

CITY OF YELLOWKNIFE

Adopted Council Minutes

Special Meeting

Tuesday, March 18, 2008 at 5:00 p.m.

Present: Mayor G. Van Tighem,
Councillor L. Bardak,
Councillor B. Brooks,
Councillor P. Falvo,
Councillor M. Heyck,
Councillor K. Kennedy,
Councillor S. Montgomery, and
Councillor D. Wind.

City Staff: M. Hall,
D. Kefalas,
D. Marchiori,
N. Naidoo,
G. White, and
D. M. Gillard.

1. Councillor Brooks read the Opening Prayer/Meditation.

DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

2. Councillor Brooks declared a conflict of interest with regard to the Giant Mine discussions as he has been assigned Environmental Assessment duties by his employer.
3. Councillor Montgomery stated that her employer SENES Consultants Ltd. has done work in the past for INAC's Giant Mine Remediation Office; she has never done any work related to Giant; SENES was not involved in any way in the recent Mackenzie Valley Land and Water Board hearings for the preliminary screening of the Giant Mine remediation; before she was a SENES employee (pre-2005) some SENES Toronto staff were contracted as technical advisors to the Giant Mine Remediation Office and that SENES staff provided the Giant Mine Remediation Project with expertise in the environmental aspects of



risk assessment and waste management; in 2006-07 a former Yellowknife colleague who is no longer with SENES did a small contract for the Giant Mine Remediation Office "Scoping Potential Cumulative Effects"; and all of the work done by SENES is on the public record at the Mackenzie Valley Land and Water Board Public Registry and the Giant Mine Remediation Office Public Registry; Councillor Montgomery further stated that she does not believe to be in a conflict of interest and that the City has received a legal opinion which supports this position.

- #0079-08 4. Councillor Brooks moved,
Councillor Bardak seconded,

That the order of the agenda be amended so that the Enactment of By-laws is the first order of business.

MOTION CARRIED UNANIMOUSLY

ENACTMENT OF BY-LAWS

5. By-law No. 4475 - A by-law to authorize the Collective Agreement with the International Association of Fire Fighters (IAFF) Local 2890 for the term of January 1, 2006 - December 31, 2008, was presented for First and Second Reading.

- #0080-08 6. Councillor Brooks moved,
Councillor Heyck seconded,

First Reading of By-law No. 4475.

MOTION CARRIED UNANIMOUSLY



- 0081-08 7. Councillor Brooks moved,
 Councillor Montgomery seconded,

Second Reading of By-law No. 4475.

MOTION CARRIED UNANIMOUSLY

8. By-law No. 4476 - A by-law to repeal and
 replace the Management
 Personnel Employment By-law
 No. 4359, was presented for
 First and Second Reading.

- #0082-08 9. Councillor Brooks moved,
 Councillor Kennedy seconded,

First Reading of By-law No. 4476.

MOTION CARRIED UNANIMOUSLY

- #0083-08 10. Councillor Brooks moved,
 Councillor Heyck seconded,

Second Reading of By-law No. 4476.

MOTION CARRIED UNANIMOUSLY

11. Councillor Brooks declared a conflict of
 interest and left the meeting at 5:11 p.m.

DELEGATIONS PERTAINING TO ITEMS ON THE AGENDA

12. Council heard a presentation from Chief Edward
 Sangris, a representative from the Yellowknives
 Dene First Nation. Council noted that they
 have also received written correspondence from
 the Yellowknives Dene First Nation regarding
 the Giant Mine Remediation Project. Chief
 Sangris thanked the City of Yellowknife and
 Council for allowing them to speak at this



