

HEARING COMMITTEE AGENDA

Hearing Committee Meeting
Wednesday, October 25, 2017
Committee Room C-11, Tom Davies Square

COUNCILLOR MARK SIGNORETTI, CHAIR

Fern Cormier, Vice-Chair

6:00 p.m. HEARING COMMITTEE MEETING COMMITTEE ROOM C-11

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DECLARATIONS OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

PUBLIC HEARINGS

 Report dated October 3, 2017 from the General Manager of Corporate Services regarding Vicious Dog Appeal- ACR 754470. 4 - 31

(RESOLUTION PREPARED)

(This report outlines By-law investigation and follow up for Vicious Dog Order 754470.)

 Report dated October 3, 2017 from the General Manager of Corporate Services regarding Order to Remedy Appeal- ACR 726860 (91 Logan Street, Sudbury). (RESOLUTION PREPARED) 32 - 48

(This report provides information about an Order to Remedy and associated appeal for a property standards matter at 91 Logan Street, Sudbury.)

3. Taxi Licence Appeal - ACR 773602

(This matter will be dealt with in closed session and relates to an appeal of a denial of an application for a taxi licence -- REPORT UNDER SEPARATE COVER.)

Resolution to move to closed pursuant to Municipal Act, 2001 s. 239(2)(b) and (g) and Statutory Powers Procedure Act, s. 9(1)(b) for one (1) item on the agenda concerning the hearing of an appeal of a taxi licence denial where the subject matter includes consideration of personal information about an identifiable individual and intimate personal matters and, where having regard to the circumstances, it is desirable to avoid disclosure of the information in the interest of any affected person and the public interest outweighs the desirability of adhering to the principle that hearings be open to the public.

(RESOLUTION PREPARED)

MATTERS ARISING FROM THE CLOSED SESSION

At this point in the meeting, the Chair of the "Closed Session", Councillor Cormier, will rise and report the results of the "Closed Session". The Committee will then consider any resolutions.

ADDENDUM

CIVIC PETITIONS

QUESTION PERIOD AND ANNOUNCEMENTS

NOTICES OF MOTION

ADJOURNMENT



Request for Decision

Vicious Dog Appeal- ACR 754470

Presented To: Hearing Committee

Presented: Wednesday, Oct 25, 2017

Report Date Tuesday, Oct 03, 2017

Type: Public Hearings

Resolution

Option One:

THAT the City of Greater Sudbury upholds the finding of the Licence Issuer that the Dog is a vicious dog, pursuant to Section 33 (1)(a) of By-law 2017-22.

Option Two:

THAT the City of Greater Sudbury upholds the finding of the Licence Issuer that the dog is a vicious dog pursuant to Section 33(1)(b) of By-law 2017-22;

AND THAT the Owner be exempt from the requirements of By-law 2017-22, section(s): ______.

(By-law 2017-22 permits exemptions from all or some of the requirements of sections 29, 30 or 31).

Option Three:

THAT the City of Greater Sudbury reverse the finding of the Licence Issuer that the Dog is a vicious Dog, pursuant to Section 33 (1)(a) of By-law 2017-22.

Signed By

Report Prepared By

Philip Smyth By-law Enforcement Officer Digitally Signed Oct 3, 17

Manager Review

Brendan Adair Manager of Security and By-Law Digitally Signed Oct 3, 17

Financial Implications

Apryl Lukezic Co-ordinator of Budgets Digitally Signed Oct 3, 17

Recommended by the Department

Kevin Fowke General Manager of Corporate Services Digitally Signed Oct 3, 17

Recommended by the C.A.O.

Ed Archer Chief Administrative Officer Digitally Signed Oct 3, 17

Relationship to the Strategic Plan / Health Impact Assessment

This report refers to operational matters.

Report Summary

City of Greater Sudbury By-law 2017-22, as amended, became effective on March 1, 2017 and regulates the keeping of animals and the registration of dogs and cats. Part III of the by-law entitled "Vicious Dogs"; section 28 of the by-law, contains provisions for the issuance of a Vicious Dog Notice to owners of dogs that have attacked a person or domestic animal without provocation. In response to a complaint of a dog attack that occurred on April 22, 2017, By-law Enforcement investigated the matter. In addition to a Part I

Provincial Offence Notice, the Licence Issuer issued a Vicious Dog Notice to effectively deem the Dog vicious and impose restrictions to ensure the health and safety of the community. The Owners have appealed the notice, requesting a hearing of the matter by Committee of Council. The Committee may uphold or reverse the notice and its contents or, if the Dog is deemed vicious, may exempt the owner from all, or some of the requirements of Section 29, 30 or 31.

Financial Implications

There are no financial implications associated with this report.

Recommendation

THAT the City of Greater Sudbury uphold the Vicious Dog Notice #754470, issued to Eric Foerter, 2164 Mildred St., City of Greater Sudbury.

Background

City of Greater Sudbury By-law 2017-22, as amended, became effective on March 1, 2017 and regulates the keeping of animals and the registration of dogs and cats. Part III of the by-law entitled "Vicious Dogs"; section 28 of the by-law, contains provisions for the issuance of a Vicious Dog Notice to owners of dogs that have attacked a person or domestic animal without provocation.

The effect of the notice is to ensure the owner of a dog deemed vicious by receipt of the notice, erect vicious dog signs on the owner's property, muzzle and leash the dog when not inside the owner's dwelling at all times, provide that the dog is microchipped and requires the owner to obtain additional liability insurance.

The by-law is specific about how the process is carried out and the contents of the notice. Several provisions in the by-law for the issuance of the notice are mandatory requirements of the Registrar and of the recipient of the Notice.

This section also provides for an appeal of the notice by the owner of the dog requesting a hearing of the matter by Council or Committee of Council. The Committee may uphold the notice and its contents, exempt the owner from the erecting of the signs, muzzling, leashing, microchipping or obtaining insurance requirements or from all, or may modify the conditions for any of these conditions.

