

2021 12 07
Lane Perry

Notes for Presentation at RDBN Public Information Hearing:

RE: Rezoning Application RZ A-07-21 – Bylaw No. 1966, 2021 – 3844 Henry Road, 8150 Highway 16

Introduction:

My name is Lane Perry, and I am the delegate of Mr. David Lalik and his wife, Mrs. Julie Lalik. Mr. and Mrs. Lalik asked that I attend to represent their opposition to seeing the rezoning application RZ A-07-21 – Bylaw No. 1966, 2021 located at 3844 Henry Road or 8150 Highway 16 (the “**Application**”).

In this presentation I will be discussing the following topics:

1. **The introduction to the Application**
2. **Responding to positions articulated on the November 17, 2021 information hearing**
3. **Health concerns associated with the placing of the crematorium in a substantially residential area**
4. **Environmental concerns placing the crematorium at the designated location**
5. **Threats to the integrity of the Official Community Planning**
6. **Concerns related to property values**
7. **Availability of other Locations to place a crematorium in the Bulkley Valley**
8. **Operating Concerns**
9. **Closing remarks**

1. **The introduction to the crematorium**

An Application Summary is found at page 6 of the Public Information Package. At page 7 of the PIP, the Application is to request a text amendment to the zoning bylaw to add crematorium as a permitted use in the M1A Zone or to allow the use on the subject property.

The location for the proposed development is right next to the highway and off of Lund Avenue. Henry Road also connected to property that may be used to access the location. For those individuals who have been in the Bulkley Valley for a while, they may remember a trailer park that was situated where the proposed site is. I’ve learned that the Health Department shut the trailer park down due to the soil’s inability to process sanitation and septic waste. Raw septic came to the surface and even flowed into Kathryn Creek, a known spawning ground of steelhead salmon.

A crematorium means the use of land, building or other structure for the crematorium of human or animal remains. Human remains will be burned, and animal remains may be cremated using either an alkaline hydrosis process or by normal, cremation burning. The applicant, West-End Ventures Inc., anticipates a maximum of 100 approximately 100 humans and 100 animals to be cremated each year.

At page 13 of the PIP, in a Supplemental Letter of Rational, there is a survey of the proposed site for the construction and operation of a crematorium. Featured in the survey are the following buildings:

- A. Two 56 x 56 warehouses and offices,
- B. Cold storage units in a 1,900 square foot building
- C. Proposed sewage treatment area. The size of this addition is not known or legible.

To be clear, this application is not merely a philosophical exercise, asking whether the Bulkley Valley should get a crematorium. The application is whether the applicants should be permitted, with reference to the Official Community Plan, to place a crematorium in an area surrounded by residences and private residential property. This application has affected and may continue to affect real life and people will face real consequences at the Board's decision.

There is no position taken against individuals in the Bulkley Valley wanting a crematorium. There is firm and substantial opposition as demonstrated in the Petition, to placing a crematorium in an area that is largely, although not exclusively, residential.

Now, with regard to the Petition, as of 10:10 this morning, we received 71 signatures. I have read the letter from Ms. Judy Vandermeulen dated December 2, 2021. I would like to respectfully correct her point about the particularly vocal neighbour who has been going door to door trying to influence people to oppose this development. This is misguided and wrong.

The Rationale of the petition was circulated before the petition. It was provided to people in the area to review at their leisure then, if they were comfortable, Mr. Lalik would drive to their house and ask them to sign the petition. Many others went to Mrs. Lalik and Mr. Lalik's house to sign the petition. I can firmly say that there was no influence going on. The final line on the heading above the signature page reads as follows:

"Each signature represents that the signor has read the attached Rationale and applies their signature in opposition to the proposed text amendment so that the Application be rejected."

Some of the signatures are from people who do not reside in the 200-meter radius around the proposed site, but I know some of the signors frequent the residential properties near the proposed site. The Laliks are fun, social and affable people. They have received support from their family and friends who enjoy their property with the Laliks. All of the signors have an opinion in the Application, and I believe their signature deserves weight and respect.

