

REGIONAL DISTRICT OF NANAIMO

**COMMITTEE OF THE WHOLE
TUESDAY, AUGUST 27, 2002
7:30 PM**

(Nanaimo City Council Chambers)

A G E N D A

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CALL TO ORDER

DELEGATIONS

3 **Richard Johnston, Malaspina University-College, re Bio-Solids Project.**

MINUTES

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10 **Rob Roycroft, City of Parksville, re Port Theatre Funding.**

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- 58-60 Port Theatre Funding Request Bylaws No. 1318, 1319, 1320, 1321 & 1322.

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- 69-70 Driftwood Water System Contract Award.
- 71-79 Pump & Haul Amendment Bylaw No. 975.25.

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- 82-88 Request to Impose a Development and Construction Moratorium in the Chartwell Subdivision.

COMMISSION, ADVISORY & SELECT COMMITTEE

ADDENDUM

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

NEW BUSINESS

BOARD INFORMATION (Separate enclosure on blue paper)

ADJOURNMENT

IN CAMERA

That pursuant to Section 242.2(1)(j) of the Local Government Act the Board proceed to an In Camera meeting to consider information which is prohibited from disclosure under Section 16(1)(c) of the Freedom of Information and Protection of Privacy Act.



REGIONAL DISTRICT
OF NANAIMO

AUG 19 2002

CHAIR	GMCrs	
CAO	GMDS	
GMCms	GMES	
COW Agenda		✓

NANAIMO CAMPUS
Office of the President
300 Fifth Street, Nanaimo
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Tel (250) 740-6101 Fax (250) 740-8556
<http://www.mala.bc.ca/>

August 16, 2002

Regional District of Nanaimo
Secretary, Board of Directors
c/o Mr. John Finnie
jofinnie@rdn.bc.ca

With regard to Malaspina University-College's Bio-Solids Project, and the potential controversy arising from the awarding of the Bio-Solids contract to Malaspina University-College, I request an opportunity for a Malaspina delegation to attend the "in camera" session of the Regional District of Nanaimo's August 27, 2002 Board Meeting.

The purpose of this presentation will be to address the issues raised by Mr. Denis Cuerrier, and those concerns of the RDN Board arising from these issues.

We thank you for your consideration of this request, and ask that your response be directed to Robin Humphrey, Executive Assistant to the President, at 740-6101 or by email humphreyr@mala.bc.ca.

Richard W. Johnston,
President

/rmh

REGIONAL DISTRICT OF NANAIMO

MINUTES OF THE COMMITTEE OF THE WHOLE MEETING HELD ON TUESDAY, JULY 23, 2002, AT 7:30 PM IN THE CITY OF NANAIMO COUNCIL CHAMBERS, 455 WALLACE STREET, NANAIMO, BC

Present:

Director J. Stanhope	Chairperson
Director L. Elliott	Electoral Area A
Director B. Sperling	Electoral Area B
Director E. Hamilton	Electoral Area C
Director D. Haime	Electoral Area D
Director G. Holme	Electoral Area E
Director J. McLean	Electoral Area F
Director R. Quittenton	Electoral Area H
Director J. Macdonald	City of Parksville
Director T. Westbrook	Town of Qualicum Beach
Director G. Korpan	City of Nanaimo
Director D. Rispin	City of Nanaimo
Director T. Krall	City of Nanaimo
Director B. Holdom	City of Nanaimo
Director L. McNabb	City of Nanaimo

Also in Attendance:

K. Daniels	Chief Administrative Officer
C. Mason	General Manager of Corporate Services
J. Finnie	General Manager of Environmental Services
B. Lapham	General Manager of Development Services
P. Shaw	Manager of Community Planning
S. Schopp	Manager of Inspection and Enforcement
T. Osborne	Manager of Recreation and Parks
M. Donnelly	Manager of Transportation Services
N. Tom	Recording Secretary
M. Burton	Receptionist Clerk

DELEGATIONS

Jerry Bordian, Texada Land Corporation, re Concept Plan, Block 564.

Mr. Bordian and Mr. Michael Rosen presented an overview of Texada Land Corporation's concept plan for Block 564 in the Englishman River Valley and made themselves available for questions.

Vern Fraser, re District 69 Recreation & Parks, Seniors Rates and Discounts.

Mr. Fraser spoke in opposition to the proposed elimination of discount rates for seniors at the Parksville Arena and Ravensong Aquatic Centre. A copy of Mr. Fraser's presentation was distributed to Committee members for information.

Bob Swail, re District 69 Recreation & Parks, Seniors Rates and Discounts.

Mr. Swail, representing the Parksville Panthers Hockey Association, spoke in opposition of the withdrawal of senior's discounts at the RDN recreational facilities. Mr. Swail distributed a copy of his presentation to Committee members for information.

LATE DELEGATIONS

MOVED Director Quittenton, SECONDED Director Holme, that Mr. Harvey be permitted to address the Committee as a late delegation.

CARRIED

Mr. Harvey, re Community Identification Sign - Qualicum River Estates - Corcan Road - Electoral Area F.

Mr. Harvey presented a short overview of the Qualicum River Estates' proposal to relocate the existing community identification sign to the road right-of-way and made himself available for any questions.

MINUTES

MOVED Director Krall, SECONDED Director Quittenton, that the minutes of the Committee of the Whole meeting held on Tuesday, June 25, 2002 be adopted.

CARRIED

COMMUNICATIONS/CORRESPONDENCE

Gerald Berry, City of Nanaimo, re Firefighting Coverage for Properties Outside of Municipal Boundaries.

MOVED Director Krall, SECONDED Director Westbrook, that the correspondence received from the City of Nanaimo with respect to firefighting coverage for properties located outside Municipal boundaries, be received.

CARRIED

Rob Roycroft, City of Parksville, re Port Theatre.

MOVED Director Krall, SECONDED Director Westbrook, that the correspondence received from the City of Parksville with respect to the Port Theatre's funding request, be received.

CARRIED

Sandra Keddy, Town of Qualicum Beach, re Port Theatre.

MOVED Director Krall, SECONDED Director Westbrook, that the correspondence received from the Town of Qualicum Beach with respect to the Port Theatre's funding request, be received.

CARRIED

DEVELOPMENT SERVICES

BUILDING INSPECTION

Section 700 Filings.

The Chairperson listed each filing and asked that any property owner in the audience wishing to address the Committee come forward when their name was called.

MOVED Director Holme, SECONDED Director Elliott, that a notice be filed against the title of the property listed, pursuant to Section 700 of the *Local Government Act* and that if the infractions are not rectified within ninety (90) days, legal action will be pursued:

- (a) Lot 7, Block 6, Section 16, Range 1, Plan 2041, Cedar Land District, 2151 Holden Corso Road, Electoral Area 'A', owned by W. Taylor & R. Kulai;
- (b) Lot 26, Section 18, Plan 21586, Gabriola Island, Nanaimo Land District, 661 Gallagher Way, Electoral Area 'B', owned by R. Pitre;
- (c) Lot 11, Block 18, District Lot 78, Plan 1694, Nanoose & Newcastle Land Districts, 940 Bennett Road, Electoral Area 'G', owned by R. & G. Smith.

CARRIED

PLANNING

Community Identification Sign – Qualicum River Estates – Corcan Road – Area F.

MOVED Director Westbrook, SECONDED Director McLean, that the request to recognize the 'Qualicum River Estates' name and area as a "distinct community" within the Regional District for the purpose of meeting Ministry of Transportation criteria to place an entrance sign within the Corcan Road right-of-way be supported.

CARRIED

COMMUNITY SERVICES

RECREATION & PARKS

Beach Access Improvements – Area G.

MOVED Director Holme, SECONDED Director Westbrook, that the Regional Board direct staff to proceed with the permit application to Ministry of Transportation for a 0.65 ha waterfront property (identified as road on Plan No. 22290, registered in 1969) in Columbia Beach, and the subsequent improvements outlined above.

CARRIED

Project Monitor Agreement with City of Nanaimo for District 69 Multiplex Arena.

MOVED Director Holme, SECONDED Director Macdonald, that the Board approve entering into an agreement with the City of Nanaimo to use Mr. Lyle Percevault as Project Monitor for the District 69 Multiplex Arena Project.

MOVED Director Westbrook, SECONDED Director McLean, that the Board go to tender with respect to the appointment of a Project Monitor for the District 69 Multiplex Arena Project.

DEFEATED

The question was called on the main motion.

The motion CARRIED.

Gabriola Island Regional Park – Name Change – Descanso Bay Regional Park.

MOVED Director Sperling, SECONDED Director Krall, that the new regional park on Gabriola Island be named "Descanso Bay Regional Park".

CARRIED

TRANSIT

Nanaimo City Centre Transit Exchange Review.

MOVED Director McNabb, SECONDED Director Elliott, that the report on the Nanaimo City Centre Transit Exchange Review be received for information.

CARRIED

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Malaspina College/Downtown Nanaimo Transit Linkage.

MOVED Director Krall, SECONDED Director Rispin,:

1. That Nanaimo Regional Transit provide a shuttle between downtown Nanaimo and Malaspina University College from August 16th to December 20th 2002.
2. That the marketing costs for the development of this shuttle will primarily be the responsibility of the Downtown Nanaimo Partnership.

CARRIED

OTHER

Green's Landing Wharf – Lease Extension

MOVED Director Sperling, SECONDED Director McNabb, that the Regional District of Nanaimo requests from Public Works & Government Services Canada an extension of the temporary lease of the Green's Landing Wharf from September 30, 2002 to March 31, 2003.

CARRIED

CORPORATE SERVICES

HOSPITAL

Request to Cost Share in Capital Equipment.

MOVED Director Hamilton, SECONDED Director Holdom,:

1. That cost sharing in the amount of \$316,800 for equipment costing more than \$100,000 pursuant to the request from the Vancouver Island Health Authority, be approved.
2. That "Nanaimo Regional Hospital District Capital Equipment (2002) Borrowing Bylaw No. 133, 2002" be introduced for the first three readings.
3. That "Nanaimo Regional Hospital District Capital Equipment (2002) Borrowing Bylaw No. 133, 2002" having received three readings be adopted and be forwarded to the Province for approval.

CARRIED

ADMINISTRATION

2002 Local Government Elections – Appointment of CEO & DCEO.

MOVED Director McNabb, SECONDED Director Quittenton, that Carol Mason, General Manager, Corporate Services, be appointed as the Chief Election Officer and Maureen Pearse, Deputy General Manager, Corporate Services, be appointed as the Deputy Chief Election Officer for the purpose of conducting the November 16, 2002 local government elections and referendums.

CARRIED

SPECIAL EVENT/SPECIAL OCCASION APPLICATIONS

Status Reports (for information).

MOVED Director Quittenton, SECONDED Director Hamilton, that the Special Event/Special Occasion Applications Status Reports be received for information.

CARRIED

ENVIRONMENTAL SERVICES

COMMISSION, ADVISORY & SELECT COMMITTEE

District 69 Recreation Commission.

MOVED Director Westbrook, SECONDED Director Holme, that the minutes of the District 69 Recreation Commission meeting held July 11, 2002, be received for information.

CARRIED

MOVED Director Westbrook, SECONDED Director Holme, that the recommendations stated in the Recreation and Parks 2003 Fees and Charges report be referred back to staff to investigate a phasing in option in consultation with the Parksville Golden Oldies Sports Association.

CARRIED

MOVED Director Quittenton, SECONDED Director Holme, that all recommendations brought forward from the District 69 Recreation Commission's meeting of July 11, 2002, be referred back to staff.

CARRIED

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

Concept Plan Proposal - Block 564 - Texada Land Corporation.

MOVED Director Holme, SECONDED Director Macdonald, that staff be directed to bring forward a report to the next Board meeting (August 13, 2002) outlining the necessary amendments to the Growth Management Plan to consider a proposal submitted by Texada Land Corporation for Block 564.

CARRIED

IN CAMERA

MOVED Director Holme, SECONDED Director Westbrook, that pursuant to Section 242.2(1)(a), (e) and (j) of the *Local Government Act* the Committee proceed to an In Camera meeting to consider matters concerning a personnel issue, disposition of land issue, and information that is prohibited from disclosure under Section 16 of the *Freedom of Information and Protection of Privacy Act*.

CARRIED

ADJOURNMENT

MOVED Director Holme, SECONDED Director Westbrook, that this meeting adjourn to allow for an In Camera meeting.

CARRIED

TIME: 8:59 PM

The meeting reconvened at 10:20 PM.

Proposed Amendments to Board Remuneration.

MOVED Director Holme, SECONDED Director Rispin, that the report with respect to proposed amendments to Board Remuneration be received and that the following recommendations of the Board Remuneration Committee with respect to Bylaw 1078 be approved:

Bylaw 1078

Base Remuneration

- (a) That the base remuneration be defined as remuneration for up to 5 meetings per month.
- (b) That the base rate of remuneration remain at \$7,940 for the next three years.
- (c) That the Chairperson's allowance be adjusted by 2% for 2003, and by the Vancouver CPI as at November 30th (effective in December) in 2004 and 2005.

Mileage Reimbursements

- (d) That Section 5(b)(vi) be amended to read: *Attendance at meetings pursuant to a request from Regional District staff when the meeting occurs outside the member's jurisdiction.*

Meeting Per diems

- (e) That a rate of \$100 be established for "Other Business" meetings which last more than half a day.
- (f) That the definition of Committee Chair for the purposes of Scheduled Standing Committee per diem rates include the Chairperson of a Public Hearing or Public Information Meeting.

Travel Per diems

- (g) That a flat daily per diem allowance of \$60 be paid for attendance at UBCM, AVICC and FCM. No meal per diems will be paid for these conference attendances.

CARRIED

ADJOURNMENT

MOVED Director Holme, SECONDED Director Rispin, that this meeting terminate.

CARRIED

TIME: 10:21 PM

CHAIRPERSON

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COPY

REGIONAL DISTRICT OF NANAIMO	
AUG 19 2002	
CHAIR	GMCrs
CAO	GMDS
GMCms	GMES
COW Agenda	



City of PARKSVILLE

Box 1390, 100 E. Jensen Avenue, Parksville, BC, V9P 2H3
Telephone: (250) 248-6144 Fax: (250) 248-6650
www.city.parksville.bc.ca

RECEIVED
AUG 13 2002
REGIONAL DISTRICT OF NANAIMO

August 9 2002

The Port Theatre
125 Front Street
Nanaimo B.C. V9R 6Z4

Attention: Sandra Thomson
General Manager

Dear Ms. Thomson:

Subject: Request for Referendum Support

Thank you for appearing as a delegation at the August 7, 2002 regular meeting of Council. This is to advise that the following resolution was passed:

RESOLUTION NO. 02-269:

"That the request to proceed to a referendum in November 2002 for a contribution from the citizens of Parksville towards the cost of completing and maintaining The Port Theatre be referred to a second round of Regional Services Review talks."

