



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall, 1229 Esquimalt Road, Esquimalt, B.C. V9A 3P1
Telephone (250) 414-7100 Fax (250) 414-7111

File 0550-06

June 19, 2013

NOTICE

**A SPECIAL MEETING OF COUNCIL WILL BE HELD ON
MONDAY, JUNE 24, 2013 AT 5:45 PM, IN THE COUNCIL
CHAMBERS, ESQUIMALT MUNICIPAL HALL, 1229
ESQUIMALT ROAD TO DISCUSS AN UNSIGHTLY
PROPERTY / FIRE PROTECTION AND TO MAKE A
MOTION TO GO *IN CAMERA* PURSUANT TO SECTION 90
OF THE *COMMUNITY CHARTER*.**

**ANJA NURVO
CORPORATE OFFICER**



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

A G E N D A **SPECIAL MEETING OF COUNCIL**

Monday, June 24, 2013

5:45 p.m.

Council Chambers, Esquimalt Municipal Hall

1. **CALL TO ORDER**
2. **LATE ITEMS**
3. **APPROVAL OF THE AGENDA**
4. **STAFF REPORTS**

Administration

- (1) Unsightly Property – 1083 Colville Road, Esquimalt, BC, Staff Report No. ADM-13-027 Pg. 1 – 49

RECOMMENDATION:

That Council proceed with Notice to the owner, Kenneth Ian Kelly, that:

- (1) Mr. Kelly has 30 days to clean up the property located at 1083 Colville Road; and
- (2) If the property is not cleaned up to the satisfaction of the Township of Esquimalt within such 30 day period, the work will be done by the Township, or by its authorized agents, at the owner's expense;

in the form of the Resolution attached to Staff Report No. ADM-13-027.

- (2) Fire Protection - 1083 Colville Road, Esquimalt, BC, Staff Report No. ADM-13-028 Pg. 50 – 81

RECOMMENDATION:

That Council proceed with Notice to the owner, Kenneth Ian Kelly, that:

- (1) Mr. Kelly has 30 days to remove and clear from the property located at 1083 Colville Road the accumulation of wood and other combustible or explosive materials; and
- (2) If the property is not cleared to the satisfaction of the Township of Esquimalt within such 30 day period, the work will be done by the Township, or by its authorized agents, at the owner's expense;

in the form of the Resolution attached to Staff Report No. ADM-13-028.

- (3) Opportunity For Property Owner To Address Council
- (4) Consideration of Recommended Resolution

5. **MOTION TO GO *IN CAMERA***

Motion to go *In Camera* pursuant to Section 90 of the *Community Charter* to discuss:

- Personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality; and
- Negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could reasonably be expected to harm the interests of the municipality if they were held in public.

In accordance with Section 90 (1) (a) and (k) of the *Community Charter*, and that the general public be excluded.

6. **ADJOURNMENT**



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall, 1229 Esquimalt Road, Esquimalt, B.C. V9A 3P1
Telephone (250) 414-7100 Fax (250) 414-7111

Special Council Meeting: June 24, 2013
Staff Report No. ADM-13-027

REQUEST FOR DECISION

SUBJECT: Unsightly Property - 1083 Colville Road, Esquimalt, BC

RECOMMENDATION:

That Council proceed with Notice to the owner, Kenneth Ian Kelly, that:

- (1) Mr. Kelly has 30 days to clean up the property located at 1083 Colville Road; and
- (2) if the property is not cleaned up to the satisfaction of the Township of Esquimalt within such 30 day period, the work will be done by the Township, or by its authorized agents, at the owner's expense;

in the form of the Resolution attached to Staff Report No. ADM-13-027.

RELEVANT POLICY:

Section 8(3)(h) and 64 of the Community Charter, S.B.C. 2003, Chapter 26
Maintenance of Property Bylaw, 1996, No. 2180, as amended
Council Policy No. ADMIN-23 "Bylaw Enforcement – Receipt of Complaints"

STRATEGIC RELEVANCE:

This Request for Decision relates to Council's Strategic Priority for enhanced Bylaw Enforcement.

Submitted by: Writer

[Signature]

Reviewed by: CAO

[Signature]

Date:

June 19/13

STAFF REPORT

DATE: June 17, 2013 Report No. ADM-13-027
TO: Laurie Hurst, Chief Administrative Officer
FROM: Anja Nurvo, Manager of Corporate Services
SUBJECT: Unsightly Property – 1083 Colville Road, Esquimalt, BC

RECOMMENDATION:

That Council proceed with Notice to the owner, Kenneth Ian Kelly, that:

- (1) Mr. Kelly has 30 days to clean up the property located at 1083 Colville Road; and
- (2) if the property is not cleaned up to the satisfaction of the Township of Esquimalt within such 30 day period, the work will be done by the Township, or by its authorized agents, at the owner's expense;

in the form of the Resolution attached to Staff Report No. ADM-13-027.

BACKGROUND:

Procedural Requirements

The Township's *Maintenance of Property Bylaw, 1996, No. 2180* (the Bylaw), sets out a procedure to be followed for clean up of a property. Notice must be served setting out the details of non-compliance and giving a certain time period to bring the property into compliance. In the event the owner/occupier does not carry out the required work, the Township may have the work done, and the cost of the clean up can be charged to the owner. Any amount remaining unpaid as of December 31st can be added to taxes payable as taxes in arrears.

