

The Mayor's Entertainment District Task Force

Monday, June 16, 2003



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Recommendations

Council has already endorsed the following recommendations that were put forward in the Interim Report at the Regular Meeting on May 5, 2003:

1. *That the hours of liquor service for Liquor Primary establishments within the City of Kelowna remain at 2:00 a.m. at this time.*
2. *That Kelowna City Council request the General Manager of the Liquor Control and Licensing Branch to extend the period to clear patrons to one hour from the one-half hour currently permitted for all large scale Liquor Primary establishments in the City of Kelowna, thereby allowing Liquor Primary establishments to remain open until 3:00 a.m.*

Whereas the Mayor's Entertainment District Task Force considered the goals of the Official Community Plan (OCP) and the Downtown Plan, available research and the views of the community, the following additional recommendations are made:

1. That Council request staff to bring forward a tax incentive strategy to encourage redevelopment of the "yellow area", to coincide with anticipated implementation of the Community Charter.
2. In an effort to add to the vitality of the area and counteract the "dead zones", Council should consider permitting early opening of liquor primary establishments.
3. That Council support changes to the hours of operation for all Liquor Primary establishments allowing liquor service until 2:00 a.m.
4. That City staff and the RCMP work with the Nightclub Owners Association to establish a Bar Watch Program for the Downtown.
5. That Council Policy No. 255 be amended as follows:
 - a. No new, expanded or relocated Liquor Primary establishments with a capacity greater than 500 shall be permitted.
 - b. Any new, expanded or relocated Liquor Primary establishment with a person capacity of 350 persons or more shall not be located closer than 300 metres (shortest travel distance) to another Liquor Primary establishment with a capacity of 350 persons or greater; and no closer than 100 metres (shortest travel distance) to another Liquor Primary establishment with a person capacity between 150 and 350; and not abutting or adjacent to another Liquor Primary establishment with a person capacity of less than 150 persons.
 - c. Any new, expanded or relocated Liquor Primary establishment with a person capacity between 150 and 350 persons shall not be located closer than 100 metres (shortest travel distance) to another Liquor Primary establishment with a capacity of greater than 150 persons; and shall not be located abutting or adjacent to another Liquor Primary establishment with a capacity of less than 150 persons.

- d. That, in order to avoid problems associated with rowdy behaviour in line ups at Liquor Primary establishments, when considering applications for Liquor Retail establishments associated with Liquor Primary Licensees, Council should have regard to the size of the Liquor Primary establishment, the nature of the clientele, the likelihood of line ups, and the number and proximity of other Liquor Primary Licensees in the area.
 - e. That, in order to avoid concentrations for this use (e.g. in the same block or at the same intersection), generally the store should be at least 300 metres (shortest travel distance) from an existing Licensed Retail Store, BC Liquor Store, or wine and beer store. A reduced distance (generally not less than 100 metres) may be warranted in locations such as the City Centre, the Highway Centre (Highway 97/Springfield) or the two Town Centres (Rutland and Pandosy).
- 6. That no additional Liquor Primary establishments be located within the “yellow area” and no expansion shall be approved to existing Liquor Primary establishments within the “yellow area”.
 - 7. That amendments to the Zoning Bylaw that would permit Retail Liquor Stores not be approved within the “yellow area” at this time.
 - 8. That staff prepares amendments to the Business License and Regulations Bylaw No. 7878 that would require all Liquor Primary establishments to enter into a Good Neighbour Agreement with the City of Kelowna as a condition of their Business License.
 - 9. That, in conjunction with the implementation of the Good Neighbour Agreements as a requirement of business licenses for Liquor Primary establishments, staff prepare a criterion for benchmarking or evaluating the performance of Liquor Primary establishments with respect to the Terms of the Good Neighbour Agreement.
 - 10. That the Task Force report be distributed to all land owners within the “yellow area” of the Downtown Plan, to the Downtown Kelowna Association, the Chamber of Commerce, and be posted on the City of Kelowna website (www.city.kelowna.bc.ca).
 - 11. That the City continues to work with the Gospel Mission and other social agencies within the “yellow area” to mitigate the effects of the clustering of these services. And when possible, find other locations in the city that may better serve the needs of clients.
 - 12. That Council considers adjacency of residential uses when considering applications for patios associated with Liquor Primary establishments with a view to restricting the hours of operation for the patio area.
 - 13. That Council requests the Provincial Government to not change the current 11:00 p.m. closing time for Retail Liquor Stores in future.

14. Finally, if the situation within the “Yellow area of the Downtown Plan” (Leon and Lawrence) does not improve after one year or there is a lack of cooperation amongst the Liquor Primary Licensees in the area working with the City of Kelowna and the RCMP, it is recommended that Staff investigate ways in which Business License Fees could be increased to cover the additional expenses incurred by the taxpayer for policing this unique area.

Respectfully submitted,

The Mayor's Entertainment District Task Force

Monday, June 16, 2003

Introduction

The recommendations contained in this report are the first step towards building a livable downtown. This goal is outlined in both the City's Official Community Plan and the Kelowna Downtown Plan (Appendix 2). Research and public input (Appendices 1 and 5) has made it very clear that the status quo is unacceptable and that large-scale liquor primary establishments as they currently exist in the downtown will not allow residential development to occur. If City Council wishes to see a vibrant downtown, revitalized through the introduction of residential development, as articulated in both the Official Community Plan and the Downtown Plan, difficult decisions will have to be made.

The Mayor's Entertainment District Task Force believes that reaching our goals for the Downtown is a long term process, but immediate improvements can be achieved through a comprehensive strategy. The Task Force believes that we must first stop the situation in the "yellow area" from getting worse. Secondly, we must ensure that the situation is not replicated elsewhere (i.e. transplanting the problem) and thirdly, we must begin the process of revitalization and improving the livability of the area.

Kelowna Downtown Plan: "Downtown a People Place"

Goal

To have a residential population within the Downtown that has a positive social and economic impact on the Plan area

Objective

- a) To create a vital and safe neighbourhood environment, including activity beyond regular business hours, by introducing a greater residential component into the Downtown

Housing

The Plan encourages the provision of a substantial amount of new housing within the study area. This supply will contribute to an active Downtown with many "eyes on the street". It will enhance the market for Downtown goods and services as well as provide accommodation close to jobs within the area.

Social Environment:

Addressing negative perceptions about personal safety and security however, will require an approach with a longer term perspective that ensures provision of economic and health-related services, the elimination of neglected and uncared for spaces through appropriate urban design, and the coordinated efforts of a number of agencies and jurisdictions. The direction of the Plan, therefore, is towards healthy streets and public spaces through a coordinated approach to the resolution of pertinent issues.

Rationale for Recommendations

Tax Incentives

At the direction of City Council, staff has spent the past year examining various incentive options intended to stimulate residential development in the downtown. Until recently, there was little opportunity to use incentives as the market was not in a position to respond to catalysts that legislation permitted local governments to provide. With the much anticipated introduction of the Community Charter in January 2004 opportunities will exist for local governments to provide tax incentives for redevelopment areas. If the problems of the “yellow area” could be improved with the cooperation of licensed establishments in the area, the current market coupled with incentives may provide the catalyst needed to begin the revitalization of this historic area of the city. A strategy should be put in place now to encourage development by lessening the risk of the “pioneer” developer in the area.

That Council request staff to bring forward a tax incentive strategy to encourage redevelopment of the “yellow area”, to coincide with anticipated implementation of the Community Charter.

Good Neighbour Agreements and the Bar Watch Program

Despite a concern about the size, proximity and numbers of large scale Liquor Primary establishments in the area, the Task Force acknowledges the legal rights of the licensees to exist and carry out their business. However, it is also acknowledged that with rights come responsibilities to the community and society as a whole.

To ensure that community expectations are clearly articulated and that Liquor Primary licensees understand their responsibilities, it is recommended that all Liquor Primary licensees be required, as part of their business license, to enter into a Good Neighbour Agreement (see Appendix 3) with the City of Kelowna. The proposed items enhance existing Good Neighbour Agreement(s) which deal primarily with better patron management. The soft close, which was found to be very effective in Banff and other communities, was added. Establishments would stop liquor service at 2:00 a.m., turn up the lights gradually and slowly turn down or play quieter music. The second significant addition is better line management. Large uncontrolled line-ups are a significant problem and contribute to noise and rowdiness problems in the area.

At a public hearing it was suggested that the nightclub owners have formed an association and that they would be willing to implement a Bar Watch Program. The Task Force recommends that the Bar Watch Program be a requirement of the Good Neighbour Agreement. It is recommended that City staff and the RCMP work with nightclub owners in the “yellow area” to begin the process immediately. Vancouver successfully introduced a Bar Watch Program which could be used as a framework.

That City staff and the RCMP work with the Nightclub Owners Association to establish a Bar Watch Program for the Downtown.

That staff prepares amendments to the Business License and Regulations Bylaw No. 7878 that would require all Liquor Primary establishments to enter into a Good Neighbour Agreement with the City of Kelowna as a condition of their Business License.

That, in conjunction with the implementation of the Good Neighbour Agreements as a requirement of business licenses for Liquor Primary establishments, staff prepare a criterion for benchmarking or evaluating the performance of Liquor Primary establishments with respect to the Terms of the Good Neighbour Agreement.

Size of Establishments

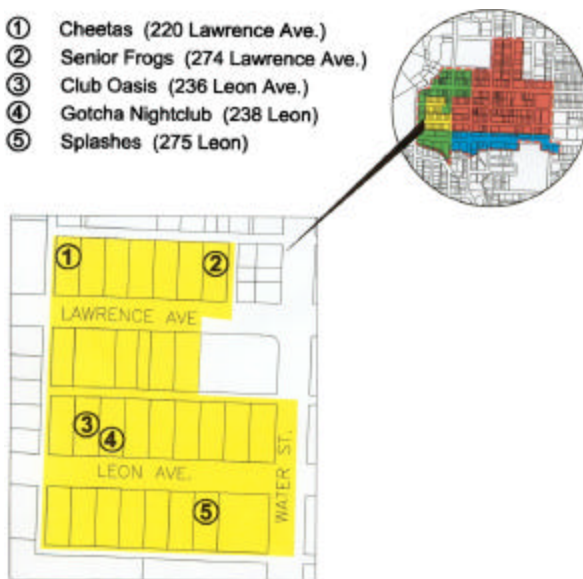
Until the recent changes were made to liquor regulations, cabarets (large scale liquor primary establishments) had a maximum capacity of 350 seats. A single establishment with a 350 capacity, although large according to those who must enforce the regulations, is still manageable. The majority of problems in the “yellow area” is more a function of size and proximity. However, based on input from enforcement officials the Task Force cautions Council about allowing establishments to exceed 500 seats. Crowd control, establishing occupancy and general inspection and enforcement becomes difficult to manage in very large establishments.

No new, expanded or relocated Liquor Primary establishments with a capacity greater than 500 shall be permitted.

The Yellow Area: Livability versus Entertainment

A common theme from the April 3, 2003 public meeting and letters to Council over the years is that cabarets, nightclubs and large scale liquor primary establishments, especially those in clusters, discourage residential development and the general livability of the downtown. This is not unique to Kelowna or B.C. In fact, Miami Beach is clamping down on its nightclubs due to the negative impact they are having on the community (Appendix 4).

- ① Cheetas (220 Lawrence Ave.)
- ② Senior Frogs (274 Lawrence Ave.)
- ③ Club Oasis (236 Leon Ave.)
- ④ Gotcha Nightclub (238 Leon)
- ⑤ Splashes (275 Leon)



Leon/Lawrence Cabarets

This is not necessarily a reflection on the clubs, but rather the “nature of the beast” and the nature of the clientele attracted to nightclubs. The clubs tend to accommodate between 200 and 400 patrons. They are often located in converted warehouses and as a rule do not serve food. The target market is generally a younger clientele (19 to 30). Clubs tend to open later in the evening creating daytime dead zones and attracting business after other (food primary) establishments close. They are in every sense of the word “industrial scale” or “big-box” entertainment establishments.

The Task Force acknowledges the need for these types of establishments in tourist communities. However, it is clear that the goals of a livable downtown will not be realized with a concentration of these establishments in the Lawrence/Leon area. **To that end, the Task Force is recommending that no new establishments be added to the “yellow area” in the Downtown Plan and that existing businesses within the area not be permitted to expand or establish Retail Liquor Stores.** The dispersal of these types of establishments is in the best interest of the redevelopment of the downtown.