Yours truly,

ROB D. ROYCROFT, MCIP
CITY MANAGER

- /lk
- c.c. Regional District of Nanaimo
- c.c. Town of Qualicum Beach
- c.c. City of Nanaimo

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REGIONAL DISTRICT OF NANAIMO	
AUG 19 2002	
CHAIR	GMCrS
CAO	GMDS
GMCMS	SMES
DATE: August 16, 2002	
FILE: 3810-20	

MEMORANDUM

TO: Stan Schopp
Manager, Building Inspection Services

FROM: Allan Dick
Senior Building Inspector

SUBJECT: Local Government Act - Section 700 - Contravention of Bylaw Meeting Date - August 27, 2002

PURPOSE

To provide for the Committee's review, proposed Section 700 filings on properties which have outstanding occupancy or safety issues that contravene Building Bylaw No. 1250.

BACKGROUND

The individual area inspectors have worked closely with the property owners to resolve outstanding issues prior to the sending of letters. A minimum of two letters addressing deficiencies has been sent to the registered property owners. Where required, the Manager and/or the Senior Building Inspector have been involved with proposed resolutions. At this time we are unable to approve construction at the indicated addresses.

SUMMARY OF INDIVIDUAL INFRACTIONS

Electoral Area 'A'

Owners Name: Duart Rapton

Legal Description: The east part of Section 12, Range 2, Cranberry District, as shown on Plan 2030, except parts 13.3 acres and 29.89 acres coloured green on said plan, and except parts covered by Harewood and Overton Lakes

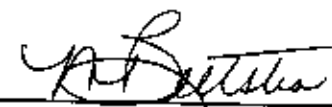
Street Address: 2724 Extension Road

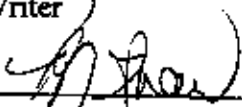
Summary of Infraction:

- December 4, 2001 - applied for permit to locate mobile home; application incomplete
- April 8, 2002 - many conversations with owner over previous months
- July 12, 2002 - Senior Inspector attempted to contact owner
- July 16, 2002 - Field inspector visited site to post permit required notice
- July 18, 2002 - Mr. Rapton attended office to discuss file with Senior Inspector.
- July 19, 2002 - permit application lapsed and cancelled

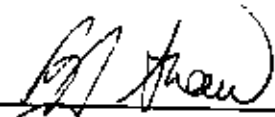
RECOMMENDATION

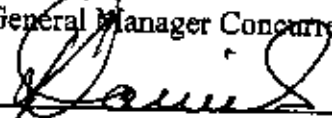
That a notice be filed against the titles of the properties listed, pursuant to Section 700 of the *Local Government Act* and that if the infractions are not rectified within ninety (90) days, legal action will be pursued.



per Report Writer


Manager Concurrence



A/General Manager Concurrence


C.A.O. Concurrence

COMMENTS:

devsva/reports/2002/3810-20-section700August

LAND USE IMPLICATIONS

With the adoption of the new ALR regulations, there will be a number of changes to ALR land management by the province and accordingly, there are a number of potential impacts on future land use regulations in the RDN. From a community planning perspective, there are three key issue areas that are impacted by the new ALR Use Subdivision and Procedure Regulations:

1. The new regulations designate as '*farm use*' specified farm activities permitted in the ALR that may be regulated but not prohibited by a local government bylaw except by a 'farm bylaw' under section 917 of the *Local Government Act*. Under section 2 of the new *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*, farm related activities include uses currently permitted in the ALR, uses permitted under General Order of the Commission, some 'special case' uses under the current regulations and some new uses. Key permitted uses in this section of the regulations include:
 - Farm retail sales if 50% of the retail sales area (maximum area of 300 square metres) is used for sale of farm products produced on the farm;
 - Storing, packing and processing farm products if 50% originate on the farm, or for feed, 50% is used on the farm;
 - Farmland development including levelling, draining and irrigating;
 - Temporary and seasonal agri-tourism activities on an assessed farm, including wineries, and cideries
 - Equestrian facilities including training and boarding;
 - Storage and land application of soil amendments (fertilizers, mulches, etc.), production and application of Class A compost and the land application of compost and biosolids; and
 - Specific farm buildings including greenhouses, livestock operations, mushroom production, and aquaculture facilities.
2. The ALR regulations have been expanded to allow for specific permitted uses that have previously been permitted as 'special uses' and can be described as quasi-agricultural uses. Under section 3 of the regulations, certain specific uses are permitted by the Commission without approval, but they may be prohibited and/or regulated by local government based on land use policies for an area, neighbourhood characteristics, or off site impacts. Key permitted uses in this section of the regulations include:
 - Pet kennels and breeding;
 - Gravel extraction under 500 m³;
 - Production of Class A compost if at least 50% of the compost is used on the farm where it is produced;
 - Operation of a temporary sawmill provided 50% of the timber comes from the parcel on which the sawmill is located;
 - Up to 10 Agri-tourism accommodation units on an assessed farm, located as campsites, seasonal cabins;
 - Up to 4 sleeping units within a Dwelling as a bed and breakfast;
 - Secondary suite in a dwelling;
 - A double-wide mobile home for a family member;
 - Production of biological products for integrated pest management.

3. The new ALR regulations have replaced the old Soil Removal Permitting process with a series of standards. Under the new regulations, up to 500 m³ of gravel can be removed from a property without any LRC approval, subject to local government regulation. Further, under Part 3 of the regulations, a landowner can remove soil up to a maximum of 2% of the area of the parcel to facilitate the construction of agricultural buildings, defined as Greenhouses, Farm Structures for Intensive Livestock or Mushroom Production, Aquaculture Facility, or Composting Facility.

If a landowner wishes to remove a volume of soil that is greater than 2% of the area of the parcel for a farm related purpose, such as those listed above, notice of the intent to remove soil must be sent to the Commission and the local government 60 days prior to beginning the removal process. The Commission may impose conditions or require that the person make a section 20(1) non-farm use application through the local government to the Commission.

Currently, the RDN does not have a bylaw in place to regulate the removal of soil or a trigger to notify adjacent landowners with respect to excavation. Typically, significant soil removal in agricultural areas has not been supported due to off site impacts include noise, dust and traffic in a rural area. In response to changes to the soil permitting process, the RDN could consider implementing a new process whereby correspondence is automatically forwarded to the Commission requesting more details on large scale (e.g. greater than 500 m³) soil removal projects. Alternatively, the RDN could request that non-farm use applications be required by the Commission for projects that exceed a threshold or volume of material, or for projects adjacent to suburban/ residential areas.

Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500 Implications

In the electoral areas regulated by Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987, ALR land is generally located with the rural and resource management zones. Within these zones, agriculture is a permitted use and both LRC and RDN land use regulations apply. In Bylaw No. 500, agriculture is defined as *a use providing for the growing, rearing, producing and harvesting of agricultural products, and includes the growing of crops; fruit and berry production; growing trees and shrubs; housing livestock, poultry, fur-bearing animals, bees; animal feeding and holding areas; storage of crops; and the processing of the primary agricultural products harvested, reared or produced on that farm, including the rough sawing of logs, but excludes animal care and specifically excludes the following uses on land located within the Resource Management 3 (RM3) and Rural 5 (RU5) zones that is not located in the agricultural land reserve: feed lot; fur farm; mushroom farm; horse boarding stable; and intensive swine operation.*

Bylaw No. 500 has a narrow definition of agriculture and as such, the changes proposed to the land reserve regulations are generally not recognized in this bylaw. Notwithstanding the limitations of the current zoning definitions and regulations, the expanded farm uses in section 2 of the ALR regulations will allow the location of these new uses on ALR lands. However, given the limitations of the existing zoning definitions and regulations, the expanded farm uses identified in section 3 of the new ALR regulations will not be permitted. Key uses that are not permitted in rural and resource zones are pet kennels (except for the RU-2 and RU-3 zones), production of Class 'A' compost, processing of off-site timber (except RU-3 and RM-8 zones), and operation of up to 10 Agri-tourism accommodation units on an assessed farm. In order to permit additional expanded uses allowed under the new ALR regulations, definitions and zoning regulations for new rural and resource management zones would need to be considered.

Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285 Implications

In Electoral Area 'F' all land located in the ALR is zoned A-1 and further, Bylaw No. 1285 is structured in such a way that all uses determined to be farm uses by the LRC are recognized as permitted uses within the A-1 zone. As such, in Electoral Area 'F' all uses identified in sections 2 and 3 of the new ALR regulations will be permitted outright in this portion of the regional district. Input received from the public during the OCP and Zoning Bylaw process called for a flexible approach to zoning particularly with respect to land located within the ALR. The new regulations do, however, permit a number of uses including gravel extraction and kennels that have been viewed as controversial by the community. In order to regulate impacts on rural areas associated with expanded uses that will be allowed under the new ALR regulations (including kennels and gravel extraction), new definitions and zoning regulations for the A-1 zone would need to be considered.

AGENCY/PUBLIC CONSULTATION IMPLICATIONS

With the new ALR regulations, outright permitted uses have been expanded. This has reduced the ability for local governments to provide comments with respect to off-site impacts and land use policies on what have traditionally been seen as quasi or related farm uses (e.g. agri-tourism and farm retail sales).

With respect to large-scale soil removal projects, amendments to the ALR regulations (removing the soil removal permits) have decreased the ability of local governments to input on these types of projects. Due to the short time frame for response and conditions of approval once a landowner has provided notice to the Commission of the intent to remove soil, local governments may not be able to respond to the Commission quickly enough to input into the process.

Further, amendments to the ALR regulations have not increased or formalized the public input portion of ALR applications for exclusion, non-farm use or soil removal. Unlike public consultation and notification requirements under the *Local Government Act*, there are no formal requirements for stakeholder input by the LRC. Adjacent landowners still receive notice that there is an application for exclusion underway in their area; however, there are no formal provisions for impacted adjacent landowners to make representation at the 'hearing' or to have direct input on the Commission's decision on an application for exclusion, non-farm use or soil removal.

VOTING

All Directors -- one vote, except Electoral Area 'B'

SUMMARY/CONCLUSIONS

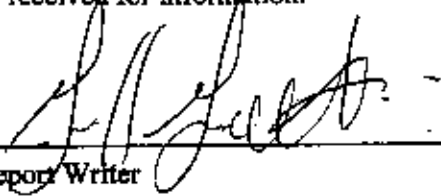
The new *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* has been drafted and will be brought into force on November 1, 2002. From the LRC's perspective, the new regulations support the Commission's core mandate of preserving agricultural land and the new regulations will allow the government (both provincial and local) to manage land in the ALR as efficiently and effectively as possible. The intent of the new regulations is to streamline the ALR approval process by removing permitting requirements and restrictions on a number of uses. The new regulations clarify those farm uses that are permitted in the ALR, which may be regulated but not prohibited by a local government. The regulations also outline those uses which the Commission permits without approval,

but which a local government may wish to prohibit due to land use policies for an area, neighbourhood characteristics, or off site impacts. Finally, the ALR has made significant changes to the soil removal permitting process by removing permits and placing emphasis on a performance based standard for managing soil removal in the ALR.

From the RDN's perspective, there are a number of issues with respect to potential off-site impacts that newly permitted uses for land in the ALR will have on rural areas in the regional district. In response to changes to ALR regulations, and further to discussions with ALR representatives, amendments to RDN land use bylaws could be considered to reflect changes to ALR Regulations.

RECOMMENDATION

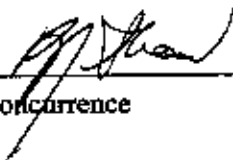
That the staff report on 'Agricultural Land Reserve Regulation Amendment – Implications For the RDN' be received for information.



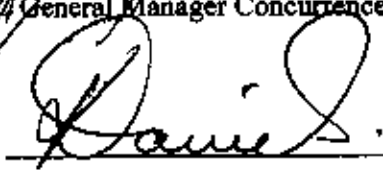
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

This version of the Regulation is for private study or research purposes only, and is not the official version. Persons who need to rely on the text of the Regulation for legal and other purposes may obtain the Queen's Printer official printed version from Crown Publications Inc., 521 Fort Street, Victoria, BC V8W 1E7. Telephone: (250) 386-4636.

This Regulation becomes effective November 1, 2002.

AGRICULTURAL LAND RESERVE USE, SUBDIVISION AND PROCEDURE REGULATION

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PART 1 – INTERPRETATION

1. Definitions and interpretation

PART 2 – PERMITTED USES

2. Activities designated as farm use
3. Permitted uses for land in an agricultural land reserve

PART 3 – SOIL REMOVAL AND PLACEMENT OF FILL

4. Notification requirements for specified farm uses
5. Notification requirements for specified non-farm uses

PART 4 – APPLICATIONS FILED DIRECTLY WITH THE COMMISSION

6. Transportation and utility use applications
7. Notice of application under Section 34 (6) of the Act
8. Notice of decision to be given to local government

PART 5 – PERMITTED SUBDIVISIONS

9. Application of the Part
10. Subdivision approval
11. Certification and deposit of approval plans

PART 6 – GOVERNMENT APPLICATIONS AND COMMISSION PROPOSALS FOR INCLUSION TO OR EXCLUSION FROM RESERVE

12. Form of application or proposal
13. Notice of public hearing
14. Procedure at public hearing

PART 7 – OWNER APPLICATIONS FOR EXCLUSION FROM RESERVE

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PART 1 - INTERPRETATION

Definitions and interpretation

1 (1) In this regulation:

“Act” means the *Agricultural Land Commission Act*;

“aggregate” includes sand, gravel, crushed stone, quarry rock and similar materials used in the construction and maintenance of civil and structural projects;

“agroforestry” means a land use that involves deliberate retention, introduction or mixing of trees or other plants in crop and animal production systems to provide an economic return;

“agri-tourism” means a tourist activity, service or facility accessory to land that is classified as a farm under the *Assessment Act*;

“applicant” includes a reference to the agent of the applicant;

“aquaculture” has the same meaning as under the *Fisheries Act*;

“compost” means a product that is

- (a) a stabilized earthy matter having the properties and structure of humus,
- (b) beneficial to plant growth when used as a soil amendment,
- (c) produced by composting, and
- (d) derived only from organic matter;

“farm” means an occupation or use, for farm purposes, of one or several parcels of land or tenured areas of Crown land;

“farm product” means a commodity that is produced from a farm use as defined in the Act or designated by this regulation;

“immediate family” means, with respect to an owner, the owner’s

- (a) parents, grandparents and great grandparents,
- (b) spouse, parents of spouse and stepparents of spouse,
- (c) brothers and sisters, and
- (d) children or stepchildren, grandchildren and great grandchildren;

“managed organic matter” means Class A or Class B biosolids or Class B compost as those things are defined in the Organic Matter Recycling Regulation, B.C. Reg. 18/2002;

“newspaper” has the same meaning as in section 5 of the *Local Government Act*;

“parcel” means land that is the subject of a single indefeasible title under the *Land Title Act*;

“responsible local government officer” means the local government officer assigned responsibility under section 198 of the *Local Government Act*;

“sleeping unit” means

- (a) a bedroom or other area used as a bedroom in a cabin, dwelling or accessory building, and
- (b) a tent or recreational vehicle on a campsite;

“soil amendment” means compost, manure, mulches, fertilizer and soil conditioners.

