



Special Council Meeting

Monday, March 14, 2011

Time: 4:00 p.m.

Place: Anderson Room
Richmond City Hall

Present: Mayor Malcolm D. Brodie
Councillor Derek Dang
Councillor Evelina Halsey-Brandt
Councillor Greg Halsey-Brandt
Councillor Sue Halsey-Brandt
Councillor Bill McNulty
Councillor Harold Steves

Corporate Officer – David Weber

Absent: Councillor Linda Barnes
Councillor Ken Johnston

Call to Order: Mayor Brodie called the meeting to order at 4:02 p.m.

RES NO. ITEM

MINUTES

BUSINESS & FINANCIAL SERVICES DEPARTMENT

1. **BUSINESS LICENCE SUSPENSION – WATERCUBE VANCOUVER HEALTH CLUB LTD.**

(File Ref. No.: 12-8275-20-AMANDA#2011, AO 10-543521, Ref File: 09-474646) (REDMS No. 3127576, 3138661, 3072718, 3108873, 2935091, 3057837, 3072941, 3076403, 3075707, 3077601, 3175555, 3174759, 3174895, 3153877)



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The Chief Licence Inspector, Glenn McLaughlin advised that the licensee's counsel had requested a delay of the Special Council Meeting at which the suspension of the business licence for Watercube Vancouver Health Club Ltd. was being considered. He further noted that City staff had provided the licensee with adequate notice of the meeting.

Mr. McLaughlin advised Council that the licensee has not denied committing the infractions, and that staff were seeking business licence discipline for those infractions.

David Tarnow, Tarnow and Company, Barristers and Solicitors, counsel for Watercube Vancouver Health Club Ltd., advised that the company's three directors Shi Guo Jia, Gui Zhen Hao, and Wei Qing Zhang were all currently residing in China, and that they were requesting a postponement of the matter for two months so that they could attend.

In response to the Chair's question as to whether there was anything stopping the directors from attending today's meeting, other than the fact that they were far away, Mr. Tarnow responded that being currently resident in China, they were not able to attend.

Mr. Tarnow spoke about Watercube Vancouver Health Club Ltd., and noted that: (i) the business was substantial; (ii) the directors had invested approximately one million dollars into the business for improvements; (iii) the ongoing rent was approximately \$20,000 a month; and (iv) the Club had 27 employees. Because this was a substantial business, Mr. Tarnow advised that the directors would have liked to have been present if there was a chance that the business could be closed for period of time.

In answer to a query from the Chair as to whether any of the directors were present at the business during the time the bylaw infractions occurred, Mr. Tarnow advised that none of the directors were present as they were in China.

The Chair advised that Council would decide on whether there would be a delay and requested that Mr. Tarnow address the merits of the issue. Reference was made to the fact that Council had received Mr. Tarnow's letter. Mr. Tarnow advised that if his request for an adjournment on the matter was not granted, he would have further presentations for Council.



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Mr. Tarnow stated that he was not denying that there were individuals that had been caught smoking on the premises, and that there was one lady who had been caught wearing inappropriate attire. He noted that he had addressed all the points related to the infractions in his letter to the Chief Licence Inspector, Glenn McLaughlin.

Mayor Brodie advised that the decision of whether to adjourn the matter would be addressed after Council members have had an opportunity to ask questions and make comments.

Councillor Bill McNulty queried whether the directors of Watercube Vancouver Health Club Ltd., would have been able to provide new information had they had been able to attend the Business Licence Suspension Hearing. Mr. Tarnow advised that he was unable to answer that question, as the directors had indicated to him that they were seeking an extension in order to allow them to attend.

Councillor McNulty commented that he found it difficult when considering an important matter that was before Council, a matter that was affecting a business, and yet not one of the business owners was present. He further commented that it seemed convenient that they would go away and leave their business behind. Councillor McNulty also noted that there were a number of infractions going back and asked whether Mr. Tarnow had represented the business licence holders at that time. Mr. Tarnow advised that it had only been a short time since he had been retained as counsel for the Watercube Vancouver Health Club Ltd.

