

SPECIAL MEETING OF COUNCIL

AGENDA

DATE: Tuesday, August 8, 2017
TIME: 10:00 a.m.
LOCATION: Council Chambers, Enderby City Hall

1. APPROVAL OF AGENDA

2. NEW BUSINESS

- a. [Salmon Arm Drive Award of Construction Contract](#) – Memo from Chief Administrative Officer dated August 3, 2017
- b. [Splatsin](#) – Correspondence dated August 2, 2017
Re: Support for 35th Annual Secwepemc Gathering 2017
- c. [Vetter Place Road Closure and Removal of Dedication Bylaw No. 1637, 2017](#) – Memo from Planner and Deputy Corporate Officer dated July 31, 2017

3. PUBLIC QUESTION PERIOD

4. CLOSED MEETING RESOLUTION

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

5. ADJOURNMENT

THE CORPORATION OF THE CITY OF ENDERBY

Agenda

MEMO

To: Mayor and Council
From: Tate Bengtson, CAO
Date: August 3, 2017
Subject: Salmon Arm Drive Award of Construction Contract

RECOMMENDATION

THAT Council awards the tender for the 2017-18 capital road project of Salmon Arm Drive, in the amount of \$2,762,904 excluding GST, to Mountain Side Earthworks.

BACKGROUND

Tenders for the Salmon Arm Drive capital road project were opened on Tuesday, August 1, 2017. The lowest bidder was Mountain Side Earthworks at \$2,762,904 excluding GST. Attached to this memorandum is the Recommendation of Award letter from Monaghan Engineering & Consulting, which is administering the contract. Note that this is only the price for the construction portion of the project, and does not include costs associated contingency and engineering services, among other items.

With respect to financing, the City's Chief Financial Officer provided the following comment:

The lowest tender price came in within the cost estimate as presented to Council at the March 20, 2017 meeting of the Committee of the Whole. At this time the funding strategy would remain the same as presented, including short term borrowing through internal reserves. As this is a multi-year project, the funding strategy will be monitored through the duration of the project to ensure internal borrowing is the most appropriate funding strategy. If additional water or sewer projects are required, short term borrowing from outside sources may be needed.

While the construction schedule will not be finalized until after the tender award has been made by Council, it is my understanding that Mountain Side Earthworks intends to start construction this fall.

Respectfully submitted,



Tate Bengtson
Chief Administrative Officer

August 2, 2017

File 1584.16

Tate Bengtson
City of Enderby
619 Cliff Avenue
PO Box 400
Enderby BC V0E 1V0

Dear Mr. Bengtson

**Reference: Recommendation of Award
2017/2018 Salmon Arm Drive Reconstruction**

Tenders for the above captioned project were received and opened August 2, 2017 at 2pm at Monaghan Engineering & Consulting Ltd. office. Enclosed, please find a summary of the bids for your records. All bids were checked for conformance and mathematical errors. Mathematical errors were noted on 3 of the bids. There were no mathematical errors found in the low tender. The corrected totals, excluding GST, for each tender are as follows:

Mountain Side Earthworks	\$2,762,904.23
Hazelwood Construction Services	\$3,015,946.45
Mounce Construction	\$3,024,255.69
CGL Contracting	\$3,026,948.26
General Assembly	\$3,174,841.18
Acres Enterprises	\$3,239,027.00
LB Chapman	\$4,044,800.00

Mountain Side Earthworks is the low bidder with a tender price of \$2,762,904.23 plus GST, for a total contract price of \$2,901,049.44

Our office has not worked with Mountain Side Earthworks before however we have called a local consultant and local government who have worked with Mountain Side Earthworks. They both indicated the company and superintendent are capable of successfully completing this work. Based on the above we therefore recommend that the City of Enderby accept the tender price submitted by Mountain Side Earthworks and award the project to them, subject to budget availability.

