

The Corporation of the Town of Moosonee

Special Meeting 12-10

September 22, 2010
Time: 12:00 pm
Town Council Chambers

Councillors Present: Wayne Taipale – Mayor
Robert Gravel – Councillor
Richard Grom – Councillor
Melody McComb-Uiselt – Councillor

Absent: Clifford Trapper – Councillor- Out of Town

Staff Present: Shannon Mac Gillivray – CAO

Other: David Lanthier – Via Telephone

1. CALL TO ORDER

Resolution No. 10-379

*Moved by: Melody McComb-Uiselt
Seconded by: Richard Grom*

BE IT RESOLVED that this meeting open and come to order at 12:08p.m.

(Carried)

2. CLOSED SESSION

Resolution No. 10-380

*Moved by: Melody McComb-Uiselt
Seconded by: Bob Gravel*

BE IT RESOLVED THAT this meeting move in camera at 12:09 p.m. for the purpose of discussing:

→ *Litigation or Potential Litigation including matters before administrative tribunals affecting the Town Council*

(Carried)

→ *Discussion*

Resolution No. 10-381

*Moved by: Melody McComb-Uiselt
Seconded by: Bob Gravel*

BE IT RESOLVED THAT this meeting move out of camera at 12:41 p.m.

(Carried)

3. MOTIONS

Resolution No. 10-382

*Moved by: Melody McComb-Uiselt
Seconded by: Richard Grom*

WHEREAS the Council of the Corporation of the Town of Moosonee executed a Contract with Guardian Bridge Inc. on December 15th, 2009 to Design/Build the new Butler Creek Bridge;

AND WHEREAS Guardian Bridge Inc. ceased work on the Project in or about the last week of August, and failed to deliver the bridge components in accordance with the revised Construction Schedule, and the Corporation of the Town of Moosonee accordingly provided Guardian Bridge Inc. with a Notice of Default on September 14th, 2010 in accordance with the terms of the Contract, providing notice that Guardian Bridge Inc. was neglecting to prosecute the Work;

AND WHEREAS Guardian Bridge Inc. has failed to rectify the default, has now abandoned the Project, has alleged default based upon delay in payments (notwithstanding the timely and proper payment of all amounts due, when certified in accordance with the terms of the Contract) and has failed to deliver the Bridge components fabricated under the provisions of the Contract, (which components were paid for under progress advances made to Guardian Bridge Inc.);

THEREFORE BE IT RESOLVED THAT the Council of the Corporation of the Town of Moosonee, authorizes its Legal Counsel, David L. Lanthier to provide notice to Guardian Bridge Inc. that the Town elects to exercise its rights to

terminate Guardian Bridge Inc.'s right to continue with the Work as provided for in the terms of the Contract, and take steps to protect its interests and complete the work;

BE IT FURTHER RESOLVED THAT the Council of the Corporation of the Town of Moosonee further authorizes its Legal Counsel to commence legal proceedings as are necessary to enforce the rights of the Town under the Contract, to claim damages and other remedies, including, if necessary, any interim proceedings to protect the interests, property and rights of the Town of Moosonee with respect to the Project, the Contract, and the Bridge component Products and other construction Products currently being withheld by Guardian Bridge Inc.;

BE IT FURTHER RESOLVED THAT the Council of the Corporation of the Town of Moosonee authorizes Legal Counsel to provide the required commitment on behalf of the Town of Moosonee, within any court documents and pleadings and upon direction of any Court, to make payment of the balance of Contract to the Superior Court for this action, for release as the Court may direct or paid into trust. For those purposes, Council also authorizes the CAO to advance payment to Legal Counsel as he may direct in furtherance of the litigation.

(Carried)

4. ADJOURNMENT

Resolution No. 10-383

**Moved by: Melody McComb-Uiselt
Seconded by: Richard Grom**

BE IT RESOLVED THAT this meeting adjourn at 12:33p.m.

(Carried)

**Original Signed and Sealed
Mayor – Wayne Taipale**

**Original Signed and Sealed
Deputy Treasurer – Betty Budden**