REGULAR COUNCIL MEETING
TO BE HELD AT
THE CITY OF PENTICTON, COUNCIL CHAMBERS
171 MAIN STREET, PENTICTON, BC
ON MONDAY, NOVEMBER 4, 2013
AT 6:00 PM

1. CALL THE REGULAR COUNCIL MEETING TO ORDER:

2. INTRODUCTION OF LATE ITEMS:

3. ADOPTION OF AGENDA:

4. ADOPTION OF MINUTES:

   4.1 Minutes of the October 21, 2013 Regular Council Meeting

5. PRESENTATIONS (5 MINUTES MAXIMUM):

   5.1 Dan Ashton – By-election expense presentation

6. DELEGATIONS: (5 MINUTES MAXIMUM):

   6.2 South Okanagan Immigrant Community Services – Executive Director Anka Novosel, Board Chair Jean Makosz, and Welcoming Committee Coordinator, Nora Hunt-Haft

   6.3 Fintry Queen Paddle Wheeler – Andy Schwab

7. RECONSIDERATION OF BYLAWS AND PERMITS:

   7.1 Zoning Amendment Bylaw 2013-38
       Re: 268 Bassett Street
       28-29 2nd/3rd

   7.2 Good Neighbour Amendment Bylaw 2013-39
       Re: Maintenance of boulevards and sidewalks
       30-31 Adopt

   7.3 Good Neighbour Amendment Bylaw 2013-40
       Re: Pigeons
       32 Adopt

   7.4 Bylaw Notice Enforcement Amendment Bylaw 2013-41
       Re: Feeding of pigeons
       33 Adopt
7.5 Zoning Amendment Bylaw 2013-42
Re: Housekeeping Amendments

8. STAFF REPORTS:

DO 8.1 Lakeview Cemetery Maintenance Contract – 1 Year Extension 36-37 Approve
DDS 8.2 Opal Night Club – 535 Main Street
Re: Liquor License Amendment 38-48 Approve
DDS 8.3 OCP Amendment Bylaw 2013-43
Zoning Amendment Bylaw 2013-44
Close and abandon three 2008 bylaws 49-61 1st Reading
DDS 8.4 Reapplication for Amendment to Development Permit (DP PL2011-003) 63-72 Deny
Re: 1090 Westminster Avenue West
DO 8.5 FortisBC Pole Contact Agreement 73-111 Approve

9. CORRESPONDENCE:

10. COMMITTEE/BOARD REPORTS:

10.1 Arts & Culture Advisory Committee Minutes of October 17, 2013 112-114 Receive
10.2 Penticton Creek Restoration Select Committee Minutes of Oct. 18, 2013 115-116 Receive
10.4 Downtown Revitalization Select Committee Minutes of October 30, 2013 120-122 Receive/Rec.

11. NOTICE OF MOTION:

12. OTHER BUSINESS:

13. RDOS UPDATE:

14. BUSINESS ARISING FROM IN-CAMERA:

15. MEDIA AND PUBLIC QUESTION PERIOD:

16. ADJOURNMENT:
REGULAR COUNCIL MEETING MINUTES  
CORPORATION OF THE CITY OF PENTICTON  
MONDAY, OCTOBER 21, 2013  
CITY HALL COUNCIL CHAMBERS, 171 MAIN STREET, PENTICTON, BC

PRESENT:  Mayor Garry Litke  
Councillor Hopkin  
Councillor Konanz  
Councillor Jakubeit  
Councillor Sentes  
Councillor Vassilaki  
Councillor Robinson  

STAFF:  Annette Antoniak, City Manager  
Dana Schmidt, Corporate Officer  
Anthony Haddad, Director, Development Services  
Mitch Morozuk, Director of Public Works  
Chuck Loewen, GM Recreation Services  
Colin Fisher, Chief Financial Officer  
Simone Blais, Communications Officer  
Angie Collison, Deputy Corporate Officer  

1. CALL TO ORDER

The Mayor called the Regular Council meeting to order at 6:02 p.m.

2. INTRODUCTION OF LATE ITEMS

Item 7.2.1, a Development Permit for Cherry Lane Shopping Centre, was added to the agenda.

3. ADOPTION OF AGENDA

642/2013  
It was MOVED and SECONDED

THAT Council adopt the agenda for the Regular Council meeting held on Monday, October 21, 2013 as amended.  
CARRIED UNANIMOUSLY

4. ADOPTION OF MINUTES

643/2013  
It was MOVED and SECONDED

THAT Council adopt the minutes of the October 7, 2013 Regular Council meeting as presented.  
CARRIED UNANIMOUSLY
644/2013  
**It was MOVED and SECONDED**

THAT Council adopt the minutes of the October 9, 2013 Special Council meeting as presented.  
**CARRIED UNANIMOUSLY**

645/2013  
**It was MOVED and SECONDED**

THAT Council receive for information the minutes of the September 23, 2013 Public Hearing as presented.  
**CARRIED UNANIMOUSLY**

646/2013  
**It was MOVED and SECONDED**

THAT Council receive for information the minutes of the October 7, 2013 Public Hearing as presented.  
**CARRIED UNANIMOUSLY**

5. **PRESENTATIONS**

6. **DELEGATIONS**

6.1 **Friends of the Esplanade**

Mike Arnett and Hannah Pierce, requested Council consider dedicating the Esplanade as a natural City park for the Spring of 2014.

647/2013  
**It was MOVED and SECONDED**

THAT Council accept the report from the Friends of the Esplanade and refer to staff for further investigation.  
**CARRIED UNANIMOUSLY**

6.2 **Salvation Army**

Dale Sobool requested Council reconsider permissive tax exemptions for the Salvation Army properties.

6.3 **South Okanagan Similkameen Brain Injury Society**

Patti MacAhonic and James Palanio requested Council reconsider permissive tax exemption for the South Okanagan Similkameen Brain Injury Society.

6.4 **Seniors’ Drop-In Centre**

Don Wilson and Don Smith requested Council reconsider permissive tax exemption for the Seniors’ Drop-In Centre.
7. RECONSIDERATION OF BYLAWS AND PERMITS

7.1 Bylaw 2013-36 – Zoning Amendment Bylaw No. 2013-36
Re: 380 and 360 Westminster Avenue West

648/2013  It was MOVED and SECONDED

THAT Council adopt Bylaw 2013-36 Zoning Amendment Bylaw.

CARRIED UNANIMOUSLY

649/2013  It was MOVED and SECONDED

THAT “Development Permit PL2013 – 029” for Lot 7 and Lot 8, District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 877, Except Plan B3189 and That Part of Lot 7 and Lot 8 shown on Plan B3189, District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 877, located at 380 and 360 Westminster Avenue West, a permit to allow the renovation of an existing commercial business including the addition of a residential unit on the ground floor be approved.

CARRIED UNANIMOUSLY

Councillor Vassilaki declared a conflict of interest and left the meeting at 6:37 p.m.

7.2 Bylaw 2013-34 – Land Use Contract Amendment Bylaw
Re: 2111 Main Street

650/2013  It was MOVED and SECONDED


CARRIED UNANIMOUSLY

651/2013  It was MOVED and SECONDED

THAT “Development Permit PL2013-041” for Lot 1, District Lot 115 and 116, Similkameen Division Yale District, Plan 53757, located at 2111 Main Street be approved.

CARRIED UNANIMOUSLY

Councillor Vassilaki returned to the meeting at 6:39 p.m.

7.3 Bylaw 2013-32 – Permissive Tax Exemption Bylaw

652/2013  It was MOVED and SECONDED

THAT Council amend Schedule ‘B’ to the “Permissive Tax Exemption Bylaw 2013-32” to include the Salvation Army Food Bank and Thrift Store, South Okanagan Similkameen Brain Injury Society and the Seniors’ Drop-In Centre.

CARRIED UNANIMOUSLY
653/2013  

**It was MOVED and SECONDED**

THAT Council rescind third reading of “Permissive Tax Exemption Bylaw No. 201332”.

CARRIED UNANIMOUSLY

654/2013  

**It was MOVED and SECONDED**

THAT Council give third reading to “Permissive Tax Exemption Bylaw No. 2013-32” to include the amended Schedule ‘B’.

CARRIED UNANIMOUSLY

655/2013  

**It was MOVED and SECONDED**

THAT Council refer to staff for investigation and report back on establishing a Permissive Tax Exemption Policy Review Committee.

CARRIED UNANIMOUSLY

7.4  

Bylaw 2013-37 – Irrigation, Sewer and Water Amendment Bylaw  
Re: Sendero Canyon

656/2013  

**It was MOVED and SECONDED**

THAT Council adopt Bylaw 2013 – 37 Irrigation, Sewer and Water Amendment Bylaw.

CARRIED UNANIMOUSLY

8.  

**STAFF REPORTS**

8.1  

2379 Wiltse Dr. – Remedial Action Order

Delegation: nil

657/2013  

**It was MOVED and SECONDED**

THAT Staff proceed with the “Declared Hazard” remedial action order for the wood retaining wall structure located at the east property line at 2379 Wiltse Drive legally described as Lot 9, Registered Plan KAP82007.

CARRIED UNANIMOUSLY

8.2  

Beer/Wine Garden Licence – Apex Ski Club

658/2013  

**It was MOVED and SECONDED**

THAT Council approve the Beer/Wine Garden Licence for the Warren Miller Film Viewing hosted by the Apex Ski Club at the Cleland Theatre, November 20, 2013 from 6:00 p.m. to 9:00 p.m.

CARRIED UNANIMOUSLY
8.3 Development Variance Permit
Re: 797 Winnipeg Street

Delegations: James Brown, 120 - 2872 Skaha Road, has no objections to the Development Variance Permit.

659/2013  
It was MOVED and SECONDED

THAT Council support “Development Variance Permit PL2013-48” for Lot C, District Lot 202, Similkameen Division Yale District, Plan 584, Except Plan B5854, located at 797 Winnipeg Street, a permit to waive the parking requirements of Section 7.1.1.4 of Zoning Bylaw 2011-23, allowing for the installation of 2 new suites in an existing 24-unit building without the requirement to provide new parking spaces.

AND THAT staff be directed to issue the permit.  
CARRIED UNANIMOUSLY

8.4 Zoning Amendment Bylaw 2013-38
Re: 268 Bassett Street

660/2013  
It was MOVED and SECONDED

THAT “Zoning Amendment Bylaw No. 2013-38” being a bylaw to amend the “City of Penticton Zoning Bylaw 2011-23” to rezone Lot 5, District Lot 2, Group 7, Similkameen Division Yale (formerly Yale Lytton) District Plan 3520, located at 268 Bassett Street, from RM2 (Low Density Residential) to RD2 (Duplex Housing: Lane) be introduced, read for the first time and forwarded to the November 4, 2013 Public Hearing for public comment;

THAT “Development Permit PL2013-050”, a permit to allow for the construction of a duplex on Lot 5, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District Plan 3520, located at 268 Bassett Street be supported, subject to adoption of “Zoning Amendment Bylaw No. 2013-38”;

AND THAT staff be directed to issue the permit upon adoption of “Zoning Amendment Bylaw No. 2013-38”.  
CARRIED UNANIMOUSLY

8.5 Zoning Amendment Bylaw 2013-42
Re: Housekeeping Amendment

661/2013  
It was MOVED and SECONDED

THAT “Zoning Amendment Bylaw 2013-42” being a bylaw to amend “Zoning Bylaw 2011-23” be introduced, read a first time and forwarded to the November 4, 2013 Public Hearing.  
CARRIED UNANIMOUSLY
It was MOVED and SECONDED

THAT Council amend “Good Neighbour Bylaw No. 2012-5030”, as follows:

Addition of New Section 7.2 (l):

i) the feeding or otherwise attract or allow, cause or permit the feeding of pigeons, such that the pigeons cause a nuisance. (nuisance as defined in Schedule A)

AND THAT Schedule D to the Good Neighbour Bylaw 2012-5030, be amended to add the definition of:

“Feeding” or “feed” includes regular or intermittent supply of food, or allowing the placing or maintenance of a supply of food on a regular or intermittent basis, which food is accessible by pigeons.

AND THAT “Good Neighbour Amendment Bylaw No. 2013-40” be given first, second and third reading and forwarded to the November 4, 2013 Regular Meeting of Council for adoption.

CARRIED UNANIMOUSLY

It was MOVED and SECONDED

THAT Council amend Schedule A, Appendix 11 to the “Bylaw Notice Enforcement Bylaw 2012-5037” to add the following Nuisance fine:

<table>
<thead>
<tr>
<th>Description of Offence</th>
<th>Bylaw Section</th>
<th>Column A1 Fine</th>
<th>Column A2 Early Payment Penalty</th>
<th>Column A3 Late Payment Penalty</th>
<th>Column A4 Compliance Agreement Available</th>
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</thead>
<tbody>
<tr>
<td>GENERAL REGULATIONS</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Feeding of pigeons</td>
<td>7.2(l)</td>
<td>$100</td>
<td>$90</td>
<td>$110</td>
<td>Yes</td>
</tr>
</tbody>
</table>

AND THAT “Bylaw Notice Enforcement Amendment Bylaw No. 2013-41” be given first, second and third reading and forwarded to the November 4, 2013 Regular Meeting of Council for adoption.

CARRIED UNANIMOUSLY
8.7 Good Neighbour Amendment Bylaw 2013-39
Re: Maintenance of boulevards and sidewalks

664/2013
It was MOVED and SECONDED

THAT “Good Neighbour Amendment Bylaw No. 2013-39” a bylaw to amend the Boulevard Maintenance requirements by replacing section 7.3 of Good Neighbour Bylaw No. 2012-5030 be given first, second and third reading and be forwarded to the November 4, 2013 Regular Meeting of Council for adoption.

CARRIED
Councillor Konanz and Councillor Hopkin Opposed

8.8 2013 Citizen Survey

665/2013
It was MOVED and SECONDED

THAT Council receive the 2013 Citizen Survey Report for information.

CARRIED UNANIMOUSLY

8.9 FortisBC Supply of Electricity Wholesale Service Agreement

666/2013
It was MOVED and SECONDED

THAT Council approve the “Agreement for the Supply of Electricity Wholesale Service” between FortisBC and the City of Penticton for a five year term with the ability to renew on the same terms and conditions for a further five years, as included in Attachment “A”;

AND THAT Council authorize the Mayor and Corporate Officer to execute the Agreement.

CARRIED UNANIMOUSLY

8.10 Seasonal and Off-Seasonal Mobile Vending for 2014

667/2013
It was MOVED and SECONDED

THAT Council approve the seasonal and off seasonal motorized mobile vending proposal for 2014; and

THAT Council approve the seasonal non-motorized mobile vending proposal for 2014; and

THAT Council direct staff to prepare an amendment to Fees and Charges Bylaw No. 2012-5015 to include the new motorized and non-motorized mobile vending fees and permit structure for 2014 Mobile Vending permits.

CARRIED UNANIMOUSLY
8.11 Protective Services Advisory Committee  
Re: Terms of Reference and Appointments

668/2013  
It was MOVED and SECONDED  
THAT Council approve the 2013-2014 Protective Services Advisory Committee Terms of Reference;  
AND THAT Council direct staff to advertise for members for the Protective Services Advisory Committee.  
CARRIED UNANIMOUSLY

8.12 2013 Third Quarter Report

669/2013  
It was MOVED and SECONDED  
THAT Council receive the quarterly update on Council strategic priorities and staff departmental work plans for the period of July 1 to September 30, 2013 for information.  
CARRIED UNANIMOUSLY

9. CORRESPONDENCE

10. COMMITTEE/BOARD REPORTS

10.1 Agriculture Advisory Committee Minutes of September 30, 2013

670/2013  
It was MOVED and SECONDED  
THAT Council receive for information the minutes of the Agriculture Advisory Committee meeting of September 30, 2013.  
CARRIED UNANIMOUSLY

671/2013  
It was MOVED and SECONDED  
THAT the Agriculture Advisory Committee recommends to Council to support the appointment of Dr. Gordon Neish as a member of the LLRTC Committee;  
AND THAT Dr. Gordon Neish be included in the final revisions of the LLRTC Policy & Procedures going forward to Council in January 2014.  
CARRIED UNANIMOUSLY
10.2 Transportation Advisory Committee Minutes of October 9, 2013

672/2013 It was MOVED and SECONDED

THAT Council receive for information the minutes of the Transportation Advisory Committee meeting of October 9, 2013.  

CARRIED UNANIMOUSLY

673/2013 It was MOVED and SECONDED

THAT the Transportation Advisory Committee recommends to Council to amend the Terms of Reference to include a BC Transit Representative;

AND THAT the appointed representative be allowed to join the meeting via telephone conference when required.  

CARRIED UNANIMOUSLY

10.3 Waterfront Enhancement Select Committee Minutes of October 15, 2013

674/2013 It was MOVED and SECONDED

THAT Council receive for information the minutes of the Waterfront Enhancement Select Committee meeting of October 15, 2013.  

CARRIED UNANIMOUSLY

675/2013 It was MOVED and SECONDED

THAT the Waterfront Enhancement Select Committee recommends to Council to deny support for the installation of a Caboose at the Marina Way Lookout.  

CARRIED  
Councillor Vassilaki and Councillor Robinson, Opposed

676/2013 It was MOVED and SECONDED

THAT Council endorse the concept of a Flat Car on the Marina Way Lookout Park.  

CARRIED  
Councillor Sentes, Councillor Vassilaki, and Councillor Jakubeit, Opposed

677/2013 It was MOVED and SECONDED

THAT Council refer the recommendation to deny support for any moorage at the SS Sicamous which has been explored and deemed to be unfeasible to the Waterfront Enhancement Select Committee for clarification and to the budget cycle.  

CARRIED UNANIMOUSLY
10.4 Waterfront Oversight Committee Minutes of October 15, 2013

678/2013

It was MOVED and SECONDED

THAT Council receive for information the minutes of the Waterfront Oversight Committee meeting of October 15, 2013.

CARRIED UNANIMOUSLY

11. NOTICE OF MOTION

12. OTHER BUSINESS

13. RDOS UPDATE

14. BUSINESS ARISING FROM IN-CAMERA MEETING

Council would like to invite Andy Schwab to an upcoming meeting of Council regarding locating the Fintry Queen on the Penticton Waterfront.

15. MEDIA AND PUBLIC QUESTION PERIOD

16. ADJOURNMENT

679/2013

It was MOVED and SECONDED

THAT Council adjourn the Regular Council meeting held on Monday, October 21, 2013 at 8:35 p.m.

CARRIED UNANIMOUSLY

CERTIFIED CORRECT: CONFIRMED:

_________________________________________ ______________________________
Dana Schmidt  Garry Litke
Corporate Officer  Mayor
October 30, 2013
City of Penticton

Presentation for City Council for November 4, 2013

We seek Council's support:

"to proceed with a Sub-License for a commercial water lot lease for the M.V. Fintry Queen, upon approval by the Province."