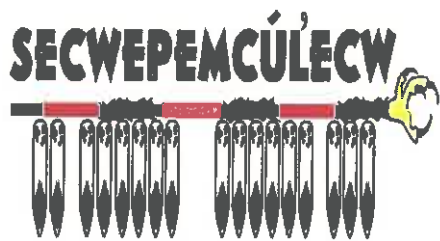
Should you have any questions or require further clarification, please do not hesitate to contact the undersigned at your convenience.

Sincerely,

Monaghan Engineering & Consulting Ltd.

A handwritten signature in blue ink, appearing to read 'B. Monaghan', with a stylized flourish at the end.

Brian Monaghan, P.Eng
Project Manager



HOST BAND
Splatsin
P.O. Box 460
5775 Old Vernon Road
Enderby, B.C. V0E 1V0
250 838 6496



SG 2017 "Living for the Future"

August 2, 2017

Dear City of Enderby,

RE: Support for the 35th annual Secwepemc Gathering 2017

We wish to inform you of a special event that will be held on the Splatsin Indian Reserve in Enderby, B.C. - **August 18, 19, 20, 2017**. This event is known to all the Secwepemc (Shuswap) people as the Secwepemc Gathering and it is hosted by a different Secwepemc Community within the Secwepemc'lecw (Shuswap Territory) each year since 1982. This gathering is the largest event held in the Nation.

The territory covers approximately 180,000 acres with a population of over 10,000 members. Secwepemc'lecw consists of 17 Bands who contribute significantly to the economy of B.C. Each year this nationwide event is held to bring Secwepemc people together to celebrate, have fun, enjoy entertainment, share meals, play traditional games, socialize, and renew kinship ties.

This 3 day event takes a considerable amount of planning, volunteer support, in kind and cash donations. We are requesting a financial contribution towards the costs of this event. Your financial support will be used towards important elements such as food/meals, entertainment, purchasing or renting equipment, first aid and security. The number of people onsite for the weekend is expected to be 2000+.

Sponsorship/Donor Levels: EAGLE \$10,000+, BEAR \$5000+, SALMON \$1000+, Friends of the Gathering: under \$1000. In return for your contribution we will recognise you through press releases, promotion of the event and onsite weekend program booklets. You are of course welcome to attend the event.

Donations made to Splatsin exceeding \$25 are tax deductible and we will provide receipts as required. Donations can be mailed to the above address, please clearly mark it – **Attention: Secwepemc Gathering 2017**. We thank you in advance for your contribution in helping Splatsin make the 2017 Secwepemc Gathering a huge success.

Please contact Donna Felix, Event Coordinator at 250 550 6152 or sg2017@shaw.ca for more information. You can also check us out on Facebook - "Secwepemc Gathering 2017".

Kukwstsamc,

Kukpi7 Wayne Christian

Agenda

THE CORPORATION OF THE CITY OF ENDERBY

MEMO

To: Tate Bengtson, Chief Administrative Officer
From: Kurt Inglis, Planner and Deputy Corporate Officer
Date: July 31, 2017
Subject: Vetter Place Road Closure and Removal of Dedication Bylaw No. 1637, 2017

RECOMMENDATION

THAT Vetter Place Road Closure and Removal of Dedication Bylaw No. 1637, 2017 be given three readings and referred to the Ministry of Transportation and Infrastructure and utility companies;

AND THAT in accordance with Sections 24 and 94 of the *Community Charter*, the attached Public Notice be published in the local newspaper for two consecutive weeks and posted on the City of Enderby public notice posting place, and that Council provide an opportunity at the September 5, 2017 Regular Council Meeting for persons that may be affected by the bylaw to make representation to Council;

AND THAT subject to appropriate notice and the adoption of the Vetter Place Road Closure and Removal of Dedication Bylaw No. 1637, 2017, Council authorizes the intended sale of the property (99.8 m²) that was formerly that portion of Vetter Place closed under Bylaw No. 1637, 2017, to the Owner of the property legally described as Lot 6, Section 26, Township 18, Range 9, W6M, KDYD, Plan KAP88729 for \$1.00, for the purposes of consolidation with the legally described property;

AND THAT the Mayor and Corporate Officer be authorized to execute the necessary agreements and documents on behalf of the City;

AND FURTHER THAT pursuant to the Resumption of Highways Regulation, B.C. Reg. 245/2004, the Corporate Officer be authorized to file a certificate in the Land Title Office in order to effect a discharge of the Province's right of resumption for the portion of Vetter Place to be closed under Bylaw No. 1637, 2017.