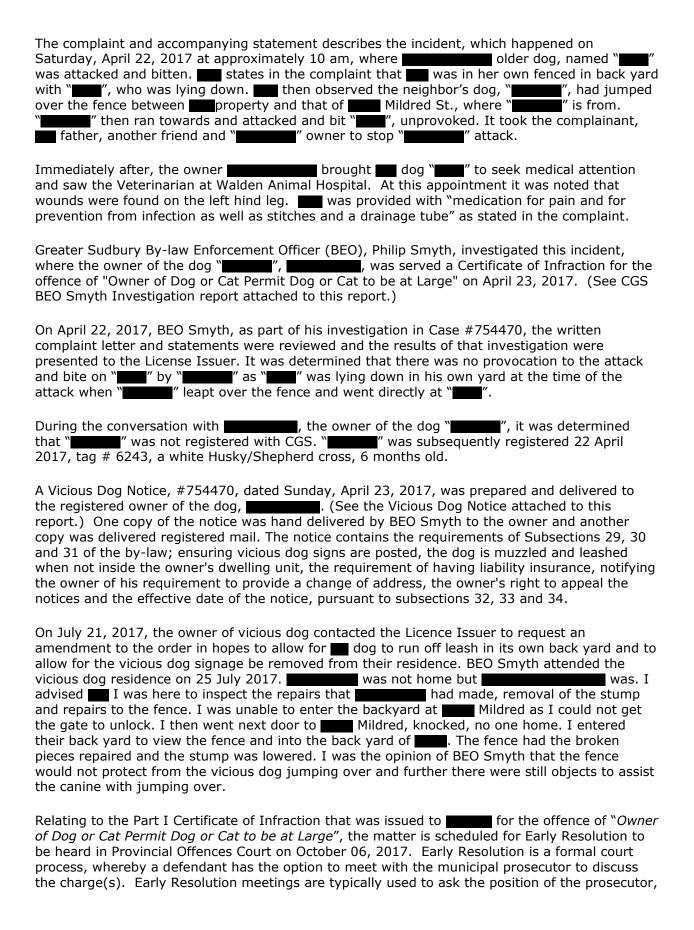
By-law Procedure Vicious Dog Notice - 754470

Part 3 of By-law 2017-22 designates the Manager of Security and By-law Services for the City of Greater Sudbury as the License Issuer pursuant to the By-law, and By-law Officers in Compliance and Enforcement have been appointed by the License Issuer to perform the task of issuing Vicious Dog Notices pursuant to the by-law.

Subsection 28(1) of the by-law states "The License Issuer may conduct an investigation to determine if a Dog should be found to be a Vicious Dog, where the License Issuer receives:

- (a) A written complaint, signed by the complainant, that a Dog has Attacked or Bitten a Person or a Domestic Animal without provocation or mitigating factors;
- (b) Particulars of the name and address of the owner of the Dog or adequate information to ascertain the Owner of the Dog which is subject of the complaint; and
- (c) Particulars of the Incident or Incidents giving rise to the complaint. and if deemed to be a vicious dog, requiring the owner to comply with any or all of the requirements set out in sections 28, 29 and 30."

A written complaint was received by the License Issuer from of Mildred St., Greater Sudbury, requesting that the dog named "Mildred St., Greater Sudbury, be deemed vicious, based on an incident on April 22, 2017 where dog was attacked and bitten. (See attachment of the Victim statement, letter of complaint to this report.)



to discuss the time to pay a fine, to request disclosure for the charge(s) or to discuss the possibility of pleading to a lesser offence supported by the facts.

Appeal Notice

A letter of appeal of the Vicious Dog Notice was received by the owner of the dog and the hearing was scheduled. (See Letter of Appeal is attached to this report.) A notice was sent to the owner of the dog advising of the date and time of the hearing.

Conclusion

In consideration of this report, the witnesses and the appellant, pursuant to subsection 33(1) the Hearing Committee may decide one of three options below;

- 1. Uphold the Notice;
- 2. Modify the Notice exempting the owner from erecting vicious dog signs, muzzling or leashing, obtaining liability insurance or modifying any of these conditions; or
- 3. Quash the Notice exempting the owner from all requirements to muzzle and leash.

The License Issuer is confident that the Vicious Dog Notice issued to Mildred St., City of Greater Sudbury, satisfies the requirements of By-law 2017-22, Part III, Section 28, a by-law to regulate the keeping of animals and the registration of dogs and cats. The purpose of the notice is to mitigate the recurrence of a similar incident and provide an assurance of safety for the area residents and the general public. The Registrar recommends that the Vicious Dog Notice be upheld by the Committee.

Supporting Documents

- 1. Victim Statement 754470
- 2. Victim Statement- 754470
- 3. Request to Deem Vicious- 754470
- 4. Eleven (11) photos of investigation
- 5. Certification of Infraction- Permit Dog at Large- April 23, 2017- PON #6776832B
- 6. Animal Registration 2071-6243
- 7. Vicious Dog Notice
- 8. Letter of Appeal



Long Distance: 705-671-2489

Fax: 705-671-0871

STATEMENT FORM

ACR Case ID: 754470 Date: <u>92 Apr. 2017</u> Time: <u>/6/0</u>
Name: Address: Address: Mildred St. (City) (Postal Code)
Date of Birth: W June 86 (Day Month Year)
Phone Number
Statement taken by: Officer No
I was standing at my front door talking to my
Toofer petting out of the corner of my eye I saw the neighbour's dog run up and attack my dog.
He had bite him in his hind leg and was shaking
my dog like a ragidall. I got the Knocked down & was
trying to get try dog out of his mouth. I was sireaming
to help when finally my my rooter, the neighbor
of We finally got him released but Suffered
of We finally got him released but suffered many injuries. We beg brought Bear to the vet &
they were able to siture his wounds & jave him
Soveral pain meds & antibiotics.
attacked Ben tuhere it was From?
A- ' Fran next door.
Q- How did you get knocked down?

Page \underline{I} of $\underline{\underline{2}}$



Long Distance: 705-671-2489 Fax: 705-671-0871

Case ID: 754 470	Name:			
		(Surname)	(First name)	
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Long Distance: 705-671-2489 Fax: 705-671-0871

STATEMENT FORM

ACR Case ID: 754470 Date: 22 Apr. 2011 Time: 16/3
Name:Address:
Date of Birth: 23 July 89
(Day Month Year)
Phone Number
Statement taken by: Officer No. 1315
Twas in my basement washroom when I suddenly heard
screaming coming from we are in the process of getting own
root re-stringled so I thought making from the root had failten
when I opened it, I was the first person that.
Isaw. Insticed his two tingers were bleeding, than noticed
haking the ein the corner by the door with
that was sitting on our deck stairs and A
was very upset. Then tound out the whole study ion.
that he was breding and he was still shaking.
A few minutes earliest before all of this happened of
had ust amved I was outside laying in
washrown and to cook hreakfast. By After the
incident, I was the one who called you grup to
file the report, while was on the sphore with the
Page Lof 2 Suture @ large
puncture wounds. # 11 of 50

He will be on antibioties and pain meds for almost D weeks. He is very sore and one wound is partially through muscle, so vet said that he will House nerve pour for awhile. He also has a penrose drain in the larger wound to reduce swelling etc. This dog is always viscous towards me as well, snapping at me when I cut the grass by that side of the fence. He has jumped the fence at our friends english buildog & my parents jark mesel terrier while they were playing together. He bit hand over the fence ong Seperate occasion. He barks and growes at me bringing in groceries and he almost bit my leg while I was planting a tree on the fenceline.