2. Responding to positions articulated on the November 17, 2021 information hearing

I became interested in this application, so I made a point of attending the information hearing taken place on November 17, 2021. During this meeting, there were presentations from individuals who either designed crematorium equipment or marketed the equipment.

In one presentation, an individual who I believe marketed the equipment, conceded the fact that sometimes the cremation system fails, but this was promptly attributed to operator error and not the equipment. If and when this error occurs, smoke and other scents can be smelled. I also learned that the smoke and flames can be seen rising out of the stack outside of the crematorium.

The ability for a crematorium to produce unwanted smoke, flames, smells or noise is consistent with a letter I received from Chris Hooper, the owner / operator of the crematorium in Vanderhoof. On page 227 of the PIP, he writes:

“I operate a crematory in a residential area and have been asked as a neutral third party to disclose any complaints that we have had over the years. We have not had many, but some have been due to smoke and flame coming from the stack. This does happen from time to time due to the nature of the cremation process. Some experts will say that it will not happen, including the manufacturer of the unit I have but it does. I would and have asked the experts and manufacturer how many cremations they have personally donee to come up with the idea that it will not happen. When we purchased the cremation unit (Retort) that I had I was told it was one of the most efficient units on the market but there can still be issues with smoke and flame occasionally. Another complaint is noise, when the crematory is running you can hear it outside the building. It is not extremely [loud], but it is an industrial piece of equipment, and it does make noise.”

In the Information Hearing, I also listened to an applicant describe the process of transporting their loved one to Vanderhoof after their death. I learned that the applicant found this experience to be difficult. Personally, I could not imagine having to do this. I struggle with the idea of death, particularly so of loved ones. I would have a hard time not remembering the difficult drive from Smithers to Vanderhoof to deliver my loved one to be burned every time I travelled that road.

However, I did learn that this is not required and it is possible to have someone transported. The owner and operator of the crematorium in Vanderhoof mentioned in an email found at page 225 of the PIP that, all in, it was \$2,889.07 to have an individual transferred from Smithers to Vanderhoof to be cremated. This amount included taxes, legal paperwork, cremation container, basic urn and the transportation. Of course, the “feasibility” for having this done cannot be determined because this depends on the person paying to have the transportation done. But “feasibility” it is not the subject of this dispute because that speaks to the Bulkley Valley getting a crematorium, not that a crematorium is appropriate for the proposed site.

Lastly, there was a concern brought up about the decrease in property values that could occur if the applicants were to proceed with constructing and operating a crematorium in an area that is largely residential. This question was addressed without much support, stating that a study had been done with reference to BC Assessment and property values continued to increase. BC Assessment is not a reliable indicator for property value. This will be explored further below.

3. Health concerns associated with the placing of the crematorium in a substantially residential area

There are various health concerns associated with a crematorium. This should not be a great surprise considering it is admitted that burning bodies causes smoke. The surprise, however, comes into play when it is known how little is known about the pollutants produced from burning bodies in British Columbia and the extent of the potential harms that are available.

The National Collaborating Centre for Environmental Health (“**NCCEH**”) produced a report dated March 24, 2020. In this report, they found that there was correlation between individuals who resided near or worked in a crematorium and the presence of harmful pollutants in these individuals.¹

¹ 209 of PIP or page 8 of the Report.

In this report, it was stated as follows:²

“A review of the literature found only one study that investigated health outcomes amongst residents living in proximity to crematoria. The study assessed the risk of stillbirth, neonatal death, and lethal congenital anomalies among babies of mothers living close to incinerators or crematoria in Cumbria, England, between 1956 and 1993. An increased risk of stillbirth and anencephalus (the process of deteriorating brain matter) was found to be associated with residential proximity to crematoria; however, a casual effect could not be inferred.”

If one were to ask my clients and their neighbours to take comfort in the fact that a casual effect was not found, I would be shocked. Even if it happens to one person down the road, the cost of taking care of this individual could rival the cost of the applicants purchasing the other property that is or was available on Skillhorn Road outside of Telkwa.

To allow this application to proceed places an unnecessary risk on the residents who live near to the proposed site. The cost for having this risk reduced is not great compared to the cost that might be associated with taking care of someone or some child who was unlucky enough to face the stark and dangerous consequences of having a crematorium built in a residential area.