With City Council's support, we will commence the design and permitting to moor and operate the M.V. Fintry Queen as a commercial passenger ship at a dock to be constructed adjacent to the Kiwanis Pier at the foot of Main and Martin Streets.

The Fintry Queen will:

* become a landmark tourist attraction, for residents and travellers within the community
* be an economic generator thru direct jobs and spin-offs
* be a focal point for meetings, events and activities
* increase safety and public facilities along the waterfront
* be a partner and contributor in the development of the regional tourism plan
* add a unique experience on our waterfront
Financial Considerations

The owner’s of the Fintry Queen are not asking for any money from the City. Business plans include costs for permits and dock construction, utilities services and annual lease payments.

Proposed Operations

With Council’s support, the Fintry Queen will commence plans for scheduled operations by next summer (2014) offering 2-3 cruises per day and charter service.

We estimate 28,000+ passengers will board from the downtown Kiwanis Pier location during 2014.

The ship will become a new resource for residents of this community, a world class attraction for meetings, banquets and weddings, for conferences and sports events. A landmark that contributes to Penticton’s appeal and creates lifetime memories.

Food Primary and Liquor Primary Permits

The ship has a fully equipped commercial galley, with food and bar service facilities on two decks. The Main Deck forward lounge and dining rooms have heating and air conditioning.

The Fintry Queen held LCLB permits in 2009 for a "Food Primary" license for 280 patrons and a "Liquor Primary" license for 225 patrons which permitted minors to be present.

Both licenses listed "Hours of Sale" from 11:00 AM - 1:00 AM (Sundays - Midnight)

Dockside liquor service was permitted in accordance with local government approval or up to a maximum of one hour prior to a scheduled sailing. Liquor service to cease at least 30 minutes prior to docking.

Planning and Timing

With Council’s approval, the following reports and permits will be proceeded with:

1) Survey of Water Lease Lot - adjacent to Kiwanis Pier
2) City of Penticton – Planning & Fire Dept, budgets & permits
3) Commercial Sub-License of Occupation with City/Province.
4) Environmental Assessment (BC Min of Env – Section 9 Water Act Permit)
5) Transport Canada – Navigable Waters Permit
6) BC Interior Health – Food Safety Program
7) Transport Canada - Hull & Crew Inspections
8) Installation of foreshore utilities & services
9) Construction of pilings, dock, lights & ramp
Acknowledgements

The owners of the Fintry Queen would like to express their thanks to certain individuals within these organizations for their kind assistance and support in making this presentation possible:

Economic Development Office - City of Penticton
Downtown Penticton Association
Penticton Tourism
Penticton Hospitality Association
Regional District of South Okanagan
Community Futures Okanagan Similkameen

Conclusion

The Fintry Queen is a landmark tourist attraction that will draw thousands of residents and travellers to Penticton’s downtown. The ship’s ability to deliver a "one of a kind" unique memory and experience for young and old passengers, will make it a favourite "thing to do" in the South Okanagan.

Hotels, resorts, convention goers, sports groups, businesses & residents - all will benefit from the Fintry Queen’s presence.

Thank-you for your time and consideration.

Sincerely,

Andy Schwab
Okanagan Lake Boat Company Inc.
“Penticton is a vibrant, innovative, adventurous waterfront City....”
28,000 Passengers annually over a 10 Year Average

Penticton departures:
2014 – 268 Cruises
2015 – 377 Cruises
2016 – 682 Cruises

Cruise the Lake
Experience the Natural Beauty of the Okanagan Valley and the Legend of Ogopogo

FINTRY QUEEN
Paddlewheeler
Family Fun for over 50 Years
Dining & Dancing
Seven Nights a Week
Dinner Cruises
(250) 763-2700

Daily Sailing
Departs
12:00 PM 1:30 PM
3:00 PM 4:30 PM
7:00 PM 9:00 PM

Returns
Sundays Only 5:30 PM – 8:15 PM
Friday & Sat Nights: 9:30 PM – 12:00 Midnight
A Bar-B-Q Lunch is served daily on the forward deck from 12:00 Noon – 4:00 PM.
There is a Concession, A La Carte Menu and Licensed Service offered on all cruises.

Cruise Ticket
Adults $9.00
Seniors $8.00
Youth (12 & under) $6.00
Child (6 & under) $5.00
Rates available for Groups of 25 or more.

Dinner & Cruise Packages
Buffet Dinner served nightly, seating at 5:30 PM before departure, and at 7:30 PM while cruising.
Adults $24.50
Seniors $23.50
Youth (12 & under) $14.50
Child (6 & under) $10.50
Rates available for Groups of 25 or more.
Sunday's 5:30 PM Dinner Cruise travels south under the Okanagan Lake Floating Bridge.
Taxes and beverages not included in above prices. Prices subject to change without notice.

Specials
Meeting Rooms available dockside or while cruising. Ask about Charters, Weddings, Banquets or hosting Special Events.

For reservations & information call:
Ph: (250) 763-2700
Fax: (250) 763-3754
www.fintreyqueen.com
emil@fintreyqueen@postmaster.com
Fintry Queen - Main Deck

Overall Dimensions
The Length Overall is 154'
The Width Overall is 41'

General Layout
The Main Deck comprises a Dining Lounge with
Dance Floor, Full Bar, Washrooms, Galley,
Oyster Bar Lounge and Outdoor Seating Area.

Passenger Capacities
120 Dining Room - Table Seating with Buffet
75 Oyster Bar Lounge - Table seating
15 Forward Outdoor Seating Area

Liquor License Directives
"B" Dining Lounge License for 280 Patrons
Dining Room Hours 11:00 AM - 1:00 AM
Liquor Service permitted at Dockside
Patrons must have food

Fintry Queen - Promenade Deck

Overall Dimensions
The Length Overall is 154'
The Width Overall is 41'

Total Passenger Capacities
108 Number of Passengers inclusive of 7 crew.
136 Number of Passengers inclusive of 8 crew.

General Layout
The Upper Deck comprises a Forward Outdoor
Patio Deck, Gift Shop, Snack Bar & Pub with
Drinks, Beer and Liquor, and a Semi-Enclosed
Refrigerated Deck

Promenade Deck
100 Bench Seats in Rear Patio Area
75 Seats & Tables on the Outdoor Deck

The rear Promenade Deck is weather protected but
see through blinds that can be drawn down for
high winds or inclement weather conditions.

Liquor License Directives
"A" Pub License for 235 Patrons
Dockside sales permitted only prior to sailing
Minors Permitted
Ticketed Cruises permitted w/o food
Improvements 2006 – 2008

An estimated $800,000 was spent to modernize the ship’s systems.

- New wiring including all panels.
- Fire suppression system with tank.
- Sprinklers, alarms, hull intake.
- Stainless shaft & bronze propellers.
- Communications system.
- Sonar.
- Squirrel Terminals (6) for restaurants.
- Painted and cleaned 2008.
- Back-up generator on top deck.
- Rebuild main engines.
- Top deck outside Barbeque.
- Lighting per Transport Canada.
The engine room looking aft... two main drive diesel engines.
FINTRY
QUEEN

FROM MASTS + EXTERIOR RAILINGS

DECORATIVE HERALDIC CRESTS
PAINTED ON MDF BOARD PLAQUES
AND 'ANTIQUED'
THEATRE-STYLE DRAPES WITH FRINGES ETS. FIXED TO BULKHEADS WITH VELCRO

OGB 2222
22" W x 22" H x 1" THICK GINGERBREAD BRACKET CHEMCREST (TANEX IND.)

FABRIC PANELS LACED THROUGH EYELETS TO BALLUSTRADE

CRM 412 (CROWN)
32' x 38'
TANEX IND.

1000 SPECAL

4808
PLANT STAND W/ FANCY TOP: 48" HIGH CHEMCREST CATALOG TANEX IND.

Embedded image: A graphic design of a theater interior with detailed annotations for drapes, bulkheads, and other decorative elements.
Sustainability, community, economic opportunity

- $300,000 investment into dock, water and sanitation
- 40-60 new jobs, $300,000/yr. in wages & benefits.
- $500,000 yr. in goods and services.
- New revenue for the City.
- “Something to do “ for the family.
- Activity on the waterfront – safety at night.
- Penticton’s.

Risk Reductions

- Dock at no cost to the City
- Moorage reverts back to the City
- Pilings and docks – 100% removable & re-useable
- City protected in Sub-License and LCLB agreements
- Financing, permitting and construction completed before the ship arrives.
Approval & Permitting Process

Council support to proceed with permitting....

<table>
<thead>
<tr>
<th>Service Description</th>
<th>Cost</th>
<th>Time Frame</th>
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<tbody>
<tr>
<td>Commercial Sub-License of Occupation</td>
<td>$15,000</td>
<td>up to 1 Yr.</td>
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<tr>
<td>Survey of Water Lot (approx 4000 sq.m.)</td>
<td>$3,000</td>
<td>1 mth</td>
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<tr>
<td>Environmental Assessment (Ecoscape Enviro)</td>
<td>$6,000</td>
<td>2-3 mths</td>
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<tr>
<td>BC Min of Env – Section 9 Water Act Permit</td>
<td>$130</td>
<td>2-3 mths</td>
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<tr>
<td>Transport Canada – Navigable Waters Permit</td>
<td>$2,500</td>
<td>2-3 mths</td>
</tr>
<tr>
<td>City of Penticton – Installation of Utilities &amp; Services</td>
<td>$200,000</td>
<td>2-3 mths</td>
</tr>
<tr>
<td>Construction of Dock, lights and pilings</td>
<td>$50,000</td>
<td>1-2 mths</td>
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<tr>
<td>City of Penticton – Annual Lease payment</td>
<td>$15,000</td>
<td>annual</td>
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<tr>
<td>LCLB Food Primary &amp; Liquor Primary</td>
<td>$2,675</td>
<td>2-3 mths</td>
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<td>BC Interior Health – Food Safety Program</td>
<td>$500</td>
<td>2-3 mths</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$294,805</strong></td>
<td>May /June</td>
</tr>
</tbody>
</table>
Long-term benefits for Penticton residents & the community

1) A landmark tourist attraction for the South Okanagan.
2) Attracts people downtown – proven history.
3) Increases safety along the boardwalk – day & night.
4) Encourages investment - business growth & development.
5) Presents a new transportation choice – safe travel alternative.
6) Provides access to Okanagan Lake – creating memories.
7) Honours the “paddlewheeler” tradition.
8) New jobs, more services, facilities and opportunities for others.
9) Contributes towards “a vibrant, innovative, adventurous waterfront City”
"We seek Council’s support to proceed with the planning and permits for a commercial moorage lease for the M.V. Fintry Queen."
THE CORPORATION OF THE CITY OF PENTICTON

BYLAW NO. 2013-38

A BYLAW TO AMEND ZONING BYLAW 2011-23

WHEREAS the Council of the City of Penticton has adopted a Zoning Bylaw pursuant the Local Government Act;

AND WHEREAS the Council of the City of Penticton wishes to amend Zoning Bylaw 2011-23;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. **TITLE:**
   
   This bylaw may be cited for all purposes as “Zoning Amendment Bylaw 2013-38.”

2. **AMENDMENT:**
   
   Zoning Bylaw 2011-23 is hereby amended as follows:

   2.1 “rezone Lot 5, District Lot 2, Group 7, Similkameen Yale (Formerly Yale Lytton) District Plan 3520, located at 268 Bassett Street, from RM2, (Low Density Residential) to RD2, (Duplex Housing: Lane), as indicated on the attached plan marked Schedule "A".

READ A FIRST time this 21 day of October, 2013
A PUBLIC HEARING was held this 4 day of November, 2013
READ A SECOND time this day of , 2013
READ A THIRD time this day of , 2013
RECEIVED the approval of the Ministry of Transportation on the day of , 2013
ADOPTED this day of , 2013

Notice of intention to proceed with this bylaw was published on the 25th day of October, 2013 and the 30th day of October, 2013, in the Penticton Western newspaper, pursuant to Section 94 of the Community Charter.

Garry Litke, Mayor

Approved pursuant to section 52(3)(a) of the Transportation Act this _______ day of ____________________, 20____

for Minister of Transportation & Infrastructure

Dana Schmidt, Corporate Officer
268 Bassett Street
Rezone from RM2 (Low Density Residential) to RD2 (Duplex Housing: Lane)
WHEREAS the Council of the City of Penticton has adopted a Good Neighbour Bylaw pursuant the Community Charter;

AND WHEREAS the Council of the City of Penticton wishes to amend Good Neighbour Bylaw 2012-5030;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. **TITLE:**

   This bylaw may be cited for all purposes as “Good Neighbour Amendment Bylaw 2013-39.”

2. **AMENDMENT:**

   2.1 “Good Neighbour Bylaw 2012-5030” is hereby amended as follows:

     Remove existing Section 7.3 and replace with the following:

     **Boulevard Maintenance**

     7.3.1 Every owner or occupier of Real Property shall keep boulevards, lanes and sidewalks directly adjacent to their Real Property clear of debris or rubbish, including the removal of:

     a) Accumulations of leaves, grass clippings, branches and other extraneous vegetation or landscape material;

     b) Gravel, rocks, dirt or other loose materials that are not part of the landscaping or surface cover of the boulevard;

     c) Animal waste, including dog feces, pigeon droppings and feathers;

     d) Any objects that obstruct the usage of a lane or sidewalk or create a hazardous situation.

     7.3.2 Every owner or occupier of Real Property shall maintain in a clean, tidy and well-kept condition, the landscaped portion of the boulevard directly adjacent to their Real Property (on both sides of a sidewalk), from the property line to the back of curb, or road including:

     a) Seeding, irrigating as needed, trimming and cutting of turf;

     b) Removing noxious weeds;

     c) Trimming shrubs, ornamental grasses and other landscaping below a maximum height of 0.5 meters and in a reasonable standard of maintenance;

     d) Notwithstanding this section, pruning of boulevard trees, removing dead branches and trimming branches away from power lines is not the requirement of the owner or occupier; this will be completed by the City.
READ A FIRST time this 21 day of October, 2013
READ A SECOND time this 21 day of October, 2013
READ A THIRD time this 21 day of October, 2013
ADOPTED this day of , 2013

Garry Litke, Mayor

Dana Schmidt, Corporate Officer
WHEREAS the Council of the City of Penticton has adopted a Good Neighbour Bylaw pursuant the Community Charter;

AND WHEREAS the Council of the City of Penticton wishes to amend Good Neighbour Bylaw 2012-5030;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. **TITLE:**

   This bylaw may be cited for all purposes as “Good Neighbour Amendment Bylaw No. 2013-40.”

2. **AMENDMENT:**

   2.1 “Good Neighbour Bylaw No. 2012-5030” is hereby amended as follows:

      Addition under section 7.2:

      (l) the feeding or otherwise attract or allow, cause or permit the feeding of pigeons, such that the pigeons cause a nuisance. (nuisance as defined in Schedule A)

   2.2 Amend Schedule D to add the definition:

      “Feeding or “feed” includes regular or intermittent supply of food, or allowing the placing or maintenance of a supply of food on a regular or intermittent basis, which food is accessible by pigeons.

READ A FIRST time this 21 day of , 2013
READ A SECOND time this 21 day of , 2013
READ A THIRD time this 21 day of , 2013
ADOPTED this day of , 2013

Garry Litke, Mayor

Dana Schmidt, Corporate Officer
THE CORPORATION OF THE CITY OF PENTICTON
BYLAW No. 2013 - 41

AN AMENDMENT TO REGULATE ENFORCEMENT OF BYLAW NOTICES

WHEREAS pursuant to the Local Government Bylaw Notice Enforcement Act and the Community Charter, the City may establish fine amounts for contravention of City bylaws;

AND WHEREAS the City of Penticton has adopted “Bylaw Notice Enforcement Bylaw No. 2012 – 5037”;

AND WHEREAS the City of Penticton wishes to amend Schedule ‘A’ to “Bylaw Notice Enforcement Bylaw No. 2012 - 5037”;

NOW THEREFORE the Municipal Council of The Corporation of the City of Penticton in open meeting assembled ENACTS as follows:

TITLE:
1. This Bylaw may be cited as the “Bylaw Notice Enforcement Amendment Bylaw No. 2013 - 41.”

AMENDMENT:

2. Add the following nuisance fine to Schedule ‘A’ Appendix 11:

<table>
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<th>Description of Offence</th>
<th>Bylaw Section</th>
<th>Column A1 Fine</th>
<th>Column A2 Early Payment Penalty</th>
<th>Column A3 Late Payment Penalty</th>
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<td>7.2(l)</td>
<td>$100</td>
<td>$90</td>
<td>$110</td>
<td>Yes</td>
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</table>

READ A FIRST time this 21 day of October, 2013
READ A SECOND time this 21 day of October, 2013
READ A THIRD time this 21 day of October, 2013
ADOPTED this day of , 2013

Garry Litke, Mayor

Dana Schmidt, Corporate Officer
WHEREAS the Council of the City of Penticton has adopted a Zoning Bylaw pursuant the Local Government Act;

AND WHEREAS the Council of the City of Penticton wishes to amend Zoning Bylaw 2011-23;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. **TITLE:**
   
   This bylaw may be cited for all purposes as “Zoning Amendment Bylaw 2013-42."

2. **AMENDMENT:**

   Zoning Bylaw 2011-23 is hereby amended as follows:

   2.1 Delete section 5.4.1 and replace with the following:

   **5.4.1** Notwithstanding any other provision of this Bylaw, the underside of any floor system, or top of any pad supporting any space or room used for habitation, institutional use, assembly use, tourist accommodation use, business or storage of goods damageable by floodwaters including any mobile home or unit shall not be located:

   a. within 7.5 m of the natural boundary of Okanagan Lake nor lower than elevation 343.66 m Geodetic Survey of Canada datum for Okanagan Lake;
   b. within 7.5 m of the natural boundary of Skaha Lake nor lower than elevation 339.24m G.S.C. datum for Skaha Lake; nor
   c. within 15 m of the natural boundary of any other nearby watercourse; nor lower than 1.5 m above the natural boundary of any other nearby watercourse in the immediate flood hazard area.
   d. within 30 m of the water level boundary of the Okanagan River channel nor lower than 1.5 m above the water level of the Okanagan River channel. The southern limit of the Okanagan Lake flood control requirements shall be from the centre line of the Okanagan River channel dam along Lakeshore Drive east to the point where the natural ground elevation exceeds 343.66 m.

   2.2 Delete section 1.6.2 and replace with the following:

   A building or structure for a residential sales centre for the sales of units of a building under construction or lots for sale in a subdivision shall be permitted in all zones for as long as it is necessary for the construction and sales in progress to be completed.