Long Distance: 705-671-2489

Fax: 705-671-0871

STATEMENT FORM

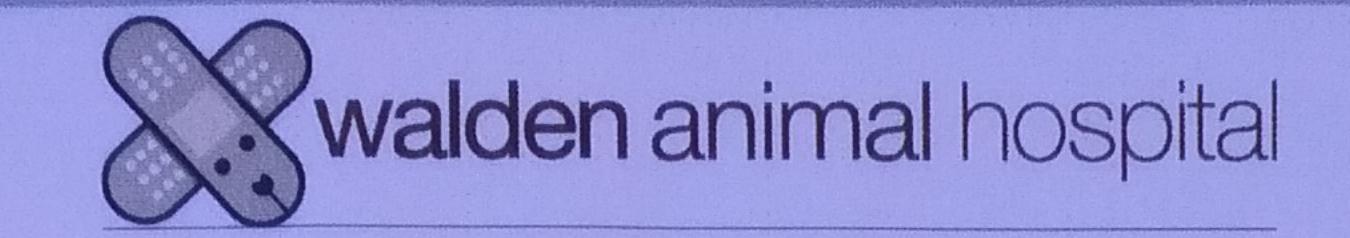
ACR Case ID: 754470 Date: 22 Apr. 2017 Time: 1637
Name:Address:
Date of Birth: 4 June 86 (Day Month Year)
Phone Number_
Statement taken by: Officer No
I have thought was a vicious dog before
today. We have had several encounters with him
showing signs of being vicious. We had have tried
to stay away toom him & have been asking the
neighborrs to split on a fence for the past 2-3
year's. After today's incident I am saying for
Sive he is a vicious dog and feel threatened
for my safety & the safety of my animals &
friends & their animals safety .
I wish declared a vicious dos in
hope that something like this be prevented in
the fiture.











11 White Road Lively, ON P3Y 1C3 (705) 692-4446 www.waldenanimalhospital.com info@waldenanimalhospital.com

Check us out on Facebook!

Apr 22, 2017

Invoice Number 84114

(# 1248)

Mildred St Home Phone: Sudbury, ON P3B 1L6 Work Phone: () - ext:

Species: Canine

Sex: Male Neutered

Age: 11 years and 9 months old

Breed: Retriever X

Coat Color: Black

Weight: 34.4 kg.

Rabies Tag Number: 3012983346

Annual Wellness Exam: 08/04/2017

Rabies: 07/21/2017

Canine Parvo: 08/04/2019

Canine Distemper: 07/27/2018

Heartworm Blood Test: 05/11/2018

Date	Description	Qty	Price
04/22/2017	Exam - medical	1.00	\$ 95.00 +tx
U-TIZZIZO II	Buprenorphine 0.5mg/ml - per ml	1.20 _{ML}	\$ 11.86 +tx
	Dexdomitor And Antisedan Reversal	1.00	\$ 0.00
	Antisedan Inj (1/10ml)	0.45 per mL	\$ 12.26 +tx
	◆ Dexdomitor Cost/ml (10ml)	0.45 _{ML}	\$ 12.33 +tx
	◆ Sedation And Reversal	1.00	\$ 177.80 +tx
	Metacam (32ml)	1.00 Bottle	\$ 65.04 +tx
	Clavamox 375mg (1/210) Tab	20.00 tabs	\$ 91.30 +tx
	Gabapentin 300mg (1/100) CAP	25.00 CAP	\$ 30.80 +tx
		Total for Bear :	\$ 496.39
D C 37		Total Products:	\$ 496.39
DrCara Yu		HST:	\$ 64.52
		Total Invoice:	\$ 560.91
		Previous Balance:	\$ (0.15)
		Total Amount Due:	\$ 560.76
		Credit Balance	\$ 0.15
		Debit(1234)	\$ 560.91
		Total Payments - Thank you:	\$ 561.06
		Change Dispensed:	\$ 0.15
		New Balance Due:	\$ 0.00

DV Nimb	umb Code Description	Expire Date Refil	Expire Date Refills Left		
RX Numb (# A) 73145 Enter Free-	BUP Buprenorphine 0.5mg/ml - per ml Form Sig Message	04/22/2017	0		
73155 Save time	100496 Metacam (32ml) Order Online! Visit www.myvetst	09/01/2019 ore.ca/wah	0		

WALDEN ANIMAL HOSPITAL 11 WHITE ROAD LIVELY, ON P3Y103 7056924446

MERCHANT 10: 87234590016

TERM 10: 001

SALE

XXXXXXXXXXXXX2607

DEBIT/CHQ

ENTRY METHOD: CHIP

04/22/17

14:46:12

000012 00000008

00053262

APPR CODE: 531709

RET REF#:

BATCH #: 000301

TRACE:

REF #: 012

AMOUNT

\$560.91



Sudbury,

Milc

Date

04/22/201

PIN VERIFIED BY CARD ISSUER ACCOUNT WILL BE DEBITED WITH THE ABOVE AMOUNT (OR CREDITED IF CREDIT VOUCHER) RETAIN THIS COPY FOR STATEMENT VERIFICATION

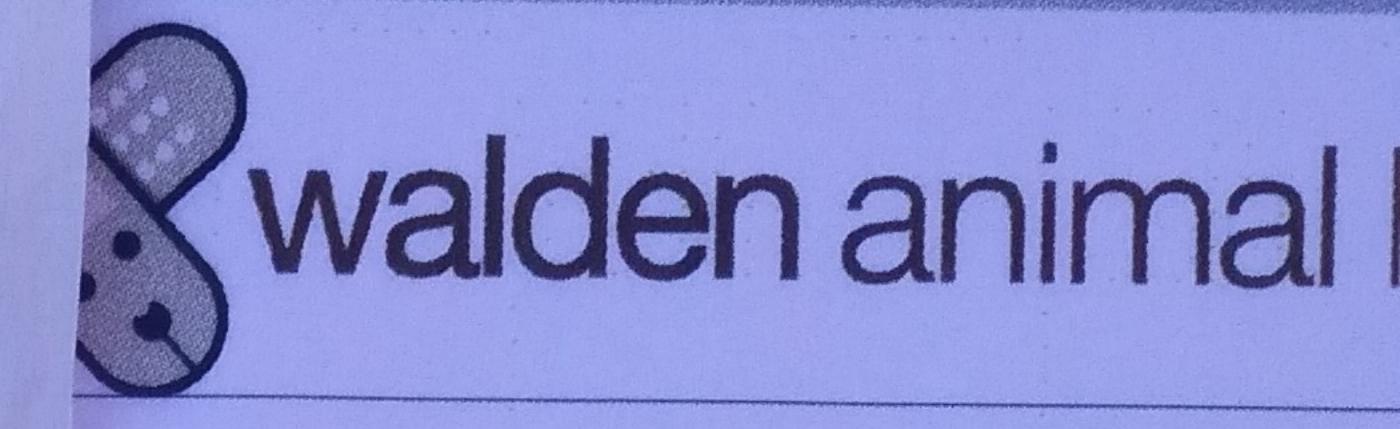
CARDHOLDER COPY

APPROVED

APPLICATION LABEL:

AID: A0000002771010

TUR: 80 80 00 80 00



11 White Road Lively, ON P3Y 1C3 (705)692-4446www.waldenanimalhospita info@waldenanimalhospita

ext:

onths old

Rabies Tag Number: 30

- per mi an Reversal

HALLMANN (10ml)

Sedation And Reversal

Metacam (32ml)

Clavamox 375mg (1/210) Tab



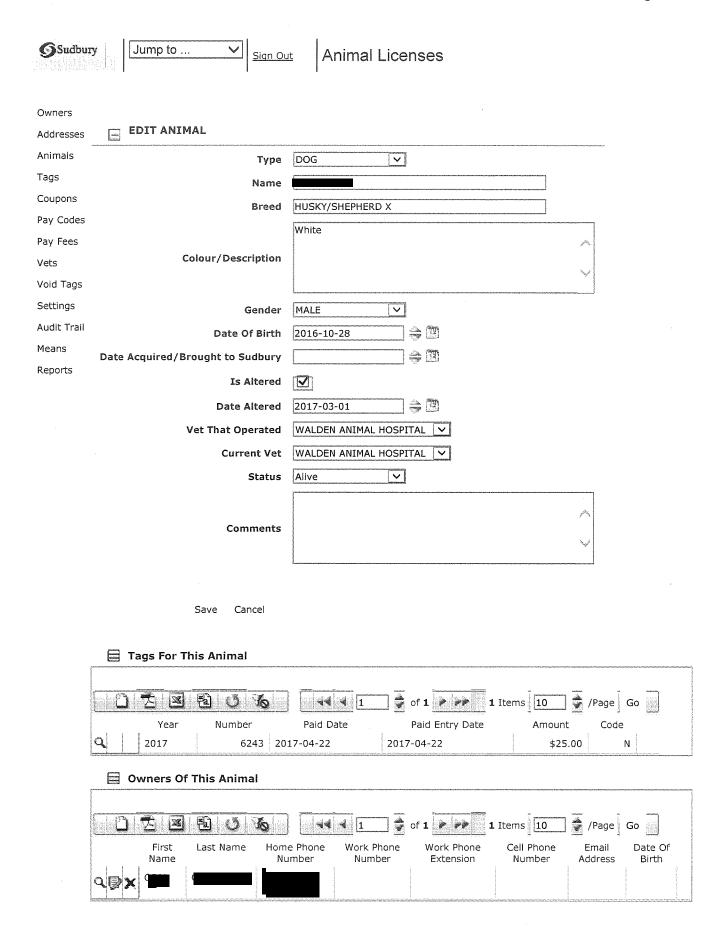








ICON Location	Offence Number	67768	32B	
Code Code d'emplacement du RIII	N' d'infraction			on the state of th
Form 1, Provincial Offences Act Ontario Court Formulaire 1, Loi sur les infractions provincial Certificate of Offen	es, Cour de justice de i Uniario, ne	gi. do FOM. 100011 erbal d'infracti //	ion 🖺	
I/Je soussigné(e) Believe and certify that on the day of Crois et atteste que le 2 0 Name Nom	Iffinit name Inom en In Iffini		nej Å (Heure) 0 'OO A	Alle Land Constants And The Children Children
Address Adresse Sulbury Municipality/Municipality Driver's licence No./Numéro	Number and street/Numer	O V 7 Province	P3B/L/C Postal code/Code pastal	7
Birthdate/Date de naissance		Motor Vehicle Involved Vehicule impliqué N/N	Collision Witnesses Involved Témoins Collision Y/0 Y/0	
Did commit the offence of: A commis l'infraction de: Permit Lange Contrary to: Contrary to:	~/ / /	of po Cont to eater So	y/Grand Sudbury Municipality/Municipality G y Cat J be at	\$
Animal Co	the + Co	Commercial CVOR/	By-/am) UVU NSC/CNS Code	7
№ de plaque d'immatric	ulation Aut. lég.	Utilitaire □Y/0 □Y/I de l'1UVU - N° du CN		
And I further certify that I served a personally upon the person charge Jatteste dyalement qu'à la date dimains propres, un avis d'infractior Signature of issuing Provincia Signature, de l'agent des infra	ed en the effense date e l'infraction, j'ai signifié, en là la personne accusée. el Offences Officer	Or other ser Autre date of 23 Ay Officer No. Nº de l'age	vice date of: le signification le : m, 2017 Platoon Unité Peloton Unité	
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	The DATA Group of	Companies		



City of Greater Sudbury Wile du Grand Sudbury



VICIOUS DOG NOTICE #754470

Pursuant to City of Greater Sudbury Animal Control By-law 2017-22

REGISTERED MAIL & HAND DELIVERED

To:

Sudbury, ON

P3B 1L6

SUDBURY ON P3A 5P3 CP 5000 SUCC A

PO BOX 5000 STN A

200 BRADY STREET

CP 5000 SUCC A 200, RUE BRADY SUDBURY ON P3A 5P3

705.671.2489

www.greatersudbury.ca www.grandsudbury.ca The City of Greater Sudbury is in receipt of a written complaint that your dog, registration number 2017- 6243, has attacked another dog without provocation or mitigating factors on 22 April 2017.

As License Issuer pursuant to By-law 2017-22, a By-law of the City of Greater Sudbury to Regulate the Keeping of Animals, Responsible Pet Ownership and the Registration of Dogs and Cats, and under authority of Section 28 of the By-law, I deem your dog to be a vicious dog. Therefore, you are hereby required to comply with the requirements as set out in Sections 29, 30 and 31 of the by-law which states:

WARNING SIGN - VICIOUS DOG

- 29 (1) Unless provided to the contrary by the Hearing Committee, every Owner of a Dog which has been found to be a Vicious Dog shall at all times display a warning sign purchased from the License Issuer:
 - (a) At that entrance to the Dwelling Unit of the Owner of the Vicious Dog, which a person would normally approach; and
 - (b) In a location and manner such that the sign will be clearly visible to a person approaching the entrance to the dwelling unit.
 - (2) Every Owner of a Dog which has been found to be a Vicious Dog shall:
 - (a) ensure that the sign purchased in accordance with subsection 29(1) is affixed to the Dwelling Unit or otherwise erected or placed in a manner that cannot be easily removed by a passerby; and
 - (b) replace the sign as required from time to time, in the event the sign

Page 1 of 4

is removed or defaced or otherwise becomes illegible.

