

REGULAR MEETING OF COUNCIL

AGENDA

DATE: Monday, October 19, 2015
TIME: 4:30 p.m.
LOCATION: Council Chambers, Enderby City Hall

1. APPROVAL OF AGENDA

2. ADOPTION OF MINUTES

[Regular Meeting Minutes of October 5, 2015](#)

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3. PUBLIC AND STATUTORY HEARINGS

4. PETITIONS AND DELEGATIONS

5. DEVELOPMENT MATTERS

[Notice on Title – 1207 Sicamous Street](#)

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6. BUSINESS ARISING FROM THE MINUTES AND/OR UNFINISHED BUSINESS

7. BYLAWS

8. REPORTS

Mayor and Council

[Building Permit Detail Report – September 2015](#)

pg 9

Chief Administrative Officer – Memo dated October 15, 2015

pg 10-14

Re: [Update on Regent Lift Station and Vernon Street Capital Projects](#)

9. NEW BUSINESS

10. PUBLIC QUESTION PERIOD

11. CLOSED MEETING RESOLUTION

Closed to the public, pursuant to Section 90 (1) (k) of the *Community Charter*

12. ADJOURNMENT

THE CORPORATION OF THE CITY OF ENDERBY

Minutes of a **Regular Meeting** of Council held on Monday, October 5, 2015 at 4:30 p.m. in the Council Chambers of City Hall

Present: Mayor Greg McCune
Councillor Tundra Baird
Councillor Brad Case
Councillor Roxanne Davyduke
Councillor Raquel Knust
Councillor Brian Schreiner
Councillor Shawn Shishido

Chief Administrative Officer – Tate Bengtson
Assistant Corporate Officer and Planning Assistant – Kurt Inglis
Recording Secretary – Bettyann Kennedy
The Press and Public

APPROVAL OF AGENDA

Moved by Councillor Baird, seconded by Councillor Shishido that the agenda be approved as circulated.

Carried

ADOPTION OF MINUTES

Regular Meeting Minutes of September 28, 2015

Moved by Councillor Case, seconded by Councillor Knust that the minutes of the regular meeting of September 28, 2015 be adopted as circulated.

Carried

BYLAWS - Adoption

Bylaw Notice Enforcement Bylaw No. 1581, 2015

Moved by Councillor Knust, seconded by Councillor Case that Bylaw Notice Enforcement Bylaw No. 1581, 2015 be adopted.

Carried

REPORTS

Councillor Schreiner

Neighbourhood Watch visits have been favourably received.

Councillor Shishido

Google Calendar is up and running.

Councillor Davyduke

Date for Business Walk – October 28th at 9:00 was selected.

Mayor McCune

October 16th was the date selected for a Councillor Retreat. It will take place at Councillor Davyduke's home.

NEW BUSINESS

Fraser Basin Council – Correspondence dated September 29, 2015

Re: Grant in Aid Request – Annual BC Interior Stewardship Workshop

Moved by Councillor Case, seconded by Councillor Davyduke that Council approve a grant in the amount of \$1,000 to help finance the cost of the BC Interior Stewardship Workshop.

Carried

Support for Block Parent Program in Enderby – memo from Chief Administrative Officer dated September 30, 2015

Moved by Councillor Baird, seconded by Councillor Shishido that Council support the Block Parent initiative funding the annual Block Parent Program of Canada participation fee of \$60, the provision of signs to qualified Block Parents, and the purchase or supply of ancillary materials to support program delivery.

Carried

Enderby and District Lions Club – Correspondence dated October 1, 2015

Re: Donation for Halloween Haunted House Project

Moved by Councillor Case, seconded by Councillor Baird that Council approve a donation of \$500 to the Lions Club for the Halloween Haunted House Project.

Carried

PUBLIC QUESTION PERIOD

None

CLOSED MEETING RESOLUTION

Moved by Councillor Case, seconded by Councillor Davyduke that, pursuant to Section 92 of the *Community Charter*, the regular meeting convene In-Camera to deal with matters deemed closed to the public in accordance with Section 90 (1) (m) and (k) of the *Community Charter*.

ADJOURNMENT

The regular meeting reconvened at 5:45 p.m.

The regular meeting adjourned at 5:45 p.m.