- (2) Nothing in this regulation is to be interpreted as relieving an owner, an applicant or an approving officer from complying with any other enactment, bylaw or decision of a responsible authority that may apply, including zoning, subdivision and any other legislation.

PART 2 — PERMITTED USES

Activities designated as farm use

- 2 (1) For the purposes of subsection (2) (b), “ancillary use” means any of the following activities carried on at a British Columbia licensed winery or cidery:
- (a) processing, storage and retail sales;
 - (b) tours;
 - (c) a food and beverage service lounge, if the area does not exceed 125 m² indoors and 125 m² outdoors,
- (2) The following activities are designated as farm use for the purposes of the Act and may be regulated but must not be prohibited by any local government bylaw except a bylaw under section 917 of the *Local Government Act* :
- (a) farm retail sales if
 - (i) all of the farm product offered for sale is produced on the farm on which the retail sales are taking place, or
 - (ii) at least 50% of the retail sales area is limited to the sale of farm products produced on the farm on which the retail sales are taking place and the total area, both indoors and outdoors, used for the retail sales of all products does not exceed 300 m²;
 - (b) a British Columbia licensed winery or cidery, and an ancillary use, if the wine or cider produced and offered for sale is made from farm product and
 - (i) at least 50% of that farm product is grown on the farm on which the winery or cidery is located, or
 - (ii) the farm that grows the farm products used to produce wine or cider is more than 2 ha in area, and, unless otherwise authorized by the commission, at least 50% of the total farm product for processing is provided under a minimum 3 year contract from a farm in British Columbia;
 - (c) storage, packing, product preparation or processing of farm products, if at least 50% of the farm product being stored, packed, prepared or processed is produced on the farm or is feed required for farm production purposes on the farm;
 - (d) land development works including clearing, levelling, draining, berming, irrigating and construction of reservoirs and ancillary works if the works are required for farm use of that farm;
 - (e) agri-tourism activities, other than accommodation, on land that is classified as a farm under the *Assessment Act*, if the use is temporary and seasonal, and promotes or markets farm products grown, raised or processed on the farm;
 - (f) timber production, harvesting, silviculture and forest protection;
 - (g) agroforestry, including botanical forest products production;

- (h) horse riding, training and boarding, including a facility for horse riding, training and boarding, if
 - (i) the stables do not have more than 40 permanent stalls, and
 - (ii) the facility does not include a racetrack licensed by the British Columbia Racing Commission;
- (i) the storage and application of fertilizers, mulches and soil conditioners;
- (j) the application of soil amendments collected, stored and handled in compliance with the Agricultural Waste Control Regulation, B.C. Reg. 131/92;
- (k) the production, storage and application of compost from agricultural wastes produced on the farm for farm purposes in compliance with the Agricultural Waste Control Regulation, B.C. Reg. 131/92;
- (l) the application of compost and biosolids produced and applied in compliance with the Organic Matter Recycling Regulation, B.C. Reg. 18/2002;
- (m) the production, storage and application of Class A compost in compliance with the Organic Matter Recycling Regulation, B.C. Reg. 18/2002, if all the compost produced is used on the farm;
- (n) soil sampling and testing of soil from the farm;
- (o) the construction, maintenance and operation of farm buildings including, but not limited to, any of the following:
 - (i) a greenhouse;
 - (ii) a farm building or structure for use in an intensive livestock operation or for mushroom production;
 - (iii) an aquaculture facility.
- (3) Any activity designated as farm use includes the construction, maintenance and operation of a building, structure, driveway, ancillary service or utility necessary for that farm use.
- (4) Unless permitted under the *Water Act* or the *Waste Management Act*, any use specified in subsection (2) includes soil removal or placement of fill necessary for that use as long as it does not
 - (a) cause danger on or to adjacent land, structures or rights of way, or
 - (b) foul, obstruct or impede the flow of any waterway.
- (5) The removal of soil or placement of fill as part of a use designated in subsection (2) must be considered to be a designated farm use and does not require notification except under section 4.

Permitted uses for land in an agricultural land reserve

- 3 (1) The following land uses are permitted in an agricultural land reserve unless otherwise prohibited by a local government bylaw:
 - (a) accommodation for agri-tourism on a farm if
 - (i) all or part of the parcel on which the accommodation is located is classified as a farm under the *Assessment Act*,
 - (ii) the accommodation is limited to 10 sleeping units in total of seasonal campsites, seasonal cabins or short term use of bedrooms including bed and breakfast bedrooms under paragraph (d), and

- (iii) the total developed area for buildings, landscaping and access for the accommodation is less than 5% of the parcel;
 - (b) for each parcel,
 - (i) one secondary suite within a single family dwelling, and
 - (ii) one manufactured home, up to 9 m in width, for use by a member of the owner's immediate family;
 - (c) a home occupation use, that is accessory to a dwelling, of not more than 100 m² or such other area as specified in a local government bylaw for the area in which the parcel is located;
 - (d) bed and breakfast use of not more than 4 bedrooms for short term tourist accommodation or such other number of bedrooms as specified in a local government bylaw for the area in which the parcel is located;
 - (e) operation of a temporary sawmill if at least 50% of the volume of timber is harvested from the farm or parcel on which the sawmill is located;
 - (f) biodiversity conservation, passive recreation, heritage, wildlife and scenery viewing purposes, as long as the area occupied by any associated buildings and structures does not exceed 100 m² for each parcel;
 - (g) use of an open land park established by a local government for any of the purposes specified in paragraph (f);
 - (h) breeding pets or operating a kennel or boarding facility;
 - (i) education and research except schools under the *School Act*, respecting any use permitted under the Act and this regulation as long as the area occupied by any buildings or structures necessary for the education or research does not exceed 100 m² for each parcel;
 - (j) production and development of biological products used in integrated pest management programs as long as the area occupied by any buildings or structures necessary for the production or development does not exceed 300 m² for each parcel;
 - (k) aggregate extraction if the total volume of materials removed from the parcel is less than 500 m³, as long as the cultivatable surface layer of soil is salvaged, stored on the parcel and available to reclaim the disturbed area;
 - (l) force mains, trunk sewers, gas pipelines and water lines within an existing dedicated right of way;
 - (m) telecommunications equipment, buildings and installations as long as the area occupied by the equipment, buildings and installations does not exceed 100 m² for each parcel;
 - (n) construction and maintenance, for the purpose of drainage or irrigation or to combat the threat of flooding, of
 - (i) dikes and related pumphouses, and
 - (ii) ancillary works including access roads and facilities;
 - (o) unpaved airstrip or helipad for use of aircraft flying non-scheduled flights;
 - (p) the production, storage and application of Class A compost in compliance with the Organic Matter Recycling Regulation, B.C. Reg. 18/2002, if at least 50% of the compost measured by volume is used on the farm.
- (2) Nothing in subsection (1) (a) is to be interpreted as permitting the conversion of a building into strata lots by an owner.

- (3) If a use is permitted under subsection (1) (k) it is a condition of the use that once the extraction of aggregate is complete, the disturbed area must be rehabilitated in accordance with good agricultural practice.
- (4) The following land uses are permitted in an agricultural land reserve:
- (a) any
 - (i) ecological reserve established under the *Ecological Reserve Act* or by the *Protected Areas of British Columbia Act*,
 - (ii) park established under the *Park Act* or by the *Protected Areas of British Columbia Act*,
 - (iii) protected area established under the *Environment and Land Use Act*,
 - (iv) wildlife management area established under the *Wildlife Act*, or
 - (v) recreation reserve established under the *Land Act*;
 - (b) dedication or upgrading of an existing road with vehicular access and use declared to be a public highway under section 4 of the *Highway Act*;
 - (c) road construction or upgrading within a dedicated right of way that has a constructed road bed for vehicular access and use;
 - (d) if the widening or works does not result in an overall right of way width of more than 24 m, widening of an existing constructed road right of way for
 - (i) safety or maintenance purposes, or
 - (ii) drainage or flood control works;
 - (e) establishing as a forest service road
 - (i) an existing road under the *Forest Act*, or
 - (ii) a new road in a managed forest;
 - (f) increasing the right of way width of a forest service road by up to 4 m if the widening does not result in an overall right of way width of more than 24 m;
 - (g) railway construction, upgrading and operations on an existing railbed within a dedicated right of way, including widening of an existing railway right of way if the widening does not result in an overall right of way width of more than 30 m;
 - (h) surveying, exploring or prospecting for gravel or minerals if all cuts, trenches and similar alterations are restored to the natural ground level upon completion of the surveying, exploring or prospecting;
 - (i) surface water collection for farm use or domestic use, water well drillings, connection of water lines, access to water well sites and required rights of way or easements;
 - (j) soil research or testing as long as the soil removed or fill placed is only in an amount necessary for the research or testing.
- (5) Any permitted use specified in subsection (1) or (4) includes the construction, maintenance and operation of buildings, structures, driveways, ancillary services and utilities necessary for that use.
- (6) Unless permitted under the *Water Act* or the *Waste Management Act*, any use specified in subsection (1) or (4) includes soil removal or placement of fill necessary for that use as long as the soil removal or placement of fill does not
- (a) cause danger on or to adjacent land, structures or rights of way, or

- (b) foul, obstruct or impede the flow of any waterway.

PART 3 – SOIL REMOVAL AND PLACEMENT OF FILL

Notification requirements for specified farm uses

- 4 (1) The removal of soil and placement of fill for the following farm uses are exempt from the requirement to file an application under section 20 of the Act if the requirements in subsections (2), (3) and (4) are met:
- (a) the construction, maintenance and operation of a greenhouse on an area of land if the area occupied by the greenhouse is greater than 2% of the area of the parcel;
 - (b) the construction, maintenance and operation of a farm building or structure, for use in an intensive livestock operation or for mushroom production, if the area occupied by the farm building or structure is greater than 2% of the area of the parcel;
 - (c) the construction, maintenance and operation of an aquaculture facility if the area occupied by the aquaculture facility is greater than 2% of the area of the parcel;
 - (d) the construction, maintenance and operation of a composting facility for the production of Class A compost as defined in the Organic Matter Recycling Regulation, BC Reg. 18/2002 or compost from agricultural waste, if the area occupied by the facility is greater than 2% of the area of the parcel;
 - (e) a turf farm.
- (2) An owner must notify the commission and the local government of the owner's intent to remove soil or place fill for the uses described in subsection (1) at least 60 days before engaging in the intended use by filing with the commission a notice in a form acceptable to the commission.
- (3) If the chief executive officer requests additional information on the extent and method of soil removal or placement of fill within 30 days of receipt of the notice under subsection (2) it must be provided by the owner of the land in the form of an amended notice within 30 days of receipt of the request.
- (4) The owner must comply with the restrictions on the use and the terms and conditions for the conduct of that use of agricultural land ordered by the chief executive officer under section 20 (5) of the Act provided that the order is made within 30 days of a notice under subsection (2) or within 45 days of an amended notice under subsection (3).
- (5) If the owner does not agree to the restrictions on the use or the terms and conditions ordered by the chief executive officer, the owner may apply to the commission for permission for a non-farm use under section 20 (3) of the Act.

Notification requirements for specified non-farm uses

- 5 (1) The removal of soil and placement of fill is exempt from the requirement to file an application under section 20 of the Act as long as the requirements in subsections (2), (3) and (4) are met and the removal or placement is for one or more of the following uses:
- (a) aggregate extraction if the total volume of material removed is more than 500 m³;

- (b) peat extraction;
 - (c) placer works including the exploration, development and production of placer minerals as defined in the *Mineral Tenure Act*;
 - (d) the construction, maintenance and operation of a composting facility for the production of managed organic matter.
- (2) The owner must notify the commission and the local government of the owner's intent to remove soil for the uses described in subsection (1) at least 60 days before engaging in the intended use by filing with the commission a notice in a form acceptable to the commission.
 - (3) If the chief executive officer requests additional information on the extent and method of soil removal and reclamation within 30 days of receipt of the notice under subsection (2) it must be provided in the form of an amended notice within 30 days of receipt of the request.
 - (4) The owner must comply with the restrictions on the use and the terms and conditions for the conduct of that use of agricultural land ordered by the chief executive officer under section 20 (5) of the Act provided that order is made within 30 days of a notice under subsection (2) or within 45 days of an amended notice under subsection (3).
 - (5) If the owner does not agree to the restrictions on the use or the terms and conditions ordered by the chief executive officer, the owner may apply to the commission for permission for a non-farm use under section 20 (3) of the Act.

PART 4 - APPLICATIONS FILED DIRECTLY WITH THE COMMISSION

Transportation and utility use applications

- 6 Unless permitted under sections 2 and 3, a person must file an application under section 34 (6) of the Act directly with the office of the commission and in a form acceptable to the commission for any of the following uses:
 - (a) widening of an existing road right of way;
 - (b) construction of a road within an existing right of way;
 - (c) dedication of a right of way or construction of any of the following:
 - (i) a new or existing road or railway;
 - (ii) a new or existing recreational trail;
 - (iii) a utility corridor use;
 - (iv) a sewer or water line other than for ancillary utility connections;
 - (v) a forest service road under the *Forest Act*;
 - (d) the new use of an existing right of way for a recreational trail.