Prior to proceeding with enforcement of the Bylaw, the common law principles of natural justice and procedural fairness apply. The owner must be given notice of the meeting where Council will be considering taking the action and provide the owner an opportunity to be heard. The owner should also be given an appropriate period of time to complete the work prior to the Township's staff or authorized agents proceeding to complete the work.

Summary of Process

Staff has been involved with the subject property since at least 2006. We have recently received numerous complaints relating to the unsightly condition of the property. Staff has attended at the property on several occasions to assess the condition and to attempt to obtain voluntary compliance with the Township's property standards, but have not been successful.

Staff attended for an inspection on April 15, 2013. Notice was given in advance to the owner, Mr. Kenneth Ian Kelly through his then-advocate, but neither Mr. Kelly nor his advocate was present. Photographs were taken and subsequently staff provided Mr. Kelly with a letter by registered and regular mail advising of the contraventions and requiring that the property be cleared of "the accumulation of filth, discarded materials, rubbish and other noxious, offensive or unwholesome matter" by May 24th, failing which a report would be prepared to Council for further action.

Staff was contacted by another advocate, Mr. Alex Florescu with the Action Committee of People with Disabilities. He advised that Mr. Kelly contacted him regarding the Notice from the Township, and requested a site meeting for the purpose of ensuring that Mr. Kelly understood what was required to bring the property into compliance. The site meeting was held on May 28, with the Bylaw Management Officer, Assistant Fire Chief, Mr. Florescu and Mr. Kelly in attendance. Staff observed that no work had been done on the property since the April 15th inspection and the deadline of May 24th had passed.

Staff provided notice to Mr. Kelly and Ms. Alison Perry, Mr. Florescu's replacement at the Action Committee, that Council would be considering a report from staff at the *In Camera* meeting scheduled for June 24th, 2013 at 5:45 p.m. and that Mr. Kelly, either personally or through his advocate, would be given the opportunity to be heard.

Attached are:

1. Report by Darrell McLean, Bylaw Management Officer, setting out the details of his site inspections, including copies of photographs taken during the April 15th, 2013 inspection.
2. Draft Resolution for Council's consideration, following:
 - (i) review of this Staff Report, including the Bylaw Management Officer's Report, and
 - (ii) the opportunity for Mr. Kelly or his advocate to address Council on this issue.

ISSUES:

1. Rationale for Selected Option

The property has been in an unsightly condition for several years, and the Township has received numerous complaints from neighbours. Staff has confirmed that the condition of the property is a contravention of the *Maintenance of Property Bylaw* as well as being a health and safety hazard. It is evident to staff that there has been no attempt to clean up the property since the site inspection of April 15th despite the Notice provided to Mr. Kelly by registered mail on April 30th. Accordingly staff recommends that the Township clean up the property, through its agents, and that the cost of such clean up be charged to Mr. Kelly and if unpaid, be added to taxes.

2. Organizational Implications

Enhanced bylaw enforcement has been identified in Council's Strategic Priorities Report as one of staff's operational strategies.

3. Financial Implications

Pursuant to the *Community Charter* and the *Maintenance of Property Bylaw*, any costs incurred by the Township will be charged to the owner and if unpaid by December 31st, will be added to taxes payable. The cost of the cleanup may be significant, and once added to taxes, it may be some time before the Township can collect the amount owing.

4. Sustainability/Environmental Implications

Clean up of the property will eliminate several potential health and safety hazards, both for the subject property and the neighbouring properties, including the removal of combustible and other hazardous materials.

5. Communication

Once Council determines the course of action, that will be communicated to Mr. Kelly and his advocate. Council should also rise and report on the approved Resolution so that the public is aware of any action that the Township is taking in relation to this property.

ALTERNATIVES:

1. That Council proceed with Notice to the owner, Kenneth Ian Kelly, that:
 - (1) Mr. Kelly has 30 days to clean up the property located at 1083 Colville Road; and
 - (2) if the property is not cleaned up to the satisfaction of the Township of Esquimalt within such 30 day period, the work will be done by the Township, or by its authorized agents, at the owner's expense;in the form of the Resolution attached to Staff Report No. ADM-13-027.

2. That Council provide alternative direction to staff.

STAFF REPORT

DATE: June 12, 2013 Report No. ADM-13-027
TO: Laurie Hurst, Chief Administrative Officer
FROM: Darrell McLean, Bylaw Management Officer
SUBJECT: Bylaw Management Officer's Report re Unightly Property
- 1083 Colville Road, Esquimalt, BC

RECOMMENDATION:

That Council proceed with Notice to Kenneth Ian Kelly that:

1. Mr. Kelly has 30 days to clean up of the property located at 1083 Colville Road, Esquimalt, BC; and
2. if the work is not completed to the satisfaction of the Township of Esquimalt within such 30 days, the work will be done by the Township of Esquimalt, or by its authorized agents, at the owner's expense.

BACKGROUND:

Under the provisions of the *Maintenance of Property Bylaw, 1996, No. 2180*, as amended (the Bylaw), it is an offence for owners or occupiers of real property within the Township of Esquimalt to permit any accumulation of filth, discarded materials or rubbish of any kind on their premises or to allow their property to become or remain unsightly.