Council directed staff to consider siting criteria for Liquor Primary establishments to provide guidance to those wishing to locate new establishments or relocate existing ones. It is also intended to ensure the existing situation is not re-created elsewhere in the city. **That Council Policy No. 255 be amended as follows:**

- a. **No new, expanded or relocated Liquor Primary establishment with a capacity of 500 persons or greater shall be permitted.**
- b. **Any new, expanded or relocated Liquor Primary establishment with a person capacity of 350 persons or more shall not be located closer than 300 metres (shortest travel distance) to another Liquor Primary establishment with a capacity of 350 persons or greater; and no closer than 100 metres (shortest travel distance) to another Liquor Primary establishment with a person capacity between 150 and 350; and not abutting or adjacent to another Liquor Primary establishment with a person capacity of less than 150 persons.**
- c. **Any new, expanded or relocated Liquor Primary establishment with a person capacity of between 150 and 350 persons shall not be located closer than 100 metres (shortest travel distance) to another Liquor Primary establishment with a capacity of 150 persons or greater; and shall not be located abutting or adjacent to another Liquor Primary establishment with a person capacity of less than 150 persons.**
- d. **That, in order to avoid problems associated with rowdy behaviour in line ups at Liquor Primary establishments, when considering applications for Liquor Retail establishments associated with Liquor Primary Licensees, Council should have regard to the size of the Liquor Primary establishment, the nature of the clientele, the likelihood of line ups, and the number and proximity of other Liquor Primary Licensees in the area.**
- e. **That, in order to avoid concentrations for this use (e.g. in the same block or at the same intersection), generally the store should be at least 300 metres (shortest travel distance) from an existing Licensed Retail Store, BC Liquor Store, or wine and beer store. A reduced distance (generally not less than 100 metres) may be warranted in locations such as the City Centre, the Highway Centre (Highway 97/Springfield) or the two Town Centres (Rutland and Pandosy).**

In the end, it is not a choice between livability and entertainment, it is more a matter of scale and concentration. The Task Force heard from the community that the establishment of a variety of food and liquor primary establishments throughout the downtown is healthy and necessary for a vibrant, livable core. There was very little concern expressed about smaller scale establishments, or even larger ones spread throughout the city.

Earlier Hours of Operation

City Council asked the Task Force to examine earlier hours of operation and of liquor primary facilities. Generally speaking anything which counteracts the “dead zones” around large scale liquor primary establishments is positive. Over time it would be beneficial if more could be done to create a street friendly front to these establishments. The Task force suggests that the owners of these establishments work with the Planning Department to suggest ways of achieving this goal.

Extended Hours of Operations to 4:00 a.m.

Recent changes to the Liquor Licensing Act and Regulations allow Liquor Primary establishments to extend their hours of operation to 4:00 a.m. with local government support. The change is an attempt to deal with rowdiness and vandalism caused when hundreds of patrons are forced to leave one-half hour after liquor service is stopped at 2:00 a.m. The rationale for the change is based on experiences around the world that assume if hours are extended most patrons will drift out throughout the evening as

opposed to being forced out all at the same time.

The following quotations are excerpted from a recent New Zealand article titled "24 Hour Licensing: Overseas Research on the Impact of Increased Hours of Trading":

"...By the mid 1990s, very late hours of on license trading [liquor service in establishments] were causing concern in New South Wales and Queensland, and 24 hour licensing was being cut back in the Australian Capital Territory because of increased intoxication, disorder and violence in the inner cities..."

"...When 75 Perth hotels, taverns and nightclubs were granted extended trading permits, there were significant increases in assaults, as well as road crashes and drunk driving offences associated with these premises occurring at later hours. In comparison, premises with normal hours were cited less frequently..."

"...In Scotland, relaxation of Scottish licensing hours in 1977 resulted in a 13% increase in alcohol consumption..."

Source: draft City of Nanaimo Liquor Control Strategy, Neilson-Welch Consultants, October, 31, 2002

There is unanimous agreement that one of the major problems with large scale liquor establishments is with the large number of patrons forced out into the streets at one-half hour after liquor sales end. This clearly contributes to the rowdiness and vandalism in the area. The RCMP is pushed to the limit and the ability for taxis to provide service to the patrons is quickly overwhelmed.

Although there was agreement on the problem, there was not universal agreement on the solution. In considering the problem the Task Force considered the views of the community as expressed at the April 3rd, 2003 public meeting (Appendix 5), the draft Nanaimo Liquor Control Strategy, and the experience of one member of the Task Force in Banff, Alberta (Appendix 6). In all cases, it is generally agreed that a longer “dispersal period” or “wind

down” is needed. The community of Banff found that the longer “wind down” period was critical to the orderly dispersal of patrons. When the “wind down” was coupled with gradually turning down the music and turning the lights up (voluntarily agreed to by the clubs) patrons tended to leave in smaller groups and were quieter as they dispersed throughout the downtown.

Having only one-half hour between the end of liquor service and removing patrons from the premises is a problem for all concerned. Extending the one-half hour to at least one hour appears to be a potential remedy. This would allow patrons more time to finish and leave on their own. The “cooling off” could be accomplished without selling more liquor. The one-half hour is set in legislation and can only be extended by the General Manager of the Liquor Licensing branch. **Therefore, the Task Force is recommending that Council request the General Manager of the Liquor Licensing Branch to extend this one-half hour period to one hour for all Liquor Primary establishments in the City of Kelowna.**

There is clearly a desire by the nightclub owners and some members of the community to extend the actual hours of liquor service as well. The City of Nanaimo, recently prepared a Liquor Control Strategy. The problems facing the City of Nanaimo parallel those found in Kelowna. They were concerned about recent changes to the liquor legislation and the impact the changes would have on the downtown core. In particular, the City of Nanaimo also has a problem with a concentration of nightclubs in one area of the downtown, creating problems with rowdiness and vandalism. They are also concerned about livability issues.

As part of the City of Nanaimo’s strategy, Consultant Allan Neilson-Welch conducted extensive research regarding the issue of “extending hours”. In Nanaimo, as in Kelowna, the RCMP expressed concern about extending the hours of liquor service and made these observations:¹

- the mass exodus that presently occurs at 2:00 a.m. on weekends would simply be deferred until 4:00 a.m.
- the requirement for police to be on-hand in significant numbers would wreak havoc on RCMP scheduling which, in turn, would result in significant overtime costs.
- the binge drinking that occurs at 1:45 a.m. could just as easily occur at 3:45 a.m.
- the public disorder that seriously impacts the downtown community on weekend nights would continue even longer into the early morning.
- an increase in liquor service hours would further enhance the social acceptability of alcohol and excessive drinking.
- the risks to the community resulting from a change in hours are not warranted in order to satisfy the demand of a very small portion of the population.

Neilson-Welch did not find empirical evidence in Canada to support the RCMP’s concerns, however, he did note that in 1990 the City of Hull, Quebec voted to change its hours from 3:00 a.m. to 2:00 a.m. to discourage the tradition of party goers from Ottawa descending on Hull. In reviewing jurisdictions in which hours have been extended and studied (UK, New Zealand and Australia) Neilson–Welch found:

“Each of these three countries has experimented with extended hours, in some cases beyond the 4:00 a.m. time proposed by the BC government. One of the key reasons behind the changes was the belief—shared by the BC government—that the extension of hours would, in itself, serve to reduce disorder on the streets by facilitating the dispersal of patrons over a longer period of time.

¹ Source: Draft City of Nanaimo Liquor Control Strategy, Neilson-Welch Consultants, October 31, 2002.

The research uncovered no evidence to support this theory. Indeed, the only evidence that was found suggests that the extension of hours tends to exacerbate the degree of public disorder.”²

The report ultimately recommended that Nanaimo City Council “**NOT** consent to extended hours for liquor license establishments.”

The Task Force does not support the extension of hours within the City of Kelowna at this time, although the focus of concern is the “yellow area” of the Downtown Plan.

In future, should Council wish to consider later opening hours, the Task Force suggests that first:

- a) experience in other communities in BC be undertaken to determine benefits and costs of later openings;
- b) the Provincial Government be requested to amend regulations allowing for “later closing hour” approval to be rescinded, if they do not prove to be beneficial to the community;
- c) Staff develop zone-based evaluation criteria, benchmarks, and a predetermined list of zone-based consequences for failure to meet benchmarks; and
- d) based on an evaluation of the impacts, if necessary, increase license fees for this category to cover all additional costs.

The other issue when considering whether to extend operating hours is inter-municipal consistency. For example, would patrons travel to Penticton if the liquor establishments are opened longer than those in Kelowna? Would this increase the number of drinking drivers in the region? Every municipality will have to make its decisions based on what is the right course of action for its circumstances. The Task Force does not deny the possibility that inter-municipal travel, because of different closing hours, **may** become an issue. However, the Task Force concurs with the Nanaimo Strategy findings that the problems associated with the extension of hours outweigh the community benefits.

4:00 a.m. Update

At Council consideration of the Interim Report a question was asked about the rationale for the later hours. Staff was asked to provide further research on experiences in other communities. Of the 11 municipalities (Vancouver, Victoria, Burnaby, Surrey, New Westminster, Nanaimo, Whistler, Kelowna, Penticton, Prince George and Kamloops) at the June 6, 2003 meeting in New Westminster, only Vancouver and Prince George (3:00 a.m. in the Downtown) had moved to a later opening. Vancouver City Council has chosen (to the dismay of neighbours) to try the later opening on a temporary basis. Staff has expressed concerns about extra policing costs and neighbourhood impacts. Penticton is considering moving to a “bar the door at 2:00 a.m. approach” allowing patrons within to be served until 4:00 a.m. However, they did not anticipate that enforcement of the 2:00 a.m. “barring entrance” would rest with the local police. Liquor License Inspectors would only ensure that service ceases at 4:00 a.m. and that the establishment is closed at 4:30 a.m. Generally, municipalities with a cluster of nightclubs

²ibid.

in a concentrated area (like Kelowna) do not support extended hours at this time for the same reasons cited by the Task Force.

Staff inquired about the availability of any research or policy documents that the Liquor Control Branch may have to provide the rationale for the government's actions. No one was aware of any such documentation. Those that sat on an earlier UBCM review committee commented that the original proposal called for liquor sale to cease at 2:00 a.m. with a 4:00 a.m. closing to allow for a better dispersal of patrons.

HALIFAX

Staff also contacted the City of Halifax, Nova Scotia. The following is a summary of a discussion with Angus Shaftenberg, Planner, Halifax Regional Municipality:

Halifax's Downtown zoning allows liquor establishments with a range of seating capacities and levels of service. Beverage rooms cannot have live entertainment. Lounges can have live entertainment, but it isn't mandatory. Cabarets are allowed the largest seating capacity and must have live entertainment.

The City has little control over any of these establishments where use complies with the zoning. Currently, cabarets are allowed to stay open until 3:30 a.m.

Halifax's downtown is a mixed-use area. There are currently "two or three" cabarets in Halifax's Central Business District (CBD), all within walking distance of one another. Noise from within the establishments and from patrons emptying onto the street at closing time is an issue. However, the CBD is recognized as an urban area intended to attract visitors from outlying areas. Although not particularly compatible with the residential component within the area, the feeling is that cabarets have a place Downtown.

There is no strategic initiative by the City to regulate the existing cabarets. Because these establishments must be open seven days a week, the number of establishments is self-regulated as not many operators want to stay open every day.

As well, the provincial liquor licensing body has been supportive. It recently revoked a license for an establishment that had been the subject of noise complaints. There has been no call from the community for more stringent measures to control liquor establishments and problems are primarily dealt with through enforcement of applicable laws and bylaws.

PORTLAND

Staff also contacted Portland; there are 55 drinking establishments in downtown ranging from 900 to 10,000 square feet. The average club/bar is just less than 4,500 square feet. All bars in Portland have the ability to apply for a 3:00 a.m. license which most have applied and received. The majority of complaints from residents have come since the introduction of Banana Joe's into a neighborhood already concentrated with nightclub activity. Banana Joe's is a large establishment (slightly more than 10,000 square feet with a capacity of 800). Banana Joe's is currently mired in a fight to keep their liquor license. The problems appear to be tied to cheap drink prices and poor line management (fights and loud behaviour). There are concerns over the number of

patrons emptying into the streets at a specific time. The police staff accordingly. Concern could be limited due to the mix of bars in the area, i.e. music venues, jazz club, neighbourhood bars. Banana Joe's was the first large scale dance club to come in direct contact with the neighbourhood. Other dance clubs are further from the residential sections of downtown and are rarely visible during the normal work day.

SEATTLE

In Seattle, cabarets must cease serving liquor by 1:30 a.m. There is no requirement to close by any particular time. However, as the establishments are not generating revenue they are anxious to close once liquor is no longer being served. Music ceases with the cut-off of liquor service. None of the cabarets stay open beyond 2:00 a.m.

Patrons emptying onto the streets is a problem. This is mostly a noise issue. Significant police resources are required. Police proactively disperse patrons congregating on the streets. As well, the police will, if necessary, close streets and require patrons in vehicles to exit the area along specific routes. Vehicles are not allowed back into the area.

