



## COUNCIL OF THE CITY OF CASTLEGAR

### Regular Meeting Minutes

Minutes of the regular meeting of the Council of the City of Castlegar held April 2, 2013, 7:00 p.m. in the Community Forum, 445 – 13<sup>th</sup> Avenue, Castlegar, B.C.

**MEMBERS  
PRESENT:**

Mayor Lawrence Chernoff  
Councillor Kevin Chernoff  
Councillor Sue Heaton-Sherstobitoff  
Councillor Deb McIntosh  
Councillor Dan Rye  
Councillor Gordon Turner

**MEMBERS ABSENT:**

Councillor Russ Hearne

**ALSO PRESENT:**

John Malcolm, Chief Administrative Officer  
Andre Buss, Director of Finance  
Chris Barlow, Director of Transportation and Civic Works  
Phil Markin, Director of Development Services  
Carolyn Rempel, Director of Corporate Services  
Gerry Rempel, Fire Chief/Airport Manager  
Public and Media

**CALL TO ORDER:**

There being a quorum present, the Mayor called the meeting to order at 7:07 p.m.

**AGENDA:  
126-13**

Moved and seconded,  
that the agenda be approved as amended by moving Item #103, Development Variance Permit DV-2/12 (3628 – 14<sup>th</sup> Avenue) to immediately after the Delegations, by adding a verbal report under Cultural and Civic Pride, and under Transportation and Civic Works, Reconsideration of Resolution #120-13. Carried.

**PRESENTATION:**

- JAMES MACKAY –  
RECIPIENT OF SNOW  
BUSTER AWARD

Mr. James MacKay was not in attendance.

**DELEGATIONS:**

- MR. DANA SCHMIDT  
- RADON TESTING

Mr. Dana Schmidt attended the meeting to make a presentation to Council entitled: Radon Reduction in Castlegar: Review of 2012 Building Codes and the need for Local Radon Bylaws.

Mr. Schmidt presented background information on the Donna Schmidt Lung Cancer Prevention Society and the work being done with the Castlegar Rotary Club and Golder Associates Ltd. to promote awareness of radon dangers.

Mr. Schmidt discussed the following:

- the pilot home project undertaken last year which resulted in a 98% net reduction of radon from the home;
- the results of the New Home Monitoring Program which identified that 32 of 33 units built with the 2006 BC Building Code radon rough-in standards had three times the average radon levels of the average Castlegar home;
- with regard to radon mitigation, the 2012 BC Building Code is inadequate for Castlegar and may result in higher radon levels compared to older homes;

- radon resistant construction costs less than \$1000 per home compared to \$2500 or more for retrofitting.

Mr. Schmidt discussed the radon solution for Castlegar which includes a requirement for radon testing before issuing an occupancy permit to assure new homes are safe to live in and enacting a bylaw to require radon testing.

The Donna Schmidt Lung Cancer Prevention Society will assist the City should they choose to enact a bylaw and will continue to provide information to the community. The Society is applying for a grant from the Columbia Basin Trust to assist socially disadvantaged homeowners with radon mitigation if their homes are shown to have elevated radon levels.

Councillor McIntosh suggested that this matter be referred to the Planning and Development Committee for further consideration and recommendation to Council.

Mayor Chernoff thanked Mr. Schmidt for his presentation.

- DEVELOPMENT  
VARIANCE PERMIT DV-  
2/12 (3628 – 14<sup>TH</sup>  
AVENUE)

Mayor Chernoff asked that any members of the public in attendance who wish to comment on the proposed issuance of Development Variance Permit DV-2/12 which would permit a front yard setback of approximately 3.5 meters (11.48 feet) for the existing single family dwelling located at 3628 14<sup>th</sup> Avenue, please come forward at this time to present their views to Council.

Mr. Kevin Anderson advised that he was in attendance, along with his wife Rebecca Anderson, to provide a written submission to Council regarding the issuance of Development Variance Permit DV-2/12 (submission attached to and forming part of these minutes as Appendix "1"). Mr. Anderson read his letter into the record.