The Township has received complaints regarding the unsightly appearance of property situated at 1083 Colville Road, Esquimalt, BC legally described as Lot 14, Section 10, Esquimalt District, Plan VIP7328, Portion excluding N 5', Folio No. 2508.000, registered in the name of Kenneth Ian Kelly, of 1083 Colville Road, Esquimalt, BC.

One of the neighbours has advised that he has trapped approximately 20 rats under his garden shed in the past two months, which he believes come from the subject property. He also advised that since they moved into their residence, they have noticed a steady decline in the condition of the property.

A letter was forwarded by registered and regular mail to the owner of the property on April 30, 2013 requesting that the premises be cleaned up by May 24th, 2013, of:

- "the accumulation of filth, discarded materials, rubbish and noxious, offensive or unwholesome matter, in particular the derelict vehicles, unlicensed and/or derelict boat trailers, waste wood, plastics, appliances, building materials, plastic tarps, lawn furniture, salvaged metals, wood pallets, pieces of wire fencing, and all items that are broken or in various stages of decay;
- Dog and poultry feces throughout the yard; and
- Poultry feces inside the chicken coop,

I attended at the property on May 28th, 2013 and confirmed that the accumulation of unsightly materials has not been removed and that the property remains unsightly. Mr. Kelly and his advocate, Mr. Alex Florescu were both present.

The following is an excerpt from my memo to the file following the site visit on May 28th:

"It was very clear that nothing regarding the state of the front & rear yards have changed over the past 12 months. No effort has been made on Mr. Kelly's part to address the host of issues that have been drawn to his attention on previous site visits. These include but are not limited to debris in the front driveway, significant amounts of wood waste, chicken & dog feces, debris in the back yard (plastics, derelict vehicles, boat, lawn mowers, appliances, vehicles, trailers, etc.). It appears that even more materials have been accumulated and brought onto the property. A case in point is a shower stall and door which is a new and obvious addition to the back yard.

Every time an issue was raised for the advocate Mr. Kelly provided a counter point or position on the need for the item in question, ie:

- 1) volume of wood waste posing a fire load hazard – I heat with wood
- 2) presence of a shower stall and door – It is going to be a greenhouse
- 3) presence of standing water providing an active breeding area for mosquitoes (larva seen in water) – I will feed them to my fish
- 4) presence of a boat & trailer (not moved for 13 years) – I do not have the money to operate the boat
- 5) the presence of several old dishwashers – They are going to be planters
- 6) multiple derelict lawnmowers (some in the same state and position they were in 12 months ago) – I am in the process of fixing them
- 7) unsightliness of rear yard from E&N trail – I will put up 8' sheets of plywood along the fence.

It is obvious that Mr. Kelly will not or cannot address the fire, maintenance, animal issues which have been repeatedly brought to his attention over the past 12 months. The recommendation of Bylaw is that the condition of this parcel of land now be drawn to the attention of Council for a decision regarding an intervention to address the issues identified. In addition Bylaw recommends that the applicable Social Service agency be advised of Mr. Kelly's living circumstances with the assistance of VicPD under the category of Check Welfare."

Attached are copies of photographs taken of the property during the site inspection conducted on April 15, 2013. Also attached are pictures of the property taken in January 2000 (from the Township's Development Permit application file that was not completed). Mr. Kelly acquired ownership of the property in 2006.