(3) No Person shall remove a sign erected pursuant to subsection 29(1), while the dog found to be a Vicious Dog resides at that premises, except in accordance with paragraph 29(2)(b).

CONTROL OF VICIOUS DOG

- 30 (1) Unless provided to the contrary by the Hearing Committee, every Owner of a Dog, which has been found to be a Vicious Dog shall ensure that at all times when the dog is not on Premises owned or occupied by the Owner of the dog, the dog is:
 - (a) Muzzled;
 - (b) Securely fitted with a collar or harness in a manner such that the dog cannot detach the collar or harness;
 - (c) Leashed with a Leash securely attached to a collar or harness at all times in a manner such that the dog cannot detach the Leash from the collar or harness; and
 - (d) The Leash held by a Person who has the strength and capacity to securely control the dog so as to not permit or allow unwanted contact with another person or a domestic animal.
- (2) Unless provided to the contrary by the Hearing Committee, every Owner of a Dog, which has been found to be a Vicious Dog shall ensure that at all times when the dog is on premises owned or occupied by the Owner of the dog, the dog is:
 - (a) Securely contained inside the Dwelling Unit of the Owner of the Dog or
 - (c) if outside the Dwelling Unit of the Owner of the Dog, the Dog is:
 - (i) Muzzled;
 - (ii) Securely fitted with a collar or harness in a manner such that the dog cannot detach the collar or harness;
 - (iii) Restrained by a chain or other restraint sufficient to prevent the dog from leaving the premises; and
 - (iv) Contained within a securely enclosed area, including a fence of an appropriate height for the breed of dog, constructed so as to prevent the dog from leaving the premise and in a manner such that the Vicious Dog is unable to come into contact with persons or other domestic animals
- (3) Unless provided to the contrary by the Hearing Committee, the Owner of a Dog, found to be a Vicious Dog shall provide evidence to the License Issuer that the dog has been Microchipped within 21 days of:

- (a) The effective date of the service of the notice of the finding by the License Issuer that the dog is a Vicious Dog, in the event that no Appeal is filed to the Hearing Committee; or
- (b) The date on which the Hearing Committee confirms the finding a dog is a Vicious Dog, in the event that an appeal is filed to the Hearing Committee.
- 31 (1) Unless provided to the contrary by the Hearing Committee, every owner of a dog, which has been found to be a Vicious Dog shall obtain and maintain in effect at all times, the person owns the dog found to be a Vicious Dog, a policy of liability insurance with an insurer licensed to operate in Ontario, providing for coverage in an amount not less than one million dollars per occurrence, for losses arising from injuries caused by the owners dog and providing for the City to be notified in writing of any cancellation, termination or expiry of the insurance policy.
- (2) Every owner of a dog, found to be a Vicious Dog shall provide to the License Issuer, evidence that insurance compliant with subsection 31(1) is in effect:
 - (a) Within 10 business days of the dog being found to be a Vicious Dog;
 - (b) On each application for a license or a renewal license for the Dog;
 - (c) Prior to the expiry date of any policy; and
 - (d) Upon request by the License Issuer.
 - (3) Every owner of a dog, found to be a Vicious Dog shall provide the information required under subsection 15(1) to the License Issuer writing within two business days of any change in ownership or residence of the dog and provide the License Issuer with the new address and telephone number of the owner.

As License Issuer and in accordance with Section 28(5)(c), I am advising you of your right, if exercised within 14 days of the service of the notice, that you may apply to the Hearing Committee, to seek one or both or a reversal the finding that the dog is a Vicious Dog and an exemption from any one or more of the conditions in section 29, 30 and 31; the process to do so; and the applicable fee for such hearing.

The process to apply to the Hearing Committee is as follows;

Application to Hearing Committee

32 - (1) An owner who has been given notice that his or her dog has been found to be a Vicious Dog, may apply in writing to the License

Page 3 of 4

Issuer for a hearing before the Hearing Committee established pursuant to the City's Procedure By-law then in effect, and shall submit the applicable administrative fee for such applications. The application shall be filed within 14 days of the date that service of the notice under section 28 is effective.

The application fee for appeal hearings for Notices, as set out in Schedule CS-7 to the User Fee By-law 2017-24 is \$103.00.

Lastly and in accordance with section 28(6) of By-law 2017-22, the finding that a dog is a Vicious Dog shall be effective upon service of the notice under Section 28(5) and continue in effect unless and until such finding is revoked by the Hearing Committee.

Failure to comply with the provisions of this Vicious Dog Notice is an offence and will result in charges to the By-law and Provincial Offences Act.

Dated this 23rd of April, 2017

Brendan Adair, License Issuer

Manager of Compliance and Enforcement

City of Greater Sudbury



REGISTERED DOMESTIC

RECOMMANDÉ
RÉGIME INTÉRIEUR
REQUIDUCLIENT

R

CUSTOMEN RECEIPT

Mala a dia akay

RN 213 221 615 CA

33-086-584 (14-06)

To City of Guester Sudbury

would like to apply to the Hearing Comittee to seek a reversal of the findings Shat my dog is a vicious dog and an exemption of any one or more of the Conditions stated on my " nicious pag potice" We owner of will comply with the require ments as stated on the notice received spril 23/17. a will as much as possible rectify fence ... to provide fensure pafety of all.

Thanlfore



Request for Decision

Order to Remedy Appeal- ACR 726860 (91 Logan Street, Sudbury)

Presented To:	Hearing Committee		
Presented:	Wednesday, Oct 25, 2017		
Report Date	Tuesday, Oct 03, 2017		
Type:	Public Hearings		

Resolution

Option One:

THAT the City of Greater Sudbury confirm the Property Standards Order to Remedy issued to the Owner of 91 Logan Street, Sudbury, ON, pursuant to Section 15.3(3.1)1 of the Building Code Act.

Option Two:

THAT the City of Greater Sudbury extend the time for complying with the Property Standards Order to Remedy issued to the Owner of 91 Logan Street, Sudbury, ON, pursuant to Section 15.3(3.1)2 of the Building Code Act.