Notice of application under section 34 (6) of the Act

- 7 A person who applies to the commission under section 34 (6) of the Act must notify the owners of the land involved in the proposal using a form acceptable to the commission.

Notice of decision to be given to local government

- 8 Before issuing an order under the Act with respect to an application made under section 6, the commission may request comments and information from the responsible

local government and the commission must inform the local government of its decision.

PART 5 – PERMITTED SUBDIVISIONS

Application of this Part

- 9 This Part applies to a plan of subdivision, all or part of which consists of land in an agricultural land reserve.

Subdivision approval

- 10 (1) Despite section 18 (b) of the Act, an approving officer under the *Land Title Act*, the *Local Government Act*, or the *Strata Property Act* or a person who exercises the powers of an approving officer under any other Act may authorize or approve a plan of subdivision without the approval of the commission if the proposed plan achieves one or more of the following:
- (a) consolidates 2 or more parcels into a single parcel by elimination of common lot lines;
 - (b) resolves a building encroachment on a property line and creates no additional parcels;
 - (c) involves not more than 4 parcels, each of which is a minimum of 1 ha, and results in all of the following:
 - (i) no increase in the number of parcels;
 - (ii) boundary adjustments that, in the opinion of the approving officer, will allow for the enhancement of the owner's overall farm or for the better utilization of farm buildings for farm purposes;
 - (iii) no parcel in the reserve of less than 1 ha;
 - (d) establishes a legal boundary along the boundary of an agricultural land reserve.
- (2) An approving officer who declines to authorize or approve a plan must give notice of that decision to the person who made the application.
- (3) A person who receives a notice under subsection (2) may apply to the commission with respect to the proposed subdivision.

Certification and deposit of approved plan

- 11 (1) If an approval is granted under section 10, the approving officer must
- (a) endorse on the plan a certificate acceptable to the commission, and
 - (b) provide a copy of the approved plan to the commission.
- (2) If the requirements of subsection (1) are met, a registrar of titles under the *Land Title Act* may accept the endorsed plan for deposit.

PART 6 – GOVERNMENT APPLICATIONS AND COMMISSION PROPOSALS FOR INCLUSION TO OR EXCLUSION FROM RESERVE

Form of application or proposal

- 12 (1) An application of a local government to the commission under section 17 or 29 of the Act must be in a form acceptable to the commission and be accompanied by any other supporting material the commission may require.
- (2) If the commission acts on its own initiative under section 17 or 29 of the Act
- (a) the proposal of the commission must include information and any other supporting material the commission considers necessary, and
 - (b) the commission must send a copy of the proposal and supporting material to the applicable local government.

Notice of public hearing

- 13 (1) The commission or local government holding a public hearing required by section 17 (2) or 29 (2) of the Act must publish a notice of hearing in accordance with this section.
- (2) The notice of hearing must be published in at least 2 consecutive issues of a newspaper published or circulated in the municipality or regional district where the land is located, with the last of these publications appearing not less than 3 days and not more than 10 days before the date of the hearing.
- (3) The notice of hearing must
- (a) state the time and place of the public hearing,
 - (b) identify in a general manner the land affected, but need not use the legal description of the land affected,
 - (c) state in general terms the intent of the application, and
 - (d) state when and where a copy of the application may be inspected.

Procedure at public hearing

- 14 (1) At a public hearing under section 17 (2) or 29 (2) of the Act, all persons must be afforded an opportunity to be heard on matters related to the application.
- (2) The public hearing may be adjourned from time to time.
- (3) A member of the commission, municipal council, regional board or local trust committee who was not present at the public hearing may vote on the application if an oral or written report of the hearing has been given to the member.
- (4) The commission or a local government holding the public hearing may, without further notice, allow amendment to the proposed application to give such effect as it considers fit to accommodate representations made at the hearing.

PART 7 - OWNER APPLICATIONS FOR EXCLUSION FROM RESERVE

Form and filing of application

- 15 (1) An application under section 30 of the Act must be in a form acceptable to the commission and must be filed in the office of the responsible local government officer.

- (2) The application must be accompanied by the following:
- (a) an original copy of each advertisement required under section 16 (1) (a), as published with the date of publication clearly indicated;
 - (b) a photograph clearly indicating the manner in which the notice was posted under section 16 (1) (b);
 - (c) a signed statement by the owner of the land stating
 - (i) the name and address of each person served under section 16 (1) (c),
 - (ii) the date of service, and
 - (iii) the manner of service.

Notice of application

- 16 (1) At least 7 days before filing an application under section 30 of the Act, an owner must give notice of the application by doing all of the following:
- (a) publishing a notice of the application on two separate occasions in a newspaper in general circulation in the municipality or regional district in which the land that is the subject of the application is located, not less than 7 days and not more than 14 days apart, inclusive of the day of publication;
 - (b) posting on the land that is the subject of the application, on a sign measuring at least 60 cm by 120 cm and positioned at the midpoint of a boundary of that land that is adjacent to a constructed road right of way if one exists,
 - (i) a copy of the signed application, and
 - (ii) a copy of the notice of application;
 - (c) serving, personally or by registered mail, a copy of the notice of application and a copy of the application on each owner of land in an agricultural land reserve that
 - (i) shares a common boundary with the land for which the application is being made, or
 - (ii) is separated by a public road right of way from the land for which the application is being made.
- (2) Each advertisement under subsection (1) (a) and copy of the notice posted under subsection (1) (b) must be in a form acceptable to the commission.
- (3) Despite subsections (1) and (2), if the requirements of those subsections are not practical, the notice may be given in an alternative means acceptable to the commission.
- (4) If an owner of land who files an application under section 30 of the Act receives a response to a notice given under this section, the owner must forward a copy of the response to the local government.

When local government can consider application

- 17 A local government must not consider an application under section 30 (4) of the Act until 14 days after all relevant documents have been published, posted and served under section 16 of this regulation.

Official must submit application to local government

- 18 On compliance with section 16 by an owner, the responsible local government officer must, subject to section 17, submit the application to the local government council, board or trust committee.

Procedure to authorize resolution under section 30 (4) of the Act

- 19 (1) If an application is filed under section 30 of the Act and section 30 (4) of the Act applies, further proceedings must not be taken unless the local government passes the resolution referred to in section 30 (4) of the Act authorizing the application.
- (2) If a resolution is passed under section 30 (4) of the Act, the responsible local government officer must send a certified copy of the resolution to the commission along with the other information required by section 21 of this regulation.

Local government may hold public information meeting

- 20 If it considers it necessary or advisable, a local government may hold a public information meeting with respect to an application under section 30 of the Act.

Local government forwards application

- 21 (1) Subject to section 19, within the applicable time limit under subsection (2) of this section, the local government must send to the commission all of the following:
- (a) the application, including the materials required under section 15 (2) and copies of responses as a result of a notice under section 16;
 - (b) its comments and recommendations required under section 34 (4) of the Act in a form acceptable to the commission;
 - (c) the resolution, if required under section 30 (4) of the Act;
 - (d) a report of the public information meeting if one is held;
 - (e) any other information it wants the commission to consider concerning the application.
- (2) The time limit for sending materials under subsection (1) is
- (a) 90 days after receipt of the application, if a public information meeting is held under section 20 , and
 - (b) 60 days after receipt of the application in all other cases.

PART 8 - PROVISIONS FOR MEETINGS TO DETERMINE APPLICATIONS FOR EXCLUSION

Notice of commission meeting

- 22 (1) A meeting of the commission to determine an application under section 30 of the Act must be held at a time and at a place designated by the commission and may be adjourned from time to time.
- (2) Not less than 10 days and not more than 30 days before a meeting required by section 30 of the Act, the commission must give written notice of the time and place of the meeting to all of the following:
- (a) the applicant;
 - (b) the appropriate local government;

- (c) if the commission considers it advisable, the owners of the land located adjacent to the land that is the subject of the application.
- (3) The notice of the meeting must do all of the following:
- (a) state the time and place of the meeting;
 - (b) identify the land that is subject of the application;
 - (c) state the purpose of the application;
 - (d) state the time and place at which the application and the documents relating to the application may be inspected.

Applicant to be given access to relevant information

- 23 (1) The commission must cause to be delivered to the applicant, by registered mail or personal service, including electronic mail
- (a) a copy of the application, except for the information supplied by the applicant, and
 - (b) a copy of any other information related to the application for consideration at the meeting.
- (2) At the request of the applicant but subject to the *Freedom of Information and Protection of Privacy Act*, the commission must allow the applicant to inspect all relevant documents in the custody of the commission relating to the application.

Procedure at commission meeting

- 24 For the purpose of the meeting, the commission may do one or more of the following:
- (a) hear representations from the applicant;
 - (b) accept written submissions or any other form of evidence even though it may not be evidence in a court of law;
 - (c) hear representations, evidence and opinions of any person present or represented at the meeting and of the local government that, in the opinion of the commission, are relevant to the application.

Commission to notify applicant of evidence presented

- 25 (1) This section applies if evidence is presented at the meeting and a statement or summary of that evidence has not been sent to the applicant.
- (2) If the applicant is present at the meeting, the commission may
- (a) hear further representations in respect of the additional evidence, or
 - (b) adjourn the meeting to enable the applicant to answer that evidence.
- (3) If the applicant or applicant's agent is not present at the meeting, the commission must notify the applicant by registered mail, electronic mail or personal service of
- (a) the additional evidence presented at the meeting, and
 - (b) the time within which the additional evidence may be answered.

PART 9 - OWNER APPLICATIONS TO INCLUDE LAND IN RESERVE

Application by owner

- 26 (1) If an owner's land is not included in a land reserve plan, the owner may apply under section 17 (3) of the Act to have the land designated as part of an agricultural land reserve.
- (2) An application referred to in subsection (1) must be made by filing an application, in a form acceptable to the commission, in the office of the responsible local government officer.

Local government may hold public information meeting

- 27 A local government that receives an application under section 17 (3) of the Act may hold a public information meeting with respect to the application.

Local government submission to commission

- 28 (1) Within the applicable time limit under subsection (2), a local government that has received an application under section 17 (3) of the Act must send to the commission
- (a) the application and any supporting information it wants the commission to consider, and
 - (b) its comments and recommendations required under section 34 (4) of the Act in a form acceptable to the commission.
- (2) The time limit for sending materials under subsection (1) is
- (a) 90 days after receipt of the application, if a public information meeting is held under section 27, and
 - (b) 60 days after receipt of the application in all other cases.

PART 10 - APPLICATIONS FOR NON-FARM USE OR SUBDIVISION OF AGRICULTURAL LAND

Application must be filed with local government

- 29 (1) An owner who seeks permission under section 20 or 21 of the Act for use or subdivision of agricultural land must file an application in a form acceptable to the commission in the office of the responsible local government officer.
- (2) Subsection (1) does not apply to applications for transportation or utility uses filed with the commission under section 6.

Sections 19 and 21 apply

- 30 For the purposes of a local government resolution authorizing the application under section 34 of the Act, sections 19 and 21 of this regulation apply to the application, except that references in sections 19 and 21 of this regulation to section 30 (4) of the Act must be read as references to section 25 (3) of the Act.

Commission meeting

- 31 (1) If it considers it necessary or advisable, the commission may hold a meeting with respect to any application filed under section 29.

- (2) A meeting to determine an application under subsection (1) may be held at a time and place designated by the commission and may be adjourned from time to time.

PART 11 - GENERAL

Commission must give notice of decision

- 32 The commission must inform the applicant, the local government and, if applicable, the appropriate registrar of titles and the British Columbia Assessment Authority if the commission
- (a) includes and designates land under section 17 of the Act,
 - (b) grants permission for a non-farm use or a subdivision under section 25 of the Act, or
 - (c) excludes land or grants permission for a non-farm use or subdivision under section 29 or 30 of the Act.

Fees

- 33 (1) The prescribed application fees are as follows:
- (a) for permission under section 20 or 21 of the Act for a use or subdivision of agricultural land to which section 4 does not apply, \$600;
 - (b) for permission under section 29 or 30 of the Act for the exclusion of land from the reserve, \$600;
 - (c) for permission under section 34 (6) of the Act for applications filed directly with the commission, \$400.
- (2) The prescribed portion of the application fee that a local government may retain for the purposes of section 35 (1) of the Act is \$300 for an application
- (a) for exclusion under section 29 or 30 of the Act, or
 - (b) for use or subdivision under section 20 or 21 of the Act.
- (3) The prescribed times for the purposes of section 35 (1) (b) of the Act are at a time that occurs on or before March 31, June 30, September 30 and December 31 of each year.
- (4) The prescribed portion of an application fee that may be remitted by the commission to a local government for the purposes of section 35 (5) of the Act is \$200.

Mapping

- 34 (1) The agricultural land reserve boundary must be represented and maintained by the commission on land reserve plans using technology, standards and security procedures the commission considers appropriate.
- (2) The prescribed times for updating land reserve plans are at a time that occurs on or before January 31, April 30, July 31 and October 31 of each year.

Penalties

- 35 (1) Before the chief executive officer levies a penalty under section 54 of the Act, the chief executive officer must consider all of the following:
- (a) any contravention of a similar nature by the person;

- (b) the gravity and magnitude of the contravention;
 - (c) whether the contravention was deliberate, repeated or continuous;
 - (d) whether there was an economic benefit derived by the person from the contravention;
 - (e) the person's cooperativeness and efforts to correct the contravention;
 - (f) the degree to which the contravention detrimentally affected or impaired the agricultural capability of the land or its suitability for farming.
- (2) The penalty which the chief executive officer may levy is in the complete discretion of the chief executive officer, but must not exceed \$100 000 for any single contravention.
 - (3) The maximum penalty which the chief executive officer may levy for a second or subsequent contravention is double the amount of the penalty levied for the first contravention.
 - (4) If the chief executive officer levies a penalty against an owner of agricultural land under section 54 of the Act, the chief executive officer must give the owner a notice setting out all of the following:
 - (a) the nature of the contravention;
 - (b) the amount of the penalty;
 - (c) the date by which the penalty must be paid;
 - (d) a description of the owner's right to appeal the penalty.

Delivery of order under section 50, 52 or 54 of the Act

- 36 If the commission, chief executive officer or an official issues an order under section 50, 52 or 54 of the Act, the order must be delivered by registered mail or personal service.