Social Service Agencies

At virtually every public discussion during the formulation of the Downtown Plan, concerns have been raised about the proliferation of social agencies in the downtown core. Accusations are often made that clientele using the social agencies create some of the problems often blamed on the cabaret crowds. The Task Force does not dispute the claims, but acknowledges that these agencies provide a vital community service. The proliferation of similar agencies in the area is likely a function of the market place and the lower rents available in the area. The Task Force recommends that the City continue to work with these social agencies to encourage a better distribution of services throughout the City to better serve those in need.

That the City continues to work with the Gospel Mission and other social agencies within the “yellow area” to mitigate the effects of the clustering of these services. And when possible, find other locations in the city that may better serve the needs of clients.

Business License Fees

Although relatively few in numbers, the large scale liquor primary establishments in the “yellow area” currently require greater police attention compared to other types of liquor establishments. This is especially true on weekends and in the summer. Long weekends in the summer are the most problematic. This is not unique to Kelowna. Research illustrates that similar problems occur in Whistler, Nanaimo and Seattle. Research conducted by Nanaimo illustrates that business fees for establishments responsible for creating the extra work load would increase dramatically if additional policing costs were charged back to these establishments (See Appendix 7).

The Task Force believes that with the cooperation of club owners, a Bar Watch Program and Good Neighbour Agreements the current situation would improve and the current need for “additional” policing would diminish. This would eliminate the need to consider

Business License increases at this time. If the situation within the “Yellow area of the Downtown Plan” (Leon and Lawrence) does not improve after one year or there is a lack of cooperation amongst the Liquor Primary Licensees in the area working with the City of Kelowna and the RCMP, it is recommended that Staff investigate ways in which Business License Fees could be increased to cover the additional expenses incurred by the taxpayer for policing this unique area.

Retail Liquor Stores

The Task Force recommends that the zoning changes proposed by staff should adequately address the issue of retail liquor stores except for those located in the “yellow area” in the Downtown Plan. Like all land use decisions, Council will have the Public Hearing process and existing policy to base their decisions on.

Within the “yellow area” Land Use Area 2, the Task Force is concerned that the sale of liquor in such close proximity to existing large scale liquor establishments and the large number of social service agencies will only make a bad situation worse. The Task Force heard that there is a problem with patrons of existing large scale liquor establishments drinking in alleyways and parking lots before going into establishments. This activity seems to be the leading source for broken beer bottles in the area, not the liquor establishments themselves. The following should be added to Council Policy 255.

- a. **That, in order to avoid problems associated with rowdy behaviour in line ups at Liquor Primary establishments, when considering applications for Liquor Retail establishments associated with Liquor Primary Licensees, Council should have regard to the size of the Liquor Primary establishment, the nature of the clientele, the likelihood of line ups, and the number and proximity of other Liquor Primary Licensees in the area.**
- b. **That, in order to avoid concentrations for this use (e.g. in the same block or at the same intersection), generally the store should be at least 300 metres (shortest travel distance) from an existing Licensed Retail Store, BC Liquor Store, or wine and beer store. A reduced distance (generally not less than 100 metres) may be warranted in locations such as the City Centre, the Highway Centre (Highway 97/Springfield) or the two Town Centres (Rutland and Pandosy).**

Background – Changes to Liquor Control in BC

The Role of the Provincial Government and Municipality in Liquor Regulation

The provincial government has primary regulatory authority over the sale of liquor in BC. The Liquor Control and Licensing Branch (LCLB) of the Ministry of Public Safety and Solicitor General (PSSG) is the vehicle through which the government exercises its authority. The legislation under which the LCLB acts is the *Liquor Control and Licensing Act* and *Regulations*.

Municipalities are involved both directly and indirectly in controlling the sale of liquor in BC. Under the *Liquor Control and Licensing Act* and *Regulations*, municipal councils enjoy direct involvement through their review of certain types of liquor license applications.

Areas of municipal regulation such as business licensing, zoning, building and public nuisances allow councils to exert indirect control on the sale of liquor. Council may use its business licensing authority in the *Local Government Act*, for example, to regulate a licensed establishment's

Summary of Changes

Change	Description
License Classes	- reduction in number of license classes from seven to two: liquor primary and food primary
Lounges	- a food primary establishment (restaurant) with a seating capacity of at least 50 persons may open a lounge, the size of which is limited to the lesser of 40 persons or 20% of the establishment's person capacity
Person Capacity	- a liquor primary establishment may automatically increase its person capacity to its maximum occupant load
Hours	- liquor primary license holders may apply to extend hours of liquor service to 4:00 a.m.; local government consent is required - food primary license holders may apply to extend hours of liquor service, with food service, to 4:00 a.m.; local government consent is required
Licensing Processes	- two licensing process: one for liquor primary and one for food primary - local government has effective veto over all liquor primary applications - local government has effective veto over food primary requests for extended liquor service hours, and patron-participant entertainment
Licensee Retail Stores	- moratorium on new LRS has been lifted temporarily; local government involved only where re-zoning required
Other	- licensed establishments no longer prohibited from serving free liquor - two pieces of ID required for patrons

operations, and to limit the types of establishments permitted in various zones.

In 1999, the Province completed a review of its liquor control policy. The report contained more than 130 recommendations intended to modernize and simplify liquor control in the province. Changes included a shift from administering regulations to license inspection and enforcement and an opportunity for local governments to provide more input. Although one of goals was more local input, the province implemented many of its recommendations before local governments had time to provide input. Since December 2002 a number of recommendations have been implemented which have impacted and will continue to impact local governments throughout the province.

The Kelowna Experience

In 2000, Council ended a moratorium on cabaret expansion in the downtown core. The moratorium had been in place since riots occurred during busy summer weekends in the mid 1980s.

The purpose of the moratorium was an attempt to control the number of people in downtown after the cabarets closed. Council was concerned that although the moratorium had been effective, it should be lifted and applicants allowed to apply for licenses. Council could then decide on each application based on its own merits. Although nothing similar to the 1980 riots has occurred since the moratorium was lifted, the RCMP has expressed concern that the potential exists for trouble from the cabaret crowds, especially during long weekends in the summer.

Once the moratorium was removed, Council received two applications for Cabaret or C Class licenses in the core. During deliberations Council was faced with a number of questions. First and foremost was what direction would liquor licensing take in the future and in particular what would be the role of local government in the process. Secondly, could Council impose conditions on the use of glass containers, hours of operation, crowd control lighting, clean up etc. through either the Liquor License or Business License? Council was also concerned about the future of cabarets in the downtown, their effect on existing residents and the potential for residential expansion.

The Planning Department shared those concerns as cabarets (over 100-seat Liquor Primary Establishments) have land use impacts beyond their site and may need a buffer area between them and other land uses. In addition, the Planning Department is concerned about the dead zones which are created in entertainment areas as clubs do not open until later in the evening. During the day the blocks on which they are situated are vacant, with little or no pedestrian activity.

There is an acknowledgment that cabarets (over 100-seat Liquor Primary Establishments) are only one component impacting livability in the downtown. There is also a concern related to the proliferation of private liquor retail stores. The problem is compounded by the number of social service agencies located in the vicinity of the cabarets and liquor stores. These facilities attract a range of clientele including those who purchase alcohol and consume it in the downtown area. They often leave bottles, cans and garbage in the streets, alleys and parks.

Council Directive

During the Council meeting of June 25, 2002, Council expressed concerns about the existing alcohol-related problems on downtown streets; future changes to provincial liquor licensing regulations; the need to establish an entertainment district; daytime dead zones and the impact of the current entertainment establishments on the development of residential land uses in the downtown. Staff was requested to bring back draft terms of reference dealing with the issues raised. Shortly thereafter, the Mayor's Entertainment District Task Force was established. The Mayor's Entertainment District Task Force has had nine regular meetings and one special public meeting since it first met on January 18, 2003.

Members of the Mayor's Entertainment Task Force

Mayor Walter Gray
Bob Bain
Brad Cronquist
Joe Huber
Norman Letnick
Dave Roseberry
Ron Hollingsworth, BCLCB
 (Tom O'Grady, alternate)
Inspector Ken Green, RCMP (non-voting)

Staff Resources (Non-voting)
Ron Born, City Manager
Ron Mattiussi, Director of Planning and Corporate Services
Allison Flack, City Clerk
Andrew Bruce, Current Planning Manager
Signe Bagh, Policy, Research and Strategic Planning Manager



<p>Minutes</p>	<p>Mayor's Entertainment District Task Force</p> <p>June 10, 2003 1:00 PM to 4:00 PM Meeting Room 3 City Hall</p>
<p>In Attendance:</p>	<p>Mayor Gray, Bob Bain, Brad Cronquist, Joe Huber, Bill McKinnon (RCMP), Ron Hollingsworth (LCLB), Norm Letnick, Dave Roseberry</p>
<p>Regrets:</p>	<p>Ken Green (RCMP), Tom O'Grady (LCLB)</p>
<p>Public in Attendance:</p>	<p>Bob Audy (Gotcha), Robert Audy (Gotcha), Bonnie Bates-Gibbs (Chamber of Commerce), David Habib (Club Med), Cole Haddad (Flashbacks), David Lovell (KSAN), Clint McKenzie (DKA), Doug McMinniman (Gotcha), Andrew Mercer (Splashes), Rita Milne (DKA), Ken Noble (Willow Inn), Dan Nolan (Rascals), Gino Panucci (Gotcha), Tony Pantazopoulos (Yamas), Peter Schultz (Doc Willoughby's), Rose Sexsmith (Rose's Pub), Billie Shepherd (Flashbacks), Nick Sintichams (Yamas), Ken Webster (UDI)</p>
<p>City Staff in Attendance:</p>	<p>Signe Bagh, Ron Born, Andrew Bruce, Ron Mattiussi</p>

1. Call to Order

The Mayor called the meeting to order at 1:05 P.M.

2. Downtown Cabaret Owners

Mayor Gray prefaced this portion of the meeting by explaining that input from the participants would help to shape the final report, and thanked everyone for attending. He shared the mandate of the Task Force, its objective to increase the livability of the downtown, and said that Food Primary and Liquor Primary operators play an important role in the dynamics of the downtown, and the possibilities and potential for future use of the area. Mayor Gray added that Council had directed the Task Force to address issues surrounding alcohol and behaviour.

Ron Mattiussi said that when the moratorium on new clubs in the downtown was lifted, Council heard from many people about their concerns regarding current problems in the downtown. Mr. Mattiussi said that Good Neighbour Agreements and a Bar Watch program were options being explored to stabilize and improve the situation, and emphasized that the Task Force would not make any recommendations to Council that could potentially worsen the problem.

Mayor Gray asked club owners for feedback and their solutions towards the overall objectives of the Task Force.

Gino Panucci said that the Task Force seemed to be focusing on nightclubs alone in the downtown, adding that patrons often come to cabarets later in the evening, after spending the earlier part of the evening in pubs, as pubs have more of a window for customers. Mr. Panucci said that some patrons aren't admitted because they are already intoxicated by the time they arrive at his nightclub. The club has cameras on the premises and a scanner for checking the validity of IDs, which makes a big difference in controlling the situation, but clubs don't have full control, as patrons have already been drinking in other establishments.

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Doug McMinniman said that other activities in City Park contribute to the issue. Mr. Panucci asked about cameras at the end of Leon Street. Bill McKinnon replied that they are expected to be working by June 11. Mr. Panucci agreed that drugs are part of the problem.

David Habib said that the problems in the downtown are a public safety issue, with other community dynamics contributing to the problem, such as Gospel Mission clientele sleeping in the area. He said that the businesses now in the area have had to ask homeless people to leave. Mr. Habib said that if clubs were open earlier, offering food and entertainment, it would be easier to compete with pubs, even if initially this is costly, and would reduce “dead zones” in the downtown during the day. He felt that a large contributor to the problem was the issue of forcing patrons to guzzle their last drink and then leave; extending hours to allow for gradual dispersal would address this issue. While the extended hours may earn club operators extra income, the main issue is one of public safety. Mr. Habib added that the concentration of clubs is one area contributes to the problem when patrons are all forced to leave at the same time. Staff find patrons easier to deal with when they are not forced to leave at 2:30. Another connected issue is the lack of washrooms downtown at that hour. He spoke of pilot projects in other cities where extended hours have been shown to address many of the problems Kelowna is struggling with, as well as his own experience with running an after-hours club in Kelowna. He said that club owners would be willing to implement a policy of not allowing new or returning patrons into the club after 1:00 A.M.; Penticton and Banff have this policy, with RCMP enforcement.

Mayor Gray asked if any of the cabaret owners perceived any negative consequences to extending the period after last call to one hour.

Mr. Habib said that his information led him to believe that Penticton clubs would be open until 4:00 a.m. Mayor Gray said that while Council would like policy on this issue to be consistent throughout the Okanagan, Penticton would not be driving Kelowna's agenda.

