

Town of Berwick Council Meeting

November 14, 2023

Town of Berwick Council Chambers

6:30pm

AGENDA

1. Call to Order

2. Approval of the Agenda

3. Approval of the Minutes

- a. October 10, 2023 Council Minutes
- b. November 6, 2023 Public Hearing Minutes

4. Second Reading

- a. Kent Field Estates Development Agreement – 228 Main Street

5. New Business

- a. RFD027-2023: Order to Remove Derelict Vehicles
- b. RFD028-2023: AREA Business: Invoice Arrears Policy & \$1,000,000
Line of Credit
- c. Annual Selection of Deputy Mayor

6. Mayor's Report

7. In-Camera

8. Adjournment

Town of Berwick
Report to Municipal Council
Agenda Item

Subject: Supplementary Report regarding Kent Field Estates
Development Agreement

From: Town Staff

Date: November 14, 2023

On November 6th, 2023, Council held a public hearing regarding a development agreement application by Kent Field Estates to permit a residential development off Main Street in Berwick.

Twenty-three members of the public attended the public hearing. The Clerk also received several written submissions regarding the proposed development, which were circulated to Council in advance of the Public Hearing. All the oral and written submissions expressed concern with the proposed development, with several recognizing the significant changes to the site plan to address stormwater management issues.

Issues identified by the public at the public hearing included:

- The ability of infrastructure to handle a larger population. Infrastructure includes sewer, water, roads, sidewalks and other municipal services.
- Location of the proposed development near a floodplain
- Impacts of the proposed development on overland flooding in the general area and displacement of water.
- Storm water management concerns. This included how the stormwater infrastructure will be maintained.
- Concerns about the design of the stormwater management elements. This includes specific questions regarding the depth of the ditches, if the storm water ponds are self-draining, and the functioning of the wetlands.
- Concerns about traffic resulting from the proposed development.
- Concerns about the impact of the development on the adjacent sewage treatment plant and odors from the plant.
- Concerns about the location of the development next to a fire station
- Concerns that there is no emergency egress.
- Concerns about the impact on property values

- Suggestions regarding including bike racks and EV stations in the development.

Recommendation

Staff are recommending that Council defer consideration of second reading to allow staff to gather more information and possibly make adjustments to the draft development agreement. Any changes to the draft development agreement would involve further discussions with the developer.

Staff would provide a supplemental report and a draft development agreement to Council at its regularly scheduled meeting in December.

Motion

Council defers consideration of the development agreement application for Kent Field Estates until the regularly scheduled Council meeting in December and directs staff to work with the Developer to possibly amend the draft Development Agreement to address any outstanding issues.

REQUEST FOR DECISION

RFD027-2023: Order to Remove Derelict Vehicles



To: Town Council
From: CAO
Date: November 14, 2023
Subject: Order to Remove Derelict Vehicles

References/Attachments

- Part XV, Dangerous or Unightly Premises, MGA
- Order, 109 Marsters Avenue

Recommendation

That Council approve an order to remove derelict vehicles from the property of 109 Marsters Avenue, owned by R. Anthony Lenton.

Draft motion

That Council approve the attached Order for 109 Marsters Avenue to remove all derelict vehicles from the property.

Background

The Town received a complaint about the number of derelict vehicles on the property of 109 Marsters Avenue several months ago. The *Municipal Government Act* (MGA) defines dangerous or unsightly property as "partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing: (i) ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item of equipment or machinery, or bodies of these or parts thereof..." Further, a "derelict vehicle, vessel, item of equipment or machinery" includes a vehicle, vessel, item of equipment or machinery that: (i) is left on property, with or without lawful authority, and (ii) appears to the administrator to be disused or abandoned by reason of its age, appearance, mechanical condition or, where required by law to be licensed or registered, by its lack of license plates or current vehicle registration."

The Town of Berwick currently does not have a policy delegating any Council authority to the "administrator" or a standing committee. Therefore, Council must approve any order to remedy the condition under section 346 of the MGA.