Mr. Bill McIntosh, applicant for Development Variance Permit DV-2/12, advised that no one was trying to "pull a fast one" in this situation. He stated that he wants to move on and get the property cleaned up. Mr. McIntosh explained that he was unable to attend the Board of Variance hearing on this matter as his mother-in-law had passed away.

Mayor Chernoff called one more time for members of the public to come forward with their comments regarding the proposed permit.

No further comments were received.

127-13  
- DEVELOPMENT  
VARIANCE PERMIT DV-  
2/12 (3628 – 14<sup>TH</sup>  
AVENUE)

Moved and seconded,  
that Council issue Development Variance Permit DV-2/12 to 0911952 B.C. Ltd. to permit a front yard setback of approximately 3.5 meters (11.48 feet) for the existing single family dwelling at 3628 – 14<sup>th</sup> Avenue; and

that the issuance of the Development Variance Permit is conditional on completing the single family dwelling and landscaping of the exterior property within 90 days. Carried.

**MINUTES:**

128-13  
- REGULAR MEETING  
- MARCH 18, 2013

Moved and seconded,  
that the minutes of the regular meeting held March 18, 2013, be approved as presented. Carried.

**REPORTS:**  
**AIRPORT:**

Nil

**COMMUNITY  
WELLNESS & SOCIAL  
SERVICES:**

Nil

**CULTURAL AND CIVIC  
PRIDE:**

129-13  
- MINUTES

Moved and seconded,  
that the draft minutes of the Cultural and Civic Pride Committee  
meeting held March 18, 2013, be received for information. Carried.

130-13  
- DOUKHOBOR  
DISCOVERY CENTRE  
(#13-41)

Moved and seconded,  
that Report No. 13-41, dated February 19, 2013 from the Building  
Official, Mr. Max Hoedeman titled "Doukhobor Discovery Centre",  
be received for information and referred to the 2014 Budget  
discussions. Carried.

131-13  
- SELKIRK SAINTS  
HOCKEY TEAM

Moved and seconded,  
that a letter be sent to the Selkirk Saint Hockey Team and the  
Selkirk College Board of Directors congratulating them on winning  
the 2012/2013 (British Columbia Intercollegiate Hockey League)  
Championship. Carried.

132-13  
- CASTLEGAR REBELS

Moved and seconded,  
that a letter be sent inviting the Castlegar Rebels to attend an  
upcoming meeting of City Council in order for the community to  
recognize their achievement in winning the Kootenay International  
Junior Hockey League Championship. Carried.

**FINANCE AND  
CORPORATE  
SERVICES:**

133-13  
- MINUTES

Moved and seconded,  
that the draft minutes of the Finance and Corporate Services  
Committee meeting held March 26, 2013, be received for  
information. Carried.

134-13  
- GRANT APPLICATION  
- CASTLEGAR SENIOR  
CITIZENS BRANCH 46  
TEA (#13-66)

Moved and seconded,  
that Council approve a \$100.00 grant to the Castlegar Senior  
Citizens Branch 46 to assist with the costs associated with hosting  
the 80's and over seniors tea to be held at the Castlegar Senior  
Centre on May 15, 2013. Carried.

135-13  
- GRANT REQUEST –  
KOOTENAY REGION  
BRANCH UNITED  
NATIONS  
ASSOCIATION IN  
CANADA (KRUNA)  
(#13-67)

Moved and seconded,  
that the grant application from the Kootenay Region Branch United  
Nations Association in Canada (KRUNA) requested \$1,000.00 to  
assist with the costs associated with hosting the event entitled  
"Gathering of the Eagles: Convergence for a Pipeline and Tanker  
Free BC" to be held on June 2, 2013 at the Brilliant Cultural Centre,  
be denied. Carried.

**GREEN:**

Nil

**PLANNING AND  
DEVELOPMENT:**

136-13  
- EMERALD GREEN  
DEVELOPMENTS  
PHASED STRATA  
HISTORY (#13-16)

Moved and seconded,  
that the update report on the history of the Emerald Green Phased  
Strata Development, be received for information. Carried.

137-13  
- MINUTES

Moved and seconded,  
that the draft minutes of the Planning and Development Committee  
meeting held March 27, 2013, be received for information. Carried.