   2.3 Delete section 4.2 definitions for Building Grade; Wall Face; Floor Area, Gross (GFA); and Mobile Vending Cart and replace with the following:

   **BUILDING GRADE** means the lowest of the average levels of finished ground adjoining each exterior wall of a building, except that localized depressions need to be considered in the determination of average levels of finished ground.
**FLOOR AREA, GROSS (GFA)** means the total floor area of all storeys of all **buildings** or **structures** with a clear ceiling height of 1.8 meters or more, measured from the outside face of the exterior walls or glazing line of windows. This does not include enclosed or open parking areas, unenclosed balconies and decks.

**MOBILE VENDING CART** means a self-contained push cart or similar mobile device not exceeding 20m² in ground coverage intended to be moved from location to location for the purpose of offering for sale food products, beverages or flowers.

2.4 Delete section 5.11.1 and replace with the following:

Certain types of architectural features are permitted to project from a **building** or a **structure** in a required **yard** in accordance with Table 5.1.

2.5 Delete section 9.2.1.10 and replace with the following:

.10 one single detached dwelling

2.6 Delete section 9.3.1.3 and replace with the following:

.3 one single detached dwelling

READ A FIRST time this 21 day of October, 2013
A PUBLIC HEARING was held this 4 day of November, 2013
READ A SECOND time this day of , 2013
READ A THIRD time this day of , 2013
ADOPTED this day of , 2013

Notice of intention to proceed with this bylaw was published on the 25th day of October, 2013 and the 30th day of October, 2013, in the Penticton Western newspaper, pursuant to Section 94 of the **Community Charter**.

__________________________
Garry Litke, Mayor

__________________________
Dana Schmidt, Corporate Officer
COUNCIL REPORT

DATE: November 04, 2013
TO: Annette Antoniak, City Manager
FROM: Len Robson, Public Works Manager
RE: Lakeview Cemetery Maintenance Contract – 1 Year Extension

STAFF RECOMMENDATION:

THAT the Lakeview Cemetery Maintenance Contract 2009-2013 presently held by S. Collier Enterprises be extended one additional year for the amount of $115,200 (plus applicable taxes) for the term beginning on January 01, 2014, concluding on December 31, 2014.

AND THAT the Mayor and the Corporate Officer be authorized to execute the necessary documents on behalf of the Corporation of the City of Penticton.

FINANCIAL IMPLICATIONS:

The contract pricing has been a constant $110,400 plus taxes per year for the last 5 years. The proposed 2014 price is $115,200 which equates to an increase of approximately 4.34%. Based on the CANSIM Table 326-0021 for BC CPI the annual rates of CPI increase from 2009 to January 2013 are as follows:

- 2009 – 0%
- 2010 – 1.3%
- 2011 – 2.4%
- 2012 – 1.1%

If the annual rate was increased by BC CPI for the last 4 years the current contract price would be $115,780 as of January 01, 2013.

The 2014 budget submission accounts for this increase.

STRATEGIC PRIORITY OBJECTIVE:

N/A

BACKGROUND:

The City of Penticton utilizes the services of S.Collier Enterprises to perform the maintenance at the Lakeview Cemetery. Scott Collier has held this contract since being awarded the 2009 proposal call. The contract is set to expire December 31st, 2013.

The services provided are as follows:

- Interment of human remains
- Plaque and memorial installation and maintenance
- Maintenance of columbarium gardens
The contract price for the 5 years was a constant $110,400 per year with no increases built in. Scott Collier has indicated in writing that he is interested in extending the contract including all terms and conditions for one additional year for a fee of $115,200 plus applicable taxes.

The recently completed 2013 Cemetery Master Plan suggests investigating changes in operations and site configuration. Staff will be contemplating these changes as part of the 2014 work plan and intends on including these in the terms and conditions of the 2015 – 2019 Lakeview Cemetery Proposal Call.

ANALYSIS

Extending the contract one additional year and deferring the Lakeview Cemetery Maintenance Request for Proposals accordingly will give staff the required time to develop the terms and conditions in accordance with the 2013 Cemetery Master Plan recommendations.

Over the past 5 years the contractor has done a good job on all aspects of the cemetery maintenance, he is knowledgeable, pleasant to deal with, and we have not received any complaints from the public that would indicate otherwise.

As the contract prices have remained the same for the past 5 years the increase to $115,200 is a reasonable request for the services provided given that the contract if increased by the rate of BC CPI would be $115,780 plus taxes as of January 01, 2013.

ALTERNATE RECOMMENDATIONS:

1. Not award the contract extension to S. Collier Enterprises and direct Staff to commence with a proposal call for the maintenance services of the Lakeview Cemetery.

ATTACHMENTS:

N/A

Respectfully submitted,

Len Robson, AScT
Public Works Manager

Concurrences:

<p>| | |</p>
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<tr>
<td>Chief Financial Officer</td>
<td>CF</td>
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</table>
COUNCIL REPORT

DATE: 4th November 2013
TO: Annette Antoniak, City Manager
FROM: Ken Kunka, Building and Permitting Manager
RE: Liquor Primary - Permanent Change in Hours
Opal Nightclub – 535 Main Street

STAFF RECOMMENDATION:

THAT Council recommend to the Liquor Control and Licensing Branch that it approve the application from the Opal Nightclub located at 535 Main Street, Penticton, BC for a Permanent Change to Liquor Licence for Change in hours to 12:00pm to 3:00am Monday to Sunday.

BACKGROUND:

On October 3, 2013 Council directed staff (resolution 607/2013) to commence public notification of the proposed Permanent Change to Liquor Primary Licence for the Opal Nightclub.

Intent of Proposal
The changes requested are seen as a way of ensuring the viability of the business operations at the subject location. The owners wish to stay competitive with the Mule Nightclub who were granted a permanent amendment in hours earlier this year for 3am openings. A description of the proposed changes and impact statement has been provided by the applicant and has been included as Attachment B. The applicant does not foresee any additional issues with noise or a negative effect on the community. There will be no alterations to the layout of the building or proposed occupant loads.

Site Context and Surrounding Uses
The Opal Nightclub property is zoned C5 – Urban Central Commercial and the existing use meets zoning regulations. There are no restrictions on the hours of operation under the Zoning Bylaw. The property is located in a mixed urban and commercial area (Map – Attachment A) there are no outstanding Building or Fire Code issues in relation to their current operations. The establishment has recently modified their Business Licence to include adult entertainment.

This use is defined by the LCLB as follows:
Liquor Primary Any business in the hospitality, entertainment or beverage industry - including bars, pubs, lounges, nightclubs, stadiums, theatres, recreation and convention centres - may apply for a liquor-primary licence. The only exceptions are businesses geared to youth (which may not be licensed to serve liquor) and private clubs (which require a liquor-primary club licence.)

Liquor-primary establishments may apply for any hours of service between 9:00 am and 4:00 am, subject to local government and Liquor Control and Licensing Branch approval, and must also offer food and non-alcoholic beverages at reasonable prices. Minors are generally not allowed in liquor-primary establishments, unless they are working as entertainers or the establishment’s primary function is not to serve liquor (it is a stadium, concert hall, for example).
Proposed Hours of Operation
The applicant is seeking an amendment to their hours of operation as follows:

Hours of Existing:

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<th>Monday</th>
<th>Tuesday</th>
<th>Wednesday</th>
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Hours Requested:

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Legislation, Policy and Bylaw Review

Liquor Control and Licencing Act

Section 11 of the Liquor Control and Licencing Act requires the LCLB to consult local government on liquor licence requests of a prescribed class or category prior to issuance of such a licence, giving the local government an opportunity to provide comments and recommendation(s) and to gather views of residents within the area.

To comply with Section 53 of the Liquor Control and Licensing Regulation, the City must review and provide resolution within 90 days of the application. The following criteria are to be considered:

- The potential for noise if the application is approved;
- The impact on the community if the application is approved (example - public nuisance (RCMP), traffic issues, etc.); and
- Indicate whether or not the views of the residents were gathered, and if not, provide reasons why they were not gathered (residents include business owners).

The LCLB application process for a change in hours requires a municipal resolution before the Province will consider the application further.

ANALYSIS:

Technical Review

The Liquor Control and Licencing Branch (LCLB) require that the local government considers and comments on three specific criteria. In consideration of these criteria, the following information has been provided from the City’s Liquor Licencing Technical Review Committee with regards to this application.

1. Noise & other disturbances
   - Main Street is classified as an Urban Local route. There are no concerns with additional vehicular traffic noise.
   - There are no outdoor patios used by patrons.
   - A social gathering of numerous people in this setting has the potential to generate some degree of noise. The applicant is proposing hours of service between 12:00pm and 3:00am Sunday through Saturday. Concerns were raised with the potential for activities to creep into later hours and cause a nuisance to the residential neighbourhoods.
   - The mix of commercial and residential properties in close proximity to each other may create patron dispersal issues. The previous establishment in that location had a number of complaints concerning late night patron disturbances. The expected increase in patrons in the downtown area in the early morning hours may increase incidents of public disorder, noise and vandalism, after the times that bars have historically closed.
Dispersal of patrons is frequently an issue, with the lack of public transit during late hours and adequate taxi service being a factor. An increase in these issues may have an impact on policing resources insofar as the increased need for police presence in the area of the establishment creates a reduction in service to the other areas of the community.

- Unacceptable noise generation can be addressed under the Good Neighbour Bylaw and Business Licence Bylaw. The Opal Nightclub will need to work with RCMP to ensure patron noise levels are minimized in and around their establishment and facilitate late night transportation options for their patrons.

2. The impact on the community if the application is approved:

- The proposal will add no significant additional value to the existing community and tourism within the City.
- The modification of their business model to include occasion adult entertainment has created some criticism within the community but should have no significant impact on this application.
- Any potential impact to the surrounding neighbourhood will be governed by the City’s existing regulations.

It is recommended that the City should undergo a long term review regarding future development of the downtown core to ensure a balance of entertainment opportunities exists within residential areas with increased density. It should however be noted that noise and activity in a downtown setting is common and a result of the range of commercial businesses that chose to locate in a downtown setting. Residences in and around the downtown should expect to deal with certain amounts of noise and commercial activity, as opposed to suburban residential neighbourhoods.

Public Consultation
As per Section 11 of the Liquor Control and Licensing Act, the City is required to gather comments or concerns of the residents with the area of the proposal, to be considered in concert with the proposal. A notice of application and request for comment was mailed out to the business owners and residents within 90m of the subject property (Attachment A). This area was expanded from the typical 45m public notification radius.

As a result, there have been two letters of non–support received with a petition (See Attachment C) containing four signatures. Citizens have been provided the opportunity to comment on the application the day of the regular Council meeting held November 4th, 2013.

CONCLUSION:
Based upon the comments received from the LLTRC and the recorded comments from the public, it is recommended that the proposed application be supported. The owners of the establishment have shown a willingness to work with City staff and no significant complaints have been received since the Opal Nightclub has commenced operation. Should the LCLB support the requests hours, the owners of the nightclub will need to continue to be cognisant of the impacts that their business have on the surrounding area, and address any concerns that arise.

Council can choose to support the application as is or modify the request with restrictions such as to only include 3 a.m. closures for Friday and Saturday nights. Should Council recommend to the LCLB that the application be denied, then the applicant will be informed of Council’s decision and a Council resolution outlining the reason for denial will be forwarded to the LCLB.

ALTERNATE RECOMMENDATION:

1. Deny the applicants request for a Permanent Change to Liquor Licence for Change in hours.
2. Limit the days of amended permanent hours.
3. Return to staff for further consideration.

ATTACHMENTS:

Attachment A – Location Map
Attachment B – Opal Community Impact Statement
Attachment C – Letter of Non-Support

Respectfully submitted,

Ken Kunka AScT, RBO
Building and Permitting Manager
Development Services
Attachment A – 90M Radius Map
Opal Nightclub – 535 Main Street

Zoning Bylaw – Surrounding Land Uses
Attachment B
Community Impact Statement

The Opal Nite Club
535 Main St.
Penticton, BC.
V2A 5CS
778-476-1692

Re:
Application for permanent amendment to our liquor primary license.

Description of proposed changes:

The Opal Nite Club is requesting a permanent change to our hours of operation. We are asking that our current hours of 7 PM – 2 AM, be expanded to 12 PM (Noon) – 3 AM.

Reasons for the change:

This year the Liquor Control Board (LCLB) has made a policy change, which essentially limits all liquor primary licenses. In British Columbia we can only apply for a maximum of 6 days which we can extend our hours of operation; as opposed to the sixteen days which have been approved in past years. We are a new club and have struggled to grow our business to offer quality entertainment to our patrons. After an extensive survey we conducted, before buying into this business opportunity, we concluded that Penticton as a whole wanted more to do in the evening hours. The City web page even states that Penticton is a great place to party.

Our club has offered and will continue to offer a variety of entertainment options. We have a planned event for Halloween and New Years Eve which would benefit from longer hours. We have also worked closely with Bistro 535, our neighbour and they propose to cater in a food menu for our patrons, which will include a supper menu. The 500 Block has been thinning out and all our neighbours have asked that we help to revitalize this part of downtown. Turning on the lights at night has proven to be a good strategy in many communities for decreasing criminal activity in the downtown core. Providing entertainment and night life to a smaller community requires that we stay as diversified as possible and respond to the needs and requests of the local inhabitants first and foremost as well as to the tourists during the summer months.

We are and will continue to be a “customer driven” night club. It has been requested and our plan is to host events such as Birthdays, Staff parties, Wedding Receptions and family reunions. Daytime sporting events that are on pay-per-view would also be one of the options that we are planning on providing. These events with a full food menu option would give the people of Penticton a safe reliable place to enjoy the early evening without interrupting the flow of business in the area and/or the flow of our regular business operations. The residential areas would not be affected.

Penticton is a tourist town and in the summer months we need to be able to cater to the needs of the visitors with less restrictive hours of operation. As a new business we need to appeal to the largest possible market segment with a variety of unique entertainment. Some of which are not available within the constraints of the current hours of operation. The current situation in Penticton seems to be that our patrons come out later in the night, sometimes not until midnight. The extended hours ensure that we remain viable as a business and ensure that the customers have night life available when they want it.
This building contains a world class night club that Penticton can be proud of. We are an integral part of
downtown and we wish to exemplify all that is good about Penticton as a fun place to visit and to live. This is
primarily a matter of keeping our options open and our business viable. We also need to be able to keep the
same hours of operation as the other night club in Penticton.

Saying all of this we feel we need the option of choosing our hours to fit the event we have planned. We will
always use best practice to ensure the safety of our patrons and the smooth operation and normal business
practices of our neighbours. We believe our plans will help revitalize the 500 block and stimulate growth of
our business and the businesses in the surrounding area.

Community Impact:

We are uniquely situated in an area of town which has limited housing close by. This means we have minimal
impact on the sleeping habits of Penticton. Most of the 500 block is commercial and closes early in the
evening. Therefore, the normal business functions of our immediate neighbours will not be affected adversely
by our later hours of operation.

We have had no complaints regarding noise and have had no safety issues presented to us by our neighbours.

We do have a world class night club with exceptional sound and light equipment. We have maintained and
will continue to maintain a reasonable volume of sound coming from our facility.
Attachment C
Letter of Non-Support

Date: October 23, 2013
Re: Notice to Amend Liquor Licence for 535 Main St
To: Building and Permitting Manager

Dear Sir,

My name is Ian Wilson, I own 654299 BC Ltd which purchased the building located at 530 to 544 Main St Penticton 10 years ago. The building consists of 4 commercial spaces as well as 10 second floor residential apartments and 2 open air patio areas. This building is located directly across the street from what is now the Opal Night Club.

Over the years the 500 Block of Main St has had a checkered history as regards commercial viability and residential appeal. This is in part due to the Night Club situated on this block, and the excessive noise, late night traffic, and the drug trade and drunken behavior that successive Clubs have brought into this area.

In the period that the Club was not operating, I noticed a definite shift in my ability to attract better residential tenants to my building. I rented to young working people with stable employment, who enjoyed the downtown location which gave them the option to walk to work, enjoy the local restaurants and amenities, but still allowed them to enjoy a quiet evening on the open patio.

My commercial spaces were rented fully and at better rates than today.

Since the Club has re-opened the residential tenants have all terminated their leases. One commercial tenant has also terminated their lease.

All cited, excessive noise, an increase in traffic that was not there to stop and shop, a re-emergence of drug related behavior, a re-emergence of people trying to gain entry to the Club and the building damage to property. a re-emergence of the unsavory element and drunkenness.

Since the Club has re-opened I have had a lowering of the quality of my residential tenants, who have caused considerable damage to my building, as a result I have evicted 7 of the 10 residential tenants, and have been unable to fill those vacant suites. This has caused huge financial hardship; my rent roll has decreased by 50%, I have one other commercial tenant threatening to vacate due to the Club activities, and no replacements for any of these spaces due to the stigma around the Opal Night Club and the level of disruption it brings to the 500 Block of Main St.

The city has asked for landowners to invest in the downtown core, to gentrify and bring trade, security and stability to the area. I am doing that, as am my commercial tenants, but a Night Club adds absolutely nothing to the livability, security and financial viability of the area.

Myself and all of my commercial and residential tenants are vehemently opposed to any extension to the Opal Night Club hours of operation, we feel that this does absolutely nothing to enhance security, gentrification and trade in the 500 Block of Main St.

Regards,

Ian Wilson
654299 BC Ltd
M: (250) 215-4567

RECEIVED
CITY OF PENTICTON
OCT 23 2013
BUILDING DEPARTMENT
RE: Amendment of Liquor Licence and Hours of Operation for Opal Nightclub

To Whom it May Concern:

My name is Dax Kent, I am writing this letter as due to personal reasons, I will not be able to attend the public meeting on Nov 4th regarding the Opal night clubs request for extended hours of operation.

As both the Manager of Freedom the Bike Shop (533 Main St) since 2002, and a resident of The Belmar Apartments (529 Main St) since July 2011. I am in complete dispute of extending the Opal’s hours past 2am.

Since the Opal’s opening, we as a business have had to contend with vomit on our shops front steps, and public urination and vomit in our rear parking area. It is also disconcerting that recently the Opal’s staff has been dumping waste water, organic matter and unfinished beverages directly into the manhole cover behind the club.

I have made a complaint to City of Penticton Bylaw regarding this issue but so far it has gone un-answered.

As a neighboring resident, I have to personally contend with loud and sleep disruptive music, combined with fights and loud drunken disputes in the alley below my bedroom window, well into the early morning hours on the nights the Opal is open. As well there has been a significant increase of damage to, and theft from, both my own, and other tenant vehicles parked at the rear of our building. Some of our other tenants at the front of the Belmar building have complained of people banging on the front door of our apartment building and throwing debris at the windows in the early hours after the night club closes.