The report also references a chart at page 72 of the PIP. There are recognized setbacks in other jurisdictions around the World, but Canada and particularly British Columbia, fail to recognize the need for these setbacks.

In England and Wales, it is 200 yards (or 183 meters) between a crematorium and any dwelling house, and 50 yards from a public highway to protect residents from nuisance smoke and fumes and to provide privacy to funeral proceedings.

In West Australia, it is 200 – 300 meters between crematoria and sensitive land uses.

In South Australia and the Australian Capital Territory, it is a minimum of 150 meters of separation distance.

In South Africa, from the Department of Health, it is 500 meters from any habitable building.

And in the USA, in Sacramento County in California, it is 500 feet or 152 meters from any agricultural, residential, or interim residential zoning district.

There is also a reference to a report published in the Canadian Journal of Public Health, authored by Haley Piagno and Reza Afshari, titled “Mercury from Crematoriums: Human Health Risk Assessment and Estimate of Total Emissions in British Columbia”. This article focused solely on mercury being emitted from operating crematoriums. As discussed in the NCCEH report, the list of pollutants includes more than just mercury.

² 209 of PIP

However, this study measured temperatures and winds at the Vancouver airport. It acknowledged that mercury release from crematoriums are largely unregulated in North America. Most pointedly, however, the report provided the following:³

“Crematoriums are sources of air pollution including mercury emission and may cause plausibly subtle chronic health effects due to long-term low-dose exposure. Characterizing the nature and strength of the evidence of causation and dose-response assessment are needed from a health perspective”.

From this and the NCCEH report, it cannot be reasonably disputed that there are health risks associated with operating a crematorium. This risk is amplified when the operation of the crematorium is in a residential area, and particularly so, in the location of the proposed site. And what site testing has been done? The proposed site is not in Vanderhoof or Terrace. It is in an area where chimney smoke lingers, pools up, and remains.

Now, to hold the position that “Terrace and Vanderhoof have their respective crematoria in residential areas” is an authority for the Board to grant approval to have the crematoria built at the proposed site would misunderstand or overlook a few salient points. First, there are only a few studies about the harmful pollutants being associated with proximity to a crematorium. More information is needed to provide any sort of comfort to nearby residents. A report has produced the presence of a correlation and this should be enough to outright reject this application. To require a casual relationship between the proximity to crematoria and the presence of increased stillborns and anacephalus in order to reject this application unnecessarily catapults the discourse into the arena legal gymnastics, trying to dispute a finding of liability. A correlation is enough to warrant legitimate concern.

Second, other jurisdictions have recognized a need to require setbacks when deciding where to construct a crematorium. Canada and British Columbia are behind in this regard and their commitment to doing so. It cannot be considered a coincidence that these other jurisdictions recognize a need for setbacks between crematoria and residential properties. It also cannot be contended with any particular vigor that Canada’s emissions are more heavily regulated because there is a gap in the regulations. A complainant is forced to contact the regional district or consumer practices BC. It is clear that there would be a gap in the enforcement of a failure to comply.

I recognize that Ms. Laurel Menzel introduced an article titled “Environmental Journey” by Paul Rahill from the Matthews Cremation Division. The Matthews Cremation Division is website that sells cremation or crematory equipment. In his article, he writes,

“Whether based on best guess or facts, regulatory change for crematories would certainly result in significant cost increases to the industry and the public, not to mention the inconvenience that would be caused by the inevitable closing and consolidating of crematories that could not economically meet new regulations.”

I submit that little credence and attention should be allocated to a report prepared by an individual who sells crematorium equipment and accessories, also stating that it would be too expensive to regulate crematoriums. Again, the cost for the future care of individuals who are gravely ill or injured is great. The reduced property value because of a crematorium may also be great. Due

³ Page 88 of the PIP

consideration and attention is owed to things aside from the cost associated with ensuring the general public and individuals who reside near the crematorium are safe.

Finally, as the letter from Northern Health identifies, the definition of “health” is as follows:

“Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.”