Further comments were made about how the letter indicated that Mr. Jin, Manager, Watercube Vancouver Health Club Ltd., did not seem to have knowledge of the incidents that were taking place on the premises. Reference was made to allegations made on September 29, 2010 of sexual activity at the Club. Mr. Tarnow indicated that there was a policy in place about the conduct of employees and that any such activity was not permitted and that the manager did not condone what the employee was doing.

In response to Councillor McNulty's comments about the allegations of smoking on the premises on November 21, and November 26, 2010, Mr. Tarnow advised that new no-smoking signs had been put up at the establishment to ensure that such infractions did not occur again.



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Councillor Sue Halsey-Brandt noted that only three directors living in China had been mentioned. She then made reference to a document in the agenda materials that was a copy BC Company Summary for Watercube Vancouver Health Club Ltd., produced through a BC Registry Services search done on March 7, 2011. She noted that the March 7, 2011 Company Summary indicated that there were actually five directors for the company, two of whom were local residents. Councillor S. Halsey-Brandt asked Mr. Tarnow whether this information correct.

Mr. Tarnow submitted a Notice of Articles for Watercube Vancouver Health Club Ltd. (attached as Schedule 1 and forms part of these minutes), dated March 10, 2011, indicating that the company had only three directors, all of whom resided in China.

In response to Councillor Sue Halsey-Brandt's question, Mr. Tarnow confirmed that the two directors who had been listed with local addresses were no longer directors of the Company.

In response to Councillor Evelina Halsey-Brandt's query of whether any of the directors had been on the premises during any of the bylaw citations, Mr. Tarnow advised that he did not believe so.

Mayor Brodie asked Mr. Tarnow if he had anything further to add, noting that Council would now consider the question of adjournment. It was clarified that Mr. Tarnow would have further remarks if Council's decision was not in favour of granting an extension. Mr. Tarnow was then excused from the table and he took a seat in the public gallery.

Mayor Brodie asked members of Council if there were any Councillors who were in favour of making a motion to grant the requested extension. The Chair noted that there was no mover nor seconder for such a motion.

Mayor Brodie advised Mr. Tarnow that Council was not disposed to adjourn the matter. Mr. Tarnow then indicated that he would be calling a witness, and requested five minutes to do so as the witness was not in the meeting room at the moment.



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The meeting was recessed at 4:19 p.m.

The meeting reconvened at 4:29 p.m., with all members of Council present except Councillors Linda Barnes and Ken Johnston.

Mayor Brodie asked Mr. Tarnow to clarify whether the company's two local resident directors had been removed as directors within the past month. Mr. Tarnow responded that it was possible that the directors had been removed. He also stated that he had not been involved in the matter until very recently. The Chair commented further noting the following: (i) that Mr. Tarnow had been involved since January 2011; (ii) that Mr. Tarnow was indicating that there were only three directors; and (iii) that Mr. Tarnow was asking for a two month adjournment of the matter. The Chair also commented that at the same time, information had been provided by Mr. Tarnow which indicated that the other two additional directors who were listed as local resident directors were, in fact, no longer directors of the company.

In response to the comments, Mr. Tarnow indicated that the directors were apparently inactive and that the company had been cleaned up and that there were now just three directors in China.

In response to Mr. Tarnow's comments, Mayor Brodie noted there was a need to establish credibility, and indicated that Mr. Tarnow needed to tell Council about these matters.

Mr. Tarnow then introduced Ms. Hou, an employee at the Watercube Vancouver Health Club Ltd.

In answer to Mr. Tarnow's question to Ms. Hou about what she did for a living, Ms. Hou advised that she worked for the Watercube Vancouver Health Club, and had been working there for three months.

Mr. Tarnow asked Ms. Hou what she did there, and Ms. Hou replied that she did massage.

In response to Mr. Tarnow's query about where she was from originally, Ms. Hou stated that she was from China.



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Mr. Tarnow asked Ms. Hou if she was married, and she replied that she was married.

Mayor Brodie noted that all the incidents at the Club all took place over three months ago. The Chair then queried if Ms. Hou would be able to elaborate upon any of the incidents which formed the complaint. In response to Mayor Brodie's query, Mr. Tarnow advised that Ms. Hou would not be able to provide further information regarding those allegations.