The Bylaw and Planning Administrative Coordinator has taken pictures of the property, which consists of over five derelict vehicles. A letter was sent to Mr. Lenton requesting that the derelict vehicles be removed within four weeks on September 21, 2023. There has been no progress to remove the vehicles and no correspondence has been received regarding the letter.

REQUEST FOR DECISION

RFD027-2023: Order to Remove Derelict Vehicles



Therefore, the CAO is requesting that Council approve an order to remedy condition by removing the derelict vehicles from the property. If Council approves the order, it will be posted in a conspicuous place upon the property and sent as registered mail to the property owner.

The CAO recommends 45 days to remedy condition.

Effect of order

Per s. 348, an owner may appeal an order to Council within seven days after the order is made.

Where the owner fails to comply with the requirements of an order within the time specified in the order, the administrator may enter upon the property without warrant or other legal process and carry out the work specified in the order. Any costs incurred by the Town to remedy condition shall be placed as a lien on the property.

Where the owner fails to comply with the requirements of an order within the time specified in the order, the administrator may enter upon the property without warrant or other legal process and carry out the work specified in the order.

After the order is served, any person who permits or causes a dangerous or unsightly condition, continues to permit or cause a dangerous or unsightly condition or who fails to comply with the terms of the order is liable, on summary conviction, to a penalty of not less than one hundred dollars and not more than five thousand dollars, and in default of payment to imprisonment for not more than three months.

Every day during which the condition is not remedied is a separate offence.

Financial Implications

The cost to place the order will include registered mail and staff time. Any costs incurred to remedy condition would be tracked and placed as a lien on the property.

Priority Alignment

Check Applicable	Strategic Priority Area	Comments
	Economic	
X	Environmental	
X	Social	

REQUEST FOR DECISION
RFD027-2023: Order to Remove
Derelict Vehicles



	Cultural	
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Alternatives

Council may choose not to place an order on the property or direct staff to try other ways to remedy the situation.

Community Engagement/Communication

N/A

CAO Comments

Though there are other properties within the Town of Berwick that meet the definition of Dangerous or Unsightly, staff respond when a complaint is received. We begin by sending communication to the property owner and try to work with the owner to remedy the condition. Staff feel that the environmental and safety concerns related to the derelict vehicles warrant moving forward with an order to remedy condition.

CAO Initials: JB

Target Decision Date: November 14, 2023



ORDER

Part VX of the Municipal Government Act Dangerous or Unsightly Premises

WHEREAS the Council of the Town of Berwick determined that the property located at 109 Marsters Avenue, in the Town of Berwick, County of Kings, Province of Nova Scotia, is dangerous and unsightly;

AND WHEREAS the *Municipal Government Act* defines a derelict vehicle as a vehicle, vessel, item of equipment or machinery that

- (i) is left on property, with or without lawful authority, and
- (ii) appears to the administrator to be disused or abandoned by reason of its age, appearance, mechanical condition or, where required by law to be licensed or registered, by its lack of license plates or current vehicle registration;

AND WHEREAS on Tuesday, November 14, 2023, Council of the Town resolved the property is dangerous and unsightly due to the presence of derelict vehicles;

AND WHEREAS R. Anthony Lenton is the legal owner of the Property;

COUNCIL HEREBY ORDERS that, **within 45 days of the date of this Order**, the Owner of the Property remove all derelict vehicles.

Failure to comply with this Order may result in prosecution and fines and/or the Town entering upon the property to effect remedy. Costs of remedy are a lien against the property.

DATED at Berwick Nova Scotia, this 14 day of November 2023.

TOWN OF BERWICK

Per: _____
Donald E. Clarke, Mayor

Per: _____
Jennifer Boyd, Town Clerk

**REQUEST FOR DECISION
RFD028-2023: AREA BUSINESS:
Invoice Arrears Policy & \$1,000,000
Line of Credit**



To: Town Council
From: Director of Finance
Date: November 14, 2023
Subject: AREA Business: Invoice Arrears Policy & \$1,000,000 Line of Credit

References/Attachments

- Memo: AREA Invoice Arrears Policy
- Memo: AREA \$1,000,000 Line of Credit

Recommendations

Draft Motion #1:

That Council approve and direct the Town of Berwick's members of the AREA Board of Directors to approve the AREA Invoice Arrears policy as presented.