meeting. Chief Sangris stated that the Yellowknives Dene have lived in this area since before the City of Yellowknife came into existence and before the Giant Mine was incorporated in 1937. Chief Sangris provided a history of ownership of the mine until the present day and noted that there is 237,000 tonnes of arsenic trioxide dust stored underground at the mine. Chief Sangris stated that some of the Yellowknives Dene families went through hardship because of this mine and noted that the Baker Creek was rerouted without the Yellowknives' input. Chief Sangris stated that he felt this was saying "we took your land, extracted the gold and returned the damaged land back to us". \$5.9 billion was taken from the Giant mine and Chief Sangris questioned who that benefited; the road into Ndilo is not paved; this is how they are treated. Chief Sangris stated that the Yellowknives Dene took it really hard when they found out that the Giant Remediation would not go forward to Environmental Assessment; they would like to see it done right and by the books. In the spirit of cooperation Chief Sangris asked that the City refer the Giant Remediation to Environmental Assessment to secure the land for our future generations. Chief Sangris noted that if the arsenic leaked into the lake water everything will perish. Chief Sangris further noted that they would like to establish a working group to properly review the remediation project. In response to questions from Council, Chief Sangris stated that, although they have concerns that the project may seriously impact the environment, they are under treaty and therefore do not have the capability to refer the project to Environmental Assessment.

13. Council heard a presentation from Mr. Bill Mitchell, a representative of Indian and Northern Affairs Canada (INAC), regarding



whether to request an Environmental Assessment on the Giant Mine Property. Mr. Mitchell provided a copy of his speaking notes and stated that INAC fully supports the *Mackenzie Valley Resource Management Act* and recognizes the value and importance of public involvement in the regulatory process. Mr. Mitchell further stated that INAC is not adverse to an Environmental Assessment of the Giant Mine Remediation Project and was and is fully prepared to proceed through such an assessment. They believe that the Remediation Plan which has already undergone an unprecedented level of expert and public review is a very robust and diligent Plan that will achieve INAC's goal of protecting the health and safety of residents and protection of the environment. Mr. Mitchell stated that they are ready to proceed with the clean up of the site and is of the view that the regulatory water licensing process will ensure a rigorous and thorough public review of the Plan. The Remediation Plan represents seven years of work by INAC, the Technical Advisor and the Federal Contaminated Sites Program. It outlines the clean-up of the surface and it describes in detail the long-term management of the underground arsenic trioxide and ongoing maintenance and monitoring that will be required at the site. The Remediation Plan was scrutinized by an Independent Peer Review Panel (IPRP) of nine recognized experts, some of whom were suggested as appointees by the Yellowknives Dene First Nation. The Remediation Plan was also reviewed and commented on by the GNWT Department of Environment and Natural Resources as well as by federal departments including Environment Canada, Health Canada and the Department of Fisheries and Oceans. INAC accepted the review recommendations of the IPRP and of all the other reviewers and as a consequence, made modifications to the Remediation Plan. As the



first step in the regulatory process, the Giant Mine Remediation Plan was submitted to the Mackenzie Valley Land and Water Board (MVLWB) on October 19, 2007 along with a water license application. The Board solicited comments on the application during the initial screening and INAC responded to all letters of comment received by the Board. These can be found on the public registry of the MVLWB. INAC responded affirmatively to the City of Yellowknife's original request to develop working groups. If the plan is not referred to an Environmental Assessment, INAC believes the next regulatory step would be a rigorous and thorough regulatory review by the Land and Water Board which would provide an opportunity for public input and would likely include Scoping Sessions, Technical Sessions and Public Hearings, leading ultimately to the issuance of a water license that would allow INAC to proceed with the clean up. INAC agrees that an environmental assessment could provide another level of independent review of the environmental and socio-economic impacts of a development project. However, for this remediation project, the Department believes the "nuts and bolts" of matters such as monitoring plans and independent monitoring groups can be, and in the past have been thoroughly reviewed and defined during the regulatory licensing process. While INAC is not adverse to an Environmental Assessment, considering the level of expert and public review already conducted, and the ever present risks at the site, INAC is of the view that the regulatory licensing process affords the opportunity to move the project ahead while still ensuring a rigorous and thorough review of the Plan. Mr. Mitchell reiterated that INAC fully supports the *Mackenzie Valley Resource Management Act* and the regulatory processes enshrined therein. While INAC is in a position to complete the regulatory water licensing