It is quite disconcerting that the Opal staff and management see it fit to dump their overly intoxicated clientele and waste out on the streets after close, lock their doors, and let their neighbours contend with fallout.

Attached to this letter is a petition signed by all Residents of The Belmar Apartments and some comments about their experiences and complaints about the Opal Night Club current operation.

As well attached to this letter are some photographs of dumped organic waste into the alley behind the nightclub.

It is my hope that under the Good Neighbour Bylaw, the Opal Night club will take responsibility for their current disruption to neighbouring residents and businesses, rather than attempting to increase that disruption. It is also my hope that the City of Penticton will see it reasonable to not extend this disruption to neighbouring residents for another hour each night.

Sincerely,

Dax Kent

RECEIVED
CITY OF PENTICTON
OCT 25 2013
BUILDING DEPARTMENT
Below is a picture of discarded waste in the alley behind the Opal night club.

Picture taken October 18, 2013

As you can see from the decomposition of the organic matter this has been happening for some time.

Picture taken October 18, 2013.
RE: Amending the Opal's Night Club Hours until 3am.

I live at "The Belmar" apartments located at 529 Main St, and do not approve of Amending the Opal's Liquor License until 3am.

The night club already causes huge disturbance to us and our families, from loud music during their existing hours of operation until 2am.

<table>
<thead>
<tr>
<th>Printed Name</th>
<th>Signature</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Steve Anderson</td>
<td></td>
<td>I had no issues with my vehicle being broken into for two years. Then the windows opened up and I have countless break-ins and thefts.</td>
</tr>
<tr>
<td>Shawna Dawson</td>
<td></td>
<td>Drunks are banging on my windows &amp; doors at 3am!</td>
</tr>
<tr>
<td>Megan Brandon</td>
<td></td>
<td>Drunks hanging around, loud music keeps my kids up; garbage on building roof constant brake ins.</td>
</tr>
<tr>
<td>Marc Kent</td>
<td></td>
<td>Loud music keeps me up at night, which damages my building; garbage in the alley; bricks under my window.</td>
</tr>
</tbody>
</table>
COUNCIL REPORT

DATE: November 4, 2013                                                   File No: 2007 Rezone 9026
TO: Annette Antoniak, City Manager
FROM: Blake Laven, Planner
ADDRESS:  2725 and 2715 Dartmouth Drive, 285 and 345 Green Avenue E and 0 Greenwood Drive
LEGAL: Lot 199A, Plan KAP466, District Lot 251, Similkameen Division Yale District; Lot 34, Plan KAP32668, District Lot 251, Similkameen Division Yale District; Lot 199B, Plan KAP466, District Lot 587, Similkameen Division Yale District, Except Plan 11232; Lot 19, Plan KAP41294, District Lot 251, Similkameen Division Yale District;
PURPOSE: OCP and zoning amendment bylaws for future residential development
APPLICANTS: Jim Morrison, Ajmer Singh, T and N Investments, City of Penticton

RECOMMENDATION:

THAT “City of Penticton Official Community Plan Amendment Bylaw No. 2013-43”, a bylaw that amends OCP Bylaw 2002-20 as follows:

1. That part of Block 199A, District Lot 251, SDYD, Plan 466 located at 2725 Dartmouth Drive that is designated as PR from PR (Parks and Recreation) to LR (Low Density Residential)

be given first reading and forwarded to the November 18th, 2013 Public Hearing for public comment.

AND THAT “City of Penticton Zoning Amendment Bylaw No. 2013-44”, a bylaw that amends Zoning Bylaw 2011-23 as follows:

1. Block 199A, District Lot 251, SDYD, Plan 466, located at 2725 Dartmouth Drive from A (Agriculture) to R2 (Small Lot Residential)
2. Block 199B, District Lot 587, SDYD, Plan 466, Except Plan 11232, located at 345 Green Avenue E. from A (Agriculture) to R2 (Small Lot Residential);
3. Lot 34, District Lot 251, SDYD, Plan 32668, located at 285 Green Avenue E., from R1 (Large Lot Residential) to P2 (Parks and Recreation)
4. Lot 19, District Lot 251, SDYD, Plan 41294, located at 0 Greenwood Drive from R2 (Small Lot Residential) to P2 (Parks and Recreation); and
5. Lot 10, District Lot 251, SDYD, Plan KAP46225 located at 2715 Dartmouth Drive, from R2 (Small Lot Residential) to P2 (Parks and Recreation);

be given first reading and forwarded to the November 18th, 2013 Public Hearing for public comment.

AND THAT OCP Amendment Bylaw 2008-33, Zoning Amendment Bylaw 2008-34 and Parkland Exchange Bylaw 2008-40, be closed and abandoned.
BACKGROUND:

The Dartmouth / Green area (Attachment ‘A’) has been under application for Rezoning and Subdivision development since 2007. Several different land owners are involved in the project, including the City of Penticton. A number of issues have complicated the development process. Specifically, geotechnical concerns, environmental concerns and questions of land use have added additional review to the development approval process. Furthermore, when the proposal went to Public Hearing in 2009, concerns over buffering between existing development and new development were brought up by neighbouring residents and members of the public.

Despite these concerns, Council did give third reading to the bylaws that proposed to rezone the subject lands. The approvals given by Council included a number of conditions. Those conditions included a land exchange for the purpose of park development as well as geotechnical review and covenants to be placed on the properties in regard to those geotechnical considerations.

Through the completion of those conditions and in response to the Public Hearing concerns over buffering, several changes to the original plan have been made. In addition to the changes, in the time since the bylaws were given third reading, the City of Penticton adopted a new zoning bylaw (Attachment ‘B’). The zones that the applicants were requesting under the previously considered bylaw no longer exist. Because of the changes to the plan and the fact that City is operating under a new zoning bylaw, staff are requesting that the original bylaws be closed and new OCP amendment and Zoning Bylaw amendment bylaws be introduced and forwarded to a Public Hearing for public comment (Attachment ‘C’).

The two main changes from the original land use proposal are as follows:

Realignment of the park boundary: Originally, the proposed City park was to involve a land swap between one of the property owners and the City. The City owned property, however, was discovered to have large amounts of fill material placed on it. This fill material was not ideal for building upon and would have to be removed prior to the land swap taking place and final subdivision approval, which would be very costly. Furthermore, during the Public Hearing, neighbouring residents on Greenwood Drive raised opposition to the land exchange that would see private dwellings constructed adjacent to their properties. The new design takes into account the public's wish to have a buffer between the new subdivision and their rear yards. The newly configured park will provide that buffer. And finally, through geotechnical investigation, it was discovered that the stability of the slope may become compromised through extensive irrigation. The original park design was for a typical park that would require irrigation. The new design calls for a more passive, linear park that will not need the same amount of irrigation.

While the amount of land dedicated to park space will not be reduced significantly, the alignment of the park will change. Also, all of the area that will be now zoned for park development is currently owned by the City. No land exchange will be required, which will simplify the development process.

Reorientation of the street network: The concept plan for this area originally showed Dartmouth Drive connecting through to Green Avenue. City designs for this connection showed significant cutting of the silt bluff along Green Avenue and a new intersection with Green Avenue and Valleyview Road. These plans, however, were not feasible given geotechnical and environmental concerns. The current road network (Attachment ‘D’) proposal does not cut into the bank or encroach through the environmentally sensitive area. The road network does not provide the same level of connectivity and development opportunity as the previously planned network but significantly reduces the amount of road
that the developers have to install as a requirement of subdivision approval. It is likely that a
development variance permit will be required to waive the upgrade requirements on Green
Avenue because of these geotechnical and environmental considerations.

Development Statistics
If the proposed zoning bylaw is adopted, the project proponents will be able to apply for
subdivision approval to create the new lots. The proposal, if supported, will allow for roughly 30
new low-density residential lots between 390m² and 890m² and a small City park.

<table>
<thead>
<tr>
<th>ITEM</th>
<th>PROVIDED (Dartmouth Green Plan Area)</th>
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<tbody>
<tr>
<td>Plan Area:</td>
<td>4.5 Hectares (11.2 Acres)</td>
</tr>
<tr>
<td>Current Use:</td>
<td>Vacant Land and Residential</td>
</tr>
<tr>
<td>Historic Use:</td>
<td>School and Agricultural</td>
</tr>
<tr>
<td>Existing OCP:</td>
<td>LR (Low Density Residential) and PR (Parks and Recreation)</td>
</tr>
<tr>
<td>Other information:</td>
<td>Affected by high and medium landslip hazard and environmental protection development permit area. Known location of ‘nugget moss,’ an endangered bryophyte species.</td>
</tr>
</tbody>
</table>

Geotechnical considerations
Areas within the subject lands are designated as being within the high and medium landslip
hazard area. Two separate engineering firms have provided advice on the impact of this
designation. The first report submitted by Golder and Associates was a Geotechnical Hazard
Assessment, which outlined areas within the lands that are safe to build on and those areas that
are subject to landslide and are not suitable to be built upon. The report outlined a number of
recommendations based upon best practices and on-the-ground investigation. The second
report, prepared by Levelton, was a third party review of the Golder report. Both reports
concluded that the lands were suitable for development provided that: appropriate setbacks
from the silt bluffs were established, that much of the fill found on site is removed; and that,
restrictions on irrigation are put in place, among other minor conditions. The recommendations
of the reports will be put in place during the subdivision approval process, if the rezoning
applications are successful. As the lot configurations have been altered as a result of the
geotechnical investigations, a final review by one or both of the geotechnical engineering firms
will be required prior to any works being done on site. None of the recommendations need to be
implemented prior to zoning amendment approval and will be dealt with at a subsequent stage
in the development process.

Environmental considerations
 Portions of the subject lands are designated within the Environmental Protection Development
Permit Area by the City’s OCP. During the planning stage of this project a Qualified
Environmental Professional (QEP) conducted a detailed environmental assessment of the site
and identified sensitive environmental areas and made recommendations in regard to
environmental considerations. The proposed zoning does not conflict with the findings in the
report. Many of the recommendations in the report deal with the timing of construction and
involving a QEP at the time of road construction. The property owners will be obliged to follow
the recommendations of the report.

In addition to the QEP hired to conduct the environmental site assessment, a second QEP was
consulted who has unique qualifications in regard to nugget moss, a rare and endangered
species found on the base of the silt bluff adjacent to Green Avenue. Initial reports from this
professional indicated that the lands could be developed without significant impact on the
nugget moss populations as long as a QEP was involved throughout the development process
and adequate buffers from the silt bluffs were established. The QEP also recommended that
when new owners purchase the properties affected by the nugget moss that a stewardship initiative be put in place.

Quite far along in the planning process, Environment Canada prepared a recovery strategy for the nugget moss and recommended a large buffer area around the known populations of the species. Staff and property owners had been aware of the presence of nugget moss and had taken precautions to not propose development in those areas that were known to support the nugget moss populations; however, the buffer area identified by Environment Canada has complicated the planning process somewhat, in that it affected areas that were originally designated for development, including road and utility infrastructure development. Staff and property owners are working with Environment Canada in how best to protect this area. Environment Canada has encouraged the City to designate the area as park or place further restrictions on the buffer area, beyond the environmental protection DPA that is currently on the area. Staff, however, are reluctant to place any further restrictions on the property – recognising that the legislation around the protection of endangered species is a Federal regulation and should be implemented by the Federal Government. Putting further restrictions on the property may require the City to provide compensation to the property owners negatively affected by the restrictions. And, staff are confident that the buffering required by the geotechnical setback and the Environmental Protection DPA provides adequate protection and separation from development, as was recommended by the QEP hired by the property owners. Environment Canada does have the ability to put a cabinet order in place if their staff feel that the protections currently in place are not adequate. Environment Canada, however, has not indicated that they are willing to put those measures in place. If the measures are put in place, then compensation to the property owners negatively affected by the cabinet order may be available from the Federal Government.

Technical service review
Engineering and Public Works staff have been involved with the re-design of the subdivision and do not recommend any conditions prior to adoption of the zoning amendment bylaw. Engineering works, including the construction of roads, installation and extension of sanitary and water mains as well as extensive storm works will be required to be completed prior to final subdivision approval. Staff have proposed a number of schemes that will provide adequate service to this subdivision. It will be the responsibility of the property owners’ engineers to design the final servicing plan based upon the City’s Subdivision and Development Bylaw. Because of the presence of the nugget moss, variance permits to road infrastructure may be required as Green Avenue runs through the area known to contain nugget moss and construction to the full width required by the bylaw may be difficult or impossible.

ANALYSIS:

OCP

Support
The proposed change to the OCP map is minor and affects only one of the properties considered for zoning amendment: 2725 Dartmouth Drive. Originally, this property was to be involved with a land swap with the City owned properties to the east to create a more uniform park area. Through investigation into the possibility of the land swap, it was determined that a more linear park involving just the City owned property would be a better organization of the development. The more linear park provides a buffer between existing development and the new proposed subdivision and also negates the requirement to remove fill from the City owned lands. To allow for the rezoning of 2725 fully to a residential zone, a change to the OCP needs to be made.
As this small change to the OCP is required for Council to support the zoning amendment and that the City is no longer in favour of creating any park space on the subject property, staff recommend that Council support the OCP amendment.

Deny
Council may not be in favour of the OCP change and may feel that these lands are best suited for park development. If that is the case, Council should not support the bylaw and direct staff to investigate park development and perhaps purchase of the property. Staff do not recommend this course of action.

Rezone

Support
The subject development proposal is located in a complicated area of the city. There are significant environmental and geotechnical considerations to take into account when reviewing development plans for the area and further complicating the subdivision is the fact that there are several different property owners with different timeframes for development and objectives. Nevertheless, the OCP has designated the lands for the proposed development and the proponents have provided evidence that the lands can be safely developed while taking into account the unique environmental considerations of the area.

The rezoning of the lands is the first step in the development process envisioned by the OCP.

The proposed development plan meets the following objectives of the OCP:

- Encourage a diversified range of housing types.
- Important wildlife habitat in new development areas should be identified and efforts made to protect identified habitat.
- Maintain the character of existing single family neighbourhoods in Penticton.
- Propose new residential development should be accommodated through infill.
- Encourage intensification of residential land use in areas where existing services can accommodate such intensification.
- Encourage energy efficient residential development considering topography, microclimate, servicing and other factors.
- The City will assist in guiding future development of hillsides within Penticton.

Given that the OCP has identified the subject lands for development and that the proposed zones are in-line with the OCP designation for the area, and further, that the proponents have undergone the requisite investigation into the suitability of the lands for development, staff encourage Council to support the zoning amendment.

Deny / Refer
Council may feel that the rezoning of these lands for development is not in the best interest of growth in the City. If that is the case, Council should not support the amended bylaw. Staff do not recommend this course of action, as the proposed zones are in-line with the OCP designations for the property and significant investment has been made by the various property owners and the City since development applications were first submitted in 2007.

Alternatively, Council may support the proposed bylaw amendments, but may have conditions that they wish to place on the approval.

ALTERNATE RECOMMENDATIONS:
1. THAT the bylaws be denied first reading.
2. THAT the bylaws be referred back to staff with direction as Council sees appropriate.

ATTACHMENTS:

Attachment A: Area location map and images of subject lands
Attachment B: Current OCP and zoning map
Attachment C: Proposed bylaw attachment map
Attachment D: Draft subdivision plan

Blake Laven, MCIP, RPP
Planner
Figure 1: Image showing developable areas of subject lands

Figure 2: Image of silt bluff bank from Green Avenue looking north towards subject lands
Figure 3: OCP Future Land Use Designations (OCP Bylaw 2002-20)
Figure 4: Current Zoning Map (Zoning Bylaw 2011-23)
ATTACHMENT ‘C’
Proposed new OCP and Zoning Designations

OCP
No Change
Zone
From R1 to P2

OCP
No Change
Zone
From R2 to P2

OCP
(Small portion of property) From Park to LR (Low Density Residential)
Zone
From A to R2

Zone
From A to R2

OCP
No Change

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THE CORPORATION OF THE CITY OF PENTICTON

BYLAW NO. 2013-43

A BYLAW TO AMEND THE OFFICIAL COMMUNITY PLAN BYLAW 2002-20

WHEREAS the Council of the City of Penticton has adopted an Official Community Plan Bylaw pursuant to the Local Government Act;

AND WHEREAS the Council of the City of Penticton wishes to amend “Official Community Bylaw 2002-20”;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. TITLE:

   THIS Bylaw may be cited for all purposes as “Official Community Plan Amendment Bylaw 2013-43.”

2. AMENDMENT:

   “Official Community Plan Bylaw 2002-20” is hereby amended as follows:

   1. That part of Block 199A, District Lot 251, Similkameen Division Yale District, Plan 466 located at 2725 Dartmouth Drive that is designated as PR change from PR (Parks and Recreation) to LR (Low Density Residential).

   2. Schedule ‘A’ attached hereto forms part of this bylaw.

READ A FIRST time this day of , 2013
A PUBLIC HEARING was held this day of , 2013
READ A SECOND time this day of , 2013
READ A THIRD time this day of , 2013
ADOPTED this day of , 2013

Notice of intention to proceed with this bylaw was published on the ___ day of _____, 2013 and the ___ day of _____, 2013, in the Penticton Western newspaper, pursuant to Section 94 of the Community Charter.

______________________________
Garry Litke, Mayor

______________________________
Dana Schmidt, Corporate Officer
2725 Dartmouth Drive (Portion Of)  
Amend OCP from PR (Parks and Recreation) to LR (Low Density Residential)
THE CORPORATION OF THE CITY OF PENTICTON

BYLAW NO. 2013-44

A BYLAW TO AMEND ZONING BYLAW 2011-23

WHEREAS the Council of the City of Penticton has adopted a Zoning Bylaw pursuant the Local Government Act;

AND WHEREAS the Council of the City of Penticton wishes to amend Zoning Bylaw 2011-23;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. **TITLE:**
   This bylaw may be cited for all purposes as “Zoning Amendment Bylaw 2013-44.”

2. **AMENDMENT:**

   Zoning Bylaw 2011-23 is hereby amended as follows:

   1. Block 199A, District Lot 251, Similkameen Division Yale District, Plan 466, located at 2725 Dartmouth Drive from A (Agriculture) to R2 (Small Lot Residential);

   2. Block 199B, District Lot 587, Similkameen Division Yale District, Plan 466, Except Plan 11232, located at 345 Green Avenue E. from A (Agriculture) to R2 (Small Lot Residential);

   3. Lot 34, District Lot 251, Similkameen Division Yale District, Plan 32668, located at 285 Green Avenue E., from R1 (Large Lot Residential) to P2 (Parks and Recreation);

   4. Lot 19, District Lot 251, Similkameen Division Yale District, Plan 41294, located at 0 Greenwood Drive from R2 (Small Lot Residential) to P2 (Parks and Recreation); and

   5. Lot 10, District Lot 251, Similkameen Division Yale District, Plan KAP46225 located at 2715 Dartmouth Drive, from R2 (Small Lot Residential) to P2 (Parks and Recreation).