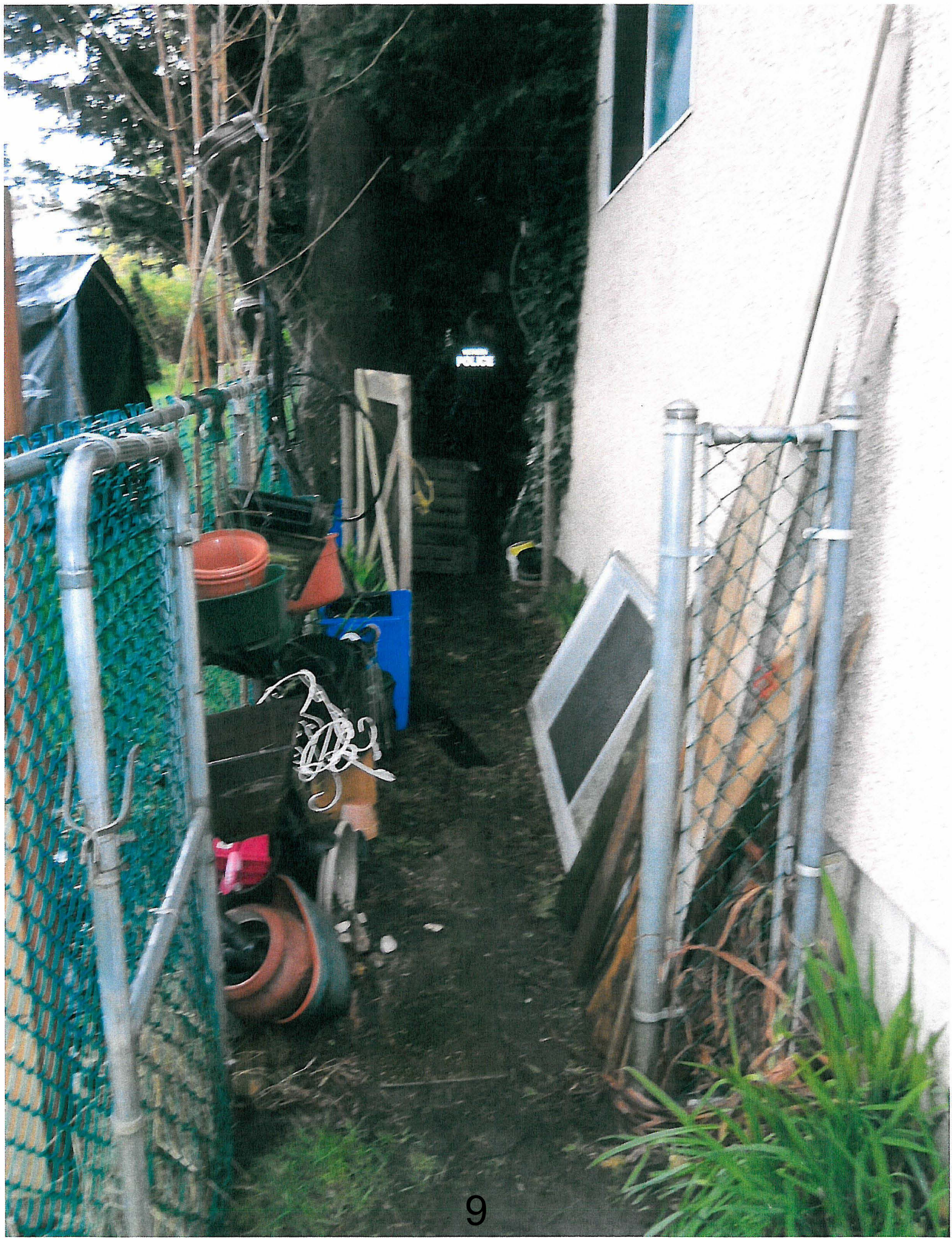
Respectfully submitted,



Darrell McLean,
Bylaw Management Officer











































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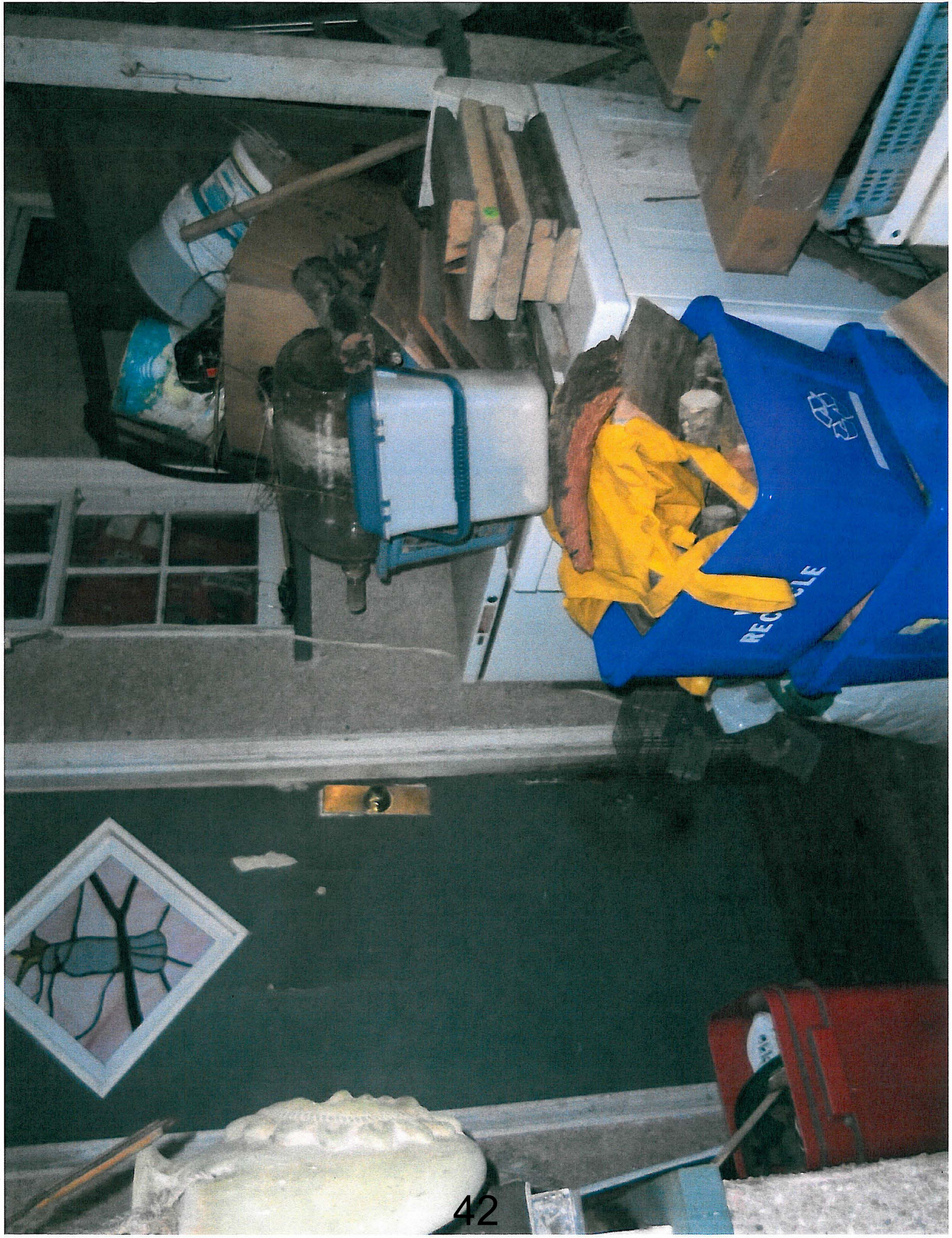