Mayor Brodie continued by questioning the relevance of the information provided by Ms. Hou if she was unable to comment regarding the allegations. Mr. Tarnow replied that since City staff were recommending a business licence suspension for up to sixty days, he believed that the information provided by Ms. Hou was relevant because she could explain to Council what had been happening more recently regarding the rules and activities at the Club.

Mayor Brodie stated that Ms. Hou would be permitted to proceed with her testimony. He continued by emphasizing that, in his opinion, the substance of the matter was the allegations as to what had taken place at the Club that formed the subject of the review.

Mayor Brodie noted that Ms. Hou had been an employee at the Club for three months and was in a position to provide information about the Club's current activities, but some Councillors may or may not think that that was important to know. He stated that in his view what was really important was what had taken place in relation to the infractions.

Ms. Hou then indicated that she has worked at the club since January 2011 and that the manager of the Club does not permit smoking on the premises, and there are no-smoking signs in every room of the establishment.

Mr. Tarnow asked if there had been any discussion about sexual activity or sex, and Ms. Hou replied that there was no sex.

Mr. Tarnow then asked Ms. Hou how important her job was for her. Ms. Hou responded that she needed to earn money to support her family.

Mr. Tarnow asked Ms. Hou to tell Council and the Mayor approximately how many people were working there. Ms. Hou stated almost 30. He then queried if many of the them were young ladies like herself, and she replied that most were.



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Mr. Tarnow asked Ms. Hou what it would be like for her if she could not work for a couple of months. Ms. Hou advised that it would be hard because looking for work was very hard for her.

In reply to Mr. Tarnow's query about how many hours she works per week, Ms. Hou stated that she works six days a week and eight hours per day.

In response to Mr. Tarnow's question about what it was like to work there, Ms. Hou advised that she liked her job and that she was good at it. She also briefly spoke about how she learned how to massage and about pressure points, and advised that she was scared to massage at first because if you are not good, the customer will tell you that you are wrong.

Mr. Tarnow advised Ms. Hou that members of Council were concerned about certain rules, and asked her if she could tell everyone if there was smoking going on. Ms. Hou replied that there was no smoking and that everywhere there were no-smoking signs.

At this point Mr. Tarnow asked if the Chair or the other members of Council had any questions for Ms. Hou.

In answer to a question from Councillor Greg Halsey-Brandt about the name of the manager, Ms. Hou said that his name was Paul. Councillor Halsey-Brandt then asked what the manager's Chinese name was, and Ms. Hou stated that she did not know, but that everyone called him Aba.

As there were no further questions, Mayor Brodie then excused Ms. Hou from the table and asked Mr. Tarnow if there was anything further he wished to advise Council.

Mr. Tarnow stated that he was reiterating the information he had submitted to Mr. McLaughlin, that is, (i) the Club was a substantial business which occupies two floors of the Radisson Hotel; (ii) the directors of the Club had invested a substantial amount of money into their business; (iii) the rent for the premises was approximately \$20,000 a month; and (iv) 30-40 employees would be impacted including massage, attendance, cleaning, and office staff.

With respect to specific allegations made against the Club, Mr. Tarnow stated that the lady who had conducted herself inappropriately on September 29, 2010 had been terminated, and has not been allowed to work at the Club since. He again noted that there were many no-smoking signs at the Club.



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Mr. Tarnow then circulated photographic images of rooms at the Club and he made reference to an allegation that had been made that the windows in the Club had been covered, and pointed out a specific image which showed uncovered windows in two of the rooms of the Club. (Mr. Tarnow retained the photographs after showing them to the Council members).

In conclusion, Mr. Tarnow stated that his respectful submission to Council was that this particular company had not been before Council previously, and that it was a first offence for them. He noted that the Club's Management had tried to deal with the issues. The lady who had been caught in a compromising position had been terminated, and the smoking issue was dealt with aggressively by placing no-smoking signs in the rooms and by asking customers to stop smoking. He also stated that there were people such as the young lady who appeared before Council that would suffer substantially if the Club was shut down, and requested that Council not suspend the Club's business licence, but rather issue a warning to the Club that any further problems could result in a licence suspension.

The Chair noted that there were a few more questions from Council members.