MAYOR

CHIEF ADMINISTRATIVE OFFICER

THE CORPORATION OF THE CITY OF ENDERBY

MEMO

To: Mayor and Council
From: Tate Bengtson, CAO
Date: October 13, 2015
Subject: Notice on Title – 1207 Sicamous Street

RECOMMENDATION

THAT Council authorizes a bylaw contravention notice to be placed on the title of the property legally described as Parcel B (KN59353), Blk 2, DL 150, K (formerly O) DYD, Plan 211B and located at 1207 Sicamous Street, pursuant to Section 57 of the *Community Charter* and for which further information about it may be inspected at the municipal hall;

AND THAT Council refers this file to the Building Inspection Contractor in 2016 for evaluation of further enforcement action to ensure compliance with local and Provincial regulations.

ALTERNATE RECOMMENDATION

THAT Council does not authorize a bylaw contravention notice to be placed on the title of the property legally described as Parcel B (KN59353), Blk 2, DL 150, K (formerly O) DYD, Plan 211B and located at 1207 Sicamous Street;

AND THAT Council takes no further enforcement action.

BACKGROUND

On February 20, 2012, Council considered a recommendation from the Building Inspector to place a Notice on Title on the subject property. The property owner made a representation before Council, and the latter ultimately decided to table the matter. The matter was tabled so that the property owner could obtain a new building permit, complete the deficiencies, and secure an occupancy permit. To date, the property owner has not taken out a building permit.

As the City of Enderby will be excluded from RDNO's Building Inspection service as of December 31, 2015, this matter is among those requiring closure. The Building Inspector is requesting that Council reconsiders filing the Notice on Title. The issue pertains to Section 57(1)(b)(ii) of the *Community Charter*, which states:

A building inspector may recommend to the council that it consider a resolution if, during the course of carrying out duties, the building inspector observes a condition, with respect to land or a building or other structure, that the inspector considers results from

the contravention of, or is in contravention of, a municipal bylaw, that relates to the construction or safety of buildings or other structures, and discovers that the permit was not obtained or the inspection not satisfactorily completed. *[inapplicable subsections were omitted for readability – Staff]*

A Notice on Title is a minimal form of enforcement that is available for contravention of a Building Inspection Bylaw. The most valuable aspect of a Notice on Title is that it is registered on title. This advises prospective purchasers of the property that there is a regulatory contravention. While it is common for a prospective purchaser to perform a title search and request a home inspection as subjects to purchase, it is less common for a review of the Building Permit file to occur. A Notice on Title ensures that there is an indication of a contravention shown on the title. Secondary values of placing a Notice on Title are advising those with registered interest in the property of the contravention and ensuring that taxpayers are protected from a future claim. Staff note that the property has been listed for sale.

Under the present Building Inspection system, Notices on Title are recommended by the RDNO Building Inspector and authorized by the Council of the municipality within which the subject property is located. While local government has immunity in relation to failure to enforce building bylaws under Section 289 of the *Local Government Act*, this is relatively limited. In a legal primer on municipal liability for building inspection, Clark Wilson LLP wrote:

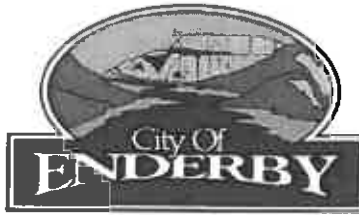
Note that [Section 289] only grants immunity for failing to enforce building bylaws and regulations through a civil proceeding or prosecution. This is a very specific immunity. Nothing in the section protects the municipality from a negligent failure to give directions, make orders, or withhold occupancy permits....The reader should also note that section 289 does not protect the municipality from liability arising from its failure to warn others about by-law violations. If a municipality reasonably should have been aware of a by-law violation that concerned the safety of persons or property, it has a duty of care to take reasonable steps to warn persons who might be affected by the violation. If the safety risks are "low or slow", reasonable steps might be nothing more than putting notice on title to the property. If the risks are high, it might be necessary to post warnings on the property.

A Notice on Title may be cancelled in a variety of ways, but most typically after the Building Inspector submits a report to the local government confirming that the condition causing the notice has been remedied and the property owner pays the associated cancellation fee. While the City of Enderby is not the owner of the Building Inspection Bylaw, it has an authority entrusted to it by RDNO to act reasonably to fulfill the duty to warn. It has provided a significant period of time for the property owner to address the issue prior to taking any enforcement action. Placing a Notice on Title fulfills that obligation in a reasonable manner for a low-risk contravention.