Administrative appeals

- 37 (1) A person who is the subject of a determination, decision or order under section 50, 52, or 54 (1) of the Act may appeal the determination, decision or order by delivering to the commission a written notice of appeal in a form acceptable to the commission.
- (2) The notice of appeal under subsection (1) must include the grounds for the appeal and the relief requested and must be delivered to the commission not more than 60 days after the written determination, decision or order is personally served on the person.
 - (3) The commission may establish procedures for the conduct of appeals including rules for the eligibility of intervenors, the admission of evidence and the form and content of written submissions.
 - (4) The commission must hold a hearing to consider the appeal.
 - (5) The commission must make a decision promptly after the hearing and serve copies of the written decision on the parties and any intervenors.

Powers of commission, chief executive officer and designated official

- 38 Under this regulation, if the commission, chief executive officer or a designated official is empowered to establish a condition or requirement, the commission, chief executive

officer or designated official is also empowered to establish the manner and timing for carrying out the condition or requirement.

Delegation to authorities

- 39 The oil and gas commissioner appointed under the *Oil and Gas Commission Act* is prescribed as a public officer for the purposes of section 26 (1) (b) of the *Agricultural Land Commission Act*.



REGIONAL DISTRICT OF NANAIMO			
AUG 19 2002			
CHAIR		GMCrs	
CAO		GMDS	
GMCms		GMEs	

MEMORANDUM

TO: Kelly Daniels
Chief Administrative Officer

DATE:

August 15, 2002

FROM: Neil Connelly
General Manager, Community Services

FILE:

SUBJECT: RDN Public Consultation Process

PURPOSE

To receive and provide for a response to a letter from the Northwest Nanoose Residents Association (NNRA).

BACKGROUND

The Northwest Nanoose Residents Association has provided a letter to the Board that expresses "the view that the public consultation process currently used by the Regional District of Nanaimo (RDN) is inadequate for the purpose of formulating public opinion decisions." The submission that is attached outlines what "is necessary for effective public consultation and by example shows how the RDN has failed to meet these requirements in the planning for the ice arena project."

This report is intended to provide information and items for the Board's consideration in providing a response to the Association.

a) NNRA Submission

The submission reviews the RDN's Coordinated Public Consultation/Communication Framework policy, which was approved by the Board in October 2000. It outlines six key principles that any process for effective public consultation should be based on and examines the RDN's performance with respect to these principles. The principles from the Association's submission are outlined below, in summary form.

1. Inform, Not Persuade

The Association refers to the Guiding Principles in the RDN Public Consultation Process and contends that staff involved with the arena project "seemed to be active campaigners, rather than providing objective information to the public."

2. Public Consultation as an Integral Part of the Planning Process

The Association indicates that public consultation should start at the "early concept stage and continuing through to each step, culminating with a clear statement of the role of public opinion in the decisions made." They refer to the specific nature of the referendum questions as "limiting the public comment to only a part of the overall project planning process."

3. Provision of All Relevant Information

In this section, the Association speaks to the need in the arena project for the Regional District to have provided "more information, earlier in the process and including full costs and information of the disposition of the existing facility."

4. Open Discussion and Debate

The Association comments on the Regional District's efforts to provide for and stimulate discussion and debate and suggests the need for a pro-active approach in the selection of the most interactive and effective forum for public consultation.

5. Fair Assessment of Public Opinion

The Association refers to the challenges in measuring public opinion and suggests that the Regional District could have asked for public opinion on a range of facility sizes and costs.

6. Transparent Decision Process

Various questions and perspectives are offered by the Society on the disclosure of information related to the Board's decision-making process on the arena project.

The NNRA provides two recommendations for future major projects by the Regional District and offers their assistance in the further development of a sound RDN public consultation process. Recommendation No. 1 refers to the need to adhere to the six principles and No. 2 requests that the RDN review its existing Public Consultation policy.

b) Public Consultation / Communication Framework

The Board approved the policy in October 2000. It establishes a process to ensure a consistent, comprehensive and cost effective corporate approach to public consultation and communication initiatives. The Framework includes goals, guiding principles, implementation steps, public communication initiatives and a consultation plan format. Under Section 5, it indicates that "it is expected that all processes or projects that require input from the broader community will fall within this policy." The policy was generally followed by staff throughout the arena project process, although the compressed timeline between initial and final project decisions and the referendum date generated a more intensive period of consultation and communication activities at that stage of the overall project. In particular the following points are noted:

- The last stage of the public consultation process on the arena project concluded with the arena referendum but the overall project planning process spanned several years with various public consultation components. They included the 1995 Recreation Master Plan, the 1998 Recreation Facilities Plan and the work of a citizen based Arena Committee, in conjunction with the District 69 Recreation Commission between the Fall of 2000 and February 2002.
- Information pertaining to arena operating costs, the design and use of the proposed facility, and the fate of the existing arena was available in the period prior to the referendum and publicized as clearly as possible through a flyer than was distributed to every household in District 69, five open house meetings, newspaper articles, etc.

- Regional District staff were deliberately careful to provide objective information on the arena options and the arena proposal and questions that were taken to referendum. Staff had no role in information distributed by members of the District 69 Area Users Group and instructions were provided to the Group that the materials and efforts needed to be undertaken outside of the context of the five arena open house public information sessions that were conducted by the Regional District.

With the Association's submission and the experience gained by the Regional District in working with the policy on various planning projects over the last two years, the Board may wish to consider advancing a review of the policy. Given the November 2002 local government election date, consideration may be given for the Board to provide for a policy review in 2003. This could include a broader discussion on the new Board's position and approach to public consultation, with a view to consulting with the public and various Resident Associations and other stakeholder groups and updating the policy.

ALTERNATIVES

1. Receive the NNRA submission and provide for a Public Consultation Policy review in 2003.
2. Receive the NNRA submission.

FINANCIAL IMPLICATIONS

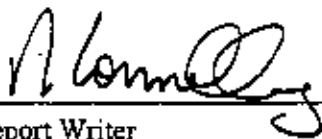
A policy review could be provided for in the 2003 work program and budget process. As it is anticipated that staff would undertake the policy review, direct costs would be limited to ancillary costs related to meeting with the public and various stakeholder groups in the updating of the policy.

SUMMARY

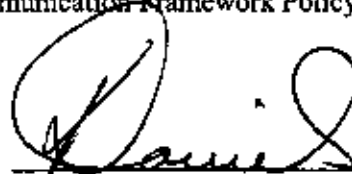
The Northwest Nanoose Residents Association, in a letter to the Board, expresses the "view that the public consultation process currently used by the Regional District is inadequate for the purpose of formulating public opinion decisions." The submission examines the Regional District's October 2000 Public Consultation/Communication Framework and planning for the arena project, outlines six principles and two recommendations and calls for a review of the Policy.

RECOMMENDATION

That the submission from the Northwest Nanoose Residents Association be received and that provision be made for a review of the Public Consultation / Communication Framework Policy in 2003.



Report Writer



CAO Concurrence

COMMENTS:



Northwest Nanoose Residents Association

P.O. Box 216 . Nanoose Bay, B.C. V9P 9J9

July 30, 2002

Regional District of Nanaimo Board
Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo, B.C.
V9T 6N2

REGIONAL DISTRICT OF NANAIMO			
AUG - 2 2002			
CHAIR	<input checked="" type="checkbox"/>	GMCRS	<input checked="" type="checkbox"/>
DAC	<input checked="" type="checkbox"/>	GMDS	<input type="checkbox"/>
GMCRS	<input checked="" type="checkbox"/>	GMES	<input type="checkbox"/>
<i>Final report recommendation for Aug Committee</i>			

Members of the Board;

Re: RDN Public Consultation Process.

The Directors of the Northwest Nanoose Residents Association are unanimous in their view that the public consultation process currently used by the Regional District of Nanaimo is inadequate for the purpose of formulating public opinion decisions.

The attached submission outlines what we feel is necessary for effective public consultation, and by example shows how the RDN has failed to meet these requirements in the planning for the ice arena project.

It is ironic that the RDN has a written policy for public consultation ("*Public Consultation/Communication Framework, Oct. 2000*") that was obviously not used for the arena project. This framework outlines generally favorable guidance for effective public consultation, and would have, if it had been implemented, successfully addressed many of the concerns identified in our submission. In addition, RDN's actions in pursuing public support for the project actually contravened some of the framework's provisions.

We wish to have RDN's assurance that similar failures do not occur in the future. We have outlined several recommendations, including the adoption of several principles for effective public consultation, and a review of the RDN's own consultation policy and its implementation mechanism as a means of ensuring that more acceptable public consultation procedures are followed in the future.

We are aware of the judicial review provisions that are available under Parts 24 and 29 of the BC Local Government Act to address this type of grievance, but before turning to this

Preserve ... the quiet, clean and peaceful atmosphere of our neighbourhood

PAGE
39

type of resolution, we would like to work with the RDN towards the drafting of more meaningful public consultation procedures, and criteria for their implementation.

Despite our criticism of the public consultation process used for the arena project, the NNRA enjoys a very positive association with the Regional District of Nanaimo in other areas. We cite as examples our work on domestic water supply, and sewer service planning, where RDN Environmental Services staff have participated in open discussion and debate, with full disclosure of information, and utilizing a transparent process for making decisions. In other words, staff have displayed those principles that we argue in our submission are essential for effective public consultation in community decision making.

We would like your earliest response to our concerns and recommendations.

Sincerely,

A handwritten signature in cursive script that reads "Ross Peterson". The signature is written in black ink and is positioned above the typed name.

Ross Peterson,
President

A REVIEW OF RDN PUBLIC CONSULTATION PROCEDURES

By: Northwest Nanoose Residents Association

July 30, 2002

The Directors of the Northwest Nanoose Residents Association (NNRA) are concerned about the process for public consultation used by RDN for major projects over the past year or so. We have witnessed disturbing inadequacies in RDN's procedures that have made it difficult to accept that informed decisions have always been the result. We quote from the RDN's "A Coordinated Public Consultation/Communication Framework (2000)" to illustrate RDN's intent in public consultation:

"The Regional District of Nanaimo is committed to on-going and meaningful public consultation. We recognize that not only do the people who live with the impacts of any of our plans, policies, programs or projects expect to share in the decision-making process but that better decisions are made through a shared approach."

The rather poor performance by RDN in public consultation, when compared to the admirable intention as stated above, makes it clear that a serious review of the policy and its implementation is in order.

We use the most recent RDN project and public consultation strategy, the arena project and referendum, as an example. We have assumed that the RDN policy for public consultation should have applied to the arena project (ref. 5, Implementing the Framework), and we have therefore referred to several statements in the framework document in this submission.

We strongly believe that any process for effective public consultation should be based on the following principles:

1. The purpose of public consultation is to inform, not persuade.
2. Effective public consultation requires that the program be an integral part of the project planning process.
3. Effective public consultation requires the provision of all relevant information to the public.
4. Effective public consultation requires forums for open discussion and debate.

5. Effective public consultation requires a fair and open assessment of public opinion.
6. Effective public consultation requires a transparent process for making decisions involving public opinion.

It is clear to us that the process used for the arena referendum failed to comply with the above principles and can best be described as a program for project promotion, and not assessment.

Let's look at the RDN performance with respect to these principles.

Inform, not Persuade.

The principle of informing, not persuading, was seriously compromised throughout the planning process. There should have been a clear distinction between the efforts of the elected officials, who because of their position can actively promote the project, and the staff who should only be providing objective information to the public.

Throughout the planning process it was apparent the RDN was pressing for public approval to the point where staff seemed to be active campaigners. Whether they were instructed to do so by the Board, we do not know, but it should not be their place to thwart open discussion by the public by appearing to be biased in favor of the project. Quite the reverse; staff should be encouraging open discussion. The mock ballot handed out to visitors at the open houses, urging visitors to vote yes (printed by the District 69 Arena Users Group), was an insult to a fair and open process. We wonder if RDN would have allowed a group opposed to the project to have distributed their literature at the open houses. This practice of handing out marked "yes" ballots was contrary to RDN's own Guiding Principles in its Public Consultation Process:

" 6. The integrity of the public involvement process must be protected from any group or individual that tries to dominate it. "

By condoning this practice, RDN has subverted its own policy for fair and objective public involvement.

Public Consultation as an Integral Part of the Planning Process.

To make the most effective use of public opinion, the public consultation process must be an integral part of the project planning process; starting at the early concept stage and continuing throughout each step, culminating with a clear statement of the role of public opinion in the decisions made. The public must be given an opportunity to express their views on the validity of the project itself, and not only on the project components, such as cost and location.

The RDN Policy on public consultation agrees with this partly, stating under its Guiding Principles that: *"Consultation will begin at the earliest stages of the policy, planning, program or project."*

In the case of the arena project, however, fundamental decisions were already made to proceed with the project at the Wembley site before the public consultation program began, and the public was asked only to vote on the money issue, and the partnership arrangement with R&G Properties. In other words, a decision was already made on behalf of the public that a new arena was needed or wanted in the first place, and that the Wembley site was the best place for it. In effect, the referendum only asked "given that you want a new arena, do you wish to spend \$8.12M for a facility at Wembley in partnership with R&G Properties?" In our view, with something as important and expensive as a new arena, the public should have been asked to ratify the decision that a new arena was needed and wanted first, before dealing with the questions of cost and location.

We are concerned that this preemptive decision has corrupted a meaningful public consultation process, by limiting the public comment to only a part of the overall project planning process.

Provision of All Relevant Information.

In any democratic society, the public must be effectively involved in major decisions that affect the well being of the community. This agrees with the statement made by RDN in its Coordinated Public Consultation document, as quoted on page 1 of this submission. This is particularly important when a public referendum has been chosen as a means of making a decision on a major project. It should then be the duty of government to ensure effective involvement of the public by releasing all relevant information so that the public can develop an informed opinion, based on all the facts.

For the arena project (even in terms of addressing the limited scope of cost and location) the public should have been given more information, earlier in the process, and including full costs and information of the disposition of the existing facility.

Full project costs should have included total capital and debt servicing costs, operating costs of the proposed facility, and ongoing operating and maintenance costs of the existing arena should new tenant arrangements not be secured by the time of the opening of the new facility. To highlight this issue, the over \$18M total capital cost with debt servicing should have been disclosed, along with the \$8.12M construction costs. Also, operating costs of the proposed facility were not revealed until the open house; too late in our opinion, and should have been a part of an earlier solicitation of public opinion on the validity of the project itself.