138-13  
- 2012 YEAR END  
DEVELOPMENT  
ACTIVITY REPORT  
(#13-48)

Moved and seconded,  
that the 2012 Year End Development Activity Report, be received  
for information. Carried.

139-13  
- 2012 YEAR END  
BUILDING PERMIT  
REPORT (#13-49)

Moved and seconded,  
that the 2012 Year End Building Permit Report, be received for  
information. Carried.

**PUBLIC SAFETY:**

140-13  
- MINUTES

Moved and seconded,  
that the draft minutes of the Public Safety Committee meeting held  
March 18, 2013, be received for information. Carried.

**TRANSPORTATION  
AND CIVIC WORKS:**

141-13  
- MINUTES

Moved and seconded,  
that the draft minutes of the Transportation and Civic Works  
Committee meeting held March 26, 2013, be received for  
information. Carried.

142-13  
- SMALL VEHICLE  
PURCHASE (#13-60)  
- RECONSIDERATION  
OF MOTION

Moved and seconded,  
that Council reconsider resolution #120-13 (regarding Small Vehicle  
Purchase) which was defeated at the March 18, 2013 Regular  
Council meeting. Carried.

143-13  
- SMALL VEHICLE  
PURCHASE (#13-60)

Moved and seconded,  
that Mayor and Council authorize staff to purchase a new 24' Tilt  
Deck trailer and furthermore, that Mayor and Council authorize staff  
to purchase 4 small vehicles and trade-in or sell 3 vehicles as  
recommended within Report #13-60. Carried.

**R.D.C.K. REPORT:**

144-13  
- CASTLEGAR AND  
DISTRICT  
RECREATION  
COMMISSION  
MINUTES – MARCH 19,  
2013

Moved and seconded,  
that the minutes of the Castlegar & District Recreation Commission  
meeting held March 19, 2013, be received for information. Carried.

**CORRESPONDENCE:**

145-13

Moved and seconded,  
that the appreciation letter from the Castlegar and District Wildlife  
Association, regarding the donation from the Herb Neuman  
Memorial Crib Tournament, be received for information. Carried.

**REPORTS OTHER:**

Nil

**MAYOR'S REPORT:**

- MAYOR CHERNOFF  
VERBAL REPORT

Mayor Chernoff reported on his attendance at the Columbia River  
Treaty Technical Review meeting and the Economic Essentials for  
Local Leaders Workshop.

Mayor Chernoff expressed his appreciation and thanks for the great  
job done by the volunteer firefighters from Castlegar and Robson in  
containing the fire at the St. Rita's Catholic Church. It has been  
reported that two suspects were arrested on March 28th. Mayor  
Chernoff thanked the investigators on the RCMP Crime Prevention  
Unit for the fabulous job they did investing these arsons and  
apprehending the offenders.

Council also acknowledged the professional work done by the local  
media in reporting these incidents.

**NEW & UNFINISHED  
BUSINESS:**

Nil

**BYLAWS:**

Nil

**NEXT MEETINGS:**

Regular Meeting, April 15, 2013, 7:00 p.m. at the Community Forum, 445-13<sup>th</sup> Avenue, Castlegar, B.C.

**NOTICE OF MOTION:**

Nil

**QUESTION PERIOD:**

- MR. RUDIGER  
CLAUSS

Mr. Clauss requested and was provided an explanation with regard to Council's vote this evening to reverse the decision made at the last meeting regarding the small vehicle purchases.

Mr. Clauss noted that there are a number of residents who are still not understanding the City's prohibition on burning of yard and garden waste. Council acknowledged that it will take some time to educate the public on this change.

Mr. Clauss thanked the firefighters and RCMP investigators for their work on the St. Rita's Catholic Church fire.

Mr. Clauss advised that he believes the City should be tougher on enforcing unsightly premises. Council explained that there are legalities involved in enforcing bylaw requirements which can sometimes delay the process.

Mr. Clauss noted that he was pleased with Council's decision to deny the grant request submitted by the Kootenay Region Branch United Nations Association in Canada.