Draft Motion #2:

That Council approve and direct the Town of Berwick's members of the AREA Board of Directors to proceed with a \$1,000,000 line of credit, with the Town of Berwick guaranteeing 27% (\$270,000) of this line of credit.

Background

See attachments as submitted by AREA.

Financial Implications

A guarantee for 27% of the \$1,000,000 Line of Credit will be required from the Town.

**REQUEST FOR DECISION
RFD028-2023: AREA BUSINESS:
Invoice Arrears Policy & \$1,000,000
Line of Credit**



Priority Alignment

Check Applicable	Strategic Priority Area	Comments
X	Economic	
	Environmental	
	Social	
	Cultural	

Alternatives

N/A

Community Engagement/Communication

N/A

CAO Comments

I support the approval of these two policies.

CAO Initials: JB

Target Decision Date: November 14, 2023

Alternative

RESOURCE ENERGY AUTHORITY

To: Town Council of Antigonish, Berwick and Mahone Bay
Chief Administrative Officers, Antigonish, Berwick and Mahone Bay
AREA General Manager

Submitted by: Meaghan Barkhouse, Treasurer

Date: Tuesday, November 07, 2023

Subject: **AREA \$1,000,000 Line of Credit**

It was discussed in previous AREA board meetings and subsequently confirmed that the required \$1,000,000 operating reserve wasn't placed into a segregated account and has been used as internal working capital for Alternative Resource Energy Authority (AREA). This has helped with cash flow related to prepaids, inventory and non-Ellershouse Windfarm construction capital. To begin the process of stopping this use of internal capital, and place it into its own reserve, will be to secure a line of credit.

This isn't a traditional line of credit; it would be used as over-draft as needed to help with cashflow. RBC has prepared a discussion paper regarding the terms and conditions of the line of credit. The interest rate will be Royal Bank Prime + 0.00% (prime is currently at 7.20% as of November 6, 2023). The purpose of this line of credit will be to segregate the \$1,000,000 that should be placed into its own reserve account.

AREA is recommending that each Town Council approve and direct their members of the AREA Board of Directors to approve the \$1,000,000 line of credit subject to the attached discussion paper at the next AREA Board meeting. If the Board approves the line of credit, a banking resolution will need to be read and approved at our next Board Meeting and a general security agreement will need to be signed. Each Town will be guaranteeing their percentage ownership of this line of credit (Antigonish 63%, Berwick 27% and Mahone Bay 10%).

The approval of the line of credit is the first step in beginning the process of getting the \$1,000,000 in reserves, and implementing for timeline for non-construction capital and inventory to be fully funded as they are currently using the internal capital. This will help with current constraints our cashflow has had with AREA.

Discussion Paper

The terms and conditions outlined herein are for discussion purposes only. They are not intended to be and shall not constitute or be construed in any way to represent a commitment by Royal Bank of Canada to provide credit. The terms and conditions described in this non-binding discussion paper are not intended to cover all of the terms and conditions of a credit agreement and related security documents that may be negotiated in due course. In the event of any conflict between the terms and conditions summarized herein and the terms and conditions of any credit agreement or related security documents, the terms and conditions of the credit agreement or related security documents will govern.

This discussion paper is provided to you on a confidential basis and on the condition that you will not disclose the existence or contents of this document to anyone (other than your professional advisors on a confidential basis for the sole purpose of providing professional advice to you) without first obtaining our prior written consent.

The Credit Facilities described herein are in addition to any Credit Facilities which may currently be in place between Borrower and RBC.