There were inconsistencies in the data provided at the open house. For example, under "Multiplex Amenities" and "The Process" RDN identifies spectator seating of 800 with

room for 200 additional seats. We assume the capital budget reflects the initial 800-seat configuration. But under "Programming and Usage", RDN states "with a seating capacity of 1,000 the Multiplex will present a viable location for entertainment and show tour promoters". This infers that these uses are viable *only* with the 1,000-seat configuration. Therefore, selling the arena project to the public at a cost not including the extra seating to make it viable, is not only misleading but is a breach of public trust.

We are also troubled by the lack of information regarding the fate of the existing arena. In our view, proceeding with a large capital project to replace an existing facility without a determination of the future of the existing facility, is financial folly. This is analogous to purchasing a new home without first selling the old one. The average citizen cannot afford to do this, yet RDN seems content to gamble (with our money) that some future decision or arrangement will be made that will absolve us from paying the operational and maintenance costs for two facilities.

The RDN brochure cites a "letter of intent" from the Parksville Curling Society, and states: "*It is expected that the facility could be maintained for public use... at no cost to the taxpayer*". These comments provide no commitments and no surety that there will, in fact, be no ongoing costs to the taxpayer. Perhaps the project cost should also include the cost of mothballing the existing arena, or demolishing it should no long term tenant be found.

Clearly, the fate of the existing arena should have been determined before the referendum was held, and should have been a part of the overall question: "Do we want a replacement facility?". The potential cost to the taxpayer of operating two facilities (or perhaps abandoning one) should have been part of a complete information package given to the public much earlier in the process.

The use of the proposed facility should have been better identified. Little information has been given to the public on the expected or confirmed use of the proposed facility to justify its construction. The philosophy of "build it and they will come" may have been appropriate for the novel Field of Dreams, but in this case, it represents a significant gamble of taxpayers' money against some shaky projections of economic spin-off benefits. For instance, the RDN brochure suggests major hockey tournaments, provincial and national level figure skating competitions, and large trade shows and concerts. It seems that these are only projections; not verified by commitments, or even contacts with organizers of these events. In fact, authors of newspaper articles opposing the arena project have suggested that non-ice use of the proposed facility may be limited because of the small population base of the area. If this is true, then the RDN has overestimated the usage of the proposed facility, and thus puts the viability of the configuration of the Multiplex on shaky ground.

The design of the proposed facility should have been sufficiently advanced in order to enable reliable costs to be given to the public. Only an artist's rendering of the proposed facility has been released to the public, and the taxpayer is left to guess the final composition and layout. Significantly, the public, like the RDN itself, will be guessing

the final cost, as it is unreasonable to assume that the final cost can be determined until a more final design has been developed. One of two outcomes will result from this. One, final cost will be adjusted according to the more detailed design; or two, an upside or ceiling budget may require the downscaling or elimination of some features if the stated costs cannot support the final design.

Given the cost uncertainty with only an artist's rendering, RDN should clarify its position that \$8.12M will be a maximum construction cost. For example, what would happen should the final cost be *under* the \$8.12M amount? We would like RDN's confirmation that the savings from such an eventuality would accrue to the taxpayer; in other words, the project would be built for less, and that no extras would be added to build up to the \$8.12M amount.

Regardless of what the final design will show, the public at the time of the referendum did not know what it would be getting for its money; a vary serious information deficiency.

Open Discussion and Debate.

The assurance of open discussion and debate must be through conscious actions by RDN; as they will not take place unprompted. An appropriate course of action by RDN would have been to stimulate discussion and debate through selection of the most appropriate forum.

If the intentions of RDN were (and should have been, in our view) to inform the most people in the most effective way, public meetings other than, or in addition to, the open houses should have been held. Experience shows that in this area, open houses do not draw well. More importantly, the open house forum does not promote useful dialogue and debate. In our view, after witnessing the very low attendance for the first one or two open houses for the arena project, RDN should have changed its strategy and called for public meetings. In other words, RDN should have been more pro-active in seeking and stimulating a more open discussion and debate. The apparent RDN view was that an absence of attendees at the open houses meant a lack of interest or concern; and therefore, nothing else need be attempted. Again, in our view, RDN is obliged not only to listen to public opinion, but also to stimulate discussion and debate in order to fulfill the requirement for an informed public opinion.

The need to actively solicit the views of the public is echoed by RDN's own Public Consultation Policy statement:

"If we design public involvement approaches that capture only the voice of citizen activists, then to some extent we are biasing the results to views espoused by only a few. The evolving challenge is to find tools and techniques that define the "community voice" and meet the need of the broader public".

This statement speaks loudly to the need for a pro-active approach in the selection of the most interactive and effective forum for public consultation. RDN's choice of the open houses and the distribution of the brochure were clearly inadequate in stimulating the kind of response needed for a project as important as the arena project.

Fair Assessment of Public Opinion.

Following the provision of all relevant information to the public and facilitating an open discussion and debate on that information, RDN should, as part of an effective public consultation program, utilize a disclosed method of measuring the broad public opinion on the project, before subjecting the project to a referendum process.

Again, the RDN Public Consultation policy states: "*The evolving challenge is to find tools and techniques that define the "community voice" and meet the need of the broader public*". We acknowledge that the actual measurement of public opinion can be challenging. Often the public attitude towards a project is complex, and that any measure of it must take into consideration that there will likely be a broad range of opinions. For example, public acceptance of a new arena facility would be expected to be highly influenced by cost, and the individual determination of what is an acceptable cost would be expected to vary throughout the community. Those whose families would be heavy users of the facility, and perhaps the wealthier in the community might accept a higher cost for the facility, whereas those who would not anticipate using the facility, and perhaps the less affluent in the community would be expected to reject a higher cost facility but perhaps accept one at a lower cost. Since everyone, regardless of intended use of the facility and income will be expected to pay for the facility, it is reasonable to expect that a more thorough examination of the range of willingness to pay should have been undertaken.

Perhaps the fairest way to gauge public opinion would be to ask for public opinion on a range of facility sizes and costs. This would have meant RDN asking for several options and costs in its request for proposals. These could have formed the basis for soliciting public opinion of and choice for the desired and affordable option. This approach would have assisted RDN in defining the true "*community voice and meet the need of the broader public*".

Transparent Decision Process.

The process of using public opinion for important policy or project decisions must be transparent so that all may judge whether the decision was fairly made, and on what basis. There may be disagreement on the actual decisions themselves, but there should be

no ambiguity as to what the public opinion was and how it was used. The RDN Policy on Public Consultation states under its Guiding Principles:

"We shall inform the public on how their input has been utilized and how they will be affected by the decisions in a timely manner."

In the case of the arena project, only the referendum results have been disclosed, along with the expected costs to the taxpayer.

There were other decisions made during the planning process that did not benefit from public opinion. For example, there was no obvious public input into the analysis of competing bids and the ultimate choice made. We acknowledge that there were various unsolicited submissions made by the public to RDN Board (and perhaps staff as well) but these cannot be considered as part of an organized public consultation process. There was no open discussion or debate on these views and opinions, no disclosure by RDN of the number or content of the comments; and therefore no transparency in the way these comments may have influenced RDN decisions. While RDN may argue that these assessments of and decisions on competitive bids are not the business of the public, we suggest that there were several significant decisions and changes in direction in the arena planning (before the referendum) that were not explained to the public and that therefore eroded the public confidence in the decisions made. We suggest that a public disclosure of the process and the changes in direction may have forestalled some of the public cynicism that has grown for the RDN process.

We refer specifically to the treatment of the initial bids and the unexplained dismissal of the private capital bids, and the apparent sudden adoption of the Wembley/RG Properties proposal. Several letters were printed in newspapers questioning these decisions, but no comprehensive answers were given by RDN outside of those offered in the RDN brochure under "Why not expand the existing arena?" These answers are very limiting and do not adequately address the issues of private capital involvement and choice of the Wembley site. It may be that there are difficulties in expanding the existing arena, but it is a cosmic leap to the decision to build 2 1/2 ice surfaces at Wembley. There has been more not said in this great leap than has been released by RDN to the public; not the least of which are any arguments to justify the extra \$2M for the Wembley proposal.

Is this the public's business? We think so, and the competitive bid analysis and decision process should have been subjected to an enlightened public consultation process.

The transparency of the public consultation process would also have been enhanced by the disclosure to the public of a "Public Consultation Strategic Plan". The RDN Policy states that such a plan is "...to be completed for each process", including, in our view, the arena project. NNRA believes that the strategic plan for public consultation should be developed openly (particularly for major projects such as the arena project), perhaps through collaborative meetings with the interested public or public groups.

RECOMMENDATIONS.

While it is too late to change the ineffective public consultation process used for the arena project (but not, we feel, necessarily the outcome), the NNRA offers the following recommendations for future RDN major projects

1. RDN should adhere to the following principles in its public consultations:
 - Inform, not persuade,
 - Ensure public consultation is an integral part of project planning,
 - Provide all relevant information to the public,
 - Provide a forum for open discussion and debate,
 - Ensure fair and open assessment of public opinion,
 - Ensure a transparent decision process.

2. As some of the above principles are already included in RDN's Public Consultation Framework document, we recommend that RDN review its existing policy with a view to adding/reinforcing the above principles, and addressing the mechanics and criteria for the procedure's implementation.

We offer our ongoing assistance to RDN in its further development of a sound public consultation process, with a view to ensuring that substantial improvements are made to this critical part of project planning.

We have examined the appeal and review procedures provided by the B.C. Local Government Act that would address our grievances. For the arena project, this could include an appeal through Part 29 (Inquiries into Local Government Matters, through the Inspector of Municipalities) citing improper procedures for the arena referendum; as well as Part 24 (Establishing Bylaws) where we could argue that the RDN used and disclosed insufficient information upon which to base its Loan Authorization Bylaw and Partnering Agreement Bylaw. While we would not favor this type of resolution to what we feel are serious inadequacies in the current RDN programs for public consultation, we would be obliged to turn to such mechanisms should we not be assured that more open and fair practices are both developed and employed in future public consultations.



REGIONAL DISTRICT OF NANAIMO	
AUG 19 2002	
CHAIR	GMCrs
CAO	GMDS
GMCMS	SMES
DATE: <i>CPD</i>	
FILE:	

MEMORANDUM

TO: K. Daniels
Chief Administrative Officer

FROM: C. Mason
General Manager, Corporate Services

SUBJECT: Revised Voting Structure – 2001 Census Figures

August 13, 2002

PURPOSE:

To advise the Board of the revised voting structure which has changed as a result of the 2001 Canada Census figures for the participating municipalities and electoral areas.

BACKGROUND:

On August 8, 2002 a fax was received from Dale Wall, Assistant Deputy Minister, Community, Aboriginal and Women's Services, advising that as a result of the new population figures, the Board voting structure is being amended effective September 1, 2002. In accordance with Section 783 of the *Local Government Act* and the District's letters patent with respect to voting structure, the revised voting structure is as follows:

<i>Jurisdiction: (Voting Unit: 2,500 population)</i>	<i>Population 1996 Census</i>	<i>Population 2001 Census</i>	<i>Number of Directors</i>	<i>1996 Voting Strength</i>	<i>2001 Voting Strength</i>
Nanaimo	70,130	73,000	6	29	30
Parksville	9,472	10,323	1	4	5
Qualicum Beach	6,728	6,928	1	3	3
<i>Electoral Areas:</i>					
A	6,155	6,634	1	3	3
B	3,479	3,515	1	2	2
C	1,499	1,167	1	1	1
D	4,907	4,863	1	2	2
E	4,677	4,820	1	2	2
F	5,288	5,546	1	3	3
G	6,429	7,041	1	3	3
H	3,019	3,179	1	2	2
<i>Totals:</i>	121,783	127,016	16	54	56

Census figures include the following:

- population figures include people residing on Indian Reserves; and
- population figures are based on 2001 Census figures adjusted to reconcile electoral area and Census boundaries

The main change to the District's voting structure is the increase of one vote each for the City of Nanaimo and the City of Parksville on weighted vote issues.

FINANCIAL IMPLICATIONS:

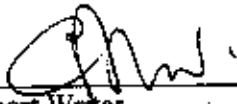
There are no financial implications impacted by the new voting structure. It is based on the current formula as specified in the Regional District letters patent.

SUMMARY:

As a result of the 2001 population census figures, the voting structure for the Regional Board has been amended. The new structure takes effect on September 1, 2002.

RECOMMENDATION:

That the report on the revised voting structure based on the 2001 Census Figures, be received for information.



Report Writer



C.A.O. Concurrence



August 8, 2002

Carol Mason
Corporate Administrator
Regional District of Nanaimo
Fax: 2 pages 250 390-4163

Dear Corporate Administrator:

Section 783 of the *Local Government Act* establishes that the voting rights for municipalities and electoral areas on regional district boards is based on population.

The Minister of Community, Aboriginal and Women's Services has recently certified population figures based on the 2001 Canada Census for the purpose of establishing regional district voting rights. These are effective September 1, 2002.

Please note the following:

- population figures include people residing on Indian Reserves; and
- population figures are based on 2001 Census figures adjusted to reconcile electoral area and Census boundaries.

These certified population figures are only used to determine voting rights and the number of directors for regional district boards.

Attached is a copy of the certified population figures for your regional district. For questions or comments, please email structure@hq.marh.gov.bc or call 250-387-4054.

Yours truly,

Dale Wall
Dale Wall
Assistant Deputy Minister

Attachment

Regional District of Nanaimo
 (Incorporated August 24, 1967)
 Voting Unit: 2,500 population



Cities:			
Nanaimo	73,000	6	30
Parksville	10,323	1	5
Town: Qualicum Beach	6,928 ²	1	3
Electoral Areas:			
A	6,634 ¹	1	3
B	3,515	1	2
C	1,167 ¹	1	1
D	4,863 ¹	1	2
E	4,820	1	2
F	5,546	1	3
G	7,041 ²	1	3
H	3,179 ¹	1	2
Totals:	127,016	16	56

Populations certified by the Minister of Community, Aboriginal and Women's Services under section 783(3) of the Local Government Act.
 Effective September 1, 2002.

These population figures are to be used only in the determination of voting strength and Director representation.

1. Population includes people residing on Indian Reserves.
2. Includes boundary extensions to December 31, 2001.



REGIONAL DISTRICT OF NANAIMO	
AUG 19 2002	
CHAIR	GMCrS
CAO	GMDS
GMCmS	GMES
DATE: August 20, 2002	
FILE:	

MEMORANDUM

TO: K. Daniels
Chief Administrative Officer

FROM: C. Mason
General Manager, Corporate Services

SUBJECT: Vancouver Island Regional Library Weighted Vote Formula

PURPOSE:

To consider a recommendation put forward by the Vancouver Island Regional Library (VIRL) to change the weighted vote formula on VIRL resolutions.