Andrew Mercer said that even through there would be additional staffing costs involved in extending the dispersal period to one hour, he would happily incur the costs to support the extension.

Mr. Mercer asked about the qualifications of committee members to be making decisions regarding downtown clubs, feeling that they did not have direct experience with current issues. He mentioned rumours in the cabaret community regarding a desire to force clubs out of the area in order to develop nightclub properties in the downtown. Mayor Gray said that committee members were chosen to provide a broad base of opinions without making the committee too large, and explained the particular experience and qualifications of each of the members: Norm Letnick sat on the Banff City Council when that community was experiencing similar issues and is a University professor with no vested interest in nightclubs; Bob Bain was a downtown resident for 36 years and has seen the town increase in size immensely over the years, as well as being a JC senator; Joe Huber is the president of Prestige Inns, with properties in downtown Kelowna and throughout B.C., with a vested interest in terms of property values, and while not in competition with cabarets, he does hold a liquor license; Brad Cronquist is a lawyer, building owner, and past president of the Chamber of Commerce, with a feel for the daytime potential of the downtown; Dave Roseberry is a retired RCMP officer, with experience with riots that have occurred in Kelowna, as well as involvement in community groups; Ken Green is a senior RCMP officer; Ron Hollingsworth is a provincial liquor inspector; in addition, City staff act as a resource to the Task Force. Mr. Mercer said that the impression cabaret owners have received is that the Task Force intends to push clubs out of the downtown, leading to a defensive reaction on his part. He added that Liquor Primary license holders make an easy target, even though the Gospel Mission causes 90% of the problem. Mayor Gray said that the Task Force is aware of the impact of the Gospel Mission in the downtown.

Norm Letnick asked if a 4:00 A.M. closing were adopted, what would prevent cabaret owners from serving liquor until then. Mr. Habib replied that by 4:00 A.M., only a handful of people would remain in a club. He added that cabaret owners would not be motivated by extra money at that point; patrons would only be hanging out and winding down. Mr. Habib said that he would be willing to make a commitment to allow people to leave at their own pace if he no longer had to force them out into the street, even if this meant incurring extra costs during that period. He said that if Task Force members were to come to the downtown at 2:00 A.M. and experience the current situation, it would increase their understanding of the problems created by the huge influx of people into the street at the same time; giving patrons more time to disperse would make things safer for everybody.

Robert Audy asked about policing if clubs were spread out, rather than concentrated in the downtown. Ron Mattiussi replied that the Calgary experience has shown that this is not a problem. He added that a 4:00 A.M. closing just means that crowds stay up later, as opposed to leading to a gradual dispersal. Mr. Mattiussi said that part of the difficulty with the current concentration of clubs is the inability of police to determine where problems are originating.

David Habib said that increasing insurance costs are an issue for cabaret owners, adding that owners have no jurisdiction over problems once people are outside; inside the controlled environment of a club, crowds are easier to control. If patrons know that they can't return once they have left, they are less likely to cause problems. Andrew Mercer said that his liability insurance has risen to \$4,200/ month, and the number of carriers willing to underwrite this type of insurance has shrunk to three.

Andrew Bruce referred to Mr. Habib's comment that nightclubs were “at the bottom of the food chain”, with people coming to their premises after becoming intoxicated at other establishments. He said that under the new rules, all LP establishments could stay open until 2:00 A.M., and suggested implementing changes to cabarets to attract crowds earlier in the evening. Mr. Panucci said that this

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had been tried in the past, and crowds still arrived later in the evening. Mr. Habib added that there was a need to educate people about entertainment available early in the evening in order to make this successful. He said that his main concern is public safety; despite efforts to ensure that intoxicated patrons are not admitted, they do sometimes slip through security, and then it is difficult to get them to leave peacefully. He feels that current issues are a downtown community problem, and there is a need to arrive at solutions as a group. Mr. Habib suggested that extended hours and a longer dispersal period would help, along with not allowing new patrons in after 1:30 A.M., and said he was willing to try anything that would result in paying customers feeling that downtown is safe and fun and friendly.

Gino Panucci reminded the Task Force that on New Year's Eve, nightclubs had been given permission to stay open later, and he had heard from RCMP officers that the evening had gone very smoothly. It was Mr. Panucci's experience that patrons left gradually, on their own. Mayor Gray asked if the difference was attributable to the time of year, as the weather was colder and there were no vendors outside the club. Mr. Panucci felt that the later closing hours made the difference.

Ron Hollingsworth asked if increased seating capacity would make a difference to where people choose to go earlier in the evening, and suggested more of a "mixed use" venue. Andrew Mercer said that liquor bylaw restrictions prevented the exploration of this type of alternative revenue by nightclubs. Mr. Hollingsworth replied that changes in liquor regulations mean that nightclubs can open earlier in the day (as early as 9:00 A.M.), so this option was now available.

Ron Mattiussi reminded the group of the Task Force's goal of not making the problem worse. He said that clubs would not be shut down, although they would not be allowed to expand in their current locations. He mentioned the Bar Watch program in Nanaimo and asked the cabaret owners if they would be willing to look at similar programs and work with the City to improve the situation. Doug McMinniman that the extra half an hour for dispersal was vital, and would be worth any extra cost for the good will created. He asked the Task Force to examine the New Year's Eve experience, saying that people left at their own pace, with the vast majority no longer drinking at 4:00 A.M. Mr. McMinniman said that he went out this past Saturday to look at Leon in the early hours of the morning, and found it to be very chaotic. In his opinion, this is caused by patrons still looking for something to do at 2:30 A.M., as they have been asked to leave the nightclubs before they are ready to go home. He added that if pubs were allowed to serve until 2:00 A.M. it would pull the rug out from under nightclubs, as they rely on patrons leaving pubs for the majority of their business. He referred the Task Force to a newspaper article on the Vancouver pilot project of 4:00 A.M. closings. He suggested a 4:00 A.M. last call with a 5:00 A.M. closing on Friday and Saturday nights (as well as special events and holidays) in downtown Kelowna as a summer project, to take advantage of the tourist season. Mr. McMinniman feels that the major cause of the problem is pushing all the patrons out into the street at the same time, and asked the Task Force to stay open to other options.

Norm Letnick asked who would enforce the "no entry after a certain hour rule". David Habib said that security staff in nightclubs would do this, as in Banff.

Bob Bain asked for feedback on the idea of keeping liquor service hours the same, 2:00 A.M., but with closing deferred to 3:00 A.M. Andrew Mercer liked the idea, David Habib said they would accept whatever they could get.

Mayor Gray spoke to Andrew Mercer's suggestion that the goal of the Task Force is to rid the downtown of nightclubs altogether, saying that while this is not true, the committee is concerned about the proximity of the clubs in a concentrated area, as this stands in the way of the bigger goal of redevelopment and residential development in the downtown. He reassured the cabaret owners that they will be grandfathered and are not threatened, although the Task Force would be delighted if two or three clubs saw an opportunity to relocate out of the downtown on a voluntary basis. Mayor Gray said that nothing had been taken away from cabaret owners in the interim report, with the only suggested changes being an extension of the dispersal period and a recommendation that clubs in the downtown not be allowed to expand beyond their current capacity.

David Habib asked if a recommendation could go to Council soon regarding earlier hours for nightclubs. Ron Born replied that the Task Force at the last meeting had considered this; Mayor Gray said it would be discussed further at the meeting planned for June 11.

Andrew Mercer said that cameras in the area would reduce bad behaviour.

Mayor Gray thanked the participants for attending, and suggested that they offer further feedback once the final report had gone to Council.

3. Pubs/Establishments not in the Yellow Area

Mayor Gray repeated the introductory remarks offered previously, adding that Council is intent on adding value to downtown Kelowna, to create a dynamic and livable downtown with flourishing Food Primary and Liquor Primary businesses. Ron Mattiussi also repeated his introductory remarks, referring to provincial government liquor regulation changes and the importance of diverse establishments in the downtown.

Mayor Gray explained that today's meeting had been divided into three separate meetings, first with owners of cabarets in the Lawrence/Leon area, then this group consisting of other industry leaders, followed by community and business groups, with a debriefing scheduled for June 11.

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Billie Shepherd said that individual establishments each have their own situations. He said that his insurance rates have tripled over the past five years, even though he has not had any claims. Mr. Shepherd said that the distinctions between nightclubs, pubs, and restaurants have blurred, and cabarets would like the opportunity to compete on a level playing field. He said that not allowing new patrons in after 1:30 A.M., with the dispersal period extended to one hour and a gradual mellowing of music, would allow for an orderly dispersal of patrons.

Mayor Gray said that the Task Force has been concerned about the migration issue that could be created if clubs have different hours, but has been supportive of the idea of increasing the dispersal period to one hour. He asked if it would be a problem for Mr. Shepherd if other establishments had the same hours as cabarets. Mr. Shepherd replied that migration could be controlled by not allowing patrons in the door after a certain hour, and suggested that Victoria create this regulation. Peter Schultz said that if this requirement were added to a business license, this would be a vehicle for enforcement and levying of fines. Mr. Shepherd added that in light of increasing third-party liability insurance costs, cabaret operators would be motivated to turn intoxicated clients away to avoid problems and further insurance hikes.

Bob Bain spoke about his concern around migration issues caused if clubs had different closing hours. Cole Haddad said that this situation was occurring already when special permits are granted for beer gardens and other events, resulting in large numbers of intoxicated patrons travelling at the same time. Peter Schultz added that migration is an issue when pub patrons are forced to leave at 12:00 A.M., and travel to cabarets to continue their evening.

Norm Letnick suggested setting criteria around noise, vandalism, and other issues, offering 4:00 A.M. closings as a reward for abiding by the criteria. All clubs within a certain zone would have to be successful at meeting the criteria for extended hours to be granted. Billie Shepherd said that if the terms and conditions were fairly set, then clubs should be given the opportunity, along with an extended dispersal period. Cole Haddad added that nightclub owners should give input into the terms and conditions.

Rose Sexsmith said that while Rose's is a pub, they do have a dance floor. She said that she would like to stay open only until 2:00 A.M. on weekends, but thinks 3:00 A.M. is a good idea for nightclubs.

Cole Haddad said that increased daytime hours would help to combat the issue of costly insurance, as carriers may place establishments in a different category if they are open during the day as well as at night. He felt this would get operators on a level playing field and would address the issue of dead zones in the downtown.

Peter Schultz said that when he was involved with the creation of the Downtown Plan, the focus was on increasing residential development in the downtown, which is only possible in the areas currently occupied by nightclubs. He feels that there are not sufficient incentives in place to encourage clubs to move out of the area, and developers are not interested because of the current situation. Mr. Schultz thinks that while the extra "cool down" period won't hurt, he predicts that club owners would clear patrons out in half an hour anyway to avoid extra staffing costs. He feels that any changes such as a "one-way" policy, gradual turning down of music and gradual increasing of lighting levels during the dispersal period will succeed only if club owners want to do it.

Dave Roseberry asked about liquor service on outside patios. Mr. Schultz said that as long as his pub was open, the patio would be as well. Mr. Schultz feels that more patios in the downtown would only be beneficial, as people really like them, but they require responsibility on the part of the operator. He added that his patio has been helpful in dealing with the smoking issue even in the winter, as people can take their drinks outside. Bob Bain asked about the issue of noise from late-night patios. Mr. Schultz replied that this would be important to consider when applications for patios are received, although his clients don't really want to stay much past 12:00 or 1:00 A.M. on weekends. He said that the whole entertainment industry does not integrate all that well with residential; people will not want to live downtown until the whole district changes.

Rose Sexsmith asked about earlier openings. Ron Hollingsworth said that it is only necessary to apply.

Ken Noble said that if 4:00 A.M. closings were granted to everyone, individual operators would have to look at whether it was worthwhile to actually stay open that long. He feels that many would decide it is not worth the cost. He pointed out that the noise factor in the downtown would have to be addressed.

Rose Sexsmith said that everyone has different clientele, with pubs getting the "starters" who then go to nightclubs, and people from Skyreach often going to Rose's. She suggested giving everyone the option, and seeing what happens; each operator knows what will work for his or her business.

Cole Haddad wondered if it would be a problem for police to track different closing hours. Bill McKinnon said that the RCMP is notified through the Liquor Licensing Branch of club hours; he did not think it would be a problem.

Dave Roseberry asked if anyone had an issue with all LP establishments staying open until 2:00 A.M. Rose Sexsmith said that she did not have a problem with it.

Cole Haddad said the extension of the dispersal period was important, but some operators may decide that they will not continue with extended hours because of the cost factor and staffing issues.