Respectfully submitted,



Tate Bengtson
Chief Administrative Officer



619 Cliff Avenue
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Enderby, B. C. V0E 1V0

The Corporation of the City of Enderby
Where the Shuswap Meets the Okanagan

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October 13, 2015

Our File No.: 12-0012-END-NT
PID: 024-549-436

Michael Drabiuk
PO Box 225
Enderby, B. C. V0E 1V0

Dear Mr. Drabiuk:

**Re: Non-compliance to Local and/or Provincial Regulations at Parcel B (KN59353), Block 2,
District Lot 150, Kamloops (formerly Osoyoos) District Yale Division, Plan 211B
Located at: 1207 Sicamous Street**

Our Building Inspector has advised that there is a contravention of Regional District of North Okanagan Building Bylaw No. 1747, 2003 at the above captioned property. The contravention pertains to "occupancy of a building without a valid occupancy permit".

Pursuant to Section 695 of the *Local Government Act* and Section 57 of the *Community Charter*, the Building Inspector has recommended that a Notice be filed on the title of the subject property indicating failure to comply with the bylaw. This recommendation will be considered by the City of Enderby at the next regular meeting to be held on Monday, October 19, 2015 at 4:30 p.m. in Council Chambers located at City Hall, 619 Cliff Avenue, Enderby, B. C. During this meeting, you will be provided an opportunity to present your circumstances pertaining to the issues raised by the Building Inspector. We encourage you to attend this meeting.

Please take this letter as notice that the City of Enderby will consider the recommendations of the Building Inspector and provide you with an opportunity to be heard. After, Council will consider confirming the recommendation of the Building Inspector and may resolve to place a Notice on Title.

If you have any questions or concerns regarding the foregoing, please contact Tate Bengtson, Chief Administrative Officer at 250-838-7230.

Yours truly,

Tate Bengtson
Chief Administrative Officer

Cc: Amy L. St. Eloi
Building Inspection Dept., RDNO
Development Services Dept., RDNO



**REGIONAL DISTRICT
of
NORTH OKANAGAN**

**BUILDING INSPECTION
INFORMATION REPORT**

NOTICE ON TITLE

Date: October 5, 2015

File No.: 12-0012-END-NT

Owner: Michael Drabiuk and Amy St Eloi

Legal Description: Parcel B (KN59353), Blk 2, DL 150, K (formerly O) DYD, Plan 211B

P.I.D.# 024-549-436

Civic Address: 1207 Sicamous Street

Property Size: 0.074 ha

Servicing: N/A

Zoning: R1A [Residential Single Family Zone]

O.C.P. Designation: Residential Low Density / Heritage Conservation Area

Contravention: Occupancy of a Single Family Dwelling Addition without obtaining an Occupancy Permit in contravention of the Regional District of North Okanagan Building Bylaw Regulations.

BUILDING INSPECTION DEPARTMENT RECOMMENDATIONS:

It is recommended that Council authorize a bylaw contravention notice to be placed on the title of the property legally described Parcel B (KN59353), Blk 2, DL 150, K (formerly O) DYD, Plan 211B and located at 1207 Sicamous Street.

It is further recommended that enforcement action be taken to ensure compliance to local and provincial regulations.

BACKGROUND/HISTORY:

This matter was referred to Council in 2012 at which time Council elected not to file a Notice on Title. As no progress has been made on the building renovations, it does not have a valid building permit and the property is for sale it is recommended that Council reconsider filing this Notice on Title.

A building permit application was made on March 24, 2003. A building permit [03-0178-END-NT] was issued on April 24, 2003 and the Permit expired on April 24, 2005. There is a note in the file

dated November 30, 2005 that states the owner had stated to Dave Gardner that he had no money to complete or to renew.

Letters advising Permit had expired and a renewal was required was sent on March 16, 2007 and December 11, 2007.

After receiving no response from the two renewal letters, a letter was sent to the property owner, February 4, 2008 advising that a report was being prepared that would go to the City of Enderby Council recommending that a Notice be placed on the Title of the subject property.

On May 16, 2011, a letter was sent via registered mail to the property owner advising that a report was being prepared that would go to the City of Enderby Council recommending that a Notice be placed on the Title of the subject property. The Building Inspector received correspondence from Davidson Lawyers requesting a copy of the Inspection Report dated April 14, 2011 ("Site Inspection. Please contact the building department in our office at 250-550-3730 for further information within 30 days.")