BACKGROUND:

A request was sent to the Regional District by the Vancouver Island Regional Library asking that the Board consider supporting a new Weighted Vote formula which would give each member of VIRL 1 weighted vote plus 1 additional vote for each ¼ percent of total VIRL tax contributions after the first ¼ percent. Currently, the VIRL Weighted Vote formula is based solely on population. Each jurisdiction has one vote plus an additional vote for each 1000 people after the first 1000 of population.

The VIRL assessment formula is based on 50% population and 50% assessment values. To address concerns of some VIRL jurisdictions that taxation is based on population and assessment but that voting is based entirely on population, the VIRL Board is proposing to change the voting formula to recognize assessment on weighted vote issues. Weighted votes are used for financial matters, including approval of the annual budget.

The Library Act permits the Board to amend the Weighted Vote formula if 2/3 or more of the member jurisdictions support the change. We have been advised that the City of Nanaimo, City of Parksville and Town of Qualicum Beach have all supported the resolution put forward by VIRL. The proposed change to the weighted vote calculation will increase the Regional District of Nanaimo vote from 40 votes to 42 votes. Only Electoral Areas participate in this function within the Regional District.

ALTERNATIVES:

1. Support the resolution put forward by the VIRL to change the weighted vote formula.
2. Do not support the resolution.

PAGE
1/2

FINANCIAL IMPLICATIONS:

The change to the weighted vote formula will result in the RDN representative on the VIRL Board having an additional two votes on financial matters, including consideration of the VIRL annual budget.

CONCLUSIONS:

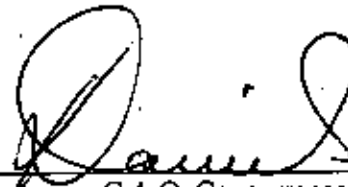
A request was sent by VIRL asking the Regional District to consider an amendment to the Weighted Vote formula. The amendment will result in an increase of 2 votes for the Regional District's representative on the VIRL Board and is considered to address current inequities in the weighted vote formula. The following resolution is put forward for consideration.

RECOMMENDATION:

That the Regional District of Nanaimo advise the VIRL that it supports the new Weighted Vote formula in which each member jurisdiction receives 1 weighted vote plus 1 additional vote for each ¼ percent of total VIRL tax contributions after the first ¼ percent. Where the formula results in a fraction of a vote, normal rounding will apply.



Report Writer



C.A.O. Concurrence



**VANCOUVER ISLAND
REGIONAL LIBRARY**

CENTRAL SERVICES, Box 3333, Nanaimo BC, Canada V9R 5N3
Deliveries: 6250 Hammond Bay Road, Nanaimo. Phone: (250) 758-4697 Fax: (250) 758-2482 Email: info@virl.bc.ca

July 5, 2002

Chair George Holme
Nanaimo Regional District
6300 Hammond Bay Road
Nanaimo, B.C. V9T 6N2

Dear Chair Holme,

At the June 15, 2002 meeting, the Vancouver Island Regional Library Board recommended a change to its Weighted Vote by passing the following motions:

VIRL BR 02061:8 "THAT the Board approve a new Weighted Vote formula in which each member jurisdiction receives 1 weighted vote plus 1 additional vote for each ¼ percent of total VIRL tax contributions after the first ¼ percent. Where the formula results in a fraction of a vote, normal rounding will apply."

VIRL BR 02061:9 "THAT staff send a letter to all member jurisdictions requesting that they approve the new formula in such a timely manner that it can be used to approve the 2003 budget."

The VIRL Board is sensitive to concerns related to the Assessment Formula, and believes that changing the Formula for the Weighted Vote so that it is based on the Assessment Formula would be appropriate. As will be noted on the attached spreadsheet, the changes are fairly minor.

According to the Library Act Section 23 (2), for the Regional Library to change the Weighted Vote Formula, 2/3 of the member municipalities and regional districts must approve the change.

Please let the VIRL Board know what your decision is by completing the enclosed ballot and faxing it to Central Services in Nanaimo at 250-758-2482 by September 13, 2002.

Sincerely,

Penny Grant

Penny Grant
Executive Director

Enclosures: 1 spreadsheet, 1 ballot

REGIONAL DISTRICT OF NANAIMO			
JUL - 8 2002			
CHAIR	<input checked="" type="checkbox"/>	GMCrS	<input checked="" type="checkbox"/>
CAO	<input checked="" type="checkbox"/>	GMDS	<input type="checkbox"/>
GMCmS	<input type="checkbox"/>	GMES	<input type="checkbox"/>
<i>Carol - request re-confirmation for Aug. cont.</i>			

BT

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35

Effect of Proposed Weighted Vote Re: 2002 Assessments

Jurisdiction	2002 Assessment	Proposed Votes	Current Votes	Difference from current
Campbell River	890,195	30	31	-1
Comox	297,350	10	12	-2
Courtenay	542,142	19	19	0
Cumberland	62,584	2	2	0
Duncan	136,457	5	4	1
Gold River	41,066	1	1	0
Ladysmith	175,905	6	6	0
Lake Cowichan	72,250	3	3	0
Masset	25,745	1	1	0
Nanaimo	2,120,027	73	76	-3
North Cowichan	781,079	27	27	0
North Saanich	403,527	14	10	4
Parksville	319,425	11	10	1
Port Alberni	483,789	17	19	-2
Port Alice	40,655	1	1	0
Port Clements	12,144	1	1	0
Port Hardy	119,189	4	5	-1
Port McNeill	73,088	3	3	0
Qualicum Beach	227,585	8	7	1
Sayward	11,579	1	1	0
Sidney	373,431	13	11	2
Sooke	244,544	8	9	-1
Tahsis	24,211	1	1	0
Tofino	75,399	3	1	2
Ucluelet	52,664	2	1	1
Zeballos	6,248	1	1	0
Alberni-Clayoquot	290,316	10	10	0
Capital	162,545	6	3	3
Central Coast	52,726	2	4	-2
Comox-Strathcona	1,120,564	38	35	3
Cowichan Valley	1,040,593	36	34	2
Mount Waddington	114,125	4	4	0
Nanaimo	1,218,688	42	40	2
Powell river	16,157	1	1	0
Skeena-Queen Charlotte	71,910	3	4	-1
	11,699,902	407	398	9

Nanaimo Regional District

Ballot

The Nanaimo Regional District approves a new Weighted Vote formula in which each member jurisdiction receives 1 weighted vote plus 1 additional vote for each $\frac{1}{4}$ percent of total VIRL tax contributions after the first $\frac{1}{4}$ percent. Where the formula results in a fraction of a vote, normal rounding will apply.

Yes _____

No _____

Please return the ballot by fax to 250 758 2482 by September 13, 2002.

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REGIONAL DISTRICT OF NANAIMO			
AUG 20 2002			
CHAIR		GMCrS	
CAO		GMDS	
GMCmS		GMES	
<i>[Handwritten initials]</i>			
TO:		DATE:	

MEMORANDUM

TO: K. Daniels
Chief Administrative Officer

August 20, 2002

FROM: C. Mason
General Manager, Corporate Services

FILE:

SUBJECT: Port Theatre Funding Request Bylaws

PURPOSE:

To consider proceeding to referendum on Bylaws 1318, 1319, 1320, 1321, and 1322 which propose to establish ongoing financial contributions to the Port Theatre for Electoral Areas A, B, C, D and E.

BACKGROUND:

In June 1996 the Board approved proceeding to referendum in Electoral Areas A, B, C, D and E to determine if electors in those areas wished to provide financial support for the operation of the Port Theatre. Individual bylaws were created for each area with contribution amounts established based on an assessment rate of \$2.90 per \$100,000. An annual fixed dollar amount was calculated for each electoral area based upon this rate and bylaws were prepared which provided an overall contribution of \$69,105. Individual referendums were held in November 1996 and were supported in all five Electoral Areas.

In the original establishing bylaws, funding for the Port Theatre was fixed for a five year term ending with the last contribution in 2001. Electoral Area Directors agreed to extend the funding for one additional year in 2002 but directed that referendums be undertaken in November of 2002 to determine whether their communities wished to continue their support of the Port Theatre. At the June 11, 2002 Board meeting, the following resolution was endorsed:

That staff be directed to prepare individual "Port Theatre Local Service Area" establishing bylaws for Electoral Areas A – E based upon a requisition rate of \$2.90 per \$100,000 of assessment for consideration at the September Board meeting and referendum in November 2002.

Staff have prepared individual bylaws and referendum questions for Electoral Areas A, B, C, D and E proposing to establish ongoing funding for the Port Theatre. If these bylaws receive first three readings, they will be advanced to referendum on November 16, 2002 to obtain elector assent.

ALTERNATIVES:

1. Give first three readings to the Port Theatre Establishing Bylaws for Electoral Areas A, B, C, D and E, and proceed to referendum on November 16, 2002 to obtain elector assent.

2. Provide alternate direction to staff.

FINANCIAL IMPLICATIONS:

Five bylaws have been prepared which set an annual contribution based on a fixed amount. The fixed amount has been determined by calculating the contribution for each area assuming a rate of \$2.90 per \$100,000 of assessment. This is the same rate that was originally used in 1996 when the bylaws went to referendum. The following table illustrates the proposed contribution from each Electoral Area.

Participant	1996-2002 Annual Contribution	Proposed Annual Contribution
Electoral Area A	\$12,640	\$13,900
Electoral Area B	\$14,215	\$13,915
Electoral Area C	\$11,590	\$13,820
Electoral Area D	\$11,555	\$12,440
Electoral Area E	\$19,105	\$19,950
Total Contribution	\$69,105	\$74,025

Funds have already been allocated in the 2002 budget to undertake the Port Theatre referendums.

CONCLUSIONS:

Based upon the direction of the Board at the June Board meeting, establishing bylaws have been prepared for consideration. In order to meet a timeline which coincides with the November 16, 2002 Local Government Elections, the bylaws must receive three readings and be forwarded to the Province for approval prior to proceeding to referendum.

RECOMMENDATIONS:

1. That the Regional District of Nanaimo proceed to referendum on November 16, 2002, to obtain the assent of electors in Electoral Areas A, B, C, D and E to establish individual Port Theatre Contribution Local Service Areas and that the referendum questions be as follows:
 - i. Are you in favour of the "Electoral Area 'A' Port Theatre Contribution Local Service Area Bylaw No. 1318" which, if enacted, would establish an annual contribution of \$13,900 to contribute towards the operation of the Port Theatre?
 - ii. Are you in favour of the "Electoral Area 'B' Port Theatre Contribution Local Service Area Bylaw No. 1319" which, if enacted, would establish an annual contribution of \$13,915 to contribute towards the operation of the Port Theatre?
 - iii. Are you in favour of the "Electoral Area 'C' Port Theatre Contribution Local Service Area Bylaw No. 1320" which, if enacted, would establish an annual contribution of \$13,820 to contribute towards the operation of the Port Theatre?

- iv. Are you in favour of the "Electoral Area 'D' Port Theatre Contribution Local Service Area Bylaw No. 1321" which, if enacted, would establish an annual contribution of \$12,440 to contribute towards the operation of the Port Theatre?
 - v. Are you in favour of the "Electoral Area 'E' Port Theatre Contribution Local Service Area Bylaw No. 1322" which, if enacted, would establish an annual contribution of \$19,950 to contribute towards the operation of the Port Theatre?
2. That the "Electoral Area A Port Theatre Contribution Local Service Area Bylaw No. 1318" be introduced, read three times and forwarded to the Inspector of Municipalities for approval.
 3. That the "Electoral Area B Port Theatre Contribution Local Service Area Bylaw No. 1319" be introduced, read three times and forwarded to the Inspector of Municipalities for approval.
 4. That the "Electoral Area C Port Theatre Contribution Local Service Area Bylaw No. 1320" be introduced, read three times and forwarded to the Inspector of Municipalities for approval.
 5. That the "Electoral Area D Port Theatre Contribution Local Service Area Bylaw No. 1321" be introduced, read three times and forwarded to the Inspector of Municipalities for approval.
 6. That the "Electoral Area E Port Theatre Contribution Local Service Area Bylaw No. 1322" be introduced, read three times and forwarded to the Inspector of Municipalities for approval.



Report Writer



C.A.O. Concurrence



REGIONAL DISTRICT OF NANAIMO		
AUG 19 2002		
CHAIR		GMCrS
CAO		GMDS
GMCms		GMES
		DATE
		FILE

MEMORANDUM

TO: N. Avery
 Manager of Financial Services

FROM: W. Thexton
 Senior Accountant

SUBJECT: Audit Services Contract

August 7, 2002

PURPOSE

To obtain Board approval for awarding a five-year contract for audit services.

BACKGROUND

In 1997 the Regional District of Nanaimo entered into a three-year agreement with the audit firm of McGorman MacLean to provide an audit opinion on the Regional District's annual consolidated financial statements. This agreement was extended for two additional years and ended effective the completion of the 2001 financial statement audit. Staff have been entirely satisfied with the cost and quality of the audit services provided by McGorman MacLean.

A request for proposals for external audit services was issued June 28, 2002. The Regional District received proposals from the following firms:

1. Bestwick & Partners, Nanaimo
2. Church Pickard & Co., Nanaimo
3. Huxman & Co, Comox
4. McGorman MacLean, Parksville
5. KPMG, Victoria

The proposals were evaluated against the following criteria:

1. Understanding of the engagement,
2. Municipal audit experience,
3. Personnel qualifications and experience,
4. Audit methodology,
5. Additional services
6. Audit fee

The results of this evaluation were:

	Score	First Year Fee	Five year Fee Estimate
1. Bestwick & Partners	88.0	\$19,800	\$102,620
2. McGorman MacLean	80.0	\$23,900	\$124,500
3. Huxman & Co	77.7	\$27,000	\$118,600
4. KPMG	73.5	\$28,000	\$145,000
5. Church Pickard & Co	68.0	\$26,000	\$133,160

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While certain firms outlined some alternative and slightly more innovative approaches to performing the audit, staff conclude that all proponents are capable of performing the services outlined in the request for proposal. On the basis of the evaluation and pricing criteria the firm of Bestwick & Partners is the successful proponent.