Councillor Harold Steves queried why the Club's manager was not present at the business licence suspension hearing as it was likely that the manager was residing locally and yet an employee of only three months was able to attend, and with no representatives from management or the owners. Mr. Tarnow advised that he was present to represent those interests. Councillor Steves commented that he would have been interested in speaking with those that ran the business.

Councillor Evelina Halsey-Brandt queried whether the Club had smoke alarms in each of the rooms on the premises. Mr. Tarnow advised that he did not know the answer to that question.

Councillor Sue Halsey-Brandt spoke about the Club's hours of operation, and noted two complaints well after 2:00 a.m., and that it was her understanding that the Club was only permitted to operate until 12 o'clock midnight. Mr. Tarnow indicated that he was not disputing that that had occurred but that the Club did not operate after hours anymore.



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Noting that there were no further questions for Mr. Tarnow, the Chair excused Mr. Tarnow from the table and counsel for the business licence holder took a seat in the public gallery.

The Chair then requested that staff come forward to answer a question from Councillor Greg Halsey-Brandt as to whether this was the first time that this company was before Council.

In response, Mr. McLaughlin clarified that this was the first time the Club had received a letter, which was sent after Club management had refused entry to the RCMP in response to a complaint. He further noted that the Club had been advised that the continuation of such behaviour could result in a suspension or cancellation of their business licence.

Councillor Greg Halsey-Brandt also queried the rationale for the recommendation to suspend the licence for 60 days and in response, Mr. McLaughlin spoke about the seriousness of the refusal to admit the RCMP to the premises as well as the number of violations.

The Chair asked for Council's consideration of a motion.

SP11/3-1

It was moved and seconded

That the Business Licence of the Watercube Vancouver Health Club Ltd. doing business as the Water Club at Radisson Hotel, operating from premises located at Unit 1288 – 8181 Cambie Road, Richmond BC, be suspended for a period of 60 consecutive days on dates determined by Council.

The question on Resolution No. SP11/3-1 was not called, as members of Council expressed their views on the motion to suspend the business licence.

Councillor Evelina Halsey-Brandt stated that upon reading the related staff report she believed that the manager of the Club did not seem very responsible in his behaviour. She spoke about the seriousness of not admitting the RCMP on the premises. She continued by stating that it was unfortunate that the owners/directors were unable to attend the meeting, however she expressed her belief that if the directors had been present, they would not have been able to add any new information as they were not present during the time of the offences.



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Councillor Evelina Halsey-Brandt also questioned why the directors would continue to have the same manager after he had allowed the infractions to take place. She concluded by expressing her view that if the business were conducting legitimate activities, then they should not have hesitated to allow the RCMP admittance. She also stated that she was in support of a business licence suspension for sixty days, and that it was unfortunate that innocent employees might be affected, but that it was the responsibility of the owners and the manager to ensure that all of the rules were followed.

Councillor Sue Halsey-Brandt stated that it was very important to her that the City send a strong message that its bylaws must be listened to and followed. She highlighted the history of the infractions, referenced the incident when the RCMP was denied admittance, commenting that the action of the manager to pretend that nobody was there and that he had been sleeping was inexcusable. She acknowledged that there were no-smoking signs now, but that there had been many smoking infractions. She reiterated that this was an important bylaw and that Council expects that it be listened to. She referenced the issues of inappropriate clothing and operating after hours and stated that she hoped the issues had been resolved.

In closing, Councillor Sue Halsey-Brandt re-stated that it was important to send a strong message that Council expects bylaws to be listened to.

Councillor Harold Steves made reference to his earlier question as to why the manager had not attended the meeting, and expressed his opinion that the owners could have attended, as he was not aware of any delays in flights from China. He continued by stating that he had never before seen an employee of only three months attend this type of hearing, and stated that the manager should have attended to defend the actions that occurred under his jurisdiction. He commented that it would appear that he was taking the same action that he took when the RCMP attended the premises, that is, that he disappeared and went to bed. In closing, Councillor Steves reiterated that the manager should have been at the hearing.