process and proceed with remediation of the Giant Mine site on a timely basis, the department is also prepared for an Environmental Assessment should City Council choose that approach. The Department will continue to work with the Yellowknives Dene First Nation, City Council, City Staff and the community at large to provide any information required that will help people understand the Remediation Plan. In response to questions from Council, Mr. Mitchell stated that there are current risks at the site, such as the failure of bulkheads, especially those that they cannot access. Mr. Mitchell confirmed that they would not be able to do any work at the site, with the exception of addressing emergency situations, during the Environmental Assessment process. In response to further questions, Mr. Mitchell advised that they estimate the Environmental Assessment to take 2 - 3 years to complete and that care and maintenance for the site is between \$8 - \$10 million per year. Mr. Mitchell noted that they have reviewed other reclamation areas from around the world and are confident that the proposed approach is robust for a northern environment and that contingencies have been built into the plan to ensure proper monitoring takes place. In response to questions regarding the Industrial Standard of remediation, Mr. Mitchell advised that some areas of the site will be remediated to a higher standard than Industrial and noted that it would depend on the level of contamination at the time of remediation.

14. Council heard a presentation from Mr. Bob Bailey, Deputy Minister of Environment and Natural Resources, Government of the Northwest Territories (GNWT), regarding whether to request an Environmental Assessment on the Giant Mine Property. Mr. Bailey stated that the decision of the Land and Water Board is



only the first step as the Board has not yet approved the water license. The application before the Board could trigger a technical review of the Plan and conditions to be contained in the water license. That will provide an opportunity for City Council to bring up technical concerns. The GNWT accept the frozen block method as the best method for this remediation. The Government of Canada has committed to review other methods. The GNWT is not adverse to an Environmental Assessment, however, the long term remediation would be delayed 2 - 3 years and care and maintenance would have to take place over that time. The GNWT believes that the Plan should be implemented as quickly as possible. Mr. Bailey noted that the site will be remediated to an Industrial Standard, however, there may be opportunities in the future for the remediation to be brought to a higher level. Mr. Bailey noted that there has been considerable public involvement during the 7 years it took to come to this plan. Mr. Bailey stated that he appreciates the work from all of the stakeholders and encouraged their continued involvement. In response to questions from Council, Mr. Bailey advised that the arsenic material will be in vaults and frozen and remain that way until something else can be done with it.

15. Council heard a presentation from Ms. Tawanis Testart, a representative of the Mackenzie Valley Environmental Impact Review Board, regarding whether to request an Environmental Assessment on the Giant Mine Property. Ms. Testart advised that she, and her colleague Mr. Alan Ehrlich who was also in attendance, cannot speak to any aspect of the Giant Mine project, but can speak to the Environmental Assessment process. Ms. Testart provided a copy of a handout that describes the Environmental Assessment process.



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16. Mr. Alan Ehrlich, Senior Environmental Assessment Officer of the Mackenzie Valley Environmental Impact Review Board (MVEIRB), stated that the MVEIRB is partially aboriginally appointed and partially territorially and federally appointed. Mr. Ehrlich advised that the Environmental Assessment considers the technical and economical matters of the project. Considerations include whether the project is likely to have an environmental impact or concerns; the development scale; breadth and location of the project; nature of the activity; degree of disturbance; whether there is major infrastructure; changes to access; use of new technology; is the project likely to cause public concern; and severity of worst case scenarios. Mr. Ehrlich stated that the number of concerns is not what matters the most, it is the weight of each concern. In response to questions from Council, Mr. Ehrlich advised that emergency measures may still take place during the Environmental Assessment period. Mr. Ehrlich further confirmed that the Environmental Assessment looks at whether the actions should go ahead and then the regulatory agencies decide how to go forward. The Environmental Assessment itself is not regulatory; it is a decision on whether to go regulatory and with what process. In response to questions from Council, Mr. Ehrlich stated that the Board does have control over the Environmental Assessment process and steps will be taken to ensure that they are "not reinventing the wheel" and that the Board would unlikely expect them to redo work that has already been done.
17. Council heard a presentation from Mr. Kevin O'Reilly regarding whether to request an Environmental Assessment on the Giant Mine Property. Mr. O'Reilly provided a copy of his