There have been strong letters of opposition stating that their mental health would be affected. They include:

The crematorium brings with it an uninvited reminder of our mortality. Every day, people who reside near the crematorium will be reminded that dying is an inherent part of being human. This reminder

4. Environmental concerns placing the crematorium at the designated location

Pollution is a real concern in this area. Pollution from the crematorium can come in at least two forms: airborne and watershed.

The soil on the property was not suitable for the trailer park development that was there approximately 20 years ago. There were concerns with the soil not directing the waste properly and toilet paper was seen on the surface of some lawns. This was a reason why the trailer park shut down.

Without the ability to appropriately properly hold or direct wastewater, the wastewater will run downhill. Downhill from the proposed site is Kathlyn Creek, a known fish-bearing creek where steelhead and other salmon routinely spawn. It is not known whether the chemicals used in the alkaline hydrosis process are harmful to steelhead salmon.

Moreover, the creek is lined with residential properties, and other residential households may draw water from the creek. Mr. and Mrs. Lalik and their family enjoy spending time by the creek. Family comes from Vancouver and beyond to come and sit in a lawn chair by the creek and enjoy the view of Hudson Bay Mountain. There have been letters of support from people who do not live in the area objecting to this application succeeding. This is likely because they know that their enjoyment associated with attending Mr. and Mrs. Lalik’s property is threatened if it is next door to a crematorium and the crematorium is using chemicals in an area not suitable for this kind of development.

What testing has been done to ensure that zero pollutants will be leaked into Kathlyn Creek? In the Staff Report, the Director of Planning has submitted that Northern Health did not respond to the referral at the time of writing the staff report. This silence should not equal acquiescence due to the nature of the consequences and the intentions of the applicants to conduct a business at the proposed site.

Bill and Diana Jex also wrote into the PIP. Their submission is at page 123. Bill and Diana wrote, in part, as follows:

“Residents in the Bulkley Valley and Smithers area are all too familiar with the realities that exist in our local airshed. Within the

Smithers-Lake Kathlyn area, localized and at times site-specific venting and cold-ponding conditions occur that significantly impacts air quality and fog conditions in this portion of the valley, with those conditions many times not existing just outside this area on the upper plateau closer to Houston or even Telkwa (nearer where the alternate property is situated)."

Bill and Diana also provide helpful photographs in their written submission. In these photographs, you can see the smoke lingering or pooling up from a chimney of a house. The photos were taken on November 13, 2021. This is likely not representative of how bad the smoke thermocline or smoke pooling can be, but it is clear that the smoke simply does not disperse and become invisible.

Also, and more anecdotally, my parents live in Driftwood and they have a clear, uninterrupted view of the valley, including Lake Kathlyn and the town of Smithers. Come fall time, when people are burning lumber slashes or log piles, the smoke consistently hovers and pools nearby the proposed site.

When one acknowledges that the crematorium, by the nature of its operation, will produce smoke, one can become seriously disturbed that the pooling smoke isn't from burning firewood, but possibly toxic pollutants whose effect is not necessarily known or studied.

To my knowledge, there has been zero testing for the environmental effects associated with real potential pollutants. The only positive and firm support the applicants have received is from the Ministry of Transportation, who, to my knowledge, are not responsible for testing, measuring, predicting or controlling toxic pollutants emitted from crematoriums. Simply put, acquiescence does not mean approval.

5. Threats to the integrity of the Official Community Planning

The visions provided in the Official Community Planning are listed at pages 169 of the PIP and as found in Statutory Declaration of Julie Lalik. The visions include a vision for agriculture, a vision for quality of life, vision for the environment, vision for the economy, and a vision for sustainability and climate change.

A crematorium is not a feature of agriculture, making the first vision – the vision for agriculture – frustrated. In fact, the proposed site is, I believe, located with the ALR.

There is a real and serious concern about the affect of the vision for the quality of life, objective 2.1.2 This is captures in each and every signature on the petition, the statutory declarations from my clients, Mr. David Lalik and Mrs. Julie Lalik, and Ms. Roanne Kalkman, a direct descendant of a holocaust survivor. To allow this application to succeed would be a giant and arrogant dismissal to the real perceptions that Ms. Kalkman would have to face every day. Instead of seeing the beautiful Hudson Bay Mountain, Ms. Kalkman would be reminded of one of the greatest atrocities in human history and imagine the horrific events her descendants lived through.