   6. Schedule ‘A’ attached hereto forms part of this bylaw.

   READ A FIRST time this day of , 2013

   A PUBLIC HEARING was held this day of , 2013

   READ A SECOND time this day of , 2013

   READ A THIRD time this day of , 2013

   ADOPTED this day of , 2013

Notice of intention to proceed with this bylaw was published on the ___ day of ____, 2013 and the ___ day of ____, 2013, in the Penticton Western newspaper, pursuant to Section 94 of the Community Charter.

______________________________
Garry Litke, Mayor

______________________________
Dana Schmidt, Corporate Officer
0 Greenwood Dr.
Rezone from R2 (Small Lot Residential) to P2 (Parks & Recreation)

2715 Dartmouth Dr.
Rezone from R2 (Small Lot Residential) to P2 (Parks & Recreation)

345 Green Ave. E.
Rezone from A (Agriculture) to R2 (Small Lot Residential)

2725 Dartmouth Dr.
Rezone from A (Agriculture) to R2 (Small Lot Residential)

285 Green Ave. E.
Rezone from R1 (Large Lot Residential) to P2 (Parks & Recreation)

CITY OF PENTICTON – SCHEDULE ‘A’

ZONING BYLAW AMENDMENT NO. 2013-44    DATE: ______________________

CORPORATE OFFICER ___________________________

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17
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100
100
COUNCIL REPORT

DATE: 4th November 2013
TO: Annette Antoniak, City Manager
FROM: Anthony Haddad, Director of Development Services
ADDRESS: 1090 Westminster Avenue W
LEGAL: Lot A, District Lot 366, Similkameen Yale District, Plan KAP52544
PURPOSE: Reapplication for Amendment to Development Permit (DP PL2011-003) under Section 45 of the Development Procedures and Delegation Bylaw
APPLICANT: Gary Johal

RECOMMENDATION:

THAT Council deny the applicant’s request under Section 895(3) of the Local Government Act to enable a reapplication for an amendment to the original Development Permit Approval (DP PL2011-003);

AND THAT should the applicant not install the required louvers by December 31st 2013, staff be directed to follow through with enforcement action.

FINANCIAL IMPLICATIONS:

N/A

STRATEGIC OBJECTIVE:

N/A

BACKGROUND:

On August 6th 2013, Council heard a request from the owner of 1090 Westminster Avenue West to amend the originally approved Development Permit approval by removing the louvers from the original building design. Staff did not support the requested amendment as outlined in the Council report from that meeting contained in Attachment ‘A’.

Council refused the applicant‘s request and passed the following resolution:

508/2013

It was MOVED and SECONDED

THAT Council deny the request to amend “Development Permit PL 2011 – 003” for Lot A, District Lot 366, Similkameen Yale District, Plan KAP52544, located at 1090 Westminster Avenue W, a request to remove the louvers from the final building design. CARRIED UNANIMOUSLY

The applicant has not installed the louvers, as instructed by Council and required by the originally approved Development Permit.
ANALYSIS:

Under Section 45 of the City’s Development Procedures and Delegation Bylaw 2010-92, and subject to Section 895(3) of the Local Government Act, an Application for a Permit or bylaw amendment that has been refused by the Council shall not be made within a six month period immediately following the date of refusal. Six months from the date of the application being refused would be 6th February 2014.

Section 895(3) of the Local Government Act, however, allows the six month time period to be varied by an affirmative vote of at least 2/3 of the local government members eligible to vote on the reapplication. The applicant is requesting that Council hear his request to remove the louvers once again.

Should 2/3 of Council support the applicant’s request, he will be required to make an application for Development Permit amendment to again request that the louvers be removed.

Should Council deny the applicant’s request, staff propose that a date of December 31st 2013 be set for installation of the required louvers prior to enforcement action proceeding.

ALTERNATE RECOMMENDATIONS:

1. THAT 2/3 of Council or greater support the request and the applicant be directed to apply for an Amendment to the Development Permit.

ATTACHMENTS:

Attachment A – 6th August 2013 Council Report

Respectfully submitted,

Anthony Haddad
Director of Development Services
COUNCIL REPORT

DATE: August 6, 2013
TO: Annette Antoniak, City Manager
FROM: Blake Laven, Planner
ADDRESS: 1090 Westminster Avenue W
LEGAL: Lot A, District Lot 366, Similkameen Yale District, Plan KAP52544
PURPOSE: Amend DP PL2011-003 to remove ‘louvers’ from final building design
APPLICANT: Gary Johal

RECOMMENDATION:

THAT Council deny the request to amend “Development Permit PL 2011-003” for Lot A, District Lot 366, Similkameen Yale District, Plan KAP52544, located at 1090 Westminster Avenue W, a request to remove the ‘louvers’ from the final building design.

FINANCIAL IMPLICATIONS:

N/A

STRATEGIC OBJECTIVE:

N/A

BACKGROUND:

The subject property (Attachment A) was rezoned in 2012 to allow for the development of a gas station. The property is in a highly visible place at the northern entrance to Penticton. As such, during the rezoning process Council challenged the applicant to go beyond the usual ‘highway strip’ style gas station and design a building that was deserving of such a prominent location and that fit with the form and character of the Riverside Village development across Westminster Avenue from the subject property. The applicant hired a local architect and brought forward plans that most agreed met that expectation. The rezoning and subsequent development permit were approved and construction began in late 2012.

The building is now nearing completion and has been given occupancy. There are still some outstanding items that need to be completed prior to completion of the development permit requirements. Those items include some landscaping installation and work on the canopy as well as the installation of louvers on the front façade of the building. The developer, however, is now requesting that the louvers be removed from the final building design. According to the developer the cost to install the louvers is more than originally envisioned and cost over-runs on the project have led the developer to look for cost cutting measures.

Louvers, similar to pergolas, are an architectural feature containing a series of horizontal slats that are normally installed across a window or opening to allow a minimal amount of light to pass through the window or into the space being shaded. In addition to the functional purpose of providing shade, louvers can be an attractive aesthetic feature for a building and have become popular in Penticton (Attachment ‘C’). In addition, louvers, like pergolas, create a wonderful atmosphere in the space they are shading.
Proposal

The applicant is requesting that “Development Permit PL 2011-003” be amended to remove the louvers from the final building plans.

ANALYSIS:

Deny

Planning staff do not support the proposed amendment for the following reasons:

The louvers are a central design feature of the building. The louvers provide both an aesthetic and functional role. The building is a west facing building receiving full sun in the afternoon and evening. The louvers will provide shading for the building which has large windows on its front façade. Moreover, the louvers, intended to be wooden, are an aesthetic feature that will add character and richness to the building.

The building was approved through the development permit review process. When evaluating a development permit application staff and Council look towards the OCP’s development permit guidelines for guidance. In this case the guidelines speak to the incorporation of building features and finishes that ‘provide interest’ such as pillars, turrets, door detailing cornices etc. The louvers shown on the plans meet this objective and were a determining factor in staff’s support of the development permit drawings that had been revised on a number of occasions to meet the high design standard requested by Council. Staff do not see any reason to support their removal from the final design.

Council’s direction to the architect and developer was to design a building worthy of the entrance to Penticton and go ‘above and beyond’ the typical highway strip gas station design. It is staff’s opinion that while the building is attractive and an excellent addition to the northern entryway of our City, the omission of the louvers would bring the building below the high standards that Council set for the developer.

Over the last 5-10 years Penticton has had a number of buildings that have obtained Development Permit approval containing design features that contribute to excellent building design. Through the construction process on a number of these buildings, the aesthetic elements and design feature components have not been completed – for a number of reasons. Staff believe that it is these small features that can have a significant impact on the form and character of larger buildings in our City. It is important to hold the development community to the high standards that they propose when a development is justified for the approval of Council. The situation in front of Council is no different, and in order to move the community forward with enhanced building quality and aesthetic appeal, all elements of the building that contribute to excellence in design should be completed in accordance with the expectation approved by Council and seen by the public through the original public approval process.

As such, staff recommend that the application to amend the development permit be denied.

Support/ Refer

Council may feel that the building meets the expectations that were put on the project without the addition of the louvers. Council may feel sympathetic to the developer that the costs of the
louvers are not worth their installation. If that is the case, then Council should support the application to amend the development permit and remove the louvers from the final building design.

ALTERNATE RECOMMENDATIONS:

1. That Council support the application to amend “Development Permit PL 2011-003” and direct staff to amend Schedule ‘A’ of the permit.
2. That the application to amend “Development Permit PL 2011-003” be supported with conditions that Council feels are appropriate.
3. That the application to amend “Development Permit PL 2011-003” be referred back to staff with instructions that Council feels are warranted.

ATTACHMENTS:

Attachment A: Subject property location map  
Attachment B: Images of subject property  
Attachment C: Images of other louvers installed in Penticton  
Attachment D: Elevation plan Approved by Council

Respectfully submitted,

__________________________
Blake Laven, MCIP, RPP
Planner
ATTACHMENT ‘A’
Subject Property Location Map
ATTACHMENT ‘B’
Images of Subject Property

Location where louvers are supposed to be installed (as per DP plans)
ATTACHMENT ‘C’
Images of louvers in Penticton

Figure 1: Louvers installed at newly constructed dental clinic on Fairview Road

Figure 2: Louvers installed as part of the design of the new White Spot Restaurant. The louvers create interesting shading inside of the restaurant during sunny periods.
Figure 3: Iconic louvers at the Penticton Trade and Convention Centre create a unique shaded area for the outdoor lobby below

Figure 4: Louvers installed on the patio of a recently constructed private residence
ATTACHMENT ‘D’
Elevation drawings showing louvers
STAFF RECOMMENDATION:

THAT Council endorse the “Licence Agreement For Shared use of FortisBC Structures” between FortisBC and the City of Penticton for a 5 year term with the ability to renew on the same terms and conditions for further 5 year periods, as included in Attachment “A”;

AND THAT Council authorize the Mayor and Corporate Officer to execute the Agreement.

FINANCIAL IMPLICATIONS:

The City will be required to pay FortisBC for Pole Contacts where City of Penticton Electrical or Fiber Optic lines have been attached to FortisBC transmission or distribution poles.

The impact to the Electrical Department Operating Budget is as follows:

<table>
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<tr>
<th>ITEM</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
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</thead>
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<tr>
<td>Number of Transmission Contacts</td>
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<td>180</td>
<td>180</td>
<td>180</td>
<td>180</td>
</tr>
<tr>
<td>Distribution Billing (before taxes)</td>
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<td>$ 35,899.59</td>
<td>$ 37,672.32</td>
<td>$ 39,445.05</td>
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</table>

STRATEGIC PRIORITY OBJECTIVE:

N/A

BACKGROUND:

The current Licence Agreement For Shared use of FortisBC Structures between FortisBC and the City of Penticton expired December 31, 2012. The City of Penticton and FortisBC commenced negotiations on a new agreement in February of 2013. Negotiations have now concluded and the agreement is ready for consideration by City Council.
The agreement sets out how the parties will conduct themselves with respect to the following items:

Application for a Contact
Inventory of Contacts
Indemnification
Termination

Compliance with Standards
Fee for Contacts
Right of Ways

During the negotiation process the City of Penticton’s goal was to address the following items in the agreement:

- Include Fiber Optic contacts;
- Set time frames for notice;
- Provide a mechanism for the City to request FortisBC to, as part of their own work, undertake City work on FortisBC Structures. This would provide an option for the City to consider and would eliminate two parties from both working on the same structures;
- Include having FortisBC address any regulatory or environmental approval processes for the City on a shared cost basis where the City was on FortisBC structures and these approvals were required;
- Addition of a payment to the City for the use of lanes and streets for FortisBC Structures for the 45 Line; and
- Requirement for FortisBC to relocate their lines at their cost in the event that the city closes a Right of Way that their poles are located on.

During the negotiation process FortisBC wanted to advance the following changes:

- Move to the use of the Electrical Utility Price Index to change the rate paid for Distribution and Transmission Pole Contacts.
- Increase the rate paid for Distribution Pole Contacts from $44.27 to $61.67 per contact spread out over a 5 year period;
- Increase the rate paid for Transmission Pole Contacts from $172.36 to $214.00 per contact spread out over a 5 year period; and
- Clarification of FortisBC rights under the West Kootney Power and Light Company, Limited Act, 1897 and the Utilities Commission Act.

The two big items of discussion were the magnitude of the increase and the payment for the use of City streets and lanes on which FortisBC Structures were placed that did not benefit the City.

The rate increase was due to increases in pole construction costs and taxes. The City was able to negotiate a reduced increase phased in over a five year period.

The City was able to achieve all of its goals except for:

1. Receiving a lease payment for the use of City lanes and streets for the 45 Line; and
2. Having FortisBC pay for pole relocation costs in the event of a Right of Way closure.

FortisBC pointed to their rights within the West Kootney Power and Light Company, Limited Act, 1897.

FortisBC was able to achieve all of the items they wanted to advance.
ANALYSIS

The parties have reached agreement at the staff level with respect to the terms and conditions for a new agreement and the document is now ready for Council's consideration. The City was able to address the majority of the goals they had set and they were able to spread the rate increase out over five years.

Should Council elect they could send the matter back to staff for further work and negotiation.

ALTERNATE RECOMMENDATIONS:

1. THAT the “Licence Agreement For Shared use of FortisBC Structures” be sent back to staff for further work and negotiation.

ATTACHMENTS:

Attachment “A” - Licence Agreement For Shared use of FortisBC Structures

Respectfully submitted,

Mitch Morozik,
Director of Operations

| Chief Financial Officer | Colin Fisher |
Attachment A - Licence Agreement For Shared use of FortisBC Structures
LICENCE AGREEMENT FOR
SHARED USE OF FORTISBC STRUCTURES

Between

FortisBC Inc.
Suite 100, 1975 Springfield Avenue
Kelowna, BC V1Y7V7

and

The Corporation of the City of Penticton
171 Main Street
Penticton, BC V2A 5A9
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Schedule A - PERMIT APPLICATION FOR LICENSED ATTACHMENT TO FORTISBC STRUCTURES

Schedule B - INITIAL CONTACT INVENTORY

Schedule C - STRUCTURE RENTAL RATE SCHEDULE
THIS AGREEMENT made as of ________________ January 1, 2013,

BETWEEN:

FORTISBC INC., a corporation established by a special Act of the Legislature of the Province of British Columbia, having its head office in the City of Kelowna, in the Province of British Columbia. ("FortisBC")

AND:

THE CORPORATION OF THE CITY OF PENTICTON, a corporation incorporated in the Province of British Columbia, having its head office in the City of Penticton in the Province of British Columbia. (the “Licensee”)

WITNESSES THAT WHEREAS:

A. The Licensee furnishes certain electricity distribution, traffic, lighting, fiber optic and other services to residents of the Licensee and has requested a licence to use part of a number of structures owned by FortisBC to facilitate the delivery of such services; and

B. FortisBC is willing to grant to the Licensee a non-exclusive license to attach the Licensee’s facilities to certain structures owned by FortisBC, in accordance with the terms and conditions set forth in this Agreement;

NOW THEREFORE in consideration of the terms and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, the parties hereto agree as follows:

SECTION 1 DEFINITIONS AND APPLICATION

1.1 Definitions and Application

Where used in this Agreement or in any schedules hereto, the following terms shall have the following respective meanings:

“Additional Work” has the meaning ascribed to it in Section 4.5;

“Application” means a permit application for licensed attachment to, occupancy or use of, certain FortisBC Structures, properly completed by the Licensee and submitted to FortisBC in the form attached hereto as Schedule A;
“Distribution Pole” means a FortisBC–owned pole on which FortisBC supplies electricity at not more than 25,000 volts, measured phase to phase, and specifically excludes a Transmission Pole on which a circuit energized at 25,000 volts or less, measured phase to phase, has been underbuilt.

“Distribution Pole Contact” means a Distribution Pole which is attached or contacted by the City of Penticton with the express written consent of FortisBC.

“FortisBC Business” means, collectively, all those business activities which FortisBC is required, permitted or authorized to carry out. Without limiting the generality of the foregoing, the FortisBC Business includes FortisBC’s service to its customers and in particular the generation, transmission and distribution of electricity and the construction and maintenance of power transmission and distribution lines;

“FortisBC Structures” means poles and other structures exclusively owned by FortisBC and operated and maintained primarily for the purpose of the transmission or distribution of electricity, and the singular “FortisBC Structure” means any one of the FortisBC Structures;

“Electric Utility Construction Price Index” means the prices index for Canada identified as CANSIM Table 327-0011, including the index for both distribution systems and transmission line systems, published from time to time by Statistics Canada;

“Good Utility Practice” means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the Western Electricity Coordinating Council (or its successor organization) region;

“Governmental Authority” means any federal, provincial, regional, municipal or other government, government body, authority or official, including any department, commission, bureau, board, administrative agency or regulatory body thereof, having jurisdiction over the FortisBC Business, the Licensee Facilities or any part thereof, or either of the parties hereto;
“Licensee Facilities” means any and all material, apparatus, equipment or facilities owned by the Licensee and proposed to be or actually attached to, occupying or using FortisBC Structures, but excluding any material, apparatus, equipment or facility for the provision of Telecommunication Services. Without limiting the generality of the foregoing, the Licensee Facilities may include any or all of:

(a) brackets, insulators, transformers and their several attachments, and lines of wire and associated infrastructure for the distribution of electric energy;

(b) brackets, insulator and their several attachments, and lines of wire for fibre optic lines which are only to be used for City of Penticton, Regional District of Okanagan-Similkameen and School District 67 Okanagan Skaha internal communications;

(c) mast arms, luminaries, supply conductors, relays and other equipment required to operate a street lighting system;

(d) traffic signal, power and control cables, junction and splice boxes and any other equipment and/or devices normally required for the operation of traffic signals;

(e) service attachments;

(f) decorative lighting;

(g) standards; and

(h) seasonal decorations.