**ADJOURNMENT:**

146-13

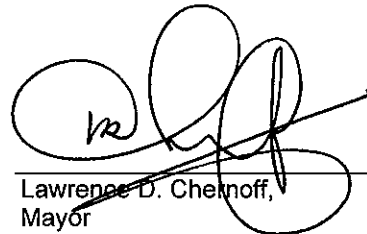
Moved and seconded,  
that the meeting adjourn at 8:43 p.m.

Carried.

**CERTIFIED CORRECT:**



\_\_\_\_\_  
Carolyn Rempel,  
Director of Corporate Services



\_\_\_\_\_  
Lawrence D. Chernoff,  
Mayor



APPENDIX 1 to Regular  
Council Meeting Minutes  
of April 2, 2013

Rec'd April 2/13 CR

*Signed version*

Kevin and Rebecca Anderson  
3625 14<sup>th</sup>-Avenue  
Castlegar, BC, V1N 4J2

April 2, 2013

Carolyn Rempel  
Director of Corporate Services  
460 Columbia Avenue  
Castlegar, B.C., V1N 1G7

FILE: 3090-2010.363

TO: CR

DATE: **APR 03 2013**

**RECEIVED  
CITY OF CASTLEGAR**

**Re: Submission Pertaining to Variance Application for House at 3628-14<sup>th</sup> Avenue**

Dear Ms. Rempel,

This letter is a written submission expressing our views regarding the application for a Development Variance Permit from 0911952 B.C. Ltd to vary sentence 3.2.4 of Zoning Bylaw 800 for the existing house at 3628-14<sup>th</sup> Avenue.

We wish to inform you that we **strongly oppose** the granting of the variance, for several reasons that we will outline below.

Back on August 6, 2012, we submitted a written submission on behalf of over ten local residents opposing the granting of a variance for the above property. The letter was submitted at the Board of Variance hearing on that date. I believe it has been kept on file and should still be considered relevant in this matter. At the hearing verbal submissions were made by me and other concerned residents who all strongly opposed the application, and the Board ultimately ruled to deny the application. The applicant was notably absent, and not one City Official present at the hearing received any contact from the applicant to inform them that he would not attend, presumably because no attempt was made by the applicant to do so.

On March 13, 2013, Mr. Phil Markin made a presentation in Council Chambers on the history of the Emerald Green development, which I attended along with some of my neighbors. We would like to share what we believe are four key observations from that presentation:

1. Although it was an interesting story of the overall development, the specific history of the house in question was noticeably absent. We believe it is the history of this house that is the relevant matter here. It is clear to me and other residents that for some

unknown reason there appears to be a strong reluctance to share the detailed history of the house and property, in particular as it pertains to building inspections and the granting of permits required as outlined in city Bylaw 800. Not only was this absence the case in the presentation of the March 13<sup>th</sup> presentation, but also strongly evident at the Board of Variance hearing of August, 2012;

2. In discussing the presentation with other residents following the meeting, we all agreed that the presentation came across as very one-sided. It was observed that the presentation appeared to be written by the applicant, and I had to agree. The 'story' highlighted hardships and circumstances largely unrelated to the house in question, in what appeared to be an attempt to build sympathy for the applicant, who himself was highlighted in the story. The story appeared to portray the applicant as simply an innocent victim of circumstances outside his control;
3. In attempting to show how other jurisdictions have handled similar situations, Mr. Markin appeared to have only chosen examples of successful applications, and in doing so looked to imply that it is *always* the right decision to grant a variance, especially if there is any hardship involved, regardless of the circumstances that lead to the need for the application in the first place. *Are we to assume from this that all variances applied for after constructions are granted?*
4. Finally, in Mr. Markin's presentation he defined a major setback/boundary application as one seeking a variance of more than 0.4 m. The application in question is seeking a variance of 1.0 m. This is two and a half times greater than the definition of a major variance, so I can only assume that the variance being sought would be described as **extremely large**.