Borrower	ALTERNATIVE RESOURCE ENERGY AUTHORITY
Lender	Royal Bank of Canada, "RBC" or the "Bank"
Guarantors	
Credit Facilities	1. \$1,000,000
Purpose	1. Line of Credit
Repayment	1. Revolves with cash flow
Interest Rates	1. Royal Bank Prime + 0.00% Prime is currently 6.95% All rates are indicative only and are subject to change
Fees	1. N/a
Security	1. Borrowing Resolution 2. General Security Agreement
Financial Covenants	N/A
Reporting Requirements	1. Audited Financial Statements within 150 days of yearend.
Pre-Disbursement Conditions	1. Duly executed security and documentation, registered as required, satisfactory to the Bank
Information Required	Any additional information the Bank may further require to continue its due diligence
Costs	The Borrower shall pay all reasonable legal and other out of pocket costs associated with the preparation of any loan and other documentation that may form part of any formal agreement, if concluded, between the Borrower and Lender

To: Town Council of Antigonish, Berwick and Mahone Bay
Chief Administrative Officers, Antigonish, Berwick and Mahone Bay
AREA General Manager

Submitted by: Meaghan Barkhouse, Treasurer

Date: Tuesday, November 07, 2023

Subject: **AREA Invoice Arrears Policy**

Late payment of invoices can have detrimental effects on organizations, especially smaller enterprises. To handle this issue, AREA is recommending implementing a policy to manage late payments.

AREA can charge late fees on overdue invoices either as a fixed penalty fee or adding interest at either a fixed percentage or a floating rate (the average bank rate plus X%). In Canada, an interest rate of between 1.5% and 4% per month is common for a late fee. Interest fees should only be charged on overdue invoices if the payee signed a contract that lists this fee in the payment terms. The endorsement of the policy will be the official contract between AREA and the municipal electric utilities and their Towns.

When researching this topic, I reached out to Valley Waste, a joint-municipal run organization as they recently updated their “Establishment of Tipping Fees Accounts” policy to include an interest rate section in their fee schedule. Valley Waste’s interest rate is 2% per month for past due tipping fee accounts over 30 days. Due to time frame constraints, AREA is recommended a 21-day (3 week) payment term with a 7-day grace period to allow for delays related to mail delivery. AREA is also recommending a 2% fee, and it is within the standard range for Canadian organizations.

The goal of adding a late fee to unpaid invoices isn’t to increase AREA’s invoice but to motivate prompt payment and avoid potential interest charges for access any future line of credit due to the late payment.

AREA is recommending that each Town Council approve and direct their members of the AREA Board of Directors to approve the 2% interest rate per month on outstanding invoices as per the attached drafted policy at the next AREA Board meeting. If the Board approves the Invoice Arrears Policy, it can be implemented immediately.

By implementing this policy, AREA aims to ensure timely payments and maintain healthy cash flow, while also offering flexibility in cases of genuine financial difficulties.

Attached is the recommended policy related to the late payment of invoices with its municipal partners.

Invoice Arrears Policy

Purpose

The purpose of this policy is to define how and when late payment interest charges are to be applied to past due invoices to ensure clarity and accountability.

Scope

The policy shall apply to the municipal partners under the umbrella of services offered by the Alternative Resource Energy Authority.

Effective Date

This Policy shall come into effect immediately upon the approval of the Board of Directors.

Policy

1. **Payment Terms:** All invoices will clearly specify a payment due date of 21 days from the invoice date.
2. **Interest Rate:** Any invoices not paid within the 21-day period will be subject to a monthly interest rate of 2% per month or part thereof on the outstanding amount. Interest will only be charged on the accounts receivable less any previous interest not paid. There will be no interest charged on interest, but any payment will pay off any outstanding interest first then the remaining principal AR balance.
3. **Grace Period:** A grace period of 7 days will be allowed after the due date before the interest is applied, during which no penalties will be incurred.
4. **Notifications of Penalties:** After the grace period, a notice will be sent to the client informing them of the application of the 2% interest on the outstanding amount.
5. **Payment Plans:** In exceptional cases, clients facing genuine financial difficulties may be allowed to propose a payment plan. This arrangement must be agreed upon in writing, specifying the new payment schedule and terms.
6. **Dispute Resolution:** Any disputes regarding the invoice or the late payment charges should be communicated in writing within 5 business days of receiving the penalty notice. AREA will investigate the matter and respond within 10 business days.
7. **Consistent Application:** The policy will be applied consistently to all clients to ensure fairness and transparency.
8. **Policy Review:** The policy will be reviewed annually to ensure its effectiveness and relevance to the business's financial requirements and industry standards.

Chair of Board, AREA

General Manager

Date

Date