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Ron Mattiussi said that large establishments on their own tend not to be a problem, as it is easier to know where a problem originates if clubs are on their own. The problem in downtown is the concentration. He asked if the downtown clubs are catering to the same clientele. Billie Shepherd said they were competing for the same clientele; Peter Schultz added that it was a somewhat symbiotic relationship, with patrons travelling from club to club.

Ron Mattiussi asked if they were a different clientele than those going to Flashbacks and the OK Corral. Bill McKinnon said there were no disbursement issues with Flashbacks, three clubs exiting at the same time create the huge safety issue. Cole Haddad agreed, saying that an expectation of action in the area has developed, and typically clients have a different mentality than those who go to Flashbacks. Ron Mattiussi asked if the same problem would exist if there were only one club, because of the age group of the clientele. Billie Shepherd said that the proximity of the three clubs was a large part of the problem, adding that if hours were extended, the problem would just occur later.

Peter Schultz thanked the Task Force for their time and work on the issues.

Cole Haddad said that he feels that it is only a matter of time before various sports teams ask for special permits for beer gardens as fundraisers. He is concerned about the dispersal of those patrons.

Mayor Gray thanked the participants for their time and input.

4. Neighbourhood Organizations

Mayor Gray and Ron Mattiussi repeated their introductory remarks.

Rita Milne asked whether different closing hours would be a problem for the RCMP. Bill McKinnon said that notification is received from the liquor board; this is not an issue for the RCMP.

Ms. Milne asked who regulates special permits. Bill McKinnon said that application for permits for bigger events such as beer gardens is made to the Special Events Committee in Victoria. The RCMP signs permits for smaller events such as weddings. Ms. Milne asked who decides about the hours and number of people permitted. Ron Hollingsworth said that the procedure followed is picking up an application at a liquor store for a special occasion license when alcohol is to be served in a public facility or for a private function where no liquor license exists. Large events such as the Dragon Boat Festival involve temporarily moving an existing liquor license and entering a third-party agreement. If the event is outdoors, it must close by 11:00 P.M.; indoor events can go until 2:00 A.M., according to liquor regulations which are enforceable by the RCMP.

Bonnie Bates-Gibbs said that she supports the downtown livability philosophy, and feels that outdoor facilities add to the ambience. She said that the Chamber of Commerce is committed to a level playing field, preferring incentives to disincentives.

Mayor Gray said that because licensing categories are now either Food Primary or Liquor Primary, any establishment that isn't considered Food Primary falls under the Liquor Primary license category, and a level playing field would offer the same hours to all of them. Ms. Bates-Gibbs said that individual businesses should be able to decide on their hours of business within the LP license framework; she had been speaking more concerns that businesses would be pushed out of the downtown through the use of disincentives such as increased taxes.

Brad Cronquist asked Ken Webster if UDI members would be willing to invest in redevelopment in the downtown if nightclub-related problems such as vandalism and fighting were resolved. Mr. Webster replied that the presence of the clubs would still prevent redevelopment, as the cluster of clubs is viewed as a "party zone". He said that this was unfortunate, as people seem to be interested in living in downtown, but developers continue to be reluctant to take the risk of building in the area. He added that UDI members feel that while things are moving in the right direction, they also feel that it will take some time before the situation is resolved to the point of encouraging development. Mr. Webster feels that the clientele who frequent clubs in the Lawrence/Leon area will stay up and party as long as they are allowed to, taking advantage of peak hours during the "festive" summer season.

Norm Letnick said that while everyone agrees that the best solution would be to have nightclubs move out of the area, the Task Force has not been able to come up with incentives that would offset the economic advantage of being situated in the downtown. He asked for feedback on the idea of allowing nightclubs to stay open later if they proved over a period of six months to a year that they can meet certain requirements. Clubs that cannot live up to the requirements would have to go back to a 2:00 A.M. closing, with the result that patrons would be more likely to attend the clubs with later hours, providing a market-based reason for downtown clubs to move out of the area in order to be able to achieve the later opening away from the problems exacerbated by the current proximity situation. Mr. Letnick said that in order to meet the objectives of the Downtown Plan, incentives that are acceptable to the business community would have to be found.

Clint McKenzie did not feel that this would provide a strong enough economic incentive to encourage movement. Rita Milne wondered who would monitor compliance with criteria. Norm Letnick suggested adding the costs for required monitoring to the business license fee, and asked if that were taken care of, would it work and be acceptable.

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Peter Schultz expressed his concern that a club owner with enough money and determination would raise a challenge to being put back to a 2:00 A.M. closing.

Andrew Bruce said that the Task Force has struggled with the issue of incentives. He spoke of the Calgary experience, where the only action was a cap on the size of establishments in the Electric Avenue area. He reported that staff at Calgary's city hall felt that market forces and the increasing value of land on the street, rather than their policies, was the main factor in the success they have experienced in moving nightclubs out of that area. Mr. Bruce added that the Task Force's mandate is not to get rid of clubs, but rather to mitigate the negative impacts of clubs in the downtown.

Mr. Webster asked if seeking less expensive land provided the motive for the movement of Electric Avenue clubs.

Andrew Bruce replied that clubs were allowed to expand up to 3,500 sq. ft only outside the Electric Avenue area, taking away their future potential if they stayed. Signe Bagh agreed that the transformation had been quite dramatic, from a string of nightclubs to a variety of uses, and also said that it was likely due to the synergistic effect of many factors working together, with the movement of the nightclubs playing a big role.

Ken Webster said the same cap wouldn't be enough to work here, as nightclubs in Kelowna don't have the same need to accommodate thousands of people in their facilities.

Peter Schultz said that he thought offering extended hours only to clubs that lived up to certain criteria was a good one.

Bonnie Bates-Gibbs said that she had no issue with the idea of setting out rules that must be followed in order to attain the goal of extended hours, but she wondered if enough money would be made between 2:00 and 4:00 A.M. to act as an incentive. Peter Schultz said that he thought it would be a moneymaking time.

David Lovell asked about potential migration problems if clubs were disbursed. Norm Letnick said that the Task Force had discussed this and felt it could be addressed by not admitting new patrons after a certain time.

Mayor Gray asked Ken Webster for an opinion as to how many nightclubs would have to move before property owners felt comfortable investing in redevelopment. Mr. Webster suggested that redevelopment could take place street by street; cleaning up one street would create momentum to move to the next street. He said that it is possible to have residential development close to one or two well-run clubs.

Brad Cronquist said that he has seen this type of street to street redevelopment in New Jersey, and wondered whether it might not work better to build back from City Park and start moving up the street from that point. Mr. Webster said that that idea may have merit, keeping in mind that what is directly outside the front door of a building has the greatest impact. He suggested that a clearly residential street might have the effect of discouraging bar patrons from entering the area. Mr. Webster said that developers have different tolerances for risk, and a pioneer may not necessarily have a positive outcome from an investment. There is also the possibility that an area around a development may change, even if it is a safe place for development at the time.

Rita Milne said that current GNAs signed by nightclub owners are not enforced. She also expressed a concern that granting extended hours on a selective basis may lead to legal issues.

Norm Letnick replied that the Task Force has had the same concerns about implementation, viewing the GNA as one good tool to seriously consider among other possibilities. He added that if the criteria for being allowed extended hours was developed with stakeholder input, different hours would likely not be perceived as discriminatory.

Ken Webster said that strong recommendations to Council were necessary in order to reach a solution. The lifting of the moratorium has caused concern; there is a feeling that the Task Force now has an opportunity to address the current problems in the downtown.

Mayor Gray said that an alternative to taking away the late opening was to grant it only when criteria had been successfully met. At this point, the Task Force has only recommended an increase in dispersal time to one hour and a freeze on the number of seats in the downtown. He said that the planning department is working on siting criteria with the guiding principle of not recreating the current proximity situation.

Bonnie Bates-Gibbs suggested asking business/landowners for input on their vision for the downtown.

Ron Mattiussi said that the best DCC rates are for multi-family development downtown, with future incentives based on changes to the Charter possible in the future.

Mayor Gray thanked the participants for their input.

5. Adjournment

4:04 P.M.

The Official Community Plan

6.1.33 Entertainment Establishments. Encourage entertainment facilities to locate on lands within the City Centre, Town Centres and Highway Centre that are designated for commercial uses provided that the proposed entertainment uses are compatible with residential uses;

Objectives for Development within Urban Centres

- All development should be an appropriate response to its physical context, or anticipated future context where an area is designated for increased density or land use transition in the OCP.
- All development should contribute to the creation of pedestrian-oriented streets and public spaces (connections, social interaction).
- All development should contribute to a sense of community identity and sense of place (integration of development within larger community, belonging, and community cohesiveness).
- All development should facilitate access by, and minimize conflicts among pedestrian, bicycle, and vehicular modes of transportation (access, mobility).
- All development should promote safety and security of persons and property within the urban environment (CPTED).

Considerations in Reviewing Development Applications

Uses to be Encouraged

.11 Location of New Commercial. Direct new commercial ventures to locate in areas designated for commercial purposes (see Map 19.1);

.12 Urban Centre Focus. Encourage new retail, service, office, hotel/motel, and entertainment facilities to locate within the Urban Centres, in accordance with the provisions of Map 6.2 and the policies of Chapter 6;

.16 Niche Retail. Encourage niche retail establishments to locate in the City Centre and the Town Centres;

.18 Location of Large-scale Commercial. Direct large-scale commercial facilities to potential areas within the Highway Centre and that area generally west of Highway 97 and south of Leathead Road, on the former Central Park Golf Course site, and in the McCurdy Road area east of Highway 97;

.26 Carrying Capacities. Consider environmental carrying capacities and social implications when reviewing tourist development proposals and refuse approval to proposals that would have a negative overall impact on the community or environmental health of Kelowna;

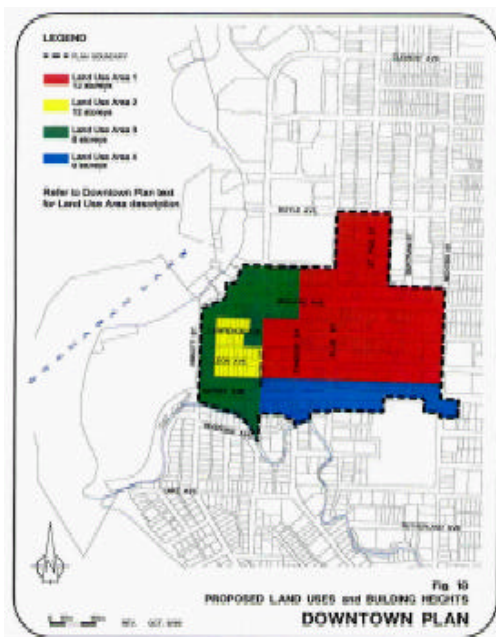
Kelowna Downtown Plan: “Downtown a People Place”

Goal

To have a residential population within the Downtown that has a positive social and economic impact on the Plan area

Objectives

- a) To create a vital and safe neighbourhood environment, including activity beyond regular business hours, by introducing a greater residential component into the Downtown
- b) To support and increase the demand for goods and services within the Downtown by establishing a residential population within the Plan area
- c) To encourage the provision of accommodation for people who work, or in the future, will work within the Plan area
- d) To support and/or accommodate the provision of special needs, rental, and affordable housing



Land Use Designation 2

Land Use Designation 2 will have the same uses and allowable building heights as Land Use Designation 1.

(“The uses in Des. 1 will be aimed at retail that supports active pedestrian-oriented streets...specialty goods and services ...and commercial uses that serve the day-to-day needs of the residential area”)

Retail uses at grade with office-related and/or residential above street level will be encouraged. Within, and only within this area however, will development that is exclusively residential, i.e., that has no commercial component, be supported.

Land Use Designation 3

Principal land uses within this designation will emphasize restaurant and entertainment uses, as well as specialty retail, and goods and services oriented to recreation and tourist commercial facilities, including hotels. Neighbourhood commercial uses serving the residential population within and around the Plan area will also be allowed at grade. Office and/or residential will be supported as secondary uses on floors above street level. Allowable building heights will be up to 6 stories.

Housing:

The Plan encourages the provision of a substantial amount of new housing within the study area. This supply will contribute to an active Downtown with many “eyes on the street”. It will enhance the market for Downtown goods and services as well as provide accommodation close to jobs within the area.

Social Environment:

Addressing negative perceptions about personal safety and security however, will require an approach with a longer-term perspective that ensures provision of economic and health-related

services, the elimination of neglected and uncared-for spaces through appropriate urban design, and the coordinated efforts of a number of agencies and jurisdictions. The direction of the Plan therefore, is towards healthy streets and public spaces through a coordinated approach to the resolution of pertinent issues.

8. The Urban Design Concept

This section provides an overview of proposed future urban design components within the Plan area (see Figure 11). The Urban Design Concept (the Concept) recognizes the importance of the following objectives:

Sustained Health of Downtown Businesses – Improvements to the Downtown will encourage the business community to grow and prosper. Making the Downtown more liveable, exciting and attractive typically translates into a larger consumer market, more people wanting to live Downtown and consequently an interest in improving business premises, merchandising and service to customers.