On October 21, 2011 another letter was sent via registered mail to the property owner advising that a report was being prepared that would go to the City of Enderby Council recommending that a Notice be placed on the Title of the subject property. Canada Post confirms this letter was successfully delivered on November 2, 2011 to Michael Drabiuk.

As of this date we have not received compliance to our requests either through permit renewal or finalization.

Respectfully submitted,



Dave Gardner
Chief Building Inspector



Regional District of North Okanagan
Building Permit Detail Report for Sep 2015

For Area: Enderby

Day:	Permit:	Owner:	Construction Location:	Builder:	Permit Desc:	Value:	Cumulative TOTAL:
Area:	Cost:				Units:	Fir Area:	
02	15-0384-END -BP	SAGH, JONATHAN	Lot B, Plan EPP29460, Twp 18, Sec 26, D/L , 137 SALMON ARM DR Roll: 208 00633.002		SFD RENOVATION	\$38,500.00	\$38,500.00
	\$704.00				Unit 0	Sq.M.	
Enderby							
10	15-0403-END -BP	MCLEAN, GARY & JENNIFER	Lot 5, Plan KAP78525, Twp , Sec , D/L 226, 2102 WATERWHEEL ST Roll: 208 00715.024	SHELBY HARKNESS	SFD ADDITION (LEGALSUITE)	\$19,000.00	\$57,500.00
	\$504.00				Unit 0	Sq.M.	
Enderby							

THE CORPORATION OF THE CITY OF ENDERBY

MEMO

To: Mayor and Council
From: Tate Bengtson, CAO
Date: October 15, 2015
Subject: Update on Regent Lift Station and Vernon Street Capital Projects

RECOMMENDATION

THAT Council receives and files the Update on Regent Lift Station and Vernon Street Capital Projects memorandum from the Chief Administrative Officer dated October 15, 2015.

BACKGROUND

Attached are two payment summaries from the general contractors for the Regent Lift Station and Vernon Street capital projects that are currently in progress. Note that the summaries do not reflect owner-supplied items, contingency, or engineering/project inspection; these are only the costs borne by the contractor. The summaries reflect costs incurred to date and describe the cost impact of change orders. Each project will be addressed in turn.

Regent Lift Station

Status: On time and on budget.

The general contractor for the Regent Lift Station project is Maddocks Construction. The project is on budget. The project is generally on-time, although there is a delay with the supply of the lift station pumps which the general contractor is working around. The City's engineering firm, which oversees the project, is working with the pump supplier to expedite the pump containers, which are most critical to maintaining the construction schedule. Processes are being re-sequenced to compensate for this delay without affecting the overall project schedule or budget.

The bulk of the change order was for realigning water and sanitary lines and adding a sump manhole with a capped stub for future storm service to the eastern end of Baird Avenue (the western end is already serviced from Brickyard Road). This change will ultimately reduce the City's costs in the long-term, as a future service extension will not require working around – or through – the new pump chamber. The change order falls within the budgeted contingency value.

Council will note a large negative change order, which reflects its previously approved change to the hatch design and back-up power. This resulted in savings realized after the project was tendered.

There were no significant issues related to dewatering due to the unusually low river levels.

The City remains in compliance with its monthly progress and financial reporting requirements to Emergency Management BC, which is the agency responsible for administering the Flood Protection Program grant funding.

Vernon Street

Status: On time and on budget.

The first progress payment for Vernon Street has been processed. The project is currently on schedule and on budget. The most critical juncture at this point is ensuring that all underground works are in place and the first phase is paved before the asphalt production plant closes for the season. There have been a variety of "underground surprises" which have been uncovered, including storm sewer cross-connected to the sanitary sewer and multiple properties serviced off of the same sanitary service line. The latter can be particularly problematic in the event of a blockage or failure in that service line. These matters are being rectified as discovered. The water lines in this area are fragile and there have been two breaks during construction. A Fortis gas line was discovered at an unexpected depth that conflicted with one of the City's new lines, which required an adjustment in its level, under Fortis supervision, in order to eliminate the conflict. The current change order reflects contractor costs associated with some of the abovementioned surprises (others were discovered in early October, and will not be reflected until next month's progress payment).

