

On Monday, May 10, 2021 at 06:46:02 p.m. GMT+1, Liam Edwards <ledwards@bimbc.ca> wrote:

Christine and Heather,

I am glad you make reference to reaching out to me directly and I look forward to that discussion. There is much to discuss, including your own actions, accusations and general disregard for the very principles you profess to uphold and seek from others. Please let me know what days and times you are available for a discussion, your preferred method (Zoom, Teams, phone, safely distanced in person, other) and I will see about making myself available.

Regards, Liam

**Liam Edwards**

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**From:** The Millers <redacted email>

**Sent:** Sunday, May 9, 2021 6:07 PM

**To:** Daniel Martin <DMartin@bimbc.ca>

**Cc:** Bonny Brokenshire <BBrokenshire@bimbc.ca>; Liam Edwards <ledwards@bimbc.ca>

**Subject:** Re: Clarification please

Dear Daniel

Thank you for your responses, the delay in our reply is due our spending time looking at and considering the information you have provided alongside everything that's come up in the process so far, and other facts that are even now emerging.

There are more questions we could ask, and as we said new things continue to emerge but there is more than enough information already that we feel very strongly that your conduct and actions must be investigated.

You are a professional planner, Manager of Planning & Development, the most senior planner in the Municipality, who shapes and influences not only planning decisions and processes, but other management processes and departmental practices (e.g. bylaws, parks & environment).

You were tasked in this instance with evaluating a TUP application and then preparing reports for Council to decide on this, guided by the policy requirements that the temporary use will not create an unacceptable negative impact upon the natural environment or the character of the neighborhood.

All of this requires professional objectivity and knowledge and an awareness of the impact of land use planning decisions, as well as, particularly when it comes to questions of the “character of the neighborhood” sensitivity and care about the people who don’t just inhabit that neighborhood, but have created and nurtured and built that neighborhood.

Bowen is not big enough that there can ever be any justification for treating residents as just distant faces in a vast crowd, statistically irrelevant at the individual level, whose interests can be sacrificed for some end with no consideration. Our “neighborhood” is not big enough to ignore or sneer at the fact that 7 of the 10 homes on the same streets (Westside and Laura Roads) as this proposed cidery do not want it, not for frivolous or careless or offhand reasons, but for serious, well thought out and respectfully set-out reasons. However, your reports ignore this, and Council ignored, minimized and in some cases sneered at those neighbours expressing concern. Those neighbours, including us, wrote and delivered responses characterized by care and thought and deliberation and respect; that is what we brought to the process. In return, we have all, collectively, been treated with contempt, from the beginning of this process.

You have played a key and central role in this process. What there cannot be in your work, including this particular instance of it, is bias. However, there is so much evidence of bias and a partisan approach by you, and a disregard for facts, basic common sense, and your own established practices, processes, and precedents, that we feel we must take this further. The lack of those things, and of anything even approaching appropriate due diligence or duty of care has created consequences that directly threaten our health and safety, as well as that of the natural environment. The contempt with which we, our entirely founded and legitimate concerns, and our legislatively protected rights have been treated, by you, and then by Mayor and Council are so egregious, and so frankly inexplicable by any standard of reason or good practice that it is quite clear that this entire process, and the relation of the applicant to the Municipality over time, ought to be investigated. A number of things – including this cidery proposal – cidery building approved August 2020 – coincide in time. Bylaw 528 is a part of that; the sale, rezoning and now construction on the Area 1 Lot 2 parcel of the Community Lands, and your involvement with that are another (re which, Rob Purdy, Undercurrent, June 11 2020 “*It takes a small army of people to get a project like this off the ground...We’d like to thank everyone who has been involved in making this happen including Municipal Staff*” – first on his list for thanks). We are aware of the FOI request re your meetings/contacts etc with Rob Purdy and Christine Hardie in relation solely to the cidery; we believe other contacts with Rob Purdy should also be explored.

There are so many disturbing, concerning issues, involving you. Bylaw 528 is very disturbing, both for the erasure of “vineyards” from view, but also as it intersects with the 2018 public processes around zoning for Lot 1 of the Community Lands (the one identified space for light industry), and with the rejected recommendations made by the EDC in 2014 to amend the OCP. There are questions too to be asked about liquor licenses, guesthouses and inns, (both in Bylaw 528 and a particular focus in your responses to us about liquor licenses), and exactly what “rezoning” would mean – Rob has been very clear, in letters to the UC and elsewhere, that he’s not seeking Rural Commercial or Tourist Commercial – it would appear then that a version of Comprehensive Development zoning is in his mind – for a 5 acre lot? And he has made it clear that “BIM planning staff” are party to what he and Christine are looking to do. On March 18<sup>th</sup> he submitted a letter, the first of his two further refinements in an application supposedly already made before February 22: in part, that read:

*Why a Temporary Use Permit? We do not yet know if this is a commercially viable endeavor. The temporary use period will allow us to evaluate this before a permanent change to the Land Use Bylaw is applied for (ie. a rezoning). We have made this decision with input from BIM planning staff...*

We have copied Liam on this email; if BIM was a functional place, we would ask him as CAO to investigate. However, BIM is not functional; if it were, none of this would be happening. There are numerous other reasons why we can have no faith or confidence in BIM’s internal processes around investigating staff conduct, managing accountability, or even telling the truth. Combined now with the way in which we have been treated, all trust has gone.

Heather will be following up separately with Liam on this, as this is a conversation that has already (long) begun.

We are not going to identify each of the points on which we believe you should have to answer questions; those details will be in the complaints we are directing to PIBC and to the ombudsperson, and you would have the opportunity to respond to any investigation or queries from them.

There are a great many points; we have so far identified 19 OCP Policies, 21 OCP objectives, multiple LUB requirements and prohibitions, that you have ignored or violated, infractions of the Islands Trust Policy, as well as direct contradictions with your own previous practice, the practice of your department, your own published guidelines, etc. There are also numerous points on which you have been misleading, confused, and provided such selective & distorted information as to effectively misrepresent facts. There are also multiple occasions and significant issues on which you provided *no* information or consideration, issues which you can be shown to recognize as significant in far less serious or momentous land use decisions, which must equate to deliberate manipulation. There are clear – acknowledged – failures of procedural fairness.

The only thing we are going to discuss here is light industry. This matter we will address as we believe it is the most culpable and irredeemable offence against both us personally and the environment.

It is also one where your actions can be shown to have directly corrupted and invalidated other important protections and safeguards supposedly administered and provided by BIM - e.g. bylaw enforcement. We have therefore copied Bonnie, for that, but also as she is the other BIM Manager (of both Bylaw Services and Parks and Environment) who reviewed this TUP application report before its presentation to Council.

Cider production is light industry. Legally. No-one can rewrite facts, or the law, or reinvent the laws of physics and chemistry, to suit their purposes. Even if one does, to achieve some other aim, and gets away with, that doesn't change or alter the actual science, the actual facts, of what is and what will happen. Those things are immutable. So, again, cider production is light industry.

This is an industry that produces contaminated wastewater. A lot. The supposedly "small" size of the operation is, from Rob's own account, irrelevant: asking for the reduction from 50% to 25% "fruit", on February 22:

*uh where those numbers are and 100 support that the cider production uh just on in real terms will impact how uh like the how we optimize our equipment really um so we we would like to have enough fruit that our equipment is used is maximized and that's really our equipment will be a function of the size of the cidery if there's a square footage constraint but the equipment we have it puts us in a better position if we can use it efficiently and we're not we don't have kind of empty fermenters and stuff like that so it's really just for that so from a practical standpoint don't know it's really hard to tell like uh the different size cideries like a 20 000 liter versus 50 000 liter cidery when you walk up you you wouldn't be able to notice um but it's it helps with the viability of the business*

When we asked him about this, asking what production levels would be, in specific reference to concerns about wastewater, he indicated that sales would drive production – and then pivoted to what (strangely) became the talking point of Council, in dismissing neighbours as having overreacted and misunderstood what was a very small operation, ie the small square footage (but even that omits the outside production area?). So Hope was fully confident then in writing to a member of the public, for public view, a letter on April 7, copying you, stating what must be the Municipality's position:

*Council unanimously approved the TUP application at its March 22nd Council meeting, with some amendments to ensure that the operation remains small and neighbours are unaffected by the cidery operations*

Quite apart from the offensiveness, the truly basic dehumanization implicit, in defining and deciding whether, how and if we are "affected", concluding on our behalf that we are not, and making this a public statement, what looks like a "small" operation, as Rob himself had said, tells you nothing about actual production levels – which is, really, the most relevant point when it comes to impacts.

This whole thing is a sham – the "fruit" that will be almost all juice from the Similkameen, juice that can be brought in year-round, no seasonal limits, the pretense of preserving the Heritage orchard, the pretense that local fruit or Heritage fruit will feature in what they produce, the pretense that this isn't a Tourist destination site (when Rob was already posting last Fall #tourismbowen., and #tourismvancouver, to rapturous delight from Tourism Bowen Island). We can go through each of those points in exhaustive detail. But we won't.