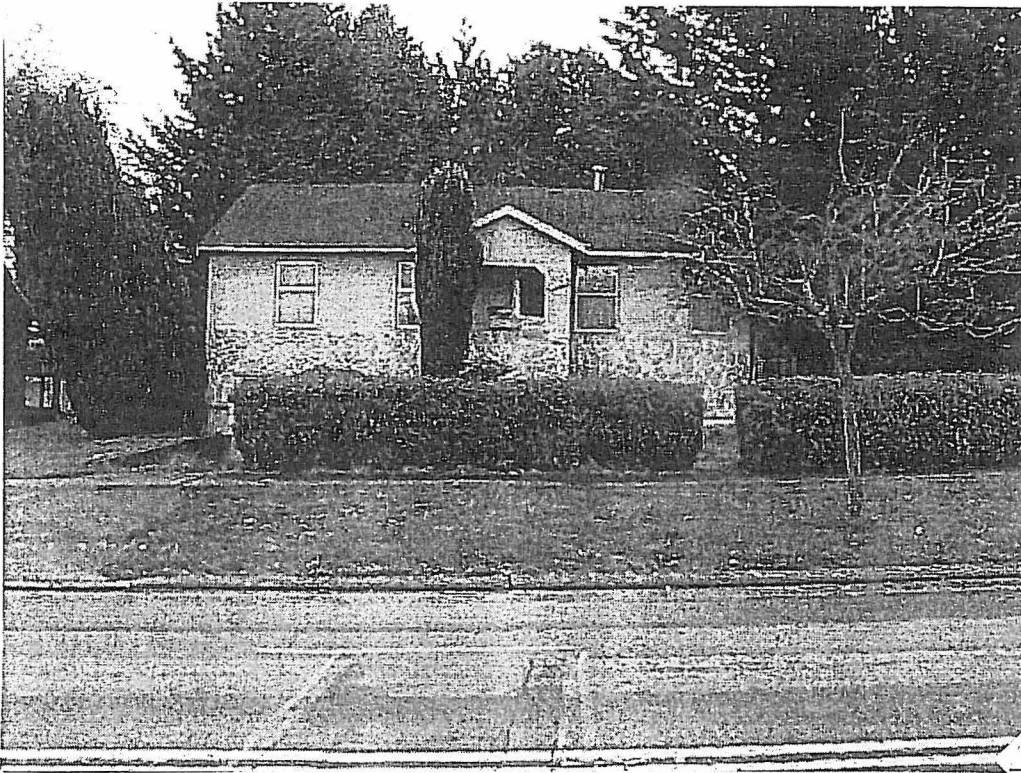








From Property File re DVP Application 24/99
ISSUED Jan. 31, 2000 [not completed].



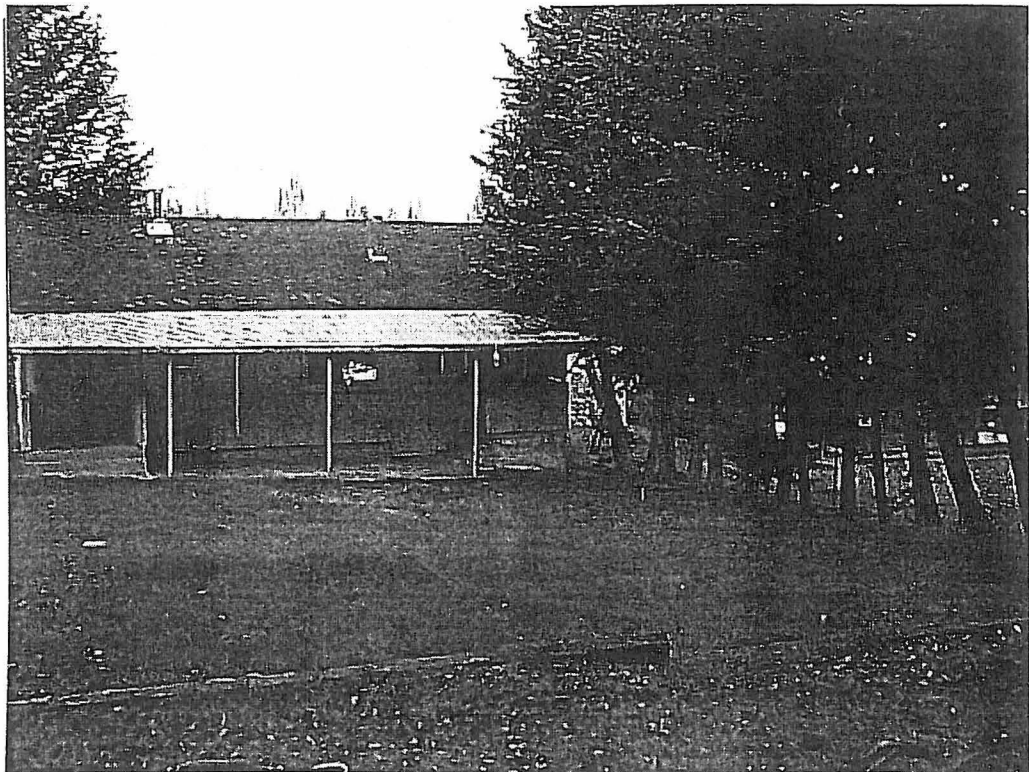
▲ View of existing house at 1083 Colville Rd.