CITY OF KELOWNA DRAFT GOOD NEIGHBOUR AGREEMENT

WHEREAS the City of Kelowna ("the City"), the RCMP Kelowna Detachment ("the RCMP") and the Owners of _____ ("the Licensed Establishment"), (collectively "the Parties"), recognize that all liquor licensed establishments have a civic responsibility, beyond the requirements of the "Liquor Control and Licensing Act", to control the conduct of their patrons;

WHEREAS the Licensed Establishment wishes to demonstrate to the citizens of Kelowna its desire to be a responsible corporate citizen; and

WHEREAS the Parties wish to promote Kelowna as a vibrant, safe and attractive community for the enjoyment of everyone, including residents, visitors, businesses and their workers.

NOW THEREFORE the Licensed Establishment agrees with the City and the RCMP to enter into this Good Neighbour Agreement, the terms and conditions of which follow:

Noise and Disorder

1. The Licensed Establishment undertakes to ensure that noise emissions from the Establishment do not disturb surrounding residential developments and neighbourhoods, and do not violate the Kelowna's Noise and Disturbances Control Bylaw No. 6647.
2. The Licensed Establishment shall assign staff to monitor the activity of patrons in areas outside of the Establishment, including all public spaces within a one-block radius of the Establishment, particularly at closing time, to promote the orderly dispersal of patrons, and to discourage patrons from engaging in behaviour that may disturb the peace, quiet and enjoyment of the neighbourhood.
 - 2.1 The Licensed Establishment undertakes to ensure disturbances are prevented. The Licensed Establishment must take reasonable measures to make sure its business is not operating contrary to the public interest and does not disturb people near its establishment. Examples of reasonable measures include installing adequate lighting outside the establishment and in the parking lot, supervising the parking areas, adding sound proofing, making structural changes to allow indoor line-up areas, and posting signs at the exit doors asking its patrons not to disturb the neighbours.

- 2.2 In those instances where patrons are lining up on the public sidewalks the Licensed Establishment's staff shall ensure that the patrons are lined up in an orderly fashion allowing for the free flow of pedestrians along the sidewalk, not blocking lane ways or driveways and not spilling onto the roadway.
- 2.3 In cases where the presence of employees does not facilitate an orderly dispersal of patrons, staff shall contact the RCMP to request assistance in dealing with any persons or crowds.

Criminal Activity

- 3. The Licensed Establishment shall not tolerate any criminal activity within the Establishment.
 - 3.1 The Establishment shall make every reasonable effort to scrutinize patrons as they enter the building to ensure that no items of contraband, including weapons and controlled substances, are brought onto the premises.
- 4. The Licensed Establishment shall not allow, within the Establishment, the wearing or display of gang colours or any items which are intended to signify membership in a gang.

Minors

- 5. The Licensed Establishment shall not allow any person under the age of 19 into the Establishment.
 - 5.1 The Establishment shall check two pieces of identification for any person who appears to be under the age of 25; one piece must be a picture identification and may be a driver's licence, a government identification card or a passport.

Sale and Consumption of Alcohol

- 6. While it is recognized that there may be occasional price reductions or promotions for specific alcoholic beverages, the Licensed Establishment shall offer no deep discounts (i.e. "cheap drinks") or across-the-board discounts.
 - 6.1 When offering price reductions and promotions, the Establishment shall be particularly mindful of its legal and moral obligation to refuse service to persons who may, based on appearance or amount of alcohol consumed, be intoxicated.
- 7. The Licensed Establishment shall not allow patrons to carry or consume open beverages in areas that are not licensed for such purposes, including areas outside of the Establishment.

On-Duty Employees

8. Each on-duty employee of the Licensed Establishment shall wear a clearly visible name plate showing his or her first name and a number.
9. The on-duty manager of the Licensed Establishment shall maintain a list showing the full identification of each on-duty employee, and shall make the list available to the OIC of the RCMP Kelowna Detachment on request.

Cleanliness

10. The Licensed Establishment shall assign staff to inspect the outside of the premises each night after closing to ensure that there is no litter, garbage, broken glass or other foreign objects left within a one-block radius of the Establishment.
11. The Licensed Establishment shall undertake to remove, as soon as is practicable, any graffiti from the building's exterior.

Other Agencies and Programs

12. The Licensed Establishment agrees to work with the City and its departments, including the RCMP, to resolve any concerns that arise with respect to the operation of the Establishment.
 - 12.1 The Licensed Establishment agrees to attend a formal meeting, as required, with the City and the RCMP to discuss issues and concerns.
13. The Licensed Establishment shall demonstrate complete support for the RCMP and its members.
 - 13.1 When incidents occur which require RCMP involvement, all personnel of the Licensed Establishment shall -operate fully with RCMP members, and shall not impede or obstruct members in performing their duties.
14. If the Licensed Establishment is a nightclub located within the downtown core, the Establishment shall participate in the Downtown Kelowna Bar Watch Program.
15. The Licensed Establishment shall support programs which aim to eliminate occurrences of drinking and driving.
 - 15.1 A free telephone shall be available to patrons for the purpose of contacting a taxi or arranging other transportation from the Establishment.
 - 15.2 Non-alcoholic beverages shall be provided at prices which are below those set for alcoholic beverages.

Amendment and Transferability

16. Any proposed changes to the terms of the Good Neighbour Agreement shall be discussed and resolved among the Parties.
17. The owners of the Licensed Establishment shall make the continuation of this Good Neighbour Agreement a condition of any sale, lease or transfer of all or part of the Establishment.

Enforcement

18. The Parties recognize that the Licensed Establishment's participation in this Good Neighbour Agreement is voluntary and that the Agreement's success is dependent on the Establishment's voluntary compliance.
 - 18.1 Notwithstanding the voluntary nature of the Agreement, any failure on the part of the Licensed Establishment to comply with the terms outlined herein may be brought to the attention of City Council, which may in turn require the owners of the Establishment to attend a "show cause" hearing.
19. Nothing contained or implied in this Good Neighbour Agreement shall prejudice or affect the City's rights and authorities in the exercise of its functions pursuant to the Community Charter and Local Government Act, as amended, and the rights and powers of the City and the RCMP under provincial and federal statutes and regulations, and City bylaws.

Signed this _____ day of _____, _____ in Kelowna, British Columbia

[Name of Principal]
[Name of Licensed Establishment]

Mayor Walter Gray
City of Kelowna

[Rank and Name of OIC]
Kelowna RCMP Detachment

April 20, 2003

The Hot New Sound in South Beach: 'Quiet, Please'

By DANA CANEDY

MIAMI BEACH, April 19 ? The pretty people and the trendy shops can stay, but South Beach residents have had enough of the loud music that thumps nightly from car stereos, boomboxes and nightclubs here, and they want the city to turn down the volume.

"It's not just the noise and the vibration," said Clotilde Luce, a freelance writer who lives on Ocean Drive. "I can actually hear the words to the music from a club four blocks away. I can hear the D.J."

"When things get pretty loud, I wear earplugs to be able to concentrate on what I'm doing," Ms. Luce said. "I think Miami Beach has a choice between more conservative people with money, who have pushed real estate here, and a crowd that comes over and behaves like it's spring break all the time."

In some respects, the South Beach neighborhood is a victim of its own success. About 15 years ago, it was blighted, its Art Deco hotels faded and neglected. Since then, the vibrancy of South Beach's night life has made it an international hot spot.

Some celebrities, like Madonna, have moved on, but there have been recent sightings of Britney Spears and Jennifer Lopez. And South Beach is increasingly home to affluent people who were drawn by its vibe but prefer sipping Cuban coffee in cafes to dancing the night away.

In an effort to strike a balance between the night life of South Beach and the quality of life its residents are demanding, city officials are cracking down on nightclubs and night owls that violate the city's ordinances on noise control and other quality-of-life issues.

"Over the past decade or so," said Simon Cruz, a Miami Beach city commissioner, "what started to happen is that residential zoning and commercial zoning started to bleed into each other. There were areas that were commercial where condos sprung up and residential areas where open-area clubs started protruding, so it was a clash that was waiting to happen."

Enforcing an ordinance that has been on the books for a long time, the Miami Beach Police Department has begun citing or arresting anyone whose club, boombox or car stereo music can be heard 100 yards away. Violators are issued tickets for \$50 to \$500 and can be sentenced to up to six months in jail. Nightclub owners who violate the ordinance face fines of \$250 for first offenses and \$500 for each subsequent offense. Miami Beach is considering legislation that would give the city the authority to close clubs that repeatedly violate it.

Since the crackdown began last weekend, the police have issued 84 citations and arrested 4 people for violating the ordinance, said Detective Bobby Hernandez, the spokesman for the police department.

"The loud noise is something that has become a real hot topic here in Miami Beach and the chief, knowing this, put a task force of about 20 officers together to address it between the next 30 to 60 days," Detective Hernandez said. "Our goal is to get the word out there that this type of behavior is not going to be accepted anymore. It will also address other quality-of-life issues like prostitution, urinating in public and loud exhaust pipes on motorcycles."

There have been 276 citations and 50 arrests for such offenses since last weekend, he said.

Jacqueline Arias, a 21-year-old legal secretary from Miami, found out the hard way just how serious the city is about noise. She was cruising down Ocean Drive with two friends in her white BMW, playing her radio with the windows down, when a police officer stopped her. The officer wrote a \$50 ticket but later decided to let her go with a warning.

"He walked up and asked me if I was aware of the noise violation," Ms. Arias said. "I said, 'No.' We saw

Appendix 4: Article from the New York Times, April 2003

signs when we were driving in and we were like, what is this?"

Ms. Arias said that with all the public safety and security issues the police have to deal with, enforcing a noise control ordinance was a waste of time and resources.

Club owners on the beach say the city has forgotten the importance of its night life. "Everybody got hurt when they started messing with the clubs," said Esteban Ramirez, the manager of the Club Deep nightclub. "Now they're enforcing this ordinance, and they're really, really strict about everything. The city doesn't care much about the club scene anymore."

Mr. Cruz, the city commissioner, said South Beach was in the throes of adjusting to its "new reality."

"Before, we had transient residents who were renting the Art Deco properties around the area," he said. "They were a part of the night life, but they have been supplanted by permanent, year-round residents."

"Now," he continued, "we have a situation where we have to acknowledge that the night life that got us the notoriety and appeal that makes us the city we were has changed, and we are also a city that wants to have a certain level of sophistication and tranquillity."

Homeowners say that their investment in the community has fueled the local economy in recent years, and that the city has an obligation to respond to their concerns.

"When you live in \$750,000 to \$2 million apartments and have to sleep in a small bedroom on the opposite side of your apartment just to avoid the noise, it's very infuriating," said David Haber, a lawyer for the Portofino Towers Condominium Association. "You can't have a beating drum screaming in your ear all night."

Beach residents insist that they are not looking to stop anyone from having a good time. They say they simply do not want to feel as if they are living in Party Central.

"When there is loud music on, you shut your doors and you still can't peacefully watch TV," said Josh Fisher, 56, a senior researcher at a computer company, who lives in a condominium on the southernmost tip of South Beach.

"You can't have dinner on the terrace or entertain people. Well, you can, but you count on somebody else to provide the music."

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Minutes

Mayor's Entertainment District Task Force

Public Meeting

April 3, 2003

7:00 - 10:00 PM

Council Chambers

City Hall

In Attendance: Mayor Gray, Bob Bain, Brad Cronquist, Norm Letnick, Ron Born,
Dave Roseberry, Ron Hollingsworth (LCLB), Ken Green (RCMP)

City Staff in Attendance: Ron Mattiussi, Allison Flack, Andrew Bruce

1. CALL TO ORDER

The Mayor called the meeting to order at 7:05 P.M.

2. INTRODUCTION BY MAYOR GRAY

Mayor Gray presented some background on the Entertainment District Task Force, and explained the purpose behind the evening's meeting: to receive input from the various downtown stakeholders (liquor license holders, the Downtown Kelowna Association, social services agencies, residents, and the public at large). He stated that the Entertainment District Task Force expects to report to Council by the end of April.

Mayor Gray then introduced the members of the Mayor's Entertainment District Task Force, and welcomed the members of the public, expressing the Task Force's interest in their comments.

