

Open letter to the residents and taxpayers of the Village of Kenaston

From: Mayor - Dallas Lowdermilk Councilors – Brad Owen, Jesse Ouellette, Ivan Englesman, Dan Fischl

RE: Heavy duty repair shop operating in a residential area

Dear residents and taxpayers,

We, your council, wanted to take this opportunity to clarify some of the confusion, rumors, and information circulating about what has occurred regarding the shop and business operating in a residential area.

The first formal notification received at the village office about a business operating occurred in June of 2021. There was a complaint of excessive noise and truck traffic in the area. This was the first we were made aware of a potential problem. At that meeting council decided that additional investigation was required to understand what was happening at the location (due diligence) and what our next actions should be. During that time the owner of the property requested a special meeting with council which was granted. The owner did state that heavy trucks and trailers were being repaired from that location for sale, thus operating as a business.

Because we had only received a noise complaint, it was not understood how disruptive the shop had become to the area. Based on the noise complaint the owner was instructed to follow the existing village noise bylaw and limit hours of noise. At this meeting the council decided to investigate the rezoning process to convert this lot to industrial use. The purpose of this was not to force the business on the village residents, but to allow the zoning bylaw process to operate. Part of the process is to advertise the rezoning request which allows residents to officially protest the request. We apologize for not making this process clear earlier and not making our intentions understood.

The next regular scheduled meeting in July, council heard from several village residents. There were delegations stating the harm the shop was causing and video recordings of the sound levels. At that meeting council decided that the business should no longer be allowed to operate and passed a motion to stop work. The next day following the meeting, our administrator sought legal counsel at our request as this is new process to us. We wanted to ensure the stop work notice was done properly and legally. We were told by our planning consultant that 30 days' notice is required to shut down a business. We questioned this in terms of a business operating without proper zoning, and were given the same 30 day answer. The business activities at the location did come to a close at the requested 30 days. What we have learned since is that because it was a health and safety concern, we could have acted immediately to have it closed. We apologize for not pushing harder on this, but we did trust the advice we were given. As a result we will no longer be consulting with that source.

Due to how the shop concerns were dealt with at council, we were accused of being in a conflict of interest and had acted inappropriately in dealing with these matters. It is important to note that every tax payer has the right to question how decisions are made, and use the tools provided within our bylaws to bring forward these issues if something is improper. These rules and bylaws are fundamental to ensure fair representation of all in our village. Because the complaint was brought against the entire council, our bylaws require an independent third party to be brought in to perform interviews and gather evidence. Our administrator reached out to company's specializing in this line of work and as a result a motion was passed to hire a consultant. No one on the village council, or our administrator had ever met, nor had contact with these investigators prior to this contract. The investigators arranged days to come to Kenaston to gather evidence, interview the complainants, councilors and mayor. Each interview was done in private and supporting documentation provided by our administrator.

We received the results of the process late last year and have reviewed the findings and recommendations. The findings did include 11 recommendations for improvement, but did not find any evidence of conflict of interest in regards to the decision making about the shop. The recommendations in their entirety for transparency will be attached to the end of this letter. The council unanimously passed a motion in December to accept all 11 findings and implement them. The report also included a statement of facts. That statement forms the basis of this letter.

We acknowledge that these events have caused stress and tension for residents on both sides of this discussion. We apologize that this issue was not dealt with more directly, but with mostly a new council, and never being through a process like this, the path was not clear. We hope to improve our response on these types of issues in the future and to see our residents enjoying our peaceful village.

Best Regards,

Council of the Village of Kenaston.

Campbell Safety Consulting Recommendations

1. It is recommended that the mayor, all council members and the CAO fully read (and indicate with their signature that they have fully read), all village bylaws, all village policies and procedures, all village Code of Ethics, Harassment Policies, Conflict of Interest and Code of Conduct documents, and the government of Saskatchewan Council Member's Handbook For Municipalities. The idea here would be for each councillor to reconnect with these important documents and to note any instances of conflicting information (EG: P&P Manual and the Bylaws concerning village meetings submissions for the next Agenda). It would also be an opportunity to identify any outdated material (EG: your harassment provisions). The village procurement procedure should also be reviewed by all.
2. It is recommended that the mayor the CAO and all councillors seek out training opportunities that will broaden their knowledge in areas such as municipal leadership, municipal management essentials etc., as per SUMA or other websites.
3. It is recommended that council re-visit their Village Planner advice and clarify when a stop work order actually stops a business from operating. Can a business given a 30-day grace period actually continue to operate their business for 30 days, or should they shut down when this 30-day warning is issued, so that they can make efforts to rectify the identified shortcomings over the next 30 days or make efforts to relocate? It is also recommended that council seek clarification from the village planner if this 30-day grace period is actually a "legal" requirement or is it just an established and frequently used course of action.
4. It is recommended that council seek an actual legal opinion regarding properties that have been deemed to be an immediate and ongoing health and safety risk to citizens, can/should these properties be shut down immediately?
5. It is recommended that council review "Roberts Rules of Order" (or other similar publications such as Bourinot's Rules of Order or The Standard Code of Parliamentary Procedure etc.). This would potentially reduce or eliminate the "chaos" that was described by some when attending a village meeting in recent months.
6. It is recommended that Council seek appropriate opinions regarding current meeting minutes practices, which is to essentially record attendance, motions and resolutions etc., with no commentary or other notes. Can meeting minutes be expanded to briefly include general conversations, presentations and submissions?
7. It is recommended that council re-familiarize themselves with the Sask. Municipalities Act, particularly with regard to Enforcement of Municipal Law (starting at Sec 362), Liability of Members of Council (starting at Sec 354), Conflict of Interest (starting at Section 141), Municipal Documents (starting at Sec 1150, and Municipal Council (starting at Sec 79).
8. It is recommended that, due to the very apparent and widespread believe in Kenaston that council "messed up" with regard to their handling of the 509 1st Street business, Council issue a carefully worded written apology to the town, with a goal of helping to enlighten and inform the public by diplomatically and professionally explaining why there were perceived delays in dealing with an illegal, dangerous and hazardous business, that was allowed to operate for at least two months in Kenaston (and possibly more) even though Health & Safety concerns were said to be significant, immediate, and ongoing.
9. It is recommended that the mayor, the CAO and councillors all commit to making all interactions among themselves consistently professional and courteous. And with the public, the focus should be on professional, helpful and low-key interactions.
10. Going forward, it is recommended that council respond in writing to all written concerns and submitted complaints to the village office and keep them on record.
11. Going forward, it is the recommendation of CSC that the mayor and council take on a more active role in identifying potential bylaw infractions, and/or hazardous situations in the village.