BACKGROUND

The owner of the property legally described as Lot 6, Section 26, Township 18, Range 9, W6M, KDYD, Plan KAP88729 and located at 170 Vetter Place has requested to acquire the 3 metre wide portion of dedicated road directly south of their property, for the purposes of consolidating it with their lot. This will help the property owner with grading challenges associated with their property.

This road area was initially intended for walkway purposes as part of a 13-lot subdivision in 2009. It was never intended for the passage of vehicles. It has yet to be constructed. Given that this trail does not have a confirmed viable alignment (it is effectively a "walkway to nowhere"), runs across steep

topography, and, should it be developed in the future (pending further land acquisition), would be redundant given other nearby infrastructure which already provide connectivity to Johnston Park and the Knoll, Staff are recommending that Council proceeds with closing this portion of road and removing its road dedication in order to facilitate a consolidation with the adjacent property.

The following summarizes the issues that must be considered by the City as part of the proposed road closure:

- ***Is the road vested with the City?***
Section 35 (1)(a) of the Community Charter vests with the municipality the soil and freehold of every highway in the municipality, subject to the exception listed in Section 35 (2); Section 35 (2) was reviewed by Staff and it was determined that no exceptions apply to the City of Enderby in this case, and therefore the road is vested with the City.

- ***Does the owner who originally dedicated the road continue to have an interest in the road?***
Where a highway was dedicated by subdivision or reference plan, the dedication may not be removed without the dedicating owner's consent if: (a) the highway has not been developed for its intended purpose, AND (b) the owner of the land at the time of the dedication is still the owner of all the parcels created by the subdivision or reference plan.

The road area in question was dedicated as part of a 13-lot subdivision in 2009. Given that the owner of the land at the time of the dedication is no longer the owner of all the parcels created by the aforementioned subdivision, the owner who originally dedicated the road does not continue to have an interest in the road.

- ***Will the road closure affect access to a body of water?***
The portion of Vetter Place subject to Bylaw No. 1637, 2017 does not provide water access, therefore the proposed road closure will not affect access to a body of water.
- ***Will the road closure completely deprive an owner of access?***
The portion of Vetter Place subject to Bylaw No. 1637, 2017 is not currently used to provide access to any fronting properties, therefore the road closure will not deprive any property owners of access.
- ***Is the road area within 800 metres of an arterial highway?***
Yes, the portion of Vetter Place subject to Bylaw No. 1637, 2017 is within 800 metres of Highway 97A, therefore the City will have to obtain approval from the Minister of Transportation and Infrastructure prior to adopting Bylaw No. 1637, 2017.
- ***Will utilities be affected by the road closure?***
The City will refer Bylaw No. 1637, 2017 and the reference plan to all applicable utility companies in order to determine if any utilities will be affected by the proposed road closure.

- ***Can the Province's right of resumption be cancelled?***
Pursuant to Sections 35 (7) and (8) of the *Community Charter*, the City's interest in its highways is subject to a right in favour of the Province to resume such highways for arterial highways purposes, transportation purposes, or park related purposes. As per the Resumption of Highways Regulations, B.C. Reg. 245/2004, if a closed highway is not adjacent to a park, recreation area or ecological reserve under the *Park Act*, the *Ecological Reserve Act*, or *Protected Areas of British Columbia Act* or an area to which an order under s.7 (1) of the *Environmental Land Use Act* applies, the right of resumption will be cancelled if the land is disposed to an adjoining landowner for the purpose of consolidating the former highway land with the adjoining owner's land; as this provision applies and the City is intending to dispose of the road area to an adjoining land owner for consolidation purposes, the Corporate Officer will file a certificate in the Land Titles Office in order to effect the discharge (see attached certificate).
- ***Is the City receiving fair market value from the purchaser of the sale of the road area?***
The City is prohibited from providing assistance to business, including selling land to a business at less than fair market value as defined under Section 25 of the Community Charter. The adjacent land owner is not considered a 'business', therefore the City may dispose of the road for less than fair market value but a notice must be published of that intention in accordance with Sections 24 and 94 of the Community Charter (see attached Public Notice).