speaking notes. Mr. O'Reilly stated that the most important thing to him in cleaning up or managing the Giant Mine is to minimize perpetual care requirements so that 50, 500 or 5,000 years in the future someone does not need to know how to replace thermosyphons or activate a freezing system. The plan does not do that but sets up a perpetual care situation with no commitment to on-going research and development, or for independent oversight. Mr. O'Reilly provided a history of the City's experience with Giant noting that the City was not consulted during the negotiations between DIAND and GNWT with Miramar to keep the mine open. The City sought a commitment to get the area cleaned up to allow for future use and to secure an indemnity against any future claims or lawsuits. The City did not get clear commitment on either of these but interestingly enough, Miramar was given a complete indemnity while the City only got a 'release'. In March 2005 with the pending permanent closure of the Giant Mine, DIAND and GNWT negotiated a "Cooperation Agreement" for the clean-up. There was no prior consultation with the City and no role in the agreement for the City. The agreement committed the two governments to clean up the surface, including the City's leased portion, to an Industrial Standard. During a briefing in March 2005, DIAND, the Department of Resources, Wildlife and Economic Development (RWED) and the Department of Municipal and Community Affairs (MACA) all told the City that it was "obvious" that the remediation plan would go to environmental assessment and that the governments assumed this would take about two years. When Miramar Giant went bankrupt, the mine reverted to the two governments. The City is currently owed about \$700,000 in back taxes or grants-in-lieu from the GNWT and has no agreement on recovering this money. Mr. O'Reilly stated that every time the City has dealt with DIAND



and the GNWT on the Giant Mine, the City has come out on the short end of the stick. Mr. O'Reilly stated that the City needs to ask itself whether a Working Group process, that is typically not open to the public, can accomplish the following:

- Secure a written commitment from DIAND and GNWT to clean up the City's lease to allow for the planned recreational and potential residential use of the townsite;
- Secure the payment of back taxes or grants-in-lieu to the City for the Giant Mine site;
- Deal with "big" picture issues such as minimizing perpetual care, securing a clear and firm commitment to on-going research and development, or independent oversight.

Mr. O'Reilly stated that based on his 20 years of involvement in environmental and regulatory processes in the Northwest Territories, a Working Group through a water licensing process will not resolve these issues but an Environmental Assessment provides a far better opportunity to question, get written responses, obtain information and secure commitments.

#0084-08 18. Councillor Kennedy moved,
Councillor Heyck seconded,

That, pursuant to s.51(3) of Council Procedures By-law No. 4250, the time allowed for the presenter be extended by up to two minutes.

MOTION CARRIED UNANIMOUSLY

19. Mr. O'Reilly continued his presentation and criticized the results of the Con Mine Working Group process, noting that the City does not have an agreement that Miramar will clean up



the portion of the Negus tailings on the City's lease; nor Tin Can Hill to allow for residential development. Mr. O'Reilly noted that very serious issues remain outstanding with regard to the Con Mine site and stated that the City needs to stand up for itself as a corporation and for the residents of this community and should get professional, technical and legal assistance when it comes to mine closures. Mr. O'Reilly strongly encouraged the City to refer this project to Environmental Assessment as it is a planning tool to build public participation and confidence and to allow for an independent review. Mr. O'Reilly noted that there is no commitment or identification of any specific funding to support ongoing research and development of other options for managing or cleaning up the underground arsenic trioxide in the Plan. Such an assurance would provide additional economic opportunities for the community and potentially attract new, highly skilled residents and provide impetus for a Northern Science Centre that the City is already on record as supporting. Mr. O'Reilly noted that the City has the authority to make a mandatory referral for an Environmental Assessment and questioned if that authority is not used on a \$300 - \$400 million project that sets up a perpetual care situation, when would the City ever exercise that authority.