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Councillor Greg Halsey-Brandt concurred with the comments of other Council members that management should have been in attendance and that they should be held accountable. He added that he felt it was particularly bothersome that some of the complaints were generated at the hotel where the business occupies two floors. He noted that it was intolerable to have such behaviours going on at a hotel where the public comes from all over the world to stay in the City. He further indicated that it would still be intolerable, even if it were taking place in a free-standing building somewhere else in the City. In summary, he stated that he supported the 60 day suspension, acknowledging that it was an onerous suspension for a business that was before Council for the first time, but that given the litany of offences described, he felt it was an appropriate penalty.

Mayor Brodie noted that this appeal has in its favour that this was a first offence, that the operator had now installed the signage, and that they have had better direction since this has happened. However, the Mayor continued that he could not recall an instance in the past where the licence holder had so completely ignored the City's rules. He continued by stating that the list of bylaw infractions goes on and on, and that although remedial steps had been taken by the licensee in certain cases, Council simply could not condone this type of activity in the City and that it had to be stopped.

Mayor Brodie expressed his concern for the employees of the Club that would be impacted by a suspension, but also commented that he did not feel responsible for it because no one could expect to allow this type of conduct in the City of Richmond and expect it to be ignored.

Mayor Brodie then made reference to the incident when the RCMP had been denied admittance to the Club, and described what he felt were the blatant actions of the man who had come to the door in a towel stating that nobody was there when that was not the case. In conclusion, Mayor Brodie expressed his support for the recommendation to suspend the business licence.



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Mayor Brodie asked staff if there was a recommendation for the specific dates of suspension and Mr. McLaughlin replied that March 18 to May 17, 2011 inclusive would be appropriate. There was agreement to amend the motion to specifically reference those dates.

The question on Resolution No. SP11/3-1, which now reads:

That the Business Licence of the Watercube Vancouver Health Club Ltd. doing business as the Water Club at Radisson Hotel, operating from premises located at Unit 1288 – 8181 Cambie Road, Richmond BC, be suspended for a period of 60 consecutive days from March 18th to May 17th, 2011 inclusive.

was then called, and it was **CARRIED** with none opposed.

ADJOURNMENT

SP11/3-2

It was moved and seconded
That the meeting adjourn (4:52 p.m.).

CARRIED

Certified a true and correct copy of the Minutes of the Special Meeting of the Council of the City of Richmond held on Monday, March 14, 2011.

Mayor (Malcolm D. Brodie)

Corporate Officer (David Weber)



**BC Registry
Services**

Mailing Address:
PO BOX 9431 Stn Prov Govt.
Victoria BC V8W 9V3
www.corporateonline.gov.bc.ca

Location:
2nd Floor - 940 Blanshard St.
Victoria BC
250 356-8626

CERTIFIED COPY
Of a Document filed with the Province of
British Columbia Registrar of Companies

Notice of Articles

BUSINESS CORPORATIONS ACT

RON TOWNSHEND
March 10, 2011

This Notice of Articles was issued by the Registrar on: March 10, 2011 10:22 PM Pacific Time

Incorporation Number: BC0848149

Recognition Date and Time: Incorporated on March 20, 2009 12:59 PM Pacific Time

NOTICE OF ARTICLES

Name of Company:

WATERCUBE VANCOUVER HEALTH CLUB LTD.

REGISTERED OFFICE INFORMATION

Mailing Address:

1288-8181 CAMBIE ROAD
RICHMOND BC V6X 3X9
CANADA

Delivery Address:

1288-8181 CAMBIE ROAD
RICHMOND BC V6X 3X9
CANADA

RECORDS OFFICE INFORMATION

Mailing Address:

1288-8181 CAMBIE ROAD
RICHMOND BC V6X 3X9
CANADA

Delivery Address:

1288-8181 CAMBIE ROAD
RICHMOND BC V6X 3X9
CANADA

DIRECTOR INFORMATION

Last Name, First Name, Middle Name:

Jia, Shi Guo

Mailing Address:

701-BUILDING 7, 39 GUIZOU ROAD
QINGDAO
CHINA

Delivery Address:

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Last Name, First Name, Middle Name:

Hao, Gui Zhen

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Last Name, First Name, Middle Name:

Zhang, Wei Qing

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Delivery Address:

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TIAN HE TI YU DONG LU
GUANGZHOU
CHINA

AUTHORIZED SHARE STRUCTURE

1.	10,000	Common Shares	Without Par Value
			Without Special Rights or Restrictions attached