As discussed above, there are concerns about the vision for the environment. Two sources of pollution that could come into play include the air quality and the water source. The crematorium is at odds with the 2.1.3. – the vision for the environment.

At 2.1.4. the vision for the economy, is threatened. The applicants are the individuals who benefit from receiving permission to allow for the construction of the crematorium. There are many other individuals who will suffer a detriment. Moreover, as pointed out in a letter of opposition against the application succeeding, people flying in will drive by a crematorium right after landing at the airport and seeking Lake Kathlyn nestled before Hudson Bay Mountain. The juxtaposition between the picturesque Lake Kathlyn and a crematorium with its possible smoke, flame and noise would be stark. Smithers is a tourism town, so the reputation and presentation of Smithers is important for our economy.

Before someone even sees the town of Smithers when they fly in, if they arrived in the winter months, they might be able to see the crematorium operating and a flame coming out of the stack. This happens. The individual at the November 17 Information Hearing said it happens, and as did Chris Hooper, who owns and operates the Vanderhoof crematorium.

In the Smithers Telkwa Rural Official Community Plan, the General Plan Goals are also deserving of consideration – these are found at page 172 of the PIP. The construction and operation of a crematorium at the proposed site isn't aligned with the general plan goals, but most particularly, the following general plan goals:

- (4) The Plan strives to recognize the unique natural characteristics of the Plan area and the protection of that character from incompatible forms of development.
- (5) The Plan strives to achieve protection and stewardship of environmentally sensitive attributes (including fish, riparian and wildlife habitat; and quality and quantity of ground and surface water).
- (7) The Plan strives to protect and preserve the character, and quality of life, of existing rural residential development.
- (8) The Plan strives to maintain a balance between the regulation of land use to protect community values and the desire of local residents for a lifestyle with a high degree of self-expression respecting use of their property.
- (10) The Plan strives to protect areas suitable for industrial land uses where appropriate.

6. Concerns related to property values

The market, however, is useful. The market shows what houses list for and what they sell for. BC Assessment is not a tool sufficient to provide any comfort that property values will not be adversely affected by having a crematorium built nearby.

However, I invite the Board, as individuals, to imagine that they are presented with a situation wherein they are tasked with weighing the pros and cons for the purchase of two identical houses. One house is in a residential area. The other house is located nearby or, in David and Julie Lalik's house, directly adjacent to a crematorium. Which house would you choose? It is not farfetched or unreasonable to assume that you would choose the house that isn't by a crematorium.

Whether it is right or wrong, crematoriums have an uncomfortable stigma associated with them. Simply put, crematoriums are places where dead bodies are transported to and then burned to ashes. Every time a vehicle pulls into a crematorium, it isn't uncertain about what the contents of

the vehicle include. It also will not be uncertain what is happening inside the building when the machine starts rumbling, the stack starts smoking, and, maybe, flames come out of the stack.

When I was discussing our response to the application with an employee of the crematorium in Terrace, and he advised me that if he was sitting on his back deck on a Sunday, enjoying a margarita, he would not want to look at a crematorium. This distracts the eyes and the mind from appreciating the beautiful place we live in.

It is wrong to point to Terrace and Vanderhoof to seek support for the position that crematoriums do not affect property values. Those two locations are very different. Their crematoriums are already built. New developers or new homebuyers will know that there is a crematorium in the neighbourhood. They will prepare themselves accordingly if they are committed to going through with the development or the purchase.

Here, there is no preparation. People have toiled and worked on their properties, maintaining them, enjoying them, and using them. When it isn't smoky, residents near the proposed site have a beautiful view of Hudson Bay Mountain. To plant a crematorium in the middle of this area, a crematorium with its intrinsic stigma, violently uproots the roots that people have toiled to plant in their homes.

7. Availability of other Locations to place a crematorium in the Bulkley Valley

On page 166 of the PIP, I found a realtor listing for industrial-zoned property down Skillhorn Road, just outside of Telkwa. On November 25, 2021, I emailed a representative of the applicant, Mr. Colin Bruinjes, a letter with a printout of the property enclosed. The property had been available for 63 days. I did not receive a response.