20. Council recessed at 6:33 p.m. and reconvened at 6:45 p.m.
21. Council heard a presentation from Mr. Bob Bromley, MLA for Weledeh. Mr. Bromley noted that the Giant Mine fully resides within his riding. Mr. Bromley stated that Ecology North was formed in 1971 because of a major contamination of heavy metals from Giant. Officials at that time said things were under control and to "trust us". Ecology North



contacted Jack Davis, the then Minister of the Environment who also assured them that everything was under control. Now, three and a half decades of a lack of response has not built a strong level of trust. Mr. Bromley stated that we are embarking on a several million dollar project. INAC has been responsible for its oversight in the past; is now responsible for doing the cleanup work and inspections and will be overseeing their own work. Mr. Bromley stated that he is impressed by what the people from the public can bring to an Environmental Assessment. INAC is both the proponent and the regulator and therefore their first responsibility is to take the highest road possible. INAC and the GNWT should be the strongest proponents of an Environmental Assessment. Mr. Bromley stated that we are dealing with a massive amount of a highly toxic substance which could be catastrophic for the environment. In closing, Mr. Bromley stated that when asked to refer this project to Environmental Assessment by both the Yellowknives Dene First Nation and the public at large, there should be no hesitancy in doing so.

22. Council heard a presentation from Mr. Dale Johnston, a resident of Yellowknife for the past 34 years. Mr. Johnston provided a copy of his speaking notes to Council. Mr. Johnston requested that Council take into consideration the residents of this City of today and into the future. Mr. Johnston stated that he was an employee of the Giant/Royal Oak Mine for 20 years and worked in the milling/processing part of the operation. Twelve (12) of those years he worked as a Cottrell (Electrostatic Precipitator) and Baghouse Operator and blew the arsenic trioxide into the underground chambers. Since 2002, he has raised questions concerning the underground and surface arsenic at the mine; his position then and now is that



AND WHEREAS there are serious issues respecting arsenic contamination and environmental remediation on the Giant Mine site which are of concern to the City and the people of Yellowknife;

AND WHEREAS the proposed activities to take place during the term of the Water License may have an adverse impact on the environment within the City of Yellowknife's municipal boundaries;

AND WHEREAS, pursuant to s. 126(2)(c) of the *MacKenzie Valley Resource Management Act*, the City of Yellowknife is entitled to refer the application by INAC for a new Type "A" Water License to the MacKenzie Valley Environmental Impact Review Board for Environmental Assessment;

NOW THEREFORE BE IT RESOLVED that the City of Yellowknife refer INAC's request for a new Type "A" Water License to the MacKenzie Valley Environmental Impact Review Board for Environmental Assessment.

#0087-08 26. Councillor Heyck moved,
 Councillor Bardak seconded,

That the motion be deferred until the March 25, 2008 Council Meeting.

Those in favour of the motion to defer stated that a lot of information has been garnered this evening and that they would like an opportunity to review the materials prior to making this decision.

MOTION TO DEFER DEFEATED
(Councillors Bardak and Heyck in favour)



Council noted that there is significant public concern with regard to the contamination at the Giant Mine site as well as clear potential for environmental impacts. An Environmental Assessment will build public confidence and will not impede any emergency work that may arise. Council noted that the work already conducted on the remediation plan, such as studies and reviews, may expedite the Environmental Assessment process. Council further noted that the process would not preclude the establishment of a working group with all orders of government.

MAIN MOTION CARRIED UNANIMOUSLY

ADJOURNMENT

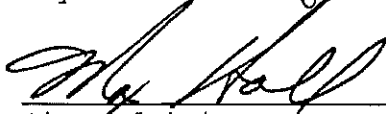
#0088-08 27. Councillor Heyck moved,
Councillor Montgomery seconded,

That the Meeting be adjourned at 7:26
p.m.

MOTION CARRIED UNANIMOUSLY



Mayor



City Administrator