Council should also note a larger estimated change order valued at approximately \$28,000. As the geotechnical study was completed after the project was tendered, this amount reflects the costs of installing a geotextile grid under more of the road surface than initially anticipated. The geotextile grid was required in order to obtain geotechnical assurance of performance. A variety of options were investigated to obtain that assurance, but increasing the geotextile grid quantity proved the most cost effective means to ensure performance. The type of geotextile grid which was chosen meets the performance requirements of the City's infrastructure management planning and will delay full reconstruction provided resurfacing occurs at appropriate intervals to protect the base. Rather than realign the overhead utilities at significant cost, the utilities will be incorporated into pedestrian-friendly sidewalk bulbs in a manner similar to that found at certain locations of Mill Avenue and Belvedere Street. The savings from this change in approach – which are greater than the costs of the increased geotextile grid quantity - will ensure that the project remains within budget.

Respectfully submitted,



Tate Bengtson
Chief Administrative Officer



PAYMENT SUMMARY

VENDOR No:
P.O. No.:

CONTRACT: 1584.4
CITY GL:

DATE: October 8, 2015
CLIENT: City of Enderby
ATTN: Tate Bengston
PROJECT: Regent Avenue Stormwater Pump Station
MEACL No: 1584.4

CONSTRUCTION MANAGER: Curtis Hodges
CONTRACTOR: Maddocks Construction Ltd.

PROGRESS PAYMENT No.: 2

COVERING WORK COMPLETED FROM:

Sept 1, 2015 to

Sept 30, 2015

SECTION	ESTIMATED AMOUNT	PREVIOUS PAYABLE	PAYABLE THIS MONTH	TOTAL PAYABLE
03 Concrete	\$ 169,164.00	\$ 46,764.24	\$ 42,373.61	\$ 89,137.85
26 Electrical	\$ 232,831.00	\$ 7,110.96	\$ 61,859.26	\$ 68,970.22
31 Earthworks	\$ 131,907.00	\$ 83,015.25	\$ 19,082.50	\$ 102,097.75
32 Roads and Site Improvements	\$ 53,539.00	\$ -	\$ -	\$ -
33 Utilities				
Waterworks	\$ 14,610.00	\$ 14,610.00	\$ -	\$ 14,610.00
Storm Sewers	\$ 111,708.00	\$ 729.00	\$ 94,388.96	\$ 95,117.96
Miscellaneous	\$ 28,979.00	\$ -	\$ 2,110.78	\$ 2,110.78
CHANGE ORDERS	-\$ 129,274.60	\$ 13,299.40	\$ -	\$ 13,299.40
SUB-TOTAL	\$ 613,463.40	\$ 165,528.85	\$ 219,815.11	\$ 385,343.96
GST @ 5%	\$ 30,673.17	\$ 8,276.44	\$ 10,990.76	\$ 19,267.20
TOTAL	\$ 644,136.57	\$ 173,805.29	\$ 230,805.87	\$ 404,611.16

PAYMENT SUMMARY

VENDOR No: 0

CONTRACT: 1584.10

P.O. No.: 0

CITY GL: 0

DATE: October 9, 2015
CLIENT: City of Enderby
ATTN: Tate Bengston
PROJECT: Vernon Street Improvements
MEACL No: 1584.10

CONSTRUCTION MANAGER: Curtis Hodges
CONTRACTOR: R355 Enterprises Ltd.

PROGRESS PAYMENT No.: 1

COVERING WORK COMPLETED FROM: September 1, 2015 to September 30, 2015

SECTION	ESTIMATED AMOUNT	PREVIOUS PAYABLE	PAYABLE THIS MONTH	TOTAL PAYABLE
ROADWORKS	\$ 662,770.05	\$ -	\$7,039.80	\$7,039.80
WATERWORKS	\$ 190,688.45	\$ -	\$65,399.76	\$65,399.76
STORM SEWER	\$ 202,785.70	\$ -	\$3,043.41	\$3,043.41
SANITARY SEWER	\$ 6,419.72	\$ -	\$0.00	\$0.00
STREET LIGHTS	\$ 45,611.99	\$ -	\$0.00	\$0.00
LANDSCAPING	\$ 14,833.50	\$ -	\$0.00	\$0.00
MISCELLANEOUS	\$ 8,194.55	\$ -	\$310.24	\$310.24
CHANGE ORDERS	\$ 28,245.47	\$ -	\$ 3,124.47	\$ 3,124.47
SUB-TOTAL	\$1,159,549.43	\$0.00	\$78,917.68	\$78,917.68
GST @ 5%	\$57,977.47	\$0.00	\$3,945.88	\$3,945.88
TOTAL	\$1,217,526.90	\$0.00	\$82,863.56	\$82,863.56