Based on a pro-rated assessment of the adjacent property, the market value for the portion of Vetter Place proposed for closure under Bylaw No. 1637, 2017 is \$13,175. However, given its negligible utility value and its lack of development potential in the absence of consolidation, it is unlikely that this value would be obtained at market. Staff are recommending that Council authorizes the intended sale of the land for the nominal sum of \$1.00 and reflects the disposition of the road at this value in the Public Notice. The property owner has agreed to pay all advertising, survey, legal and other costs associated with raising title, sale, and transfer.

If Council gives Three Readings to Bylaw No. 1637, 2017, Staff will proceed with referring the proposed Bylaw to the Ministry of Transportation and Infrastructure and utility companies, and advertise the attached Public Notice in the local newspaper and on City of Enderby public notice posting place.

Respectfully Submitted,

Kurt Inglis, Planner and Deputy Corporate Officer

THE CORPORATION OF THE CITY OF ENDERBY

BYLAW NO. 1637

A BYLAW TO AUTHORIZE CLOSURE AND REMOVAL OF THE DEDICATION AS HIGHWAY
ON PART OF UNDEVELOPED ROAD COMMONLY KNOWN AS VETTER PLACE

WHEREAS Section 35(1)(a) of the *Community Charter* provides that the soil and freehold of every highway in a municipality is vested in the municipality;

AND WHEREAS Section 40(1)(a) and 2(b) of the *Community Charter* provides that Council may, by bylaw, close all or part of a road right of way, and remove the dedication of a highway;

AND WHEREAS the City of Enderby wishes to close and cancel the dedication of a portion of highway commonly known as Vetter Place, as shown and described as a "Closed Road" and outlined in bold on Explanatory Plan EPP74934 accompanying this bylaw, certified by Joseph Charles Johnson, BCLS and completed on the 31 day of July, 2017 (hereinafter referred to as the "Plan"), a copy of which is attached hereto as Schedule "A";

NOW THEREFORE Council of the City of Enderby, in open meeting assembled, hereby ENACTS AS FOLLOWS:

Citation

1. This bylaw may be cited as the "Vetter Place Road Closure and Removal of Dedication Bylaw No. 1637, 2017".

General

2. That the portion of highway dedicated by Plan KAP88729 and identified as "Closed Road" on Explanatory Plan EPP74934, which is attached hereto as Schedule "A" and forms part of this bylaw, is hereby stopped up and closed to traffic.
3. The highway dedication of Vetter Place referred to in Section 2 is hereby removed.
4. The Mayor and Corporate Officer are hereby authorized to execute and deliver such transfers, deeds of land, plans and other documents as are necessary or desirable to effect the aforesaid closure and removal of highway dedication.

READ a FIRST time this day of , .

READ a SECOND time this day of , .

Public Notice of permanent road closure, removal of highway dedication, and land disposal was advertised on the ____ day of ____, and the ____ day of ____, .

READ a THIRD time this day of , .

RECEIVED APPROVAL OF THE MINISTER OF TRANSPORTATION AND INFRASTRUCTURE
this day of , .
(Community Charter, Section 41(3))

District Development Technician
Ministry of Transportation and Infrastructure

ADOPTED this day of , .