“Make Ready Work” has the meaning ascribed to it in Section 4.2;

“Notices” has the meaning ascribed to it in Section 13.8;

“Permit” has the meaning ascribed to it in Section 3.3;

“Prior Rights” means the rights in relation to FortisBC Structures previously granted or allowed by FortisBC, by contract or otherwise, to persons not party to this Agreement;

“Standards” has the meaning ascribed to it in Section 4.1;

“Structure Rental Fees” has the meaning ascribed to it in Section 5.2;

“Structure Rental Rate Multiplier” means, for any year of the Term, (a) one plus (b) the Electric Utility Construction Price Index for the year preceding such year minus the Electric Utility Construction Price Index.
for the year that is two years prior to such year, such difference being divided by the Electric Utility Construction Price Index for the year that is two years prior to such year, as set out in the following formula.

\[ SRRM = 1 + \frac{(EUCP_p - EUCP_{2p})}{EUCP_{2p}} \]

Where:

- \( SRRM \) = Structure Rental Rate Multiplier
- \( EUCP_p \) = Electric Utility Construction Price Index (preceding year)
- \( EUCP_{2p} \) = Electric Utility Construction Price Index (2 year prior)

In the case of Distribution Pole Structure Rental Fees, the Electric Utility Construction Price Index for distribution systems will be used to calculate the SRRM and in the case of Transmission Pole Structure Rental Fees, the Electric Utility Construction Price Index for transmission line systems will be used.

“Transmission Pole” means a FortisBC-owned pole on which FortisBC supplies electricity at greater than 35,000 volts measured phase to phase.

“Transmission Pole Contact” means a Transmission Pole which is attached or contacted by the City of Penticton with the express written consent of FortisBC.

“Telecommunications Services” is as defined in the *Telecommunications Act* S.C. 1993, c.38; and

“Term” has the meaning ascribed to it in Section 2.1.
SECTION 2
TERM

2.1 Term

The term of this Agreement will be 5 years (the “Term”), commencing on January 1, 2013 and ending on December 31, 2017, unless terminated sooner in accordance with the provisions of this Agreement.

2.2 Renewal

(a) If throughout the Term the Licensee has fully complied with all of the terms and conditions of this Agreement, the Licensee shall have the option to extend the Term for further and consecutive periods of 5 years each. All renewals shall be on the same terms and conditions as the Term, except that the Structure Rental Fees for any subsequent renewal terms shall be adjusted to correspond with FortisBC’s standard rates as established at least 120 days prior to the expiration of the Term or the then-current renewal term, as the case may be. FortisBC will provide to the Licensee the revised Structure Rental Fees within 30 days of a written request therefore from the Licensee. If the Licensee accepts the revised Structure Rental Fees, it may exercise its option(s) to extend the Term by notice in writing to FortisBC given not more than 90 days and not less than 60 days prior to expiry of the Term or the then-current renewal term, as the case may be. Failing such notice this Agreement will terminate upon the expiration of the Term or the then current renewal term, as the case may be. A renewal term shall commence on the expiry of the Term or the expiry of the immediately preceding renewal term and end on the expiry of the Term or the expiry of the then current renewal term unless terminated sooner in accordance with the provisions of this Agreement.

(b) Where, in the opinion of FortisBC, reasonably formed, the Licensee has not fully complied and remediated such compliance after notice thereof with all material terms and conditions of this Agreement, FortisBC may refuse to renew this Agreement and shall give 6 months written notice to the Licensee in this regard.
SECTION 3
APPLICATIONS AND PERMITS

3.1 Application by the Licensee for New Use of FortisBC Structures

Where the Licensee wishes to attach Licensee Facilities to FortisBC Structures it shall complete and submit to FortisBC an Application, enclosing therewith:

(a) complete design drawings for each proposed attachment of Licensee Facilities to a FortisBC Structure;

(b) calculations, worksheets or other documentation satisfactory to FortisBC (acting reasonably), showing that the applicable Licensee Facilities, and their proposed attachment to FortisBC Structures as contemplated in the Application, comply with the Standards (or, to the extent that there is no applicable Standard in any particular circumstance, then with such technical, engineering, safety or other standards, as applicable, as FortisBC may determine, in its reasonable discretion, are appropriate); and

(c) such additional information or material as required by FortisBC;

all for the purpose of assessing the feasibility and desirability of the attachment of Licensee Facilities to FortisBC Structures, including the ability of FortisBC to maintain compliance with all applicable laws, statutes, regulations, by-laws, standards, and codes in respect of FortisBC Structures or their use. An Application may combine as one item several Licensee Facilities to be attached to FortisBC Structures.

3.2 Site Visits

Where FortisBC deems it necessary, FortisBC may arrange for a joint site visit with the Licensee to form FortisBC’s opinion as to the feasibility and desirability of the attachment of Licensee Facilities to FortisBC Structures as contemplated in an Application.

3.3 Permits

(a) FortisBC shall not unreasonably refuse to accept the Licensee’s Application, and subject to the prior payment by the Licensee of all costs associated with Make Ready Work, FortisBC will complete and execute the bottom portion of the Application, thus authorizing the attachment of the Licensee Facilities to FortisBC Structures (the “Permit”) and FortisBC will provide to the Licensee a copy of such Permit.

(b) Each Permit by its issuance shall:
(i) constitute the express permission of FortisBC required for the Licensee to attach specific Licensee Facilities, as described in the Permit, to specific FortisBC Structures, as described in the Permit;

(ii) be in effect from the date of issuance to the last day of the Term, or any renewal thereof, unless terminated sooner in accordance with the provisions of this Agreement; and

(iii) be subject always to all of the provisions of this Agreement.

3.4 Superseding Permits

For changes in the number or nature of the Licensee Facilities attached to FortisBC Structures pursuant to a Permit, a superseding Permit must be approved and issued by FortisBC before the changes can be made. A revised Application shall be prepared by the Licensee and the Licensee shall disclose all details of the proposed changes in the number or nature of the Licensee Facilities and submit therewith such additional information or material as required by FortisBC.

3.5 Refusal of Permit

Notwithstanding any provision herein FortisBC may, in its reasonable discretion, refuse to grant a Permit to the Licensee and in such an instance, FortisBC will state in writing its reasons for refusing to grant the Permit. If the Licensee can satisfy FortisBC’s concerns, then the Licensee may make a new Application and re-submit such Application for approval by FortisBC.

SECTION 4
TECHNICAL, MAKE READY WORK, INSTALLATION, AND OPERATING REQUIREMENTS

4.1 Compliance with Standards

The Licensee will attach Licensee Facilities, and occupy and use the FortisBC Structures, only in accordance with Good Utility Practice and in such a manner as to meet or exceed the aggregate of technical requirements for use of FortisBC Structures and, in particular all technical, engineering and safety standards and rules, including those in connection with installation and operating work practices and procedures, established from time to time by FortisBC, or any lawful authority having jurisdiction over FortisBC, the FortisBC Business or the Licensee (the “Standards”). FortisBC may revise from time to time, in its sole discretion, any Standards so established by it, and may establish new Standards where deemed necessary or desirable by FortisBC. In any event whatsoever, the Licensee will not attach Licensee Facilities to, or occupy or use FortisBC
Structures with Licensee Facilities if such Licensee Facilities are energized or have the potential to be energized in excess of 25 kV to ground.

4.2 **Make Ready Work**

(a) If any proposed attachment to, or occupation or use of, FortisBC Structures by the Licensee Facilities requires, in the judgment of FortisBC, the construction or alteration of, additions to, or replacement or relocation of any of the FortisBC Structures, or the relocation or rearrangement of facilities belonging to a holder of Prior Rights, to accommodate the Licensee Facilities (the “**Make Ready Work**”) then FortisBC may cause such Make Ready Work to be conducted prior to issuance of, or as a condition to the exercise of rights under, a Permit.

(b) The Licensee will promptly reimburse FortisBC for the actual costs and expenses, incurred by FortisBC in connection with the Make Ready Work (which costs and expenses shall include, without limitation, all costs and expenses incurred by FortisBC in connection with any analytical, planning, design, inspection, construction or other work considered necessary by FortisBC to replace, rearrange or relocate any FortisBC Structures or facilities).

(c) FortisBC will prepare an estimate of Make Ready Work costs to be paid by the Licensee to accommodate any proposed Licensee Facilities, and deliver same to the Licensee for review and approval. The Licensee may, within 30 days of receipt of the estimate, notify FortisBC that it wishes to proceed with the Make Ready Work, or that it wishes to redesign or otherwise change the Licensee Facilities in an effort to reduce any costs and expenses to be incurred for Make Ready Work, or that it wishes to terminate all or part of an Application.

4.3 **Supply of Labour for Installation**

Except as expressly provided in this Agreement, the Licensee will supply or cause the supply of all of the fully and properly qualified labour required to install, operate, splice, maintain, repair or remove the Licensee Facilities, and will supply or cause the supply of all materials and equipment in connection with the Licensee Facilities. The Licensee will cause such labour and supply to be performed in accordance with the Standards, Good Utility Practice and in a good and workmanlike manner with due care and without negligent acts or omissions. As an option if FortisBC is undertaking work in this area the Licensee shall have the option of requesting an estimate from FortisBC to perform the work. If FortisBC is willing and able to undertake work in this area on behalf of the Licensee, either using FortisBC employees or FortisBC approved contractors, FortisBC will provide an estimate to the Licensee. The Licensee will consider the
estimate and promptly notify FortisBC that it wishes FortisBC to undertake the work, or that it will undertake the work itself. Should FortisBC undertake the work the Licensee will pay FortisBC for the actual labor, equipment and material costs incurred by FortisBC in performing the work on behalf of the Licensee.

4.4 Other Licences and Approvals

The acquisition of any required licences and approvals by the Licensee, including regulatory and environmental approvals, and any financing, design, supply, construction, operation, maintenance and repairs carried out by the Licensee in respect of the Licensee Facilities shall be at the Licensee’s own risk and cost, subject always to the Standards and to any other provision of this Agreement. Should FortisBC also be obtaining regulatory and environmental approvals as part of its work should the Licensee have If FortisBC plans work that requires regulatory or environmental approvals and impacts Licensee Facilities on FortisBC Structures, FortisBC undertaking work on behalf of the Licensee, shall include the Licensee. FortisBC will endeavour to include any Licensee work in its approval process and the Licensee shall reimburse FortisBC for their portion of the incurred costs and time spent by FortisBC employees specifically related to the Licensee approvals.

4.5 Additional Work Required

(a) If the attachment to, occupation or use of, FortisBC Structures by the Licensee Facilities at any time creates an actual or reasonably apprehended situation that is not an emergency but which requires, in the sole judgment of FortisBC, construction or alteration of, additions to, replacement or relocation of any of the FortisBC Structures, in addition to the Make Ready Work completed pursuant to Section 4.2, and that situation was previously unforeseen by FortisBC, acting reasonably, then FortisBC will promptly give 30 days’ notice to the Licensee of the situation and the nature, extent and likely cost of such construction, alteration, addition, replacement or relocation work (the “Additional Work”).

(a)(b) The Licensee may, provided that the Additional Work has not commenced, promptly notify FortisBC that it wishes to redesign or otherwise change the Licensee Facilities in order to reduce the cost of such Additional Work, or that it wishes to terminate all or part of a Permit. If such redesign, other change or termination, as the case may be, does not relieve the actual or reasonably apprehended situation then FortisBC may, to the extent reasonably required by the situation, cause such Additional Work to be done.

(b)(c) The Licensee will promptly reimburse FortisBC for the actual costs and expenses incurred by FortisBC in connection with such
Additional Work, whether completed pursuant to Section 4.5(a) or 4.5(b).

4.6 **Emergencies and Hazardous Conditions**

If at any time FortisBC reasonably determines that the attachment to, occupation or use of, FortisBC Structures by any Licensee Facilities causes or contributes to an imminent or immediate emergency such as a substantial threat or danger to human life, the environment or to real or personal property of FortisBC or others, including those emergencies which arise from one or more breaches of the Standards, then FortisBC may, in its sole discretion, following verbal notice followed by notice in writing, do any or all of the following:

(a) direct the Licensee immediately to remove or cause the removal of all or part of such Licensee Facilities;

(b) direct the Licensee immediately to cease all or part of any activity or work being undertaken by the Licensee; or

(c) with verbal notice to the Licensee, relocate or remove all or part of any Licensee Facilities attached to FortisBC Structures or cause such other work to be done to the extent necessary to deal with such emergency, provided that FortisBC will promptly give written notice to the Licensee after such relocation, removal or other work is completed.

The Licensee will promptly reimburse FortisBC for any costs and expenses incurred by FortisBC with respect to such relocation, removal or other work.

4.7 **FortisBC Right to Require Work**

If FortisBC, acting reasonably, considers it necessary for the performance of any:

(a) Make Ready Work;

(b) Additional Work; or

(c) construction, maintenance, operation, repair, replacement, removal, investigation or inspection work on any FortisBC Structures or any portion of FortisBC’s transmission, distribution, protection, control or communication facilities attached to, adjacent to or in the immediate vicinity of, any such FortisBC Structures,

in accordance with the Standards or Good Utility Practice, it may do any of the following:
(a) by written 30 day notice to the Licensee, direct the Licensee, at the Licensee’s own cost, to perform certain work on the Licensee Facilities;

(b) upon giving reasonable notice to the Licensee, temporarily cover up the Licensee Facilities.

SECTION 5
INVENTORY, STRUCTURE RENTAL FEES AND COSTS FOR REPAIR

5.1 Inventory

(a) Attached as Schedule “B” to this Agreement is an inventory (the “Initial Contact Inventory”) of each separate point (a “Contact”) of attachment to, occupation or use of, the FortisBC Structures by the Licensee Facilities existing as at the commencement of the Term, together with such maps and drawings as may be sufficient, in FortisBC’s opinion, to locate each such Contact.

(b) On or before January 30th of each year during the Term and any subsequent renewal thereof, FortisBC will provide the Licensee with an inventory of each Contact as of December 31st of the immediately preceding year (the “Adjusted Contact Inventory”) reflecting any changes in the number of Contacts during the immediately preceding year.

(c) If the Licensee disputes FortisBC’s Adjusted Contact Inventory as set out in the January 30th statement and the parties cannot reconcile the difference, the parties will jointly perform an inventory (a “Joint Inventory”) of the Contacts by June 30th of the year following the year in question. If the results of such Joint Inventory are the same as those of FortisBC’s Adjusted Contact Inventory, the Licensee will bear the costs of conducting the Joint Inventory. Otherwise, FortisBC shall bear all costs associated with conducting the Joint Inventory. The results of the Joint Inventory shall determine the Adjusted Contact Inventory as of December 31st of the previous year and shall be binding on the parties hereto.

(d) The parties agree that should one or the other of the parties wish to perform an inventory of Contacts, they will perform a joint inventory of Contacts (a “Five-Year Inventory”) at the end of each five-year period during the Term and any renewal thereof (the first such period commencing on the day this Agreement becomes effective) unless, in the year immediately following the end of any such five-year period the Licensee has disputed the Adjustment
Contact Inventory for such year delivered by FortisBC pursuant to Section 5.1(b), in which case the provisions of Section 5.1(c) will apply. In the absence of any such dispute, FortisBC and the Licensee will, within 180 days after:

(i) December 31, 2012; and

(ii) the end of each 5-year period thereafter during the Term and any renewal thereof;

jointly perform a Five-Year Inventory of Contacts if one or the other of the parties desires. Each party will bear each its own cost of conducting such Five-Year Inventory.

(e) Preparation, delivery, acceptance or use by FortisBC of any of the Initial Contact Inventory, an Adjusted Contact Inventory or a Five-Year Contact Inventory shall be without prejudice to its rights under Section 6.2.

5.2 **Structure Rental Fees**

(a) For 2013 the Licensee will pay to FortisBC an annual structure rental based on the rates (“the Structure Rental Rate”) of $171.22 for each Transmission Pole and $43.93 for each Distribution Pole as set out in the attached Schedule “C”. These rates will be adjusted annually by the Structural Rental Rate Multiplier beginning in 2014 by multiplying the Structure Rental Rate for the preceding year by the Structure Rental Rate Multiplier (SRRM). For 2012, while the effective date of this agreement is __________, 2013, the annual structure rental in 2013 will be payment for the Licensee’s use of the Transmission Poles and Distribution Poles from January 1, 2013 until December 31, 2013.

Beginning in 2014 the Licensee will pay to FortisBC an annual structure rental based on a rate (the “Structure Rental Rate”) of $239.09 for each Transmission Pole and $61.67 for each Distribution Pole Contact which Structure Rental Rate will be adjusted annually thereafter by multiplying the Structure Rental Rate for the preceding year by the Structure Rental Rate Multiplier.

(b) The Licensee will pay an aggregate structure rental charge (the “Structure Rental Fees”) to FortisBC which shall be an amount equal to the product of:

(i) the applicable Structure Rental Rate for the then-current year determined in accordance with Section 5.2(a) above; and
(ii) the average of:

(A) the number of Contacts established by the Adjusted Contact Inventory as of December 31\textsuperscript{st} of the immediately preceding year of the Term; and

(B) the Adjusted Contact Inventory as of December 31\textsuperscript{st} of the then-current year of the Term.

5.3 Invoices

All invoices for Structure Rental Fees for each year of the Term and any renewal thereof, issued on or about July 31\textsuperscript{st} of each year, shall be paid by the Licensee, without deduction or set-off, within 30 days of the date of delivery of the invoice. If the Licensee, in good faith and acting reasonably, disagrees with any portion of an invoice submitted by FortisBC, the Licensee shall pay the undisputed portion of the invoice, in accordance with this Section 5.3 and the Licensee shall then promptly begin the dispute resolution process set forth in Section 13.9 to resolve the disagreement on the balance of the invoice by, among other things, advising FortisBC in writing of the reason for such disagreement.

5.4 Interest for Structure Rental Fees in Arrears

Any Structure Rental Fees required to be paid which are not paid within the time required shall be deemed to be in arrears and shall bear interest at the rate of 2\% above the prime rate set by the Bank of Montreal from the date payment was due to the date of payment in full.

5.5 Costs to Repair

(a) If the Licensee damages any FortisBC Structures by an act or omission of one of its employees, contractors or agents, the Licensee will reimburse FortisBC for the cost of repair or replacement reasonably incurred by FortisBC within 30 days of the date of delivery of an invoice by FortisBC to the Licensee but the Licensee will not be responsible for lost revenue or any other indirect losses that may be incurred by FortisBC.

(b) If FortisBC damages the Licensee Facilities by an act or omission of one of its employees, contractors or agents, FortisBC will reimburse the Licensee for the cost of repair or replacement reasonably incurred by the Licensee, but FortisBC shall not be responsible for lost revenue or any other indirect losses that may be incurred by the Licensee.
SECTION 6
ARREARS AND INDEMNITY FOR UNAUTHORIZED ATTACHMENT

6.1 Right to Verify

FortisBC may at any time, at its own cost, conduct an in-the-field verification of any attachment to, occupation or use of FortisBC Structures by any Licensee Facilities.

6.2 Arrears for Unauthorized Attachment, Termination

(a) If at any time during the Term or any renewal thereof FortisBC finds Licensee Facilities attached to, occupying or using FortisBC Structures, and such attachment, occupation or use is not authorized by a Permit issued pursuant to Section 3.3, then the Licensee will promptly submit an Application in respect of the unauthorized Licensee Facilities pursuant to Section 3.1 and will be bound by and comply with all provisions of this Agreement with respect thereto.