To get to the point, we believe you should deny the variance application for four main reasons:

1. **Property Values**

We believe the property is and will continue to have a significant negative impact on our neighborhood. We are aware of two separate neighbors that recently attempted to sell their homes and received negative comments about their homes being in such close proximity to the house in question. We ourselves had our house on the market in the spring of 2012 and received several negative comments relating to the property across the road from us looking to be **too close to the road – it is very noticeable**. We feel that the house looks extremely out of place and will no doubt fetch a low selling price, adversely affecting our properties and the neighborhood in general. We do not deserve to have our property values or the saleability of our properties adversely affected by this



house/property – city Bylaws are clearly intended to prevent this from happening. We plead that you ask yourselves, would you be granting this **extremely large and unnecessary** variance if the house was not yet constructed, knowing the potential impact described above?

## **2. Hardship / Attitude of the Applicant**

In considering the hardship on the current owner/applicant, we don't believe that he cares about the neighborhood anywhere close to the level he claimed to back at the March 13<sup>th</sup> meeting. If he really cared that much he would have at least taken the very basic steps of adhering to city Bylaw 1120, specifically part two - maintenance of private property:

- 2. No owner or occupier of real property shall allow his property to become or remain unsightly.*
- 3. Every owner or occupier of real property must remove, or cause to be removed, from the property any unsightly accumulations of filth, discarded materials, rubbish, or graffiti.*
- 4. Every owner or occupier of real property must clear the property of any brush, noxious weeds, or other growths.*

To this day, the owner/applicant has made no attempt to remove discarded material (six discarded car tires and other material) or control noxious weeds (grass/weeds in excess of 20 centimetres) that have been there the better part of a year. Attached are recent photographs that show the current condition of the property.

Also relevant to the matter here, is the fact that the current owner and applicant took possession of the property with the knowledge that the house was out of compliance to Bylaw 800 for having an illegal setback. We believe the applicant even proceeded to complete the exterior of the house knowing the home was grossly out of compliance, increasing the potential hardship himself! He is not the victim here – the victims are the residents who live in the vicinity of this unfortunate situation – a situation which should have been averted much sooner than today.

## **3. Accountability**

At no time have we nor other affected residents seen any acceptance of fault from any of the parties involved (the developer, the builder, the inspector, etc.). In fact, to be completely honest, it appears to the residents I have spoken to that there is actually an effort to avoid the truth in the hopes that this all goes away. Where did this breakdown? What assurance can I, my neighbors, or you as city Officials elected to

represent our interests have that this will not repeat itself? A strong message sent here tonight would go a long way to ensuring that other home owners, builders, developers etc. know that city Bylaws **must** be respected, and that they **will** be enforced. Everyone must know that it is at the owner's own peril to ignore them.

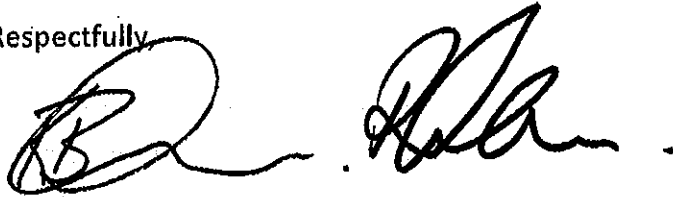
#### 4. Precedence

Finally, in making your decision regarding this application, we feel that you must consider the larger message being given to the community. Is it ok to ignore a Bylaw and seek forgiveness later? There is definitely a danger that the message you would be sending is that it *is acceptable* to ignore Bylaws. In fact, the message could even be that if you ignore a Bylaw, make sure you hide it or delay reporting it since the hardship will only grow and this will improve your odds of receiving the variance you are seeking!

We want to live in a community that respects zoning Bylaws. They are there to protect our residential investment and our quality of living -- they must be respected.

In closing, we would like to say that we believe we have been exceedingly patient with this situation. The house and property has been sitting in an unfinished state for over four years now, and we feel that the right course of action is for the house to be **removed without delay**. We trust that once all the relevant factors have been fairly considered, the City of Castlegar will do the right thing.

Respectfully

Two handwritten signatures in black ink. The first signature is a large, stylized 'B' followed by a horizontal line. The second signature is a cursive name, likely 'Rebecca', followed by a horizontal line.

Kevin and Rebecca Anderson  
3625 - 14<sup>th</sup> Avenue  
Castlegar, BC  
V1N 4J2

Photographs of 3628-14<sup>th</sup> Avenue taken April 2, 2013