Option Three:

THAT the City of Greater Sudbury rescind the Property Standards Order to Remedy issued to the Owner of 91 Logan Street, Sudbury, ON, pursuant to Section 15.3(3.1)1 of the Building Code Act.

Option Four:

THAT the City of Greater Sudbury modify the Property Standards Order to Remedy issued to the Owner of 91 Logan Street, Sudbury, ON, pursuant to Section 15.3(3.1)1 of the Building Code Act and that the modification be as follows:

Signed By

Report Prepared By

Tina Whitteker By-law Enforcement Officer Digitally Signed Oct 3, 17

Manager Review

Brendan Adair Manager of Security and By-Law Digitally Signed Oct 3, 17

Financial Implications

Apryl Lukezic Co-ordinator of Budgets Digitally Signed Oct 3, 17

Recommended by the Department

Kevin Fowke General Manager of Corporate Services Digitally Signed Oct 4, 17

Recommended by the C.A.O.

Ed Archer Chief Administrative Officer Digitally Signed Oct 4, 17

Relationship to the Strategic Plan / Health Impact Assessment

This report refers to operational matters.

Report Summary

A Property Standards Order for repair or replace of a retaining wall at 91 Logan was issued on August 26, 2016, pursuant to the Building Code Act, S.O. 1992, Chapter 23 as amended. The Council of the City of

Greater Sudbury enacted By-law 2011-277, cited as the "Maintenance and Occupancy Standards By-law". This By-law prescribes standards for the maintenance and occupancy of properties within the City and enacted to ensure the safety of residents and the upkeep of properties to prevent the degradation of the community and neighborhoods.

In receipt of a request for an appeal and failing an ability to resolve the matter, the appeal is now being brought before Committee for review and decision.

Financial Implications

There are no financial implications for this report.

Recommendations

That the Property Standards Order issued to the owner of 91 Logan Ave., City of Greater Sudbury be upheld.

Background

Property Standards Order for repair or replace of a retaining wall (herein referred to as "the Order") was issued pursuant to the Building Code Act, S.O. 1992, Chapter 23 as amended, (herein referred to as "the Act").

The Council of the City of Greater Sudbury enacted By-law 2011-277, cited as the "Maintenance and Occupancy Standards By-law" (herein referred to as "the By-law"). This By-law has been passed under the authority of section 15 of the Act and prescribes standards for the maintenance and occupancy of properties within the City and for requiring properties not in conformance with the standards therein to be repaired and maintained to conform to the standards. This By-law was enacted to ensure the safety of residents and the upkeep of properties to prevent the degradation of the community and neighborhoods.

The enforcement and appeal provisions of this By-law are found in the Building Code Act. It provides for inspection powers of the officer, the issuance of an Order, the establishment of a Property Standards Committee, and the procedures for an appeal of the Order. Specific time frames and methods of notification are established in the Act and the powers of the Property Standards Committee are also set out in the Act.

Facts and Evidence Supporting the Orders - Presented by Officer Tina Whitteker

See Appendix A

Attached to this report for the Committee's review and in support of the recommendation are the following;

- 1. Appendix A
- 2. Photographs taken by Officer Whitteker: 3 photographs dated August 16, 2016, 1 photograph dated August 26, 2016, and 1 photograph dated November 23, 2016
- 3. Copy of Property Standards Orders for Expert Examination and Property Tax Viewer- August 26, 2016, #726860.
- 4. Correspondence by 2017 and June 29, 2017
- 5. Copy of pertinent section of Survey

Conclusion

Section 15.3(3.1) of the Building Code Act sets out the powers of the committee on an appeal of an Order. It provides to the committee the same powers and functions of the officer who made the order, and can confirm, modify or rescind the Order, and can also extend the time for complying with the order, if in the committee's opinion doing so would maintain the general intent and purpose of the by-law and of the official plan or policy statement.

This By-law was enacted to ensure the safety of residents and the upkeep of properties to prevent the degradation of the community and neighborhoods.

It is recommendation in this report to uphold the Order to Remedy for joint repair to the retaining wall, or to confirm that one owner of the adjoining properties to be responsible for the repairs, and

complies with the maintenance and occupancy standards as set out in the CGS By-law, 2011-277 and Order to Remedy issued.

Appendix A Property Standards Appeal Committee Report 91 Logan Street, Sudbury ON- ACR 726860 Prepared by Tina Whitteker

On June 27, 2016, the City of Greater Sudbury Compliance and Enforcement Division received a complaint that the retaining wall was falling down between the properties 91 Logan St. and 93 Logan St., Sudbury. Cases #726860 and #721014 were generated and assigned to the area By-law Officer Tina Whitteker for inspection and enforcement follow-up.

Tina Whitteker for inspection and enforcement follow-up.
On August 16, 2016, Officer Whitteker attended to the properties 91 Logan St., and 93 Logan St. and conducted an inspection of the retaining wall. During the inspection Officer Whitteker observed and took photographs of the retaining wall in poor repair between the properties and witnessed the fence in that area on 93 Logan St. was falling as well. Then spoke with, the owner of 93 Logan St. and stated that did not have a survey. As a result, Officer Whitteker advised that, with the wall spanning down what is believed to be the property line, both parties would have to share in the repair of the wall.
The owner of 91 Logan rented the property and physically resided in the neighboring property at 89 Logan St. spoke with the owner, who pointed out a survey pin from the rear and one thought to be the front pin of the property, which showed that the retaining wall may in fact be located on 93 Logan St. property. As there was contest by conversely, owner of 93 Logan St, on whether the pin in the front was in fact a survey pin, later there was an agreement between property owners that a survey from the owner of 91 Logan would be shared to identify the actual property boundaries.
Working with the of the property owner, white work of August 2016, Officer Whitteker maintained communication about the possible existence of a survey that would assist in confirming the ownership of the retaining wall. On August 23, 2016, the of the property owner confirmed possession of a survey. Officer called back same day and spoke to that since there is dispute regarding the lot line from the neighbor, will send Order to both as per our current procedure. Provided update that fence will be also included in Order on adjacent property, 93 Logan as issue noted prior.
On August 26, 2016 an Order to Remedy was issued to both owners of 91 and 93 Logan in hopes to support resolve the matter. The Order to Remedy issued to both parties outlined the description of non-conformity as per Section s.2.10(1) "All retaining walls, screen walls and ornamental walls shall be constructed of durable material and shall be maintained in a structurally sound condition". The required action outlined as "Repair/replace the retaining wall along the north* (south)** side of your property and ensure constructed of durable material and maintained in structurally sound condition." *Order to Remedy, north side, issued to 91 Logan
**Order to Remedy, south side, issued to 93 Logan. This Order to 93 Logan also included repair or removal of the fence, which will be completed once settlement of retaining wall with Appeal.
On September 7, 2016, the owner, and a substantial of 93 Logan attended the Bylaw Office to request an Appeal of the Order to Remedy. As there was discussion on whether a survey was in existence to support ownership of the retaining wall, the Officer obtained agreement from the property owners that the matter would not be immediately referred to the Hearing Committee.
On November 17, 2017 it was noted that the owner, grant of 91 Logan did obtain a survey

and that it was believed the survey concluded that the retaining wall was located on the neighbour's

property of 93 Logan.