This cidery is light industry, and will use a lot of water, polluting a considerable amount that then needs to be disposed of or dealt with, along with all the other uses on that site, with serious and grave threats to water availability and safety, for both human use, and for the environment. For examples related to sewage and the consequences of your omitting consideration that this cidery is an assembly use in a zone where that is not allowed, see the email sent by us to VCH, copied to you.

The industrial portion will produce contaminated water. And a lot of it. They have already spent tens of thousands of dollars, on equipment, building, plus the costs of running another orchard in the Similkameen (the other lot in the same business); their plan is for Christine to leave her job as a RN and work full-time on the orchard. Having a few Bowen Islanders round for a cider occasionally isn't going to pay those bills.

Water that Rob feels it's just fine to pour into the ground: *Water is not an input in our cider production – our plumbing requirements are very minimal (sink and hose bib). We are working with VCH and a qualified wastewater engineer to implement a gray water system where any water that is needed in the cidery can then be used for irrigation on our cider orchard* is what he wrote to us March 13. Except – he wasn't working with an engineer, that detail (engineer, hydrogeologist, no-one at all) changed and changes in every version of the story he gives. He wanted to impress Tyler on April 8 with how open he is to talking to us, and sent us an email late that night, again – we've engaged with him. His openness is performative, for the benefit of impressing all of you with how forthcoming he is. But he doesn't tell the truth, or answer the real questions, and when he does, by accident, no-one hears what it is he is saying. Like the small size meaning very little in terms of actual production. Like the fact that juice is what they are using.

VCH? Rob was only in contact with them re getting the food permit to open; they had no direct contact with him until the very end of March. As according to both you and he, he didn't need technically to request rezoning, or a TUP, and already had the license to manufacture, and as he last year was already posting images of the cider he had made, he was producing cider on-site months before even minimal contact with VCH. Who Bonnie and Liam have both assured us will be, and are the body to, address wastewater treatment etc. Their (VCH) involvement is truly minimal. And late.

So – light industry. You actually have formal rules that apply to that – in the OCP, the LUB and in your own guidelines. And you've ignored every single one of them. Again, it's not interpretation or argument that this is a light industry, it is a fact. It is a fact that it produces significant water pollution.

And the cidery isn't 50m back from the watercourse, Murray Creek, the one you didn't notice, and didn't point out was omitted from the site plan they gave you for the TUP. All industry, which includes light industry, must be setback 50m setback from watercourses; 620 Laura Road has DPA limitations re watershed, riparian and tributaries to fish-bearing streams, which are identified right through that lot. The cidery building hugs a 30m, but not 50m, setback on Bowmap – and it appears to be right on the line of another stream identified in OCP Schedules B3 and B4.

And the cidery production isn't all contained within a building – as the light industry regulations require - you didn't include the outdoor area, where the tanks are in your totals, did you? But most pertinent is OCP policy 202:

OCP: Policy 202

*Light industrial uses will prove adequate water supply and waste disposal capability to ensure that there is no deleterious effect on surface and ground-water supplies, or to the long term sustainability of these resources.*

We called Bylaw Services on April 8 because there was a lot of construction noise, and we had been told they were working on irrigation systems; Tyler reported no bylaw contraventions. The entire operation is a bylaw contravention. Irrigation – pouring that water on the ground, inside even the 30m DPA, a problem. But none of you have noticed or cared.

There is no redemption, there is no course of recovery, there is nothing that any of you can do or say that will ever make it ok that you have such contempt for us, in deed, that you endangered (are endangering still) the safety of our water.

We care about our water, if it will be there when we need it, if it's safe. Anyone would. We also care, deeply, about the Creek, and the Wetland, and all of those things. We have looked after them, watched over them, for 31 years. We cared deeply about this community, for 41 years, have contributed in all sorts of ways to it, but you collectively at the Muni, with your work Daniel now at the center, have treated us as if we were throwaway people, with throwaway lives. We're not. We have been, and still are, treated as if our concern is marginal, unimportant, something everyone has moved on from.

**THIS IS OUR WATER** – we are dependent on this for life - how dare you all behave as if that does not matter. What could possibly be even remotely justifiable as an end that would allow you to sacrifice our need for safe, adequate, protected water?

There are a lot of other issues related to this cidery, which ought also to have been investigated, described and presented by you, and featured in Council's decision-making. Many of them should have been obvious to Council; it is very odd that they were not. But for us, right now, the most irredeemable sign of contempt, from you and from Council, is the complete lack of care, the indifference, the trivialization and minimization, that has taken place in relation to water. That cannot be allowed to go unremedied; and your role must be investigated,

Heather and Christine