The Licensee will also promptly pay all Structure Rental Fees then in arrears with respect to such Licensee Facilities, calculated in accordance with Section 5 for each such attachment, occupation or use found, which calculation shall, in each such case, reflect a deemed duration of attachment to, occupation or use of the FortisBC Structures equal to the lesser period of from the date of the then most recently completed Joint Inventory to the date the Licensee obtains a Permit for such Licensee Facilities or from the date the Licensee can prove to the satisfaction of FortisBC the attachment was made, to the date the Licensee obtains a Permit for such Licensee Facilities.

(b) If within 60 days of receipt by the Licensee of FortisBC’s calculation of arrears owing, prepared in accordance with Section 6.2(a), the Licensee fails to submit to FortisBC payment of such arrears owing, then the Licensee will, at its cost, immediately remove the unauthorized Licensee Facilities, and if the Licensee fails to do so then FortisBC may exercise the rights provided by Sections 11.3 and 11.4.

6.3 Indemnity for Unauthorized Attachment

In the event of the unauthorized attachment to, occupation or use of, FortisBC Structures by any Licensee Facilities, the Licensee will indemnify FortisBC, its directors, officers, employees or agents and hold such indemnitees harmless from all loss or damage, all fines or penalties and all claims, demands,
actions, suits or other proceedings by whomever made, regardless of fault or cause, and however arising out of such unauthorized Licensee Facilities.

SECTION 7
RISK, INDEMNITY, INSURANCE

7.1 No Assumption of Risk

Except as provided expressly in Section 5.5(b), and notwithstanding any other provision in this Agreement, FortisBC assumes no risk of direct or indirect loss or damage to any property or any person (and for greater certainty, person includes the Licensee, its directors, officers, employees and/or agents) arising in connection with any event or situation as a result of the attachment to, occupation or use of, FortisBC Structures by the Licensee Facilities, any act or omission by the Licensee’s employees or agents in connection with the Licensee Facilities, including the maintenance or repair or lack of repair of the Licensee Facilities, regardless of fault or cause. The Licensee agrees at its expense to defend, or provide such assistance to FortisBC as may be required to defend, any claim, suit or other proceeding and to promptly pay any and all costs, charges, legal fees and other expenses incurred by FortisBC relating thereto.

7.2 Indemnification of FortisBC

Subject to Section 7.3, and in addition to the indemnity provided to FortisBC pursuant to Section 6.3, the Licensee assumes all risk of, and will indemnify FortisBC, its directors, officers, employees and/or agents from and against, any and all direct or indirect loss or damage to any property or any person, (and for greater certainty, person includes FortisBC, its directors, officers, employees or agents) arising in connection with any event or situation as a result of the attachment to, occupation or use of FortisBC Structures by the Licensee Facilities, any act or omission by the Licensee’s employees or agents in connection with the Licensee Facilities, including the maintenance or repair or lack of repair of the Licensee Facilities, and all fines or penalties and all claims, demands, actions, suits or other proceedings by whomever made, except to the extent arising as a result of the negligence or intentional wrongdoing of FortisBC or any of its directors, officers, employees or agents.

7.3 Limited Liability of FortisBC

FortisBC shall indemnify the Licensee for direct or indirect loss or damage to the Licensee Facilities attached to, occupying or using FortisBC Structures when such loss or damage is or was incurred as a direct consequence of any negligent act or omission of FortisBC.

7.4 Insurance

To protect FortisBC from claims and legal defence costs, the Licensee at its own cost shall establish and maintain for the Term of this Agreement and any
renewal thereof a policy of general liability insurance in an amount of not less than $5 million per occurrence, all inclusive. The Licensee shall cause a certificate of insurance, showing evidence of such insurance, to be furnished to FortisBC for review and approval not less than 30 days subsequent to the submission by the Licensee of any Application and prior to the issuance of any Permits pursuant to this Agreement. The policy shall name FortisBC, its directors, officers, employees and agents as “additional insureds”, contain a “cross-liability” clause and shall provide that the insurance shall not be cancelled, reduced, or restricted in a manner that affects coverage without the insurer giving at least 30 days’ prior notice to FortisBC.

SECTION 8
RIGHTS OF WAY

8.1 Rights of Way

(a) Where the Licensee receives a Permit from FortisBC and FortisBC holds title in fee simple to the site upon which the associated structures reside, FortisBC shall, at the request of the Licensee, provide the right, license, consent, authorization or interest in the land which will permit the Licensee, by its employees or agents, to access, occupy and use the land for the purposes of attaching Licensee Facilities and for the maintenance and repair of the Licensee Facilities, all as contemplated herein. Granted land rights will not impair FortisBC’s ability to add, operate, maintain, modify or remove FortisBC facilities on the site or otherwise restrict FortisBC’s use of the site.

(b) If FortisBC does not hold title in fee simple to the site of land upon which any FortisBC Structures are situated, and for which the Licensee proposes to obtain a Permit, then upon the request of the Licensee, FortisBC shall extend to the Licensee the benefit of any right of way held by FortisBC where and to the extent that the provisions of such right of way authorize or otherwise entitles FortisBC to do so. If not authorized, FortisBC shall use its reasonable efforts to obtain for the Licensee rights that will permit the Licensee, by its employees or agents, to access, occupy and use the land for the purposes of attaching the Licensee Facilities and for the maintenance and repair of the Licensee Facilities. Any costs reasonably incurred by FortisBC outside the ordinary course of its business to obtain such rights in favour of the Licensee shall promptly be reimbursed to FortisBC by the Licensee.

(c) If FortisBC is unable to obtain for the Licensee the necessary rights as contemplated by Section 8.1(b), the Licensee shall be responsible for obtaining its own rights of access to the applicable property. In such cases, FortisBC shall cooperate with the
Licensee in good faith and provide the Licensee with reasonable assistance in obtaining the Licensee’s own rights and hereby consents to the Licensee’s use of such rights for the purposes set out in this Agreement.

(d) The Licensee grants to FortisBC, for the term of this Agreement, an easement and license of occupation for any and all FortisBC Structures located on any public space or other Licensee-owned property (other than “streets” or “lanes” as contemplated in Section 6.14 of the Agreement for the Supply of Electricity Wholesale Service between the Licensee and FortisBC made as of the 1st day of March, 2006 in effect between the parties from time to time) within the Licensee’s municipal boundaries.

Without limiting the foregoing, the Licensee grants to FortisBC, for the term of this Agreement, an easement and license of occupation for FortisBC’s facilities known as “45 Line” running from FortisBC’s RG Anderson Substation in Penticton to FortisBC’s Naramata substation to the extent that 45 Line is located on any street, lane or other public space or other Licensee-owned property within the Licensee’s municipal boundaries.

Should the streets, lanes or public spaces on which FortisBC Structures are located be closed, sold or have a change in use that is not compatible with FortisBC Structures being on the former streets, lanes public spaces FortisBC shall be responsible to obtain the required easements, right of ways or remove and relocate FortisBC Structures at their sole cost.

(d) WOULD LIKE TO DISCUSS COMPENSATION FOR THE USE OF CITY STREET, LANE OR OTHER PUBLIC SPACE FOR THE 45 LINE THE CITY WOULD LIKE COMPENSATION AS THIS LINE SUPPLIES NARAMATA. CITY TO RESEARCH FURTHER WITH OUR SOLICITOR ALSO WANT TO ADDRESS WHAT HAPPENS IF THE STREET, LANE OR PUBLIC SPACE IS EITHER CLOSED AND USED FOR OTHER PURPOSES OR SOLD. NOTE WHY IS THE 45 LINE COVERED SEPARATELY? NOTE THE CITY WANTS TO REVIEW THIS WITH THE MANAGER OF OPERATIONS WHEN THEY RETURN FROM VACATION.
SECTION 9  
PROPERTY RIGHTS UNAFFECTED

9.1 Property Rights of FortisBC

(a) No provision of this Agreement, and no attachment to, occupation or use, however extended, of any part of any FortisBC Structures pursuant to this Agreement shall create or vest in the Licensee or dispose of to the Licensee:

(i) any property right or title to, or interest in, any of the FortisBC Structures;

(ii) any right or title to, or interest in, any right of way or other interest owned by FortisBC or issued or otherwise granted by any person to FortisBC, for the location, use, maintenance or repair of FortisBC Structures, except as provided expressly in Section 8.

(b) Care, maintenance, repair, custody and control of the FortisBC Structures shall at all times remain with FortisBC.

9.2 Property Rights of the Licensee

Any and all of the Licensee Facilities attached to, occupying or using FortisBC Structures shall be deemed not to be a fixture and the Licensee Facilities shall remain at all times the property of the Licensee notwithstanding any attachment or affixation to a FortisBC Structure. FortisBC shall have no liability whatsoever to pay or contribute any amount toward any costs, expenses or liabilities with respect to ownership or use of the Licensee Facilities.

SECTION 10  
FORTISBC STRUCTURES, FORTISBC BUSINESS AND OBLIGATIONS UNAFFECTED

10.1 Right to Relocate, Remove or Abandon FortisBC Structures

(a) Subject to paragraph (b), FortisBC exclusively reserves to itself, its successors and assigns, all rights to locate, relocate, construct, modify, operate, use, maintain, repair, remove and abandon FortisBC Structures in such manner as will, in the judgment of FortisBC, best enable it to further FortisBC Business interests. Any new installation or relocation of FortisBC Structures made pursuant to this Section 10.1(a) will be subject to the Licensee’s normal permitting requirements.
(b) If FortisBC wishes to remove any of the FortisBC Structures which it considers no longer necessary for the conduct of the FortisBC Business, it will give to the Licensee no less than 365 days’ prior written notice (the “Removal Notice”) of the proposed removal. If the Licensee desires to purchase from FortisBC any such FortisBC Structures, it will, no less than 90 days prior to the date specified in the Removal Notice for removal of the relevant FortisBC Structures (the “Proposed Removal Date”) give FortisBC notice of such desire, identifying in the notice the relevant FortisBC Structures. FortisBC will transfer to the Licensee the identified FortisBC Structures on such terms as the parties may agree. If, prior to the Proposed Removal Date, the parties cannot agree on the terms on which FortisBC will transfer to the Licensee the identified FortisBC Structures, then FortisBC may remove such FortisBC Structures at any time after the Proposed Removal Date. If FortisBC is relocating their facilities to new structures it will allow the Licensee to relocate its Licence Facilities to the new structures as well. At its option, if FortisBC is willing and able to undertake the relocation of the Licensee facilities, FortisBC will provide the Licensee with an estimate of the cost to relocate the Licence Facilities and the Licensee shall within 30 days authorize FortisBC to proceed with the work, or indicate to FortisBC that it will undertake the work itself. Should FortisBC undertake the work for the Licensee the Licensee shall pay FortisBC the actual cost within 30 days of receipt of an invoice.

10.2 Condition of Poles

(a) All Transmission Poles and Distribution Poles shall conform to the minimum standards set by the Canadian Standards Association.

(b) FortisBC will correct the condition of any Transmission Poles or Distribution Poles which do not meet the standards provided for in Section 10.2(a) at the time of replacement of such poles, or earlier if the parties agree that the conditions create a safety hazard for either party or the public.

10.3 No Interference

The Licensee will use its best efforts to keep its employees and agents, the Licensee Facilities and other equipment from unduly interfering with FortisBC employees or agents, the FortisBC Structures, and other equipment owned by FortisBC.
10.4 Removal of Licensee Facilities Pursuant to Standards or Law

(a) In addition to the rights of removal provided to FortisBC pursuant to Sections 4.6, 6.2 and 11.4, FortisBC may instruct the Licensee to remove or cause the removal of all or part of the Licensee Facilities pursuant to a requirement of the Standards or of law, or an instruction, order or other act of a Governmental Authority. The period of notice that FortisBC will give the Licensee shall be reasonable in the circumstances but in any event shall be not more than that available under any such requirements. FortisBC will not contribute to the costs incurred by the Licensee as a result of the removal unless FortisBC is entitled to recover such contribution from the Governmental Authority issuing the instruction or order.

(b) If the Licensee does not remove or cause the removal required by this section then upon the expiry of the applicable period of notice FortisBC shall have the right to do so and recover from the Licensee all costs and expenses incurred by FortisBC.

SECTION 11
TERMINATION

11.1 Termination of Permits by Licensee

If the Licensee decides at any time in the Term or any renewal thereof that it no longer requires that all or a part of the Licensee Facilities attach to, occupy or use the FortisBC Structures, then the Licensee may provide 6 months’ written notice to FortisBC that it intends to terminate all or part of any Permit. The termination shall be effective on the date of removal of all relevant parts of the Licensee Facilities or upon the expiry of the 6 months’ notice period, whichever is later.

11.2 Termination of Agreement by Written Notice

Either party may terminate this Agreement and the Permits issued pursuant hereto at any time during the Term or renewal thereof by providing to the other party 2 years written notice of termination.

11.3 Termination of Agreement by FortisBC for Non-Compliance

If the Licensee defaults at any time in the payment of the Structure Rental Fee or fails to or neglects at any time to fully perform, observe and comply with all the terms, conditions and covenants herein, then FortisBC shall as soon as practicable, notify the Licensee in writing of such default and the Licensee will correct such default to the satisfaction of FortisBC within 30 days of the delivery of such notice, or within a longer time period if agreeable to FortisBC, failing which FortisBC may forthwith terminate this Agreement and the permits herein granted.
11.4 **Removal of Licensee Facilities**

Upon termination of all or part of this Agreement, or any Permit issued pursuant hereto, for any reason, or upon the exercise of FortisBC’s rights pursuant to Sections 4.6, 6.2 or 10.4 to have the Licensee Facilities removed, the Licensee must promptly and, in any event, within one year of the date of termination or exercise of rights by FortisBC, as the case may be, remove the relevant Licensee Facilities and restore the FortisBC Structures to a condition that is satisfactory to FortisBC, acting reasonably. If the Licensee does not promptly remove the relevant Licensee Facilities and restore the FortisBC Structures to a condition that is satisfactory to FortisBC, acting reasonably, then FortisBC may remove or cause the removal of all or part of such relevant Licensee Facilities, undertake the restoration, or both, and the Licensee will promptly reimburse FortisBC for any costs and expenses incurred by FortisBC in this regard. In the alternative, if the Licensee decides to abandon all or part of the Licensee Facilities and so informs FortisBC, then FortisBC may, at its sole discretion, take ownership, possession and use of such of the Licensee Facilities to the exclusion of all others.

11.5 **Survival**

Any termination of this Agreement shall not relieve the Licensee of obligations that by their nature survive such termination including, without limitation, warranties, remedies and indemnities.

SECTION 12
PRIOR RIGHTS

12.1 **Prior Rights Not Affected**

(a) Nothing in this Agreement shall be construed as affecting Prior Rights irrespective of whether such Prior Rights have been exercised by their holder and FortisBC shall have the right to continue, reasonably extend, vary or renew Prior Rights, provided that any such extension, variation or renewal of such Prior Rights shall not unduly interfere, conflict with or affect the intended use, purpose or the functionality of the Licensee Facilities for which a Permit was issued by FortisBC to the Licensee.

(b) If any relocation of the Licensee Facilities is required by any holder of Prior Rights, FortisBC shall use all commercially reasonable efforts to ensure that such holder pays to the Licensee all costs incurred by it in carrying out such relocation and FortisBC shall reimburse the Licensee for any and all costs of relocating the Licensee Facilities which FortisBC recovers from such holder of Prior Rights.
SECTION 13
GENERAL PROVISIONS

13.1 Expropriation or Prevention By Governmental Authority

If any FortisBC Structures or any Licensee Facilities are expropriated or if through any act or omission of a Governmental Authority or if because of an order of a court of competent jurisdiction either party is prevented from using any FortisBC Structures or Licensee Facilities, as applicable, as contemplated by this Agreement, each party shall bear its own losses and costs which result from such expropriation or prevention.

13.2 Labour Disputes

If either party becomes involved in a strike, lockout or other labour dispute which affects the use by the other party of FortisBC Structures or Licensee Facilities, as applicable, the party involved in the labour dispute will use all commercially reasonable efforts to ensure that the other party’s access to the FortisBC Structures or Licensee Facilities, as applicable and to the equipment attached to them is not unduly impeded, and the normal business operations of the other party are not materially interrupted.

13.3 Failure to Act Not to Affect Rights

No failure by FortisBC or the Licensee at any time or from time to time to enforce or require a strict observance and performance of any of the provisions of this Agreement shall constitute a waiver of such provisions or affect or impair such provisions or the right of a party at any time to enforce such provisions or to take advantage of any remedy that a party may have.

13.4 Binding Agreement

All provisions of this Agreement shall enure to the benefit of and be binding on the parties and their respective successors or permitted assigns.

13.5 Entire Agreement

This Agreement constitutes the entire agreement between the parties and supersedes all previous agreements and understandings between the parties in any way relating to the subject matter hereof. It is expressly understood and agreed that FortisBC has made no representations, inducements, warranties or promises, whether direct, indirect or collateral, express or implied, oral or otherwise, concerning this Agreement or concerning any other matter, which is not embodied herein.
13.6 Assignment

(a) The Licensee will not assign or otherwise dispose of all or any part of the rights granted to it by FortisBC pursuant to this Agreement, including any rights granted by a Permit issued pursuant hereto, without providing prior notice to and receiving the prior written consent of FortisBC, such consent not to be unreasonably withheld or delayed following the delivery from the Licensee to FortisBC of all such information that it may reasonably require to consider the request.

(b) The Licensee or any subsequent assignee shall pay to FortisBC all reasonable and proper costs, including legal costs, incurred by FortisBC in connection with all assignments or dispositions permitted pursuant to this section.

13.7 Amendment to the Agreement

This Agreement shall not be amended except by agreement in writing executed by both parties.

13.8 Notices

Unless otherwise provided for by this Agreement, any Application or notice, request, consent, declaration, acknowledgement, payment or invoice (a “Notice”) required to be given by the Licensee to FortisBC shall be given in writing to the designate of FortisBC addressed as follows:

FortisBC Inc.
Suite 100 - 1975 Springfield Avenue
Kelowna, B.C V1Y7V7
Attention: Danielle Wensink, Joint Use Administrator

and unless otherwise provided for by this Agreement, any Permit, and any other Notice required to be given by FortisBC to the Licensee shall be given in writing to the designate of the Licensee addressed as follows:

The Corporation of the City of Penticton
171 Main Street
Penticton, B.C. V2A 5A9

Attention: Corporate Officer

and any such Application, Permit, or other Notice may be delivered by hand, facsimile or mail and shall be deemed to have been given when received by the addressee. Either party may from time to time, by notice in writing to the other party, change its
above noted designation or address or may establish one or more delegates of the designate.