On November 23, 2016 a physical review of the survey concluded that it was very close to/on the property line and in the center the wall has shifted and has fallen/leaning into her property at 91 Logan. A photograph was taken by Officer Whitteker. The issue was discussed with the owner of 91 Logan where final determination was made to proceed to Committee Appeal.

January 25, 2017 in afternoon, Mark Huneault, Lawyer from Weaver Simmons stated he was inquiring for the owner of 91 Logan and once Officer explained that if on property line both could be responsible and appeal to be heard, he stated that he may be sending letter to adjacent owner at 93 Logan to inform that it is to their benefit to repair the wall which is holding up their garage.

Thereafter the owner, of 93 Logan contacted Officer Whitteker by phone on February 1, 2017 to discuss the letter received by lawyer regarding the matter. It is a indicated officer whitteker advised that she would postpone the file as it appeared there was still willingness for cooperation and for there to be compliance.

Through February and March significant efforts were made by Officer Whitteker to mediate the dispute in hopes to achieve a resolution where both property owners would be in support of and where costs could possibly be shared. With talks breaking down with the owner of 93 Logan in March, the Officer provided for more time to support resolution.

As there was no clear resolution to the matter between both properties, and in receipt of correspondence on June 29, 2017 from the Lawyer representing the owner, of 91 Logan where there was a claim that that they are not responsible for the repair but would like it to be repaired in a timely manner by the owner of 93 Logan, the matter was deferred to final resolution at the Hearing Committee level. Hearing Committee date confirmed for October 25, 2017 for resolution.















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January 27, 2017

93 Logan Avenue Sudbury, ON P3C 3E3

Dear N

Re: - Property Dispute - Our File No. 73338

We are the solicitors for and confirm that we are in receipt of an Order to repair or replace a retaining wall along a property. The retaining wall does not support our client's property it supports the neighbouring property but does appear to support a wood framed garage located on your property. Our client is not responsible for the retaining wall and it appears that the only reason the retaining wall is on their property is that it is buckling and this retaining wall was in place prior to our client's purchase of this property.

It is our understanding that the Property Standards Committee has issued an Order to Remedy against you and our client who is the owner of 89 Logan. Our client has no interest in preserving the retaining wall. She derives no benefit from the retaining wall and would be prepared to have a slope between your property and our client's property. Unfortunately, the removal of the retaining wall may adversely affect the garage that is on your property. As such it is certainly in your interest to repair the retaining wall and to place the retaining wall entirely on your property as our client has no intention of incurring more costs than necessary.

Our client is prepared to permit you to enter onto their property in order to affect a repair so long as you do not damage our client's property. Our client is doing so in the interest of being good neighbours and to bring this matter to your attention otherwise the need will be to remove the said retaining wall.

We would be pleased to discuss this matter with you at your convenience with an aim towards a reasonable resolution to this issue as the municipality is attempting to deal with this issue of the retaining wall which is encroaching on our client's property.

Yours very truly, WEAVER, SIMMONS LLP

Marc A.J. Huneault Direct Line: 705-671-3262

Email: majhuneault@weaversimmons.com

MAJH:sv

cc: Client

Ms. Tina Whitteker (via email)



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June 29, 2017

Ms. Tina Whitteker Property Standards Officer City of Greater Sudbury 200 Brady Street Sudbury, ON P3A 5P3 VIA EMAIL TO: tina.whitteker@greatersudbury.ca

Dear Ms. Whitteker:

Re: Our File No. 73338

It has come to our attention that the second has not attempted to resolve this issue with respect to our client. Our client was in Italy from March 8th to June 7th, 2017. The Second has served a Plaintiff's Claim upon our client and actually attended at Small Claims Court attempting to obtain a Judgment as against our client who was, of course, absent. We can confirm that the action has dismissed as here a transferred any damages.

At this stage our client reiterates her demands that the retaining wall be repaired and that you enforce the Property Standards By-Law. We respectfully disagree with your interpretation that retaining walls are split on a 50/50 basis and it is our client's view that the retaining wall should be removed from our client's property as it is encroaching upon our client's lands. We further take the position that the retaining wall needs to be repaired or removed and that there be an Order for the repair of the wall be made against Ms. Sutherland.

We would be pleased to discuss this matter with your at your convenience and remain,