Relative to the current proposed site, this is an ideal location. There are only a few residences nearby, so less people would be concerned about smoke, flames, noise or traffic. It is not on the highway and would not be a ready impression to impose upon new visitors to Smithers. There is no known smoke pooling. The area is cleared and service.

The sole disadvantage to this location is that the applicant does not already own the land. Should this really be sufficient to tilt the scales and undermine the 71 people who signed the petition opposing this application? Is the purchase price of the property greater than the decrease in the value of the nearby residential properties?

8. Operating Concerns

There are concerns about the ability of the Applicants to operate the crematorium with full compliance. As mentioned in the staff report, crematoriums in British Columbia are regulated by the Business Practices and Consumer Protection Authority and are subject to regulations in the *Cremation, Interment and Funeral Services Regulation*. These regulations attempt to ensure local government approval of the land use and require operation of the cremation equipment according to manufacturers specifications. There is a general requirement under the *Environmental Management Act* providing that a person must not introduce waste into the environment in such a manner as to cause pollution.

To grant approval to this project would be granting a great license to the owners of the property next to the Lalik's property. To date, their compliance and respect for their neighbours has been negligible. The Laliks have a beautiful piece of property, with a garden, trees, well cared for lawn, and a chicken coop. The chicken coop has a stack of tires leaning against the fence, pushing the fence into the chicken coop area. The garden is next to two sea cans with the paint peeling off and old vehicle bumpers sitting on the roof of the sea cans.

9. Closing remarks

This application, again, is not a philosophical endeavour, generally asking whether the Bulkley Valley should have a crematorium available. This application is about the applicant receiving approval from the Board to construct and operate a crematorium in an area surrounded by residences. All of the letters of support relied upon by the applicants support the proposition that the Bulkley Valley could benefit from having a crematorium in the neighbourhood. Not one of the letters of support

This application is about pervading into the conscience of the neighbours, like Roanne Kalkman, Shari Smaha, Mason Stucklberger, David and Julie Lalik, Tom Smith, uprooting their enjoyment associated with their property at the expense of the applicant's convenience to use land they already own. There are suitable alternatives available. The Applicant has been made aware of this.

In closing, I would like to read the statutory declaration from Roanne Kalkman:

Thank you for your time. I trust the Regional District will do the right thing and reject this Application.

The following are the number of people who took the time to submit a written opposition for consideration at this hearing.

1. Patty Peterson – 3610 Powell Street – submitted November 24, 2021 – Written Submission #1 at page 120
2. Roanne Kalkman – 4006 Elgin Avenue – November 28, 2021 – Written Submission #3 at page 124 and Statutory Declaration #7 at page 138
3. Michael Andrews – November 29, 2021 – Written Submission #4 at page 125
4. Bill & Diana Jex – 4100 Elgin Avenue – Written Submission #5 at page 126
5. Sylvie Rose – November 29, 2021 – Written Submission #6 at page 137
6. Julie Lalik – November 30, 2021 – Written Submission #8 at page 139
7. Shari Smaha & Brent Muir – 3260 Powell Street – November 29, 2021 – Written Submission #9 at page 174
8. Cathryn Olmstead & John Mulder – 9425 Highway 16 West – November 30, 2021 – Written Submission #10 at page 177
9. Tom Smith – 4291 Regina Street – November 29, 2021 – Written Submission #11 at page 178
10. David Lalik – 3885 Lund Avenue – December 2, 2021 – Written submission #15 at page 184
11. Niall and Brenda Trainor – 903 Coopers Drive SW, Airdrie Alberta – December 4, 2021 – Written submission #17 at page 237
12. Anita Tomayer – 4015 Regina Street --- Undated – Written submission #18 at page 240
13. Mason Stucklberger – 3960 Lund Avenue – Undated – Written submission #22 at page 250
14. Alan Read – 3866 Comox Street – Undated – Written submission #26 at page 265
15. Susan Nageli – 16790 Woodmere Road – December 7, 2021 – Written Submission #27 at page 266
16. Jeanette & Boyd Barrie – 3863 Henry Road – December 7, 2021 – Written Submission #29 at page 268