



IN CAMERA

ADMINISTRATIVE REPORT

Report Date: December 22, 2009  
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Meeting Date: January 19, 2010

TO: Vancouver City Council

FROM: General Manager of Community Services in consultation with the Director of Legal Services

SUBJECT: Municipalities Enabling and Validating Act (No. 3)

**IN CAMERA RATIONALE**

This report is recommended for consideration by Council in the In Camera agenda as it relates to Section 165.2(1) of the *Vancouver Charter*: (f) law enforcement, if the Council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment; (g) litigation or potential litigation affecting the city; (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

**RECOMMENDATION**

THAT Council authorize the contractors listed in Appendix A, to enter onto private property, under the direction of City staff, for the purpose of enforcing the Sign By-law and Graffiti By-law, in accordance with the temporary powers in sections 31 to 34 of the *Municipalities Enabling and Validating Act (No. 3)* ("MEVA").

**GENERAL MANAGER'S COMMENTS**

The General Manager of Community Services RECOMMENDS approval of the foregoing.

**CITY MANAGER'S COMMENTS**

The City Manager RECOMMENDS approval of the foregoing.

### ***COUNCIL POLICY***

On December 3, 2009, Council approved the protocol, set out in Appendix B, for the use of the temporary powers of entry, under MEVA during the Games, and instructed staff to use those powers of entry only in accordance with that protocol.

### ***PURPOSE***

The purpose of this report is to have Council authorize a number of private contractors to exercise MEVA powers, under City staff direction only.

### ***BACKGROUND***

The City currently relies on private contractors for the removal of graffiti from City property and has a standing contract with Goodbye Graffiti for removal of graffiti on City property such as buildings, lamp poles, walls etc.

The City also has a process for hiring other pre-approved contractors to remove graffiti from private property if an owner has defaulted on an order issued pursuant to the Graffiti By-law.

Recent experience with illegal commercial signs showed that such signs can be quite large and their removal requires expertise and equipment that the City does not possess. An example of a recent illegal sign is shown in Figure 1 below:

Figure 1 Example of recent illegal signage



Provincial amendments to the MEVA give Vancouver, Richmond and Whistler temporary authority to enter onto private property and remove or cover-up illegal signs or graffiti during the Games period (February 1 to March 31, 2010). However, MEVA requires that the persons exercising this power be authorized to do so by Council.

### ***DISCUSSION***

In order to remove illegal commercial signs or graffiti during the Games, the City may have to use private contractors. Private contractors will only be used when City's own resources are unable, due to other commitments, or are not capable, due to technical difficulties, to

remove the graffiti or illegal signs. Private contractors will only be authorized to act under direct supervision of City staff and only in accordance with the protocol approved by Council on December 3, 2009. No private contractor will be allowed to act independently or in absence of City staff.

To facilitate the use of private contractors and comply with the MEVA provisions, a number of private contractors pre-authorized by Council will be required to be on stand-by during the Games. Staff contacted a number of local companies with the experience and capability to perform the necessary work. Appendix A contains the list of the private contractors who are willing to have crews and equipment available during the Games. No contractual obligations are being created at this time and the contractors will not be paid unless they are actually required to perform work during the Games.

All the contractors included in Appendix A have the prerequisite liability insurance, Work Safe BC coverage and a valid Business License.

#### ***FINANCIAL IMPLICATIONS***

Initially, costs of removal will be borne by the City. It is anticipated that the cost of Graffiti removal will be approximately \$30,000 and that removal of illegal signage may cost up to \$100,000. However, the City has reached an agreement with the Province of British Columbia to fund up to \$775,000 for bylaw enforcement costs related to the Games. MEVA also allows the City to recover the costs of sign removal from the owner or occupier of the property on which the sign is located, as a debt. As a result, the use of private contractors should not result in any costs to the City.

#### ***CONCLUSION***

The City needs to have qualified contractors on stand-by should their services be required to remove illegal signage or graffiti in a timely manner during the Games. The *MEVA* provisions require that these contractors be authorized by Council to use the MEVA power of entry onto private property.

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- Affordable Sign Service Ltd.
- Imperial Sign Corporation
- Goodbye Graffiti Inc.
- Graffiti Be Gone Inc.
- Mission Possible Enterprises
- Hydropro Property Services Inc.

APPENDIX "B"

Protocol for the Exercise of Powers under sections 31 and 32 of the *Municipalities Enabling and Validating Act (No. 3) during the 2010 Winter Games*  
(Adopted by Council on December 3, 2009)

1. The power under the *Municipalities Enabling and Validating Act (No. 3)* (the "MEVA") to enter and remove an illegal sign shall only be exercised in relation to signs that are "advertising matter" as defined in the *2010 Winter Games By-law*.
2. The power under the MEVA to enter private property shall only be exercised in relation to private property that is used as a private dwelling in the following circumstances:
  - a. The owner or occupier consents; or
  - b. An independent judicial officer issues a warrant under the MEVA or another Act; or
  - c. There are reasonable grounds to believe that failure to enter and remove the sign may result in a significant risk to anyone's health or safety.
3. The decision to utilize the power to enter and remove an illegal sign under MEVA shall be made by:
  - a. City Manager; or
  - b. Deputy City Manager; or
  - c. General Manager of Community Services,based on the following criteria:
  - a. Visibility of the sign from locations with high spectator presence, key transportation routes, or media focus;
  - b. Whether the sign creates commercial association with the Games;
  - c. Aesthetic impact of the sign on the City's image; and
  - d. Potential risk to health or safety of anyone.

The ownership of a commercial sign will not be considered in determining whether or not it should be removed - i.e., an illegal sign installed by a Games sponsor will be treated the same as a sign installed by another party.

4. Staff will report back to Council within 90 days of the Games on the use of the MEVA power to enter and remove an illegal sign, including the number of warrants obtained and the number of signs removed.