private security: Marginal return on investment beyond optics. Private security has no power of arrest or seizure, and combined with employer health and safety requirements, security cannot provide much more than an early warning to 911 via observation and reporting. Though private security may act as a deterrent to criminal behavior elsewhere and are optimally deployed in other settings, the unregulated nature of encampments suggests the most effective and efficient deployment of additional public safety resources is Policing.

Bylaw Services – increased hours: Bylaw Services provides education – and where appropriate, enforcement – to ensure compliance with City bylaws. Bylaw Enforcement Officers do not have the power of arrest, and on matters of significant public safety, rely on escalation to the RCMP for handling. Bylaw Services is best deployed during non-overnight hours, which are 7am to 11pm seven days per week. Perhaps an additional tool Bylaw Services could use is enforcement of the Safe Streets Bylaw via ticketing as consequence of non-compliance (should Council wish to explore this further).

Emergency vehicle access (update):

The Lower Patricia Boulevard area generally consists of parcels of land owned by the City along with the Lower Patricia Boulevard road right-of-way. The occupation and use of the area for sheltering purposes has resulted in a large volume of materials and some structures being located on the road right-of-way. At the same time, the encampment area has been and continues to be the site of fires, police response, and other first-responder attendance. Currently, the road right-of-way is obstructed, and it is not possible for emergency vehicles to safely enter the site. This creates risks for both the unhoused individuals who are sheltering in the area, to neighbouring properties, and to first responders who are required to access the area.

³ This is in addition to the resource enhancement recommendations contained within the 2022 Police Service Review.

As a result, the City is moving forward with re-establishing a safe and passable roadway through the Lower Patricia Boulevard road right-of-way, in part by marking and defining the roadway with No-Post barriers and signage indicating that the deposit of materials on the roadway is prohibited and that material obstructs, fouls or damages a roadway (in the words of s. 46 of the *Community Charter*) are liable to be seized and disposed of by the City.

The City intends to install the concrete No-Post barriers along Lower Patricia Boulevard during the week of May 15 (next week). The City has communicated to involved NGOs and occupants of Lower Patricia, providing two weeks' notice to ensure their belongings are not obstructing the designated (and marked) emergency vehicle accessway.

Due to substantial debris, including biohazards and other potentially dangerous materials, Civic Operations need to use machinery to ensure the accessway is cleared and maintainable to the standard necessary to deploy large Fire/Rescue apparatus. At present, the accessway is not wide enough and not up to standard to bear the weight and size of Fire/Rescue apparatus. The accessway will be widened to approximately 18 feet to accommodate this equipment.

Notice has been posted at the site to inform occupants that this work will commence during the week of May 15 and that, should any debris be left within the designated accessway, it will be cleared and disposed of. The accessway improvements and no-post barrier installation will likely take several days.

Staff further recommends that the cleared and marked portion of the Lower Patricia Boulevard roadway be thereafter maintained by the City in a clear and safe manner for vehicular passage through means of the removal of any materials which are deposited in the roadway area (that is, the area marked and bordered by the no-post concrete barriers). The City is authorized under Section 46 of the *Community Charter*, SBC 2003, c. 26 and the provisions of the Safe Streets Bylaw No. 9209, 2021 to remove and dispose of such materials. Staff further recommend posting signage on the relevant area of Lower Patricia Boulevard indicating that any materials obstructing or otherwise interfering with the roadway will be seized and disposed of.

In-kind operational costs – staffing and materials - are not insignificant. Costs will be captured separately for appropriate budgetary tracking purposes.

Staff notes that the area of Lower Patricia protected by court order was defined by the judge as “a green space at the end of 5th Avenue”. Staff do not understand this to include the roadway.

Recommendation: Due to the sensitive nature of the use of heavy equipment on this site, Administration requests Council support. This is considered a critical undertaking to provide and maintain emergency vehicle access to this site. Appropriate representatives of the Lower Patricia encampment have been informed and appear to agree with this.

3. CPTED neighborhood consulting services:

Crime Prevention Through Environmental Design (CPTED) is a widely adopted crime reduction and prevention concept that prioritizes design features in the built and natural environment. The Mayor has initiated discussion with industry-leading experts in this domain, and Administration are currently examining this opportunity further. With Council approval, Administration will initiate a pilot project with details to come in a future report containing potential cost options.

Recommendation: Administration recommends piloting an initial project to explore neighborhood CPTED initiatives.

4. Planning process to close the Millennium Park encampment and remediate the site:

Millennium Park has been identified by staff to be a location which is not appropriate for use for temporary overnight sheltering. It is, however, the site of an encampment used by a small group of unhoused individuals.

Should Council adopt the amendments to the P&OS Bylaw, Administration will begin working with responsible Provincial agencies to provide appropriate supports to Millennium Park occupants. Once the site has been decamped and cleared of debris, a remediation plan and future options for the site will be assessed. Council will be provided with regular updates as the file progresses. Based upon the learnings of other cities, this project will require careful and thoughtful management.

Recommendation: Should Council adopt the proposed amendments to the Parks & Open Spaces Bylaw, it would be in order to begin the planning process to close the Millennium Park encampment and eventual remediation of the site.

FINANCIAL CONSIDERATIONS:

During 2023 budget discussions, Council approved a service enhancement to Police Protection to increase the contract strength from 143 to 147 members with an annual estimated cost of \$842,432. Administration does not expect to realize the full annual cost in 2023 due to the time it takes to recruit the four new members. It is expected that the unspent amount will be able to absorb the costs associated with the two additional members request in this report for 2023 but Administration will need to build the full annual cost of the two members into subsequent budgets with Council's approval. An estimated cost of \$420,000 translates to an approximate 0.33% tax increase for 2024.

SUMMARY AND CONCLUSION:

This is a rapidly evolving file which the City intends to remain agile and flexible to respond – and support within local government authority - Provincial efforts and strategy to fulfill their responsibilities to address homelessness, mental health & addictions, and prolific criminality. The four recommendations within this report are actionable steps the City can deploy in the short-term that ought to provide longer-run public safety results.

RESPECTFULLY SUBMITTED:

Adam Davey, Director of Public Safety

APPROVED:

Walter Babicz, City Manager

Meeting Date: [2023/05/08]

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