▲ View of 1083 Colville Rd. showing trees along the west property line.



△ View of 1083 Colville Rd. showing trees along the east side of the site.



△ View of the rear yard.



△ Trees around the perimeter of the rear yard.



△ View into the rear yard from the east.

COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF ESQUIMALT

RESOLUTION – 1083 COLVILLE ROAD, ESQUIMALT, B.C. – UNSIGHTLY PROPERTY

Moved by Councillor _____/seconded by Councillor _____:

WHEREAS Council has considered Staff Report No. ADM-13-027 and has provided the owner of the property, Kenneth Ian Kelly, with the opportunity to be heard;

AND WHEREAS Council finds that the subject property is in contravention of the *Maintenance of Property Bylaw, 1996, No. 2180, as amended*, and is a health and safety hazard both for the subject property and the neighbouring properties;

NOW THEREFORE the Council of the Township of Esquimalt hereby resolves that the owner and occupier of the premises set forth below be notified to remove the accumulation thereon of the materials specified or take such remedial measures as are specified:

PROPERTY DESCRIPTION

Lot 14, Section 10, Esquimalt District, Plan VIP7328, Portion excluding N 5', Folio No. 2508.000

LOCATION

1083 Colville Road, Township of Esquimalt, B.C. V9A 4P9

UNSIGHTLY ACCUMULATION

- the accumulation of filth, discarded materials, rubbish and noxious, offensive or unwholesome matter, in particular the derelict vehicles, unlicensed and/or derelict boat trailers, waste wood, plastics, appliances, building materials, plastic tarps, lawn furniture, salvaged metals, wood pallets, pieces of wire fencing, and all items that are broken or in various stages of decay;
- dog and poultry feces throughout the yard; and
- poultry feces inside the chicken coop.

REMEDIAL MEASURES

Clean up the unsightly accumulation and remove and clear from the property the unsightly accumulation as specified above.

AND BE IT FURTHER RESOLVED that the Manager of Corporate Services of the Township of Esquimalt BE AND IS HEREBY AUTHORIZED in default of such removal or remedial measures being undertaken by the owner or occupier, within thirty (30) days of receipt of notice to do so, to carry out or have such work carried out and the expense charged to the owner or occupier. If unpaid on December 31st, 2013, the expenses shall be added to and form part of the taxes payable on that real property as taxes in arrears.

CARRIED UNANIMOUSLY

DATED at Township of Esquimalt, BC this 24th day of June, 2013.

Certified a true copy this _____ day of June, 2013.

Anja Nurvo, Corporate Officer



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall, 1229 Esquimalt Road, Esquimalt, B.C. V9A 3P1
Telephone (250) 414-7100 Fax (250) 414-7111

Special Council Meeting: June 24, 2013
Staff Report No. ADM-13-028

REQUEST FOR DECISION

SUBJECT: Fire Protection - 1083 Colville Road, Esquimalt, BC

RECOMMENDATION:

That Council proceed with Notice to the owner, Kenneth Ian Kelly, that:

- (1) Mr. Kelly has 30 days to remove and clear from the property located at 1083 Colville Road the accumulation of wood and other combustible or explosive materials; and
- (2) if the property is not cleared to the satisfaction of the Township of Esquimalt within such 30 day period, the work will be done by the Township, or by its authorized agents, at the owner's expense;

in the form of the Resolution attached to Staff Report No. ADM-13-028.

RELEVANT POLICY:

Section 66 of the Community Charter, S.B.C. 2003, Chap. 26
Fire Protection and Control Bylaw, 2011, No. 2783
Council Policy No. ADMIN-23 "Bylaw Enforcement – Receipt of Complaints"

STRATEGIC RELEVANCE:

This Request for Decision relates to Council's Strategic Priority for enhanced Bylaw Enforcement.

Submitted by: Writer

Reviewed by: CAO

Date:

June 19/13

STAFF REPORT

DATE: June 17, 2013 Report No. ADM-13-028
TO: Laurie Hurst, Chief Administrative Officer
FROM: Anja Nurvo, Manager of Corporate Services
SUBJECT: Fire Protection – 1083 Colville Road, Esquimalt, BC

RECOMMENDATION:

That Council proceed with Notice to the owner, Kenneth Ian Kelly, that:

- (1) Mr. Kelly has 30 days to remove and clear from the property located at 1083 Colville Road the accumulation of wood and other combustible or explosive materials; and
- (2) if the property is not cleared to the satisfaction of the Township of Esquimalt within such 30 day period, the work will be done by the Township, or by its authorized agents, at the owner's expense;

in the form of the Resolution attached to Staff Report No. ADM-13-028.

BACKGROUND:

Procedural Requirements

The Township's *Fire Protection and Control Bylaw, 2011, No. 2783* (the Bylaw) sets out the procedure to be followed where the standards set out in the Bylaw have not been complied with. An Order from the Fire Chief must be served setting out the details of non-compliance and giving a certain time period to bring the property into compliance. In the event the owner/occupier does not carry out the required work, the Township may have the work done, and the cost charged to the owner. Any amount remaining unpaid as of December 31st can be added to property taxes payable as taxes in arrears.