3. PUBLIC INPUT

Written submission from David Lovell, KSAN

Mayor Gray read an e-mail received from David Lovell of KSAN, which contained a summary of comments received through an e-mail survey of their membership (inner city residents). The e-mail expressed the ongoing concerns of KSAN members around safety issues such as impaired drivers speeding through residential areas, and loitering, littering, and vandalism by inebriated nightclub patrons. The e-mail reported that KSAN's board is split on the issue of a 4:00 A.M. closing, with some feeling it would worsen the current situation, and others of the opinion that a later closing would allow for a more casual, less intense disbursement of nightclub patrons. A trial period to gauge the impact on residents was raised as a possibility. The e-mail acknowledged that longer hours could be an opportunity to enhance tourism and promote the wine industry. It was suggested that the addition of alternative establishments such as clubs for the gay community, sidewalk patios, and wine bars would draw a different clientele and add diversity to the downtown. Separating planned residential units from the nightclub zone to maintain good quality of life for residents was stressed. Mr. Lovell also mentioned the possible impact of private liquor store signage on the downtown area, and suggested the establishment of appropriate guidelines.

Colleen Jones, BCGEU

Ms. Jones presented the views and concerns of BCGEU members around later hours for clubs, and the expansion of private liquor sales. She stated that the provincial government has commenced a program changing laws, regulations, and policies that govern the sale of alcohol province-wide. In Kelowna, 13 new applications have been received (eight for downtown). Ms. Jones related the Calgary experience, where prior to liquor license privatization, there were 23 liquor stores; following privatization, there 300, some

Appendix 5: April 3, 2003 Minutes of the Mayor's Entertainment District Task Force Meeting

only 50 feet apart. A similar situation here would change the nature of downtown Kelowna. In Calgary, police report increases in drunk driving, armed robberies, and spousal abuse. Ms. Jones stated that longer hours and an increase in drinking seats would increase policing costs in Kelowna, which citizens cannot afford. Alcohol is an addictive drug, and alcohol abuse is a serious problem in our society, harming individuals, families, and downtown communities. Ms. Jones felt that when considering longer hours and an increase in private sales, the decision should be community minded and socially responsible. Retail liquor sales must be controlled in the interest of the public. Ms. Jones thanked the panel for the opportunity to speak on this very important issue.

Dave asked if Ms. Jones knew of any problems that were related to the opening of the Dilworth government liquor store on Sunday afternoons; Ms. Jones replied that she was not aware of any, and that she felt the extended hours in this case were a benefit to the consumer.

John Hertay, Property Owner in downtown Kelowna, Past President of the DKA

Mr. Hertay addressed the question of the effects of bars on neighbouring properties in the downtown. He owns two office buildings behind Harvey and Water, right in the "zone". He encouraged Task Force members to go out there at 2:00 A.M., feeling that the experience will help the Task Force understand what happens, especially during tourist season--people urinating wherever, vomiting, and fighting. Mr. Hertay stated that it is quite amazing what happens in a short period of time in a concentrated area. Last year, Mr. Hertay had to replace 10 windows at a cost of \$900 each due to vandalism, and he is no longer able to get insurance coverage for windows.

Mr. Hertay felt that the 4:00 A.M. closing would be valuable, if liquor sales ended at 2:00 A.M., allowing for a gradual disbursement of people over a couple of hours, rather than having everyone hit the streets at the same time. He mentioned his experience in Hawaii and Banff, also high tourist areas, where the streets are cleaned every night. He suggested extra license fees for liquor license holders to pay for nightly litter cleanup.

His specific recommendations to the Task Force were to stop the sale of liquor in glass bottles downtown, and to make provisions for thorough litter cleanup.

Lisa Stevenson, Director of Public Relations, Prestige Inn

Ms. Stevenson stated that she was speaking to the Task Force from her experience as General Manager of the downtown Prestige Inn. She agreed with Mr. Hertay that vandalism, fights and noise were a significant problem, and felt that a 4:00 A.M. closing would only prolong noise issues. She also stated that the area of downtown where nightclubs are located is a "dead zone" during the day, quite unattractive to tourists staying in the Prestige Inn.

Ms. Stevenson raised the Gospel Mission clientele as a significant issue, with individuals hanging around, and walking back and forth between City Park and the Mission. As a result of frequent vehicle break-ins, the Prestige Inn has had to invest in security, adding extra staff, and installing a full security system in the parking lot, which is monitored and taped.

Mayor Gray asked for Ms. Stevenson's opinion about the location of the Gospel Mission, as their proximity to establishments that serve alcohol may make the work of this and other social services agencies more difficult. She replied that she felt that the location of the Gospel Mission was not appropriate in such close proximity to hotels, citing impact on tourism.

Norm asked if Ms. Stevenson could estimate the extra costs of security and loss of business. Ms. Stevenson said that she couldn't put a figure on it, but the situation has gotten progressively worse with every nightclub that opens.

Mayor Gray mentioned that the President of Prestige Inns, Joe Huber, is a member of the Task Force, although unable to attend this meeting.

Kennedy Schmelback, Checkmate Cabs

Mr. Schmelback stressed his feeling that the Gospel Mission is very important. He voiced the opinion of cab drivers (approximately 83 total) that pushing cabaret clientele all into the street at 2:00 A.M. was a huge contributor to the problem of drinking and driving. He stated that there are simply too many people for cab drivers to serve all at once, so people who might otherwise take a taxi choose to drive home instead. Cab drivers also find the congestion in the street difficult to cope with, often making it impossible for cabs to get through. He felt that a 4:00 A.M. closing would allow the patrons to leave over a longer period of time, making it easier for cab drivers to serve them.

He stressed the importance of a moratorium on numbers of private liquor stores in any one area, mentioning that the signage would be unattractive in a tourist town such as Kelowna.

Ken Webster, President of Urban Development Institute, Property Owner (Lawrence Centre)

Mr. Webster thanked the Mayor for initiating the Task Force and demonstrating a keen interest in downtown issues. Based on his experience as a commercial tenant and landlord in the downtown area since 1977, Mr. Webster stated that the coexistence of

Appendix 5: April 3, 2003 Minutes of the Mayor's Entertainment District Task Force Meeting

commercial office space with liquor sales has been a struggle and a detriment to business; liquor sales create a negative image, tenants and customers are intimidated by the entertainment environment. Frequent damage has meant that he is unable to get insurance coverage for window breakage, which takes place all summer long; every week there is a broken window, in addition to all the residue left over from the weekend.

Mr. Webster stated that some cabaret operators are better than others; his current neighbour has worked hard towards a cooperative environment, helping to ensure that parking lots are accessible, and sending someone out to clean streets, probably doing all they can, as they can't control the actions of patrons once they have left their establishment; however, the next operator may not be as cooperative. Mr. Webster has lived with many different businesses within the cabaret district, and over that period of time the experience has consistently been detrimental to business. Vacancies are tough to fill because of the area, quite often a deal breaker, because someone doesn't want to be working down in that area; there is only so much that can be done to make the environment attractive

On the subject of future development, speaking as a developer representing the UDI, Mr. Webster stated that future development will be virtually impossible to achieve with the current concentration of nightclubs and exotic dancing clubs. He suggested that the City would need to find incentives to make future development happen. Mr. Webster said that developers don't believe that current neighbourhood conditions are conducive to people wanting to live there, and encouraged Council to disburse activities to outlying areas. Concentration in one small area has proven to be a problem in other cities. He does not believe that pubs and restaurants are a problem, being quite different from nightclubs and exotic dancing establishments; pubs and restaurants add charm and character. He cited the example of other urban centres such as Vancouver and Calgary.

In regard to the 4:00 A.M. closing, he felt that he was not qualified to address this from a safety perspective, but from the perspective of a developer, many liquor outlets in the downtown will not encourage development. He suggested the City not put liquor outlets too close together in one area. He stated that the caliber and reputation of operators is very important. While supportive of the nightclub industry as a vibrant part of the commercial web of business in Kelowna, he felt it can't co-exist with residential urban development in downtown Kelowna

Andrew asked for Mr. Webster's opinion on a responsible way to look at having enough liquor sales to meet demand in the possible absence of government liquor stores. Mr. Webster replied that a developer's biggest concern was too many liquor outlets in a small area, which would have the biggest impact on the neighbourhood and living environment. He felt that a free market system would provide opportunities for stores to specialize, perhaps controlled by the approval process.

Andrew mentioned that the City does not have any input into new liquor retail sales. There is an initiative in front of Council to amend zoning bylaws, thus forcing new establishments to go through a rezoning process, as a stop-gap measure until a better way is found to create some municipal control. Mr. Webster stated that he would be in favour of such an approach.

Mayor Gray asked for Mr. Webster's reaction to the proposed 4:00 A.M. closing time. Mr. Webster stated that as a landlord and tenant downtown, he could see a cool-down period as a good idea, but from the perspective of a developer, he felt that this would not add incentive to develop downtown. He stated that developers are looking for a clear message from the City about the future direction of the downtown. Many share the City's current planning vision for that area eventually being a very desirable residential area, but the current unfortunate set of circumstances are suppressing growth and development.

Norm asked for Mr. Webster's suggestions for locations if cabarets were to be disbursed away from downtown. Mr. Webster replied that even scattering clubs over the larger downtown area, rather than concentrating them in one area, would be an improvement, with potential for some clubs to be located in other town centres such as Rutland, although that could possibly increase drinking and driving. He stated that if nightclubs are too close together, there will be no adjacent residential development.

Bill Scutt, Property Owner

Mr. Scutt spoke from his experience as a commercial landlord downtown, specializing in the adaptive reuse of old buildings. He stated that he considered adding residential units in his last two projects, given that downtown should be the best place to live in the city, with the park, waterfront, and other amenities within walking distance. However, he decided against it, because of the uncertainty around the future direction of the downtown, especially once the moratorium on new liquor licenses in downtown was lifted. He stated that residential development downtown would make downtown a much more vibrant place, but that nothing is happening there now due to the size and concentration of clubs, noise, broken bottles, etc. He suggested one possible solution would be smaller clubs and bars. In comparison to cabarets, he felt that restaurants and neighbourhood pubs seem to be responsible corporate citizens, open and inviting during the day. Mr. Scutt had no problem with the 4:00 A.M. closing; he felt it would give people a chance to disburse.

He also mentioned that social housing clients intimidate people during the day. Mr. Scutt felt that as property in the downtown becomes more valuable, social services agencies might choose to sell their holdings and relocate.

David Habib, Nightclub/Property Owner

The Mayor's Entertainment District Task Force

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Mr. Habib was very supportive of the comments of Mr. Schmelback, feeling that public safety was a key issue. His previous experience with 5:00 A.M. closings on Friday and Saturday nights was positive, as it allowed people to leave gradually and on their own time. He felt that a 4:00 a.m. closing would be a definite benefit, although establishments would likely only be open for the extended hours on weekends and throughout the height of the tourist season.

He agreed that the Gospel Mission is in wrong location, with nightclub patrons often blamed for the actions of Mission clientele. Mr. Habib stated that nightclubs do not sell anything to go; bottles on the street are likely purchased in other locations.

Mr. Habib stated that nightclub owners own their buildings, and are invested in creating a positive environment downtown. It is to their benefit to clean up the streets, and help other businesses to do the best that they can. He stated that nightclubs are a tourist attraction, and can coexist with a certain amount of residential development. He mentioned information from Bar Watch in Vancouver, where their 3:00 A.M. closing time trial resulted in a 30% drop in violence. He felt that the issues raised are not only a nightclub problem, but also a community problem.

Bob asked for Mr. Habib's opinion of a 2:00 A.M. last call, with a 4:00 A.M. closing. Mr. Habib replied that he felt this was too long of an interval, giving patrons the opportunity to head for communities with longer hours, or turn to alternatives such as drugs. He suggested a 3:00 A.M. last call instead, with a one-hour period to allow for gradual disbursement of patrons. Leaving the music on for 30-40 minutes after last call would give people an opportunity socialize, mellow out, and leave slowly.

Dave raised the issue of liquor outlets' responsibility for patrons leaving drunk. Mr. Habib replied that the establishment is responsible until the individual gets home, under government regulations. He felt that the City also had a liability because of the requirement that patrons be out by 2:30 A.M. He also stated that most patrons weren't out of control unless they were mixing drugs and alcohol.

Dave raised the issue of liquor license holders paying extra police costs. Mr. Habib replied that he didn't feel this was appropriate, as he already pays approximately \$48,000 in annual property taxes, and takes responsibility for cleaning up around his club. He said it was up to the City to initiate a group effort to work together to find solutions and benefit tourism.

Brad asked about the obligations of club owners to ensure that damage, vomiting, and urinating outside did not happen after closing. Mr. Habib replied that the biggest contributor to this problem was the lack of public washrooms in the downtown core. He felt that the availability of public washrooms, along with a 4:00 A.M. closing to allow for gradual disbursement, would address the problem.

Mr. Habib felt that the crush of people leaving nightclubs all at the same time and the Gospel Mission were the two largest impacts on residential development downtown, with music from the clubs themselves not seen as an issue. He felt that having a 2:00 A.M. closing in Kelowna and a 4:00 A.M. closing in Penticton would result in an increase of drinking driving.