13.9 **Arbitration**

Any dispute arising under this Agreement shall be resolved through a mediation - arbitration approach. The parties agree to select a mutually agreeable, neutral third party to help them mediate any dispute that arises under the terms of this Agreement. If the mediation is unsuccessful, the parties agree that the dispute will be decided by binding arbitration under the *Commercial Arbitration Act* (British Columbia). The decision of the arbitrators shall be final and binding on the parties and may be entered and enforced in any court of competent jurisdiction by any party thereto. The costs of mediation shall be equally split between the parties. The costs of arbitration shall be at the discretion of the arbitrator(s), who may direct to and by whom and in what manner costs for the arbitration or any part thereof shall be paid.

13.10 **Taxes**

The Licensee shall pay any taxes assessed on the Licensee Facilities by any Governmental Authority or other lawful authority having jurisdiction over it. If FortisBC for any reason whatsoever is required to pay all or part of the taxes due on Licensee Facilities then the Licensee shall promptly reimburse FortisBC for such amount paid by FortisBC.

13.11 **Further Assurances**

Each of the parties hereby covenants and agrees to execute and deliver such further and other agreements, assurances, undertakings, acknowledgements or documents, cause such meetings to be held, resolutions passed and by-laws enacted, exercise their influence and do and perform and cause to be done and performed any further and other acts and things as may be necessary or desirable in order to give full effect to this Agreement and every part hereof.

13.12 **Applicable Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the parties hereto submit and attorn to the jurisdiction of the courts of British Columbia.

13.13 **No Representation or Warranties as to Fitness**

Nothing contained in this Agreement or in any Permit issued pursuant to it shall be construed to contain or provide, expressly or by implication, any representation whatsoever as to the suitability or fitness of the FortisBC Structures for any particular purpose or use.
13.14  **Severability**

If for any reason whatsoever, any term or condition of this Agreement or the application thereof to any party or circumstance shall to any extent be invalid or unenforceable, all other terms and conditions of this Agreement and/or the application of such terms and conditions to parties or circumstances, other than those as to which were held to be invalid or unenforceable, shall not be affected thereby and each term and condition of this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

13.15  **Force Majeure**

“Except as herein otherwise expressly provided, if and whenever to the extent that either FortisBC or they Licensee shall be prevented, delayed or restricted in the fulfillment of any obligations hereunder, in respect of the supply or provision of any service or utility, the making of any repair, the doing of any work or anything (other than the payment of the fees or any other money as herein required), by reason of civil commotion, war-like operation, invasion, rebellion, hostilities, sabotage, strike, or other work stoppage or being unable to obtain any material, service, utility, or other labour required to fulfill such obligation or by reason of any statute, law, or regulation of or inability to obtain any permission from any governmental authority having lawful jurisdiction, preventing, delaying, or restricting such fulfillment, or by reason of other unavoidable occurrence other than a lack of funds, time for fulfillment of such obligations shall be extended during the period in which such circumstance operates to prevent, delay or restrict the fulfillment thereof, and the other party to this agreement shall not be entitled to compensation for any inconvenience, nuisance, or discomfort thereby occasioned, nor shall fees or monies payable herein abate; nevertheless, FortisBC or the Licensee as the case may be, shall act diligently and take all reasonable steps to remove the cause or causes of delay.”
IN WITNESS WHEREOF each party has caused this Agreement to be executed, by its duly authorized representative(s).

FORTISBC INC.
By:  
Title:  

THE CORPORATION OF THE CITY OF PENTICTON
By:  
Title:  Mayor
By:  
Title:  Corporate Officer
# SCHEDULE A

## POLE CONTACT NOTIFICATION / APPLICATION

<table>
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<tr>
<th>Requestor Information</th>
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**Description / Framing Standards (spacing)**

**Comments: Clearances/Photos/attached etc.**

**Sketch:**

*NOTE: For more than 2 poles, attach a printout. Please ensure to include location information.*

Please include new pole contacts and contact removals (small clearance, private property, transmission), anchoring, addresses, road names and any other relevant information.

---

**FortisBC Internal Use**

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**Send signed copy to Requesting Party/TELUS As Built (Inc. maps to IU Admin)**

FortisBC As Built Group [ ] FortisBC IU Admin [ ]

---

**Note:** Clearance Contacts, as per the relevant agreements, do not require advance approval.

Note: A private property pole is one installed on private property after 1986 for serving a single customer where BCCP may/may not have a SOC (applicable to distribution poles for Telus only).
# PERMIT APPLICATION FOR LICENSED ATTACHMENT TO FORTISBC STRUCTURES

*Please complete all boxes above the dotted line.*

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<tr>
<td>Permission is requested by:</td>
<td>Name and Title: (please print)</td>
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<td>To place attachments as follows: (note specific quantity, size and nature of proposed attachment(s))</td>
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* Please orient sketch to the north, show transformer numbers and adjacent Permit numbers.

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**For Internal Use Only**

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Comment [d1]: DW – Please see new form attached as separate pdf file.
SCHEDULE B

INITIAL CONTACT INVENTORY

(reference Section 5.1)

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15 Distribution Contacts
## SCHEDULE C
### STRUCTURE RENTAL RATE SCHEDULE

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MINUTES
ARTS & CULTURE ADVISORY COMMITTEE
Thursday, October 17th, 2013 @ 4:00 – 5:30 p.m.
Committee Room ‘A’, 2ND Floor of City Hall

PRESENT:  Councillor Judy Sentes
Charlie Utz, Committee Chair
Kerri Milton, DPA Representative
Donna Schellenberg, Member at Large
Nicholas Vincent, Penticton Art Gallery Rep.

REGRETS:  Ted Dunnigan, Member at Large
Johann Wessels, Member at Large
Barb Haynes, Member at Large

STAFF:  Chuck Loewen, GM Recreation & Facilities
Anthony Haddad, Director of Development Services
Barb Bogaardt, Corporate Committee Secretary

1. CALL TO ORDER

The meeting was called to order by Committee Chair Charlie Utz @ 4:00 p.m.

2. INTRODUCTION OF LATE ITEMS

2.1 2014 Stream-Punk refer to item 5.4
2.2 Welcoming Communities refer to time 5.5
2.3 Public Art Sculpture Project refer to item 5.6

3. APPROVAL OF AGENDA

It was MOVED and SECONDED

THAT the Arts & Culture Advisory Committee approve the agenda dated October 17th, 2013.

CARRIED UNANIMOUSLY

4. APPROVAL OF MINUTES

It was MOVED and SECONDED

THAT the Arts & Culture Advisory Committee approve the minutes dated August 29th, 2013.

CARRIED UNANIMOUSLY
5. BUSINESS ARISING FROM LAST MEETING

5.1 Christine Davidson – Penticton Free Library Group

Christine Davidson presented to the Committee a plan to construct and distribute little libraries in the Penticton area with a focus on children’s books. The objective presented was the creation of a community project with collaboration from different members and organizations within Penticton.

Discussion continued on local artists becoming involved. These library book boxes are to be placed in Parks and outside certain community buildings. Christine requested representation from this Committee and the Downtown Penticton Association volunteered a representative.

The first meeting of the “Penticton Little Free Library Project” working group is being held on Friday, October 18th, 2013 @ 3:00 p.m. at Queen’s Park School.

5.2 Email dated October 3rd, 2013 – Shatford Centre

A roundtable discussion followed on the major art projects submitted by the Shatford Centre for the coming year. As these projects are scheduled for 2015 this item will be brought back to the Committee at a future meeting.

5.3 2014 Projects – this item included in the conversation below.

5.4 2014 Steampunk

- The Steamfest Festival Event for 2014 is being organized by Peter Ord, Museum Manager. Staff brought forward the Steampunk Festival & Exhibit which will be an artistic component project which could be implemented into this event. This could be a project this committee could partner with. It was agreed that Peter Ord be invited to the next Arts & Culture meeting to bring forward more information.

Other projects discussed were as follows:

- Castlegaar Sculpture Walk & Public Art Sculpture
- Granfondo Cycling Sculpture

5.5 Welcoming Communities

Welcoming Communities has partnered with the Penticton Art Gallery to create a community art display called Welcome Home. The idea is to match Newcomer Canadians with local artists to render a piece of art based on their story. The art will be displayed at the Art Gallery in January.

6. COUNCIL OUTCOME

6.1 Council Resolutions 589/2013 from the minutes dated August 29th, 2013. Received
7. **NEXT MEETING**

The next meeting of the Arts & Culture Advisory Committee is scheduled for **Thursday, November 21st, 2013 @ 4:00 p.m.** in Committee Room ‘A’.

8. **ADJOURNMENT**

The Arts & Culture Advisory Committee adjourned at 5:22 p.m.
MINUTES
PENTICTON CREEK RESTORATION SELECT COMMITTEE
Friday, October 18th, 2013 @ 9:00 – 10:30 a.m.
Committee Room ‘A’, 2nd Floor of City Hall

PRESENT:  Councillor John Vassilaki
Phil Rogers, Penticton Fly Fishers’ Association
Bruce Turnbull, Penticton Fly Fishers’ Association
Kerri Milton, DPA Representative
Carrie Terbasket, PIB Representative
Joe Enns, Okanagan Nation Alliance Representative

REGrets:  Paul Askey, Fish & Wildlife Division Representative
Bryn White, South Okanagan Conservation Representative

STAFF:  Mitch Moroziuik, Director of Operations
Jake Belobaba, Manager of Planning
Len Robson, Public Works Manager
Barb Bogaardt, Corporate Committee Secretary

1. CALL TO ORDER

The regular meeting was called to order by DPA Representative Kerri Milton 9:00 a.m.

2. INTRODUCTION OF LATE ITEMS:

Nil

3. APPROVAL OF AGENDA:

It was MOVED and SECONDED

THAT the Penticton Creek Restoration Select Committee approve the agenda dated October 18th, 2013.

CARRIED UNANIMOUSLY

4. APPROVAL OF MINUTES:

It was MOVED and SECONDED

THAT the Penticton Creek Restoration Select Committee approve the minutes dated August 23rd, 2013.

CARRIED UNANIMOUSLY
5. **BUSINESS ARISING FROM THE LAST MEETING:**

5.1 **Public Consultation Session 1: Overview**

Staff provided an update on the public consultation process that took place and the support and positive feedback which was received. Donations were received and an account has been setup for this project.

5.2 **NAPECA Grant Submission: Overview**

Staff commented that the grant application has been submitted. Results will be announced on November 13th, 2013 and if accepted a request for complete proposals will be submitted.

6. **COUNCIL OUTCOME**


7. **NEXT MEETING**

The next scheduled meeting of the Penticton Creek Restoration Select Committee will be **Monday, November 18th, 2013 @ 9:00 a.m.** in Committee Room ‘A’.

8. **ADJOURNMENT**

The Penticton Creek Restoration Select Committee meeting adjourned at 9:31 a.m.
FISCAL REVIEW ADVISORY COMMITTEE
MINUTES
Monday, October 28th, 2013 @ 10:00 – 1:00
COMMITTEE ROOM ‘A’, 2ND FLOOR OF CITY HALL

PRESENT: Mayor Garry Litke
Councillor Helena Konanz
Alan Profili, Committee Chair
George Little, Member at Large
Chris Browne, Member at Large
Jim Dunlop, Member at Large

REGRETS: Paulette Rennie, Member at Large

STAFF: Annette Antoniak, City Manager
Wayne Williams, Fire Chief
Dave Spalding, Deputy Fire Chief
Colin Fisher, Chief Financial Officer
Doug Leahy, Controller
Anthony Haddad, Director of Development Services
Barb Bogaardt, Corporate Committee Secretary

1.0 CALL TO ORDER
The Fiscal Review Advisory Committee meeting was called to order by Committee Chair Alan Profili at 10:00 a.m.

2.0 INTRODUCTION OF LATE ITEMS
Nil

3.0 APPROVAL OF AGENDA
It was MOVED and SECONDED

THAT the Fiscal Review Advisory Committee agenda be amended as discussed; and to approve the agenda dated October 28th, 2013.

CARRIED UNANIMOUSLY

4.0 BUSINESS CARRIED FORWARD FROM THE LAST MEETING

4.1 Fire Department Review

The Committee Chair started a roundtable discussion on proposed recommendations. The discussion focused on a business plan being established for the Fire Department. After discussion the committee recommended the following:
It was MOVED and SECONDED

THAT the Fiscal Review Advisory Committee recommends to Council that a business case be prepared regarding the establishment of a new training site in Penticton

CARRIED UNANIMOUSLY

A discussion followed regarding Fire Department operations. The committee recommending the following:

It was MOVED and SECONDED

THAT the Fiscal Review Advisory Committee recommends to Council that the Fire Department create an operational plan to includes greater use of auxiliaries;

AND THAT the Fire Department also create a staffing plan that includes greater use of auxiliaries.

CARRIED UNANIMOUSLY

4.2 Is a 0% tax increase sustainable?  (Colin Fisher/Doug Leahy)

Staff provided information on budget deliberations that have taken place. Topics of discussion focused on taxes, increasing revenue, costs and community growth. The Committee recommended the following:

IT was MOVED and SECONDED

THAT the Fiscal Review Advisory Committee recommends to Council that the assessment class for business in comparison to residential is decreased from the current 1.67 multiple to 1.5 over a 5 year time period;

AND THAT this be included as part of the 2014 budget discussions.

CARRIED UNANIMOUSLY

Further conversation focused on whether a 0% tax increase is sustainable.

4.3 Supplementary Grant Policy  (Colin Fisher)

Staff provided an update on the grant policy. It was suggested that the supplemental grant policy be altered in the following ways:

1. That grants supporting social support organizations be referred to a third party such as Community Foundations of the South Okanagan for processing and adjudication of their applications, and that Council budget a lump sum payment to that organization to distribute as flow through funds.

2. That organization currently dependent on annual city funding be consulted to review their operations budget, with a view to decreasing and eliminating the city share.
3. The annual grants for institutions such as library, art gallery and SS Sicamous be included in the city budget as a line item.

4. That new applications be subject to the newly revised grants policy.

4.4 Strategic Priority – Downtown, options funding  (Anthony Haddad)

Staff provided a power point on the 2014 Capital Budget for the Downtown Revitalization Project for the Main Street project. Areas of discussion focused on funding alternatives, public consultation requirements and construction timelines.

4.5 EIZ – more clarity on the scale of the program  (Anthony Haddad)

Staff provided additional information for EIZ Applications since 2010 along with upcoming projects, a question and answer period followed.

5.0 NEXT MEETING

The next meeting of the Fiscal Review Advisory Committee will be the Call of the Chair.

6.0 ADJOURNMENT

The Fiscal Review Advisory Committee adjourned at 1:00 p.m.
PRESENT: Councillor Judy Sentes  
Committee Chair Barb Haynes  
Committee Vice-Chair Nick Bevanda  
Kerri Milton, DPA Representative  
Erin Hanson, Member at Large  
Angela Brown, Member at Large  
Alan Kidd, Member at Large  

REGRETS: John Devitt, Chamber of Commerce Rep.  
Annette Antoniak, City Manager  

STAFF: Anthony Haddad, Director Development Services  
Colleen Pennington, Economic Development Officer  
Simone Blais, Communications Officer  
Barb Bogaardt, Corporate Committee Secretary  

1. CALL TO ORDER  
The meeting was called to order by Committee Chair Barb Haynes at 8:01 a.m.  

2. INTRODUCTION OF LATE ITEMS  
2.1 Westminster/Martin Project Communications refer to item 5.2  

3. APPROVAL OF AGENDA  
It was MOVED and SECONDED  
THAT the Downtown Revitalization Select Committee approve the agenda dated October 30th, 2013.  
CARRIED UNANIMOUSLY  

4. APPROVAL OF MINUTES  
It was MOVED and SECONDED  
THAT the Downtown Revitalization Select Committee approve the minutes dated September 25th, 2013.  
CARRIED UNANIMOUSLY  

5. BUSINESS ARISING FROM THE LAST MEETING  
5.1 Main Street Project and 2014 Capital Budget  
Staff provided a power point on the 2014 Main Street project which was supported by this Committee. Important consideration for this project is the property owner’s contribution formula. Other areas of discussion were:  
- Ownership breakdown, borrowing bylaw, costs for North and South Park design  
- Design palette of Main Street
- Communication with the property owners early in the year (first quarter) presenting them with cost estimates and images of what it will look like, as well as gauging their comfort with concepts developed to date
- Public engagement process

### 5.2 Westminster/Martin Project Communications

Staff presented a communication overview regarding Westminster/Martin Street project. Presented and discussed were project goals and the resulting communications goals, as well as the importance of the City and Downtown Penticton Association partnering to move the project forward. A communications matrix that sets strategies and activities against a long-range timeline was presented to the Committee. A lengthy roundtable discussion followed and the committee supported the following recommendations:

**It was MOVED and SECONDED**

THAT the Downtown Revitalization Select Committee recommends to Council that, in recognition of the significance of a marketing and communications strategy being required for the Westminster/Martin Project, a budget of $50,000 be allocated for the Westminster/Martin Street project communications during the 2014 budget discussions.

CARRIED UNANIMOUSLY

**It was MOVED and SECONDED**

THAT the Downtown Revitalization Select Committee recommends to Council to support the design, consultation and engineering capital budgets for Main Street in 2014; including the addition of the 400 block breezeway and investigation of public washroom options;

AND THAT Way-Finding Signage be deferred to the 2015 budget process.

CARRIED UNANIMOUSLY

### 5.3 EIZ Update

Staff presented policy changes relating to the downtown segment of the EIZ Bylaw including:

- Grocery Store
- New multi-family residential units in the Downtown Core
- New multi-family residential units in the Downtown Periphery
- Cultural Facility
- Façade restorations
- New construction or renovations to existing buildings (excluding gas stations and drive-through uses)
- Temporary Community Facilities
- Greyfield redevelopment
- Brownfield redevelopment
- Value infrastructure
- Office Building
- High-technology service
- Bakery
- Butcher Shop
- Hotel
After discussion the Committee recommended the following:

**It was MOVED and SECONDED**

THAT the Downtown Revitalization Select Committee recommends to Council to support the proposed Downtown EIZ Bylaw for 2014.

**CARRIED UNANIMOUSLY**

5.4 Residential at grade in downtown core (defer to November meeting)

6. **COUNCIL OUTCOME**

6.1 Council Resolutions 628/2013 from the minutes dated September 25th, 2013. received

7. **NEXT MEETING**

The next meeting of the Downtown Revitalization Select Committee has been scheduled for **Wednesday, November 13th, 2013 @ 8:00 a.m.** in Committee Room ‘A’.

8. **ADJOURNMENT**

The Downtown Revitalization Select Committee adjourned at 9:45 a.m.