Prior to proceeding with enforcement of the Bylaw, the common law principles of natural justice and procedural fairness apply. The owner must be given notice of the meeting where Council will be considering taking the action and provide the owner an opportunity to be heard. The owner should also be given a short period of time to complete the work prior to the Township's staff or authorized agents proceeding to complete the work.

Summary of Process

The Township has received numerous complaints relating to the condition of the property. Staff from the Fire Department have attended at the property on several occasions to assess the condition and have previously met with the owner to attempt to obtain voluntary compliance with the Township's Bylaw standards, but have not been successful.

Staff attended for an inspection on April 15, 2013. Following that inspection, an Order pursuant to Section 49 of the Bylaw was issued by the Fire Chief on April 30th, 2013 and served on the owner by registered and regular mail. The Order required that the owner remove and clear from the property:

“the accumulation of wood, in particular the piles of cut firewood, processed and waste wood, building materials, wood pallets, and other combustible or explosive materials, including gas cans and any fluids contained in any of the derelict or unlicensed vehicles and boats.” The Order required that the property be cleared by May 24th, failing which a report would be prepared to Council for further action.

Staff was contacted by another advocate, Mr. Alex Florescu with the Action Committee of People with Disabilities. He advised that Mr. Kelly contacted him regarding the Order, and requested a site meeting for the purpose of ensuring that Mr. Kelly understood what was required to bring the property into compliance. The site meeting was held on May 28, with the Bylaw Management Officer, Assistant Fire Chief, Mr. Florescu and Mr. Kelly in attendance. Staff observed that no work had been done on the property since the April 15 inspection and the deadline of May 24th had passed.

Staff provided notice to Mr. Kelly and Ms. Alison Perry, Mr. Florescu’s replacement at the Action Committee, that Council would be considering a report from staff at the *In Camera* meeting scheduled for June 24th, 2013 at 5:45 p.m. and that Mr. Kelly, either personally or through his advocate, would be given the opportunity to be heard.

Attached are:

1. Report by David Ward, Fire Chief, setting out the details of the Fire Department’s site inspections.
2. Draft Resolution for Council’s consideration, following:
 - (i) review of this Staff Report, including the Fire Chief’s Report, and
 - (ii) the opportunity for Mr. Kelly or his advocate to address Council on this issue.

ISSUES:

1. Rationale for Selected Option

The Township has received numerous complaints from neighbours. Staff has confirmed that the condition of the property is a contravention of the *Fire Protection and Control Bylaw, No. 2011, No. 2783* and creates a fire and safety hazard. It is evident to staff that there has been no attempt to clear the property since the site inspection of April 15th despite the Order provided to Mr. Kelly by registered mail on April 30th. Accordingly staff recommends that the Township clear the property, through its agents, and that the cost of such work be charged to Mr. Kelly and if unpaid, be added to taxes.

2. Organizational Implications

Enhanced bylaw enforcement has been identified in Council’s Strategic Priorities Report as one of staff’s operational strategies. Enhanced community safety is also a priority.

3. Financial Implications

Pursuant to the *Community Charter* and *Fire Protection and Control Bylaw* any costs incurred by the Township will be charged to the owner and if unpaid by December 31st, will be added to taxes payable. The cost of clearing the property of fire and safety hazards may be significant, and once added to taxes, it may be some time before the Township can collect the amount owing.

4. Sustainability/Environmental Implications

Clearing combustible and other hazardous materials from the property will eliminate potential fire and safety hazards for the subject property and neighbouring properties.

5. Communication

Once Council determines the course of action, that will be communicated to Mr. Kelly and his advocate. Council should also rise and report on the approved Resolution so that the public is aware of any action that the Township is taking in relation to this property.

ALTERNATIVES:

1. That Council proceed with Notice to the owner, Kenneth Ian Kelly, that:
 - (1) Mr. Kelly has 30 days to remove and clear from the property located at 1083 Colville Road the accumulation of wood and other combustible or explosive materials; and
 - (2) if the property is not cleared to the satisfaction of the Township of Esquimalt within such 30 day period, the work will be done by the Township, or by its authorized agents, at the owner's expense;in the form of the Resolution attached to Staff Report No. ADM-13-028.
2. That Council provide alternative direction to staff.

STAFF REPORT

DATE: June 13, 2013 Report No. ADM-13-028
TO: Laurie Hurst, Chief Administrative Officer
FROM: David Ward, Fire Chief
SUBJECT: Fire Chief's Report – 1083 Colville Road, Esquimalt, BC

RECOMMENDATION:

That Council proceed with Notice to Kenneth Ian Kelly that:

1. Mr. Kelly has 30 days to remove and clear from the property located at 1083 Colville Road the accumulation of wood and other combustible or explosive materials; and
2. if the property is not cleared to the satisfaction of the Township of Esquimalt within such 30 days, the work will be done by the Township, or by its authorized agents, at the owner's expense.

BACKGROUND:

Under the provisions of the *Fire Protection and Control Bylaw, 2011, No. 2783* (the Bylaw), owners or occupiers of real property have a duty to remove any matter or thing from a building or premises which constitutes a fire hazard and to maintain and clean the premises to reduce the risk of fire.