Norm stated that the research so far has indicated that extended hours have only delayed the massive exodus, not allowing for gradual disbursement. Mr. Habib replied that his experience showed the opposite, and he felt the RCMP would concur.

Bob, Downtown Kelowna Association

Bob sent out a questionnaire to DKA members, but unfortunately has received only about a 4% response to date. There has been discussion of the issues at the executive level and Board level.

Major concerns of members appear to be: the security of premises after hours, liquor outlets becoming hangouts, undesirable element in downtown core, broken beer bottles, urination, and general concern with garbage, glass, and vandalism.

In regard to the possible future coexistence of residential development with an entertainment district, Bob stated that there seemed to be a bit of confusion around the definition of "entertainment district". A clearer definition, development criteria, and guidelines to ensure diversity are needed. Consumption and sales of liquor must be controlled and monitored properly. He said that there is currently no street level vibrancy, or a sense of safety. He felt that the City needs to take control a bit. Relocation of cabarets throughout the downtown may be an option, if locations are chosen carefully and a close watch is kept on diversification of businesses over time, paying careful attention to the qualitative aspect of downtown.

He stated that his organization would support a trial period of a 4:00 A.M. closing (with earlier last call), in keeping with the theme of regulation, control, and a watchful eye.

Betty Reed, Resident of Vernon, Government Liquor Store Employee

Ms. Reed felt that a 2:00 A.M. liquor sales cut off with a 4:00 A.M. closing would affect businesses negatively. She was mostly concerned with a possible proliferation of private liquor stores, in light of the eight currently approved-in-principle applications. She wondered what the closing time would be for private liquor stores. Ms. Reed mentioned that Vernon doesn't have residential development in the same area as nightclubs, except for social and public housing where people have no choice. She feels that increased access to alcohol results in increased consumption.

Jackie Heller, President, Central Okanagan Chapter, MADD

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Ms. Heller read from a prepared statement. She stated that MADD Canada wants everyone to realize that the number one criminal cause of death in Canada is drinking and driving. She said there is strong evidence of the connection between availability of alcohol and greater harm (increases in death and injury). MADD Canada is concerned that different hours in different communities would result in a greater number of impaired drivers. Longer bar hours could possibly result in increased contact between impaired drivers and people heading to work in the early hours. She stated that a move to longer hours will only worsen impaired driving on our roads and urged Council to make the best decision in the interests of public safety. She suggested exploring MADD.ca for more information.

Mayor Gray suggested that members of MADD write to the Penticton Mayor and Council to make their concerns known, and asked that MADD forward any research they have in this and related areas to the Task Force. Ms. Heller replied that they would be happy to do so.

Ron Hollingsworth, LCBC

Mayor Gray asked if there were any limits on number of drinks ordered at last call; Mr. Hollingsworth replied that there were. He agreed that bottles on the streets did not come from cabarets, but were likely from vehicles.

Mr. Hollingsworth also mentioned that there are currently no provisions under the law for having a 2:00 A.M. last call with a 4:00 A.M. closing. He didn't think that the City had jurisdiction to override. Mr. Hollingsworth stated that he had been in Vancouver during the trial of 3:00 A.M. closings, and felt that in instances where music was left on in the clubs, the later closing did not have much impact on similar problems in that community.

Raymond Keen, Mission Resident, Hospitality, Hotel and Lodging Association, International Training Board, Owner/Operator, Sherwood Hospitality

Mr. Keen did not feel that a 2:00 A.M. last call with a 4:00 A.M. closing was practical from a business owner's point of view, as there would be very little revenue during that time. He suggested better training of staff would result in increased crowd control. Mr. Keen also felt that public transportation that could move patrons quickly away from the downtown core would be very helpful, even if buses only took people closer to their homes (i.e., one bus to Westbank, one to Rutland, one to Glenmore). He felt that juxtaposition of residential with entertainment district was not a good experience for residents; disbursing nightclubs is a good idea.

Tim Laurier, Commerce Student at McGill, Kelowna Resident

Mr. Laurier expressed his view that there are a disappointing number of bars in Kelowna. He felt that forcing patrons out of the door by 2:30 A.M., combined with a large police presence creates a situation where incidents are inevitable. The size of the crowd encourages patrons to wait around to see what will happen. In Montreal, there are many bars in many districts; bars stop serving at 3:00, and then funnel patrons out between 4:00-4:30 A.M., with no problem on the streets. Mr. Laurier strongly agrees with the proposed 4:00 A.M. closing time, cutting liquor sales off at least one hour before to allow patrons to finish their drinks and sober up. When people leave gradually, empty streets will encourage them to go home. He stated that he and his friends felt it was unlikely that people would drive from Kelowna to Penticton to continue drinking. He didn't feel that "club hopping" and drugs were serious issues in Kelowna nightclubs.

Steve, Employee of Rascals in Rutland

Steve felt that longer hours in Penticton may result in people leaving Kelowna clubs early to take advantage of the longer hours, resulting in an increase in impaired driving. While he supports a later closing, he did not think it was practical for business owners to have a two-hour period when no alcohol can be served. Since clubs don't start getting busy until approximately 11:00 P.M., later hours could mean more opportunities for earning, for both owners and staff. He didn't feel that it was likely that clubs would move from the downtown voluntarily.

Doug, General Manager of Gotcha's and Oasis

Doug felt that relocating the Gospel Mission would be beneficial to entire city and to his nightclub, as he is required daily to clean up scraps of food, etc., left by Mission clientele. He also reiterated that bars do not allow bottles to leave their premises. He felt that there were many opportunities for making the downtown core appealing to tourists, perhaps through better use of City Park.

He stated that there was no benefit from a business point of view to having a two-hour period when no liquor is being served. Doug mentioned that on New Year's Eve, he is authorized to serve liquor until 4:00. Last year, the RCMP officer assigned to the area was surprised at how well things went. The later closing allowed people to leave at their own pace, and solved the concentration problem generated by pushing people out the door at 2:30 A.M. He stated that the 4:00 A.M. closing would likely only happen on weekends, on slower nights; he expected to be done at 2:00 A.M.

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In response to questions, Doug replied that there may be a possibility of selling simple foods during the no-alcohol-sales period, although it would be difficult to compete with food vendors outside.

Dave Willoughby, Doc's Willoughby

Mr. Willoughby doesn't have an issue with a 4:00 A.M. closing. He felt it would be good for the dispersal of crowds. In order to accommodate the coexistence of residential development, there would need to be better definition of "entertainment district". He stated that nightclubs get a bad rap for all the problems in downtown core. "Problems at the Gospel Mission aren't going to go away; we need to work together to lessen impact. People are not living downtown by nightclubs, but they are not living downtown by the United Church or by Skyreach either; this is related to the whole area." Mr. Willoughby suggested that more incentives for developers to create livable space might be useful, and mentioned the fees related to development on potential parking spaces as a disincentive for development.

4. CLOSING REMARKS – COMMITTEE

Mayor Gray expressed the appreciation of the Task Force to all participants.

5. ADJOURNMENT

The meeting adjourned at 10:06 P.M.

Appendix 6. Excerpt Mayor's Entertainment District Task Force Meeting #4
(February 25, 2003) Page 2

The Banff Experience

Norman Letnick summarized a report from Banff, Alberta, on their experience dealing successfully with many similar noise/litter issues in their downtown area.

Initial Findings

- ▶ A general recognition that the issue is a community issue as opposed to a bar issue without a global solution but rather a number of contributing solutions, which will require continuous action and input from a broad spectrum of the community.
- ▶ Some of the licensed premises feel as long as they meet the letter of the law inside their premises they have no further responsibility.
- ▶ Late night noise will always be an issue in some areas because of the hours many employees work, the large number of tourists, and the mix of hotel/residential and bars in close proximity downtown.
- ▶ Recent contributing factors are the increased number of bars in the downtown area, new hotels in the downtown area, and the increase in overall staff numbers, several recent warm summers, decreased policing, and a significant increase in the number of Bed and Breakfast establishments.
- ▶ Prosecutors to be contacted to be advised the Town considers various noise charges to be serious matters and would like significant penalties.
- ▶ The Town requested the RCMP to increase the number of officers on duty at night for Friday, Saturday, and Sunday nights until the end of the Thanksgiving weekend recognizing this will cost a considerable amount of unbudgeted money in overtime for this year.
- ▶ RCMP presence should be increased at night in the downtown core, with a visible foot patrol presence and regular walks through bars, increase the number of charges being laid, and develop a strategic presence in residential areas where a problem is perceived. The Town should ask the Province to pay for additional policing as part of their responsibility under the Town Incorporation Agreement and the Town should look at paying for additional RCMP and for bylaw staff to take over some police work during the day to free up RCMP for night work.

Over The Next Year

- ▶ A continuing education process/plan to be developed involving both employers and bars, with the Town Community Services Department assuming the leadership role with input from the Community Policing and Community Service Committees. The program will be targeted at both locals and visitors.
- ▶ There will be a cost to increased noise reduction activities and the revenue should come from increased business license fees either across the board or just for eating/drinking establishments and motels and/or increased taxes for the commercial ratepayer. Residential taxpayers should not be expected to face increased taxes. Businesses have the need to recognize these costs are a fact of doing business in a tourist community.
- ▶ Businesses and residences have a responsibility to consider noise issues when building or renovating.
- ▶ An increase in the activities for "staff" both during the day and during the evening as alternatives to going to bars (again under the leadership of the Community Services Department).
- ▶ Regular public meetings, perhaps twice a year, between the Town, the RCMP, Bar/Restaurant Association, Banff Centre, and other stakeholders to evaluate the success/failure of initiative

Actions instituted since the report was released:

Appendix 6: Excerpt from Mayor's Entertainment District Task Force Meeting of February 25, 2003

- ▶ Banff received \$50,000 from the Provincial Justice Department and the Alberta Lottery Board, and hired someone to organize functions nightly for service workers as an alternative to the bar scene. This was a great success.
- ▶ A local hotelier offered an old house which the town renovated, and which now functions as a drop-in, alcohol- and drug-free centre for service workers.
- ▶ Regulations in Banff set last call at 1:00 a.m., and closing time at 2:00 p.m. Bar owners were asked to limit the number of drinks served at last call, to slowly turn down the volume of music, and to turn up the lights gradually during this hour, to give patrons time to adjust to the quieter outside environment.
- ▶ Hotels and bed & breakfast establishment installed air conditioning in the rooms, so guests could keep their windows closed at night.
- ▶ Police presence was increased to 12 from four (including auxiliaries). A charge was added to business license fees to pay for the policing costs.
- ▶ Rather than monitoring the number of people in the “drunk tank”, there was a change to monitoring the number of complaints received.

These measures have proven extremely successful in Banff, almost eliminating the previous problems.

CITY OF KELOWNA
NIGHT CLUB BUSINESS LICENSE FEE – OPTIONS FOR DISCUSSION PURPOSES ONLY

Option	Basis	Comments
1. Status Quo \$243.51 per 100 sq. m. of usable space per annum	<ul style="list-style-type: none"> – the amount varies with the different types of liquor primary establishments, (based on the old class system). Cabarets (night clubs), and neighbourhood pubs pay the same rate. The Fees vary from as little as \$487.02 for Club Oasis to \$1,217.55 for Splashes and Flashbacks 	<ul style="list-style-type: none"> – reflects in a symbolic way only the high impact (relative to other types of businesses) on police and other City services – assumes that night clubs and other establishments are equally culpable
2. Straight Time \$4,983.68 per annum	<ul style="list-style-type: none"> – this fee is based on costs associated with: <ul style="list-style-type: none"> · 4 on-duty officers · called from existing duty outside of downtown to attend on problems in downtown for 2 hours · average of 2 nights per week all year – total cost of \$24,918.40 divided by five clubs. 	<ul style="list-style-type: none"> – fully reflects the cost associated with having to send on-duty members to the downtown core “yellow area” – does not address the policing shortage that results outside of downtown core when members are forced to attend downtown – assumptions of 2 hours, 2 nights need validation from RCMP – assumes that night clubs are equally culpable – does not cover costs other than policing that are incurred by City (e.g, administration, bylaw enforcement, etc.); consider adding \$4,150 to existing \$1,100
3. Overtime \$19,934 per annum	<ul style="list-style-type: none"> – this fee is based on costs associated with: <ul style="list-style-type: none"> · 4 called-back (i.e., off-duty) officers · called-in specifically to attend to crowds · 4 hour minimum call-in required; double time rate · average of 2 nights per week all year – total cost of \$99,673.60 divided by five clubs. 	<ul style="list-style-type: none"> – fully reflects cost of attending to downtown issues without leaving other areas of City exposed – does not cover costs other than policing that are incurred by City (e.g., administration, bylaw enforcement, etc.); consider adding \$16,600 to existing \$1,100