Yours very truly, WEAVER, SIMMONS LLP

Marc A.J. Huneault Direct Line: 705-671-3262

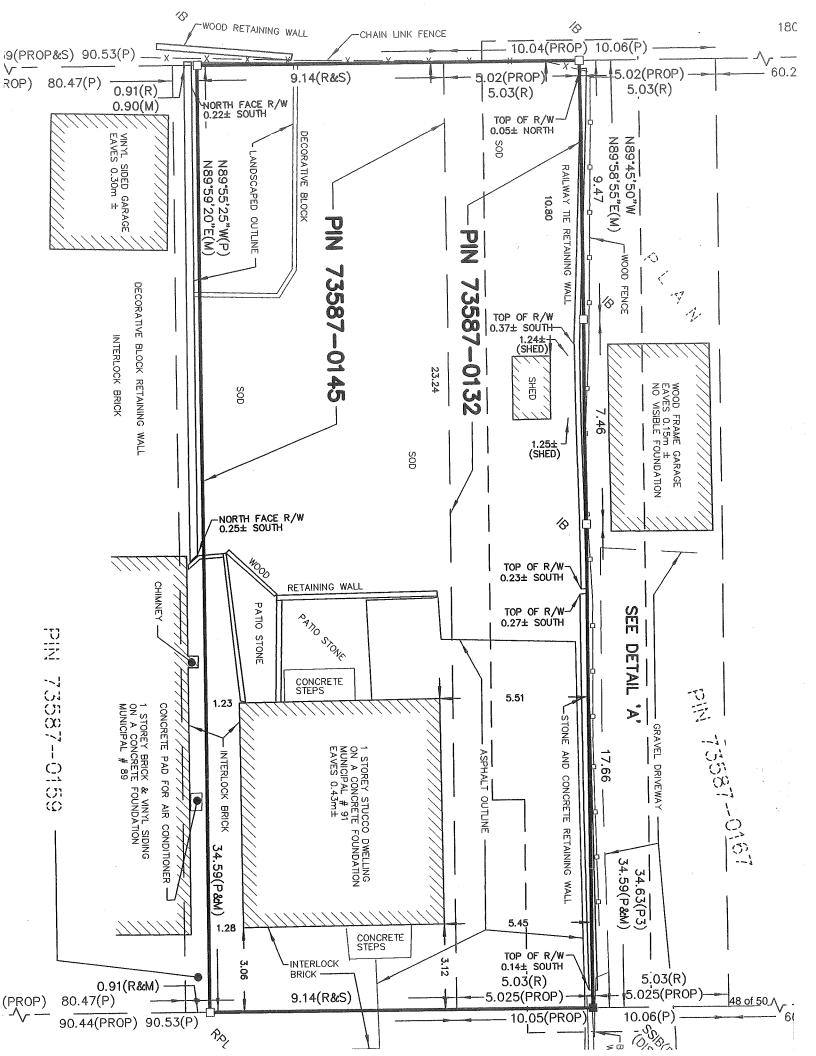
Mu dur

Email: majhuneault@weaversimmons.com

MAJH/sv

cc: Client (via email)

cc: (via email)





City of Greater Sudbury Charter

WHEREAS Municipalities are governed by the Ontario Municipal Act, 2001;

AND WHEREAS the City of Greater Sudbury has established Vision, Mission and Values that give direction to staff and City Councillors;

AND WHEREAS City Council and its associated boards are guided by a Code of Ethics, as outlined in Appendix B of the City of Greater Sudbury's Procedure Bylaw, most recently updated in 2011;

AND WHEREAS the City of Greater Sudbury official motto is "Come, Let Us Build Together," and was chosen to celebrate our city's diversity and inspire collective effort and inclusion;

THEREFORE BE IT RESOLVED THAT Council for the City of Greater Sudbury approves, adopts and signs the following City of Greater Sudbury Charter to complement these guiding principles:

As Members of Council, we hereby acknowledge the privilege to be elected to the City of Greater Sudbury Council for the 2014-2018 term of office. During this time, we pledge to always represent the citizens and to work together always in the interest of the City of Greater Sudbury.

Accordingly, we commit to:

- Perform our roles, as defined in the Ontario Municipal Act (2001), the City's bylaws and City policies;
- Act with transparency, openness, accountability and dedication to our citizens, consistent with the City's Vision, Mission and Values and the City official motto;
- Follow the Code of Ethical Conduct for Members of Council, and all City policies that apply to Members of Council;
- Act today in the interest of tomorrow, by being responsible stewards of the City, including its finances, assets, services, public places, and the natural environment;
- Manage the resources in our trust efficiently, prudently, responsibly and to the best of our ability;
- Build a climate of trust, openness and transparency that sets a standard for all the City's goals and objectives;
- Always act with respect for all Council and for all persons who come before us;
- Ensure citizen engagement is encouraged and promoted;
- Advocate for economic development, encouraging innovation, productivity and job creation;
- Inspire cultural growth by promoting sports, film, the arts, music, theatre and architectural excellence;
- Respect our historical and natural heritage by protecting and preserving important buildings, landmarks, landscapes, lakes and water bodies;
- Promote unity through diversity as a characteristic of Greater Sudbury citizenship;
- Become civic and regional leaders by encouraging the sharing of ideas, knowledge and experience;
- Work towards achieving the best possible quality of life and standard of living for all Greater Sudbury residents;



Charte de la Ville du Grand Sudbury

ATTENDU QUE les municipalités sont régies par la Loi de 2001 sur les municipalités (Ontario);

ATTENDU QUE la Ville du Grand Sudbury a élaboré une vision, une mission et des valeurs qui guident le personnel et les conseillers municipaux;

ATTENDU QUE le Conseil municipal et ses conseils sont guidés par un code d'éthique, comme l'indique l'annexe B du Règlement de procédure de la Ville du Grand Sudbury dont la dernière version date de 2011;

ATTENDU QUE la devise officielle de la Ville du Grand Sudbury, « Ensemble, bâtissons notre avenir », a été choisie afin de célébrer la diversité de notre municipalité ainsi que d'inspirer un effort collectif et l'inclusion;

QU'IL SOIT RÉSOLU QUE le Conseil de la Ville du Grand Sudbury approuve et adopte la charte suivante de la Ville du Grand Sudbury, qui sert de complément à ces principes directeurs, et qu'il y appose sa signature:

À titre de membres du Conseil, nous reconnaissons par la présente le privilège d'être élus au Conseil du Grand Sudbury pour le mandat de 2014-2018. Durant cette période, nous promettons de toujours représenter les citoyens et de travailler ensemble, sans cesse dans l'intérêt de la Ville du Grand Sudbury.

Par conséquent, nous nous engageons à :

- assumer nos rôles tels qu'ils sont définis dans la Loi de 2001 sur les municipalités, les règlements et les politiques de la Ville;
- faire preuve de transparence, d'ouverture, de responsabilité et de dévouement envers les citoyens, conformément à la vision, à la mission et aux valeurs ainsi qu'à la devise officielle de la municipalité;
- suivre le Code d'éthique des membres du Conseil et toutes les politiques de la municipalité qui s'appliquent à eux;
- agir aujourd'hui pour demain en étant des intendants responsables de la municipalité, y compris de ses finances, biens, services, endroits publics et du milieu naturel;
- gérer les ressources qui nous sont confiées de façon efficiente, prudente, responsable et de notre mieux;
- créer un climat de confiance, d'ouverture et de transparence qui établit une norme pour tous les objectifs de la municipalité;
- agir sans cesse en respectant tous les membres du Conseil et les gens se présentant devant eux;
- veiller à ce qu'on encourage et favorise l'engagement des citoyens;
- plaider pour le développement économique, à encourager l'innovation, la productivité et la création d'emplois;
- être une source d'inspiration pour la croissance culturelle en faisant la promotion de l'excellence dans les domaines du sport, du cinéma, des arts, de la musique, du théâtre et de l'architecture;
- respecter notre patrimoine historique et naturel en protégeant et en préservant les édifices, les lieux d'intérêt, les paysages, les lacs et les plans d'eau d'importance;
- favoriser l'unité par la diversité en tant que caractéristique de la citoyenneté au Grand Sudbury;
- devenir des chefs de file municipaux et régionaux en favorisant les échanges d'idées, de connaissances et concernant l'expérience;
- viser l'atteinte de la meilleure qualité et du meilleur niveau de vie possible pour tous les résidents du Grand Sudbury.