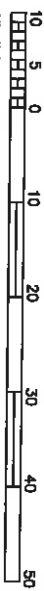
MAYOR

CHIEF ADMINISTRATIVE OFFICER

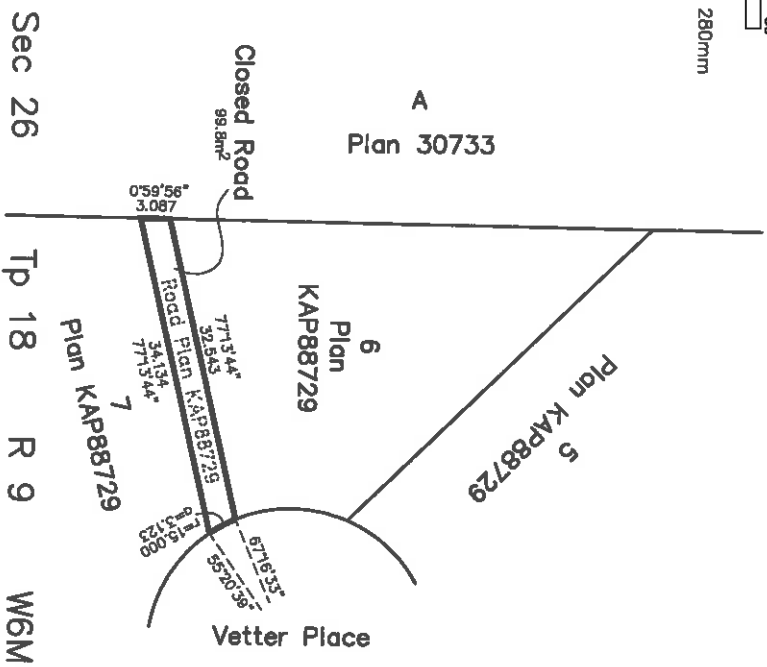
Explanatory Plan to Accompany City of Enderby Road Closure Bylaw Number 1637 of a Portion of Road, Sec 26, Tp 18, R 9, W6M, KDYD, Plan KAP88729

PLAN EPP74934

Pursuant to Section 120 of the Land Title Act and
Section 40 of the Community Charter.
BCGS 82L.055



All distances are in metres.
The intended plot size of this plan is 432mm in width by 280mm
in height (B size) when plotted at a scale of 1:500



This plan lies within the Regional District
of North Okanagan

This plan is based on the following
Land Title and Survey Authority
of BC records:

Plan KAP88729
Joseph Charles Johnson, BCLS (604)
July 31, 2017

BROWNE JOHNSON LAND SURVEYORS
B.C. AND CANADA LANDS
SALMON ARM, B.C. 250-832-9701
File: 384-17

**Certificate Pursuant to Resumption of Highways Regulation
B.C. Reg. 245/2004 as amended by B.C. Reg. 18/2005**

I, Tate Bengtson, Corporate Officer for the City of Enderby hereby certify that:

- a) the municipality has, by Bylaw No. 1637, 2017 under Section 40 of the *Community Charter*,
 - i. closed the highway or portion, and
 - ii. removed its dedication,

- b) the closed highway or portion is not adjacent to,
 - i. a park, recreational area or ecological reserve established under the *Park Act*, the *Ecological Reserve Act* or the *Protected Areas of British Columbia Act*, or
 - ii. an area to which an order under Section 7 (1) of the *Environmental and Land Use Act* applies, and

- c) the land is to be disposed of
 - i. in exchange for land necessary for the purpose of improving, widening, straightening, relocating or diverting a highway, or
 - ii. to one or more adjacent landowners for the purpose of consolidating it with the landowners' existing adjacent parcel or parcels of land.