The Township has received complaints regarding the condition of the property. On April 15th, 2013, Assistant Fire Chief/Chief Fire Prevention Officer McGregor attended for a site inspection with other municipal staff. The following is an excerpt from his Report:

"This was not my first visit to the property. On October 5th, 2012, I viewed vast amounts of storage of wood and other combustible materials. I stated to [Mr. Kelly] that the yard should be cleaned up and a large amount of the wood should be removed. The writer informed him a certain amount of wood was acceptable but that he had far too much and that the fire load was unacceptably high for a personal residence.

On April 15th, 2013 the writer entered onto the property under Section 21 of the *Fire Service Act* which states on complaint the fire commissioner's inspectors may at all reasonable hours enter any premises to inspect and ascertain whether the following conditions exist:

- (a) The premises are in a state of disrepair that a fire starting in them might spread rapidly to endanger life or other property;
- (b) The premises are so used or occupied that a fire would endanger life or property;
- (c) Combustible or explosive material is kept or other flammable conditions exist on the premises so as to endanger life or property;
- (d) A fire hazard exists on the premises.

Up to 8 five gallon gas cans were found. Only one had fluid in it but it was difficult to tell if the product was actually gasoline. In my observation there was the same accumulation of wood products as months earlier, and not only was a quantity of cut wood NOT burned over the winter but more had been amassed.

The rear of the lot had a derelict boat and vehicle; it is unknown how much fuel, if any, is within each vehicle. Each side of the yard had an out building, both appeared to be full of items. It seems that Mr. Kelly has a tendency to stock pile processed wood in his rear yard.

It is this officer's opinion that the stockpiling is beyond what one might consider normal for residential use. As the fire prevention officer I see this as a concern as the weather gets warmer and drier. The belief that this rear property is more vulnerable to fires due to its proximity to a well travelled laneway, on which this department finds several set fires annually. Should this occur on Mr. Kelly's property the situation would be far more severe, complicated by access issues, tall trees and long runs from any hydrant to his rear yard.

The writer believes that the quantity of stored wood represents an unnecessary risk and the fuel load is unusually high for a residence; a purging of the processed wood needs to be done to reduce the risk to this residence and those surrounding it."

Attached are copies of photographs taken by Assistant Fire Chief McGregor during the April 15th, 2013 inspection.

An Order pursuant to the Bylaw was forwarded by registered and regular mail to Mr. Kelly on April 30, 2013 requiring that he remove and clear from the property, by May 24th, 2013: the accumulation of wood, in particular the piles of cut firewood, processed and waste wood, building materials, and wood pallets, and other combustible or explosive materials, including gas cans and any fluids contained in any of the derelict or unlicensed vehicles and boats.


Assistant Fire Chief Small attended at the property on May 28th, 2013 and confirmed that the accumulation of wood and other combustible or explosive materials has not been removed and that the property remains a fire and safety hazard. The following is an excerpt from his memo to the file following the site visit on May 28th:

"During the inspection it was evident that no progress has been made in regards to the orders that were issued on April 30th. It was explained to the owner and advocate that a general clean up and reduction of the combustible materials on the property is what is required to comply with the order. The homeowner made numerous comments that he was going to be improving things, but then commented that he was going in for back surgery in the near future and he is able to do little in the way of heavy lifting.

It was my impression that little will be done in the near future to remedy the concerns on this property."

I concur with the opinions of Assistant Fire Chiefs Small and McGregor and their assessment of the property, and deem the property to be a fire and safety hazard pursuant to the *Fire Protection and Control Bylaw* and to be in non-compliance with that Bylaw.

Respectfully submitted,


David Ward,
Fire Chief



















































COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF ESQUIMALT

RESOLUTION – 1083 COLVILLE ROAD, ESQUIMALT, B.C. – FIRE PROTECTION

Moved by Councillor _____/seconded by Councillor _____:

WHEREAS Council has considered Staff Report No. ADM-13-028 and has provided the owner of the property, Kenneth Ian Kelly, with the opportunity to be heard;

AND WHEREAS Council finds that the subject property is in contravention of the *Fire Protection and Control Bylaw, 2011, No. 2783* and creates a fire and safety hazard to both the subject property as well as neighbouring properties;

NOW THEREFORE the Council of the Township of Esquimalt hereby resolves that the owner and occupier of the premises set forth below be notified to remove the accumulation thereon of the materials specified or take such remedial measures as are specified:

PROPERTY DESCRIPTION

Lot 14, Section 10, Esquimalt District, Plan VIP7328, Portion excluding N 5', Folio No. 2508.000

LOCATION

1083 Colville Road, Township of Esquimalt, BC V9A 4P9

ACCUMULATION

The accumulation of wood, in particular the piles of cut firewood, processed and waste wood, building materials and wood pallets; other combustible or explosive materials, including gas cans and any fluids contained in any of the derelict or unlicensed vehicles and boats.

REMEDIAL MEASURES

Remove and clear from the property the accumulation as specified above.

AND BE IT FURTHER RESOLVED that the Manager of Corporate Services of the Township of Esquimalt BE AND IS HEREBY AUTHORIZED in default of such removal or remedial measures being undertaken by the owner or occupier, within thirty (30) days of receipt of notice to do so, to carry out or have such work carried out and the expense charged to the owner or occupier. If unpaid on December 31st, 2013, the expenses shall be added to and form part of the taxes payable on that real property as taxes in arrears.

CARRIED UNANIMOUSLY

DATED at Township of Esquimalt, BC this 24th day of June, 2013.

Certified a true copy this ____ day of June, 2013.

Anja Nurvo, Corporate Officer