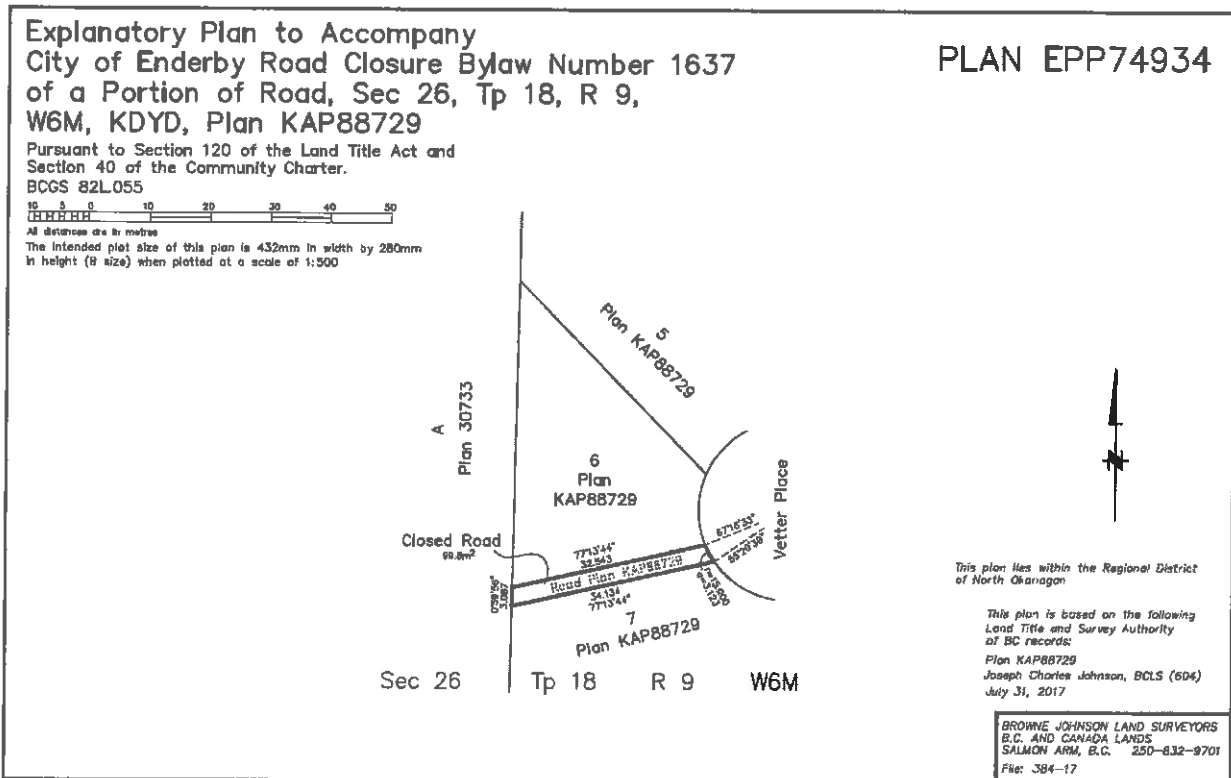
Certified true this day of  

Tate Bengtson, Corporate Officer
City of Enderby

VETTER PLACE ROAD CLOSURE AND REMOVAL OF DEDICATION BYLAW NO. 1637, 2017

Public Notice of Permanent Road Closure, Removal of Highway Dedication and Land Disposal

The City of Enderby intends to close and cancel the dedication as highway of a portion of highway commonly referred to as Vetter Place as shown on the sketch below. The City further gives notice of its intention to dispose of that closed portion of Vetter Place comprising 99.8 m² for \$1.00 to the owner of the property legally described as Lot 6, Section 26, Township 18, Range 9, W6M, KDYD, Plan KAP88729 for the purposes of consolidation.



Vetter Place Road Closure and Removal of Dedication Bylaw No. 1637, 2017 which proposes to close that portion of highway and remove its dedication as highway, will be considered by Council at its regular meeting of September 5, 2017 at 4:30 pm in the Council Chambers of the City of Enderby, 619 Cliff Avenue, Enderby BC. All persons who consider they are affected by the bylaw will be provided an opportunity to make representation to Council at the meeting or by delivering a written submission to the Chief Administrative Officer by 4:30 pm on September 5, 2017. Further inquiries can be directed to the Chief Administrative Officer at 619 Cliff Avenue, Enderby BC or by phone at (250) 838-7230.