SUMMARY/CONCLUSIONS


A request for proposals for external financial audit services for a five year period resulted in the receipt of five proposals from qualified audit firms. The firm of Bestwick & Partners achieved the best overall score and submitted the lowest fee.

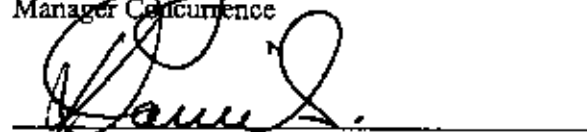
RECOMMENDATION

1. That the Board appoint the firm of Bestwick & Partners and authorize the Chairperson and General Manager Corporate Services to enter into a five-year agreement for the provision of external financial audit services commencing with the year 2002 audit.
2. That a letter of appreciation be sent to the firm of McGorman MacLean for their past services.


Report Writer


General Manager Concurrence


Manager Concurrence


C.A.O. Concurrence

COMMENTS:



AUG 19 2002

CHAIR		GMCrS	
CAO		GMDS	
GMCmS		GMES	

MEMORANDUM

TO: C. Mason
General Manager, Corporate Services

DATE: August 12, 2002

FROM: N. Avery
Manager, Financial Services

FILE:

SUBJECT: Amendment to Fees and Charges Bylaw No. 944

PURPOSE:

To introduce for adoption an amendment to add new cost recovery charges for certain property information.

BACKGROUND:

Bylaw 944 sets out the fees which may be charged when a document which may be inspected by the public is made available on request. Additionally, Bylaw 944 sets out miscellaneous fees which may be collected to cover the costs of providing other documents – for example, photocopies of documents not normally produced in a bound form.

Local governments also provide considerable property related information for the purpose of conveying property from one owner to another. Staff, by this bylaw amendment, are introducing fees for providing utility customer account information to conveyancing lawyers and title search companies. The fees will be charged when a written certification is requested. Property owners seeking information about their own property will not be charged for the service.

The fees included in this amendment are lower than, but similar to other municipal jurisdictions, the reason being that municipalities also provide property tax information whereas the Regional District only provides utility customer account information. Fees will be charged on a sliding scale – in person pickups will be charged \$8.50, e-mail responses \$10.00 and faxed or mailed requests \$12.00. The fees will generate revenues from an activity which now occupies about 25 - 30% of a full time equivalent staff member.

ALTERNATIVES:

1. Approve the fees and adopt the amended bylaw.
2. Do not approve the fees.

FINANCIAL IMPLICATIONS:

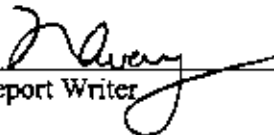
Staff estimate that between 30 – 50 properties are conveyed monthly. Assuming that 50% of the inquiries are responded to in writing, about \$1,800 - \$2,200 may be generated annually. The fees will be phased in commencing September 15th, after the adoption of this bylaw amendment.

SUMMARY/CONCLUSIONS:


Staff are introducing cost recovery charges for providing written certification of customer user fee account information, a practice which is common in other jurisdictions. Most of this information is provided to assist with transferring ownership of properties.

RECOMMENDATION:

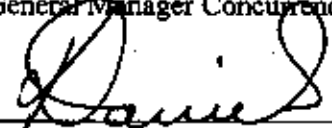
1. That "Regional District of Nanaimo Fees and Charges Amendment Bylaw No. 944.03, 2002" be introduced for three readings.
2. That "Regional District of Nanaimo Fees and Charges Amendment Bylaw No. 944.03, 2002" having received three readings be adopted.



Report Writer



General Manager Concurrence



C.A.O. Concurrence

COMMENTS:

REGIONAL DISTRICT OF NANAIMO

BYLAW NO. 944.03

**A BYLAW TO AMEND REGIONAL DISTRICT
OF NANAIMO FEES AND CHARGES
BYLAW NO. 944**

WHEREAS "Regional District of Nanaimo Fees and Charges Bylaw No. 944, 1994" established fees and charges for the provision of information;

AND WHEREAS fees are proposed with respect to the provision of certain property related information;

NOW THEREFORE, the Board of the Regional District of Nanaimo in open meeting assembled, enacts as follows:

1. Schedule 'A' is hereby repealed and replaced by the attached.
2. This bylaw may be cited as "Regional District of Nanaimo Fees and Charges Amendment Bylaw No. 944.03, 2002".

Introduced and read three times this 10th day of September, 2002.

Adopted this 10th day of September, 2002.

CHAIRPERSON

GENERAL MANAGER, CORPORATE SERVICES

PAGE
45

Chairperson

General Manager, Corporate Services

SCHEDULE 'A'

ADMINISTRATION

Local Government Act Section	Description		Fee
62 (8)	List of Electors (Provided only to persons nominated in accordance with Section 73 of the <i>Local Government Act</i> for additional copies over and above one copy provided free of charge pursuant to Section 62 (8) of the <i>Local Government Act</i> .)	\$.50	per page to maximum of \$25.00 per copy.
797.2	Minutes	\$.25	per page.
797.2	Bylaws - General	\$.25	per page.
797.2	Bylaws - Land Use and Subdivision Bylaw No. 500 - Text Only.	\$ 25.00 \$ 12.50	Bound Version. Photocopied Version.
	Other:		
	Miscellaneous Photocopying	\$.25	per page.
	Full Copy of Agendas:	\$100.00 \$ 5.00	Annual Charge per Agenda
	Statement of Utility User Fees	\$ 8.50 \$ 10.00 \$ 12.00	Counter pickup E-mail Fax/mail



REGIONAL DISTRICT OF NANAIMO	
AUG 22 2002	
CHAIR	GMCrS
CAO	GMDS
GMCmS	GMES
<i>Cow Aguada</i> ✓	

MEMORANDUM

TO: John Finnie
General Manager Environmental Services

DATE: August 19, 2002

FROM: Sean De Pol
Engineering Technologist

FILE: 5340-05

SUBJECT: Liquid Waste Management
Malaspina University-College GNPCC Biosolids Composting

PURPOSE

To report on the tendering process for the Greater Nanaimo Pollution Control Centre biosolids composting contract and on any environmental concerns that relate to this contract.

BACKGROUND

In February 2001 the Board directed that RDN dispose of biosolids on a temporary basis in a landfill or composting facility. Accordingly, a Request for Quotes (RFQ) was released July 2001. Five bids were received. Four of them did not meet the requirement in the RFQ of having Ministry approval. The one bid that did meet this requirement included a condition on receiving the yard waste contract that was put out to tender at the same time. Therefore none of the bids could be accepted.

Staff met with the five proponents and agreed that a new RFQ would be released, which gave the lowest bidder six months to meet the requirements of the Organic Matter Recycling Regulation (OMRR) following award of the contract. The RFQ closed in January 2002 and Rascal Trucking Ltd. was awarded the contract at \$45.00 per cubic metre. In June 2002, Rascal Trucking informed the RDN that they would not be able to accept the terms of the contract and withdrew from the competition. The award then went to the next lowest bidder, Malaspina University-College (MUC) at \$50.17 per cubic metre. Following the award MUC indicated in a letter dated June 28, 2002 that, "managed organic mater (composted biosolids) to be used as a forest fertilizer will meet all the requirements of the Organic Matter Recycling Regulation - including product quality, storage, composting, application and monitoring as required under the OMRR." A contract was signed and in August MUC began taking biosolids to their wood lot facility.

At the August 13th Board meeting, as a result of a delegation by one of the unsuccessful bidders on the RFQ, the Board directed staff to report on the tendering process for the Greater Nanaimo Pollution Control Centre biosolids composting contract and on any environmental concerns that relate to this contract.

The contract requires MUC to compost biosolids from the GNPCC in accordance with provincial regulation. MUC's facility is located beyond the end of Doumont Road. A locked gate, controls road access to the site. The storage facility is currently complying with the Ministry's OMRR, however to satisfy the requirements of the RDN's contract, composting of the biosolids prior to land application must still occur. It is the intent of MUC to start composting biosolids at the storage facility once it is full, approximately at the end of November.

HEALTH/ENVIRONMENTAL IMPLICATIONS

Biosolids from GNPCC have been processed, and will be further treated at MUC's composting facility to produce a class "B" compost, which the provincial regulations approves for agricultural use. Precautionary measures such as leachate collection, covering of the material, setbacks from streams and other requirements protect human and animal health.

The composting facility will have an asphalt surface with a leachate collection system to ensure protection of the groundwater. In addition the facility will incorporate a 2-metre high concrete lock block wall to contain the material and a cover to protect it from the rain. The facility is within a recently clear-cut area, and there are no trails located within this area. The facility is approximately 400 metres away from the nearest surface stream and approximately 3,500 metres from the nearest source of water for domestic purposes; Ministry regulations call for at least 15 metres from any watercourse and 30 metres from any source of water for domestic purposes.

SUMMARY

As directed by the Board in February 2001, RDN staff have been investigating options for biosolids and released a Request for Quotes for composting biosolids in July 2001. As all five bids received were not valid, staff met with the proponents and agreed that a new RFQ would be released which allowed for up to six months to meet the requirements of the tender.


The RFQ closed in January 2002 with Rascal Trucking Ltd. being awarded the contract. In June 2002, Rasal Trucking informed the RDN that they would not be able to meet the terms of the contract and withdrew from the competition. The award then went to the next lowest bidder, Malaspina University-College (MUC) and a contract was signed effective August 1, 2002.

MUC's facility is located in their wood lot beyond the end of Doumont Road, approximately one kilometer behind a locked gate. The operation of this facility complies with the requirements of the Organic Matter Recycling Regulation.


RECOMMENDATION

That the Board receive this report on the GNPCC biosolids composting contract and tendering process.


Report Writer

 / D. Tremblay
Manager Concurrence


General Manager Concurrence


CAO Concurrence

COMMENTS:



REGIONAL DISTRICT OF NANAIMO			
AUG 20 2002			
CHAIR		GMCrs	
CAO		GMDS	
GMCmS		GMES	
<i>Call</i>			
DATE:		August 7, 2002	
FILE: 5500-22-DW-04			

MEMORANDUM

TO: Wayne Moorman, P.Eng. Manager of Engineering and Utilities

FROM: Natalie Cielanga, AScT Engineering Technologist

SUBJECT: Driftwood Water Service Area Phase I Water System Construction Contract Award

PURPOSE

To consider the tenders for the Driftwood Water System Phase I.

BACKGROUND

The Driftwood Water Service Area was established in November 2001. The service area includes residential properties on Higginson and Delanice Roads in Nanoose. A borrowing bylaw was approved in November 2001 to allow for the construction of the water system.

Four tenders were received on August 6, 2002 for the first phase of construction of the Driftwood Water System. Tenders were received as follows:

Chet Construction	\$171,469.25 (GST incl.)
Fournier Excavating	\$179,587.86 (GST incl.)
Hub Excavating	\$219,452.60 (GST incl.)
Knappett Industries	\$179,189.10 (GST incl.)

Our consultant has evaluated the tenders and recommends award to Chet Construction for \$171,469.25.

ALTERNATIVES

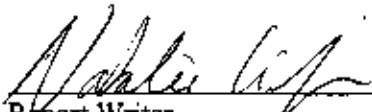
1. Not award the contract
2. Award the contract to Chet Construction for the tendered price of \$171,469.25.

FINANCIAL IMPLICATIONS

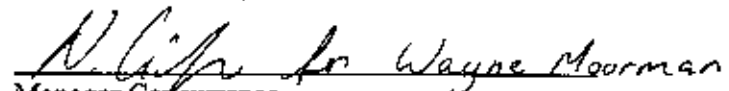
The approved budget for the Driftwood water system is \$235,996 (\$240,000 from borrowing bylaw minus \$4,004 in borrowing costs). Our projected costs to complete the project are \$232,000, which includes some previous construction, engineering and archeological fees.

RECOMMENDATION

1. That the Regional District of Nanaimo award Driftwood Water System Phase I to Chet Construction for the tendered amount of \$171,469.25.




Report Writer



Manager Concurrence



General Manager Concurrence



CAO Concurrence

COMMENTS:



REGIONAL DISTRICT OF NANAIMO			
AUG 22 2002			
CHAIR		GMCrS	
CAO		GMDS	
GMCmS		GMES	
COW Agenda			✓

MEMORANDUM

TO: Dennis Trudeau
Manager of Liquid Waste

DATE: August 21, 2002

FROM: Deb Churko, CTech
Engineering Technologist

FILE: 4520-20-44 to 49

SUBJECT: Liquid Waste
Northern and Southern Communities
Pump and Haul Bylaw Amendment

PURPOSE

To consider an amendment to Bylaw 975 which established the Regional District of Nanaimo Pump and Haul program.

BACKGROUND

The pump and haul service was established to provide a solution for those properties unable to obtain a permit for an on-site septic disposal system. In order to apply for a permit under this bylaw the applicant must have been formally rejected by the Ministry of Health for an on-site system, the parcel must be greater than 700m², the property must conform to zoning requirements, and a community sewer system must not be available.

A person wishing to incorporate a property (or properties) into the Pump and Haul Service Area must apply to the Regional District of Nanaimo to amend the Pump and Haul Bylaw No. 975. A Restrictive Covenant shall be registered against the title of the land in question in accordance with Section 219 of the Land Title Act. The Restrictive Covenant shall require that the owner of the lot maintain a contract at all times with a pump out company, and to ensure that a copy of the current contract is always deposited with the Regional District of Nanaimo.

Requests have been received to include the following properties into the Pump and Haul function:

1. SL 179, VIS4673, Block 526, Cameron Land District
1550 Haida Way
528872 BC Ltd
Area F
2. SL 180, VIS4673, Block 526, Cameron Land District
1556 Haida Way
528872 BC Ltd
Area F

3. SL 181, VIS4673, Block 526, Cameron Land District
1562 Haida Way
528872 BC Ltd
Area F
4. SL 182, VIS4673, Block 526, Cameron Land District
1568 Haida Way
528872 BC Ltd
Area F
5. SL 183, VIS4673, Block 526, Cameron Land District
1574 Haida Way
528872 BC Ltd
Area F

Tim Peligren, on behalf of Little Qualicum River Village, has petitioned the RDN to include the above five properties into the Regional District of Nanaimo Pump and Haul Local Service Area, Bylaw No. 975. A letter from the Environmental Health officer at the Central Vancouver Island Health Region, dated January 4, 2002, indicated that the above-noted properties do not meet the requirements of the Health Act Regulation 411/85 for on-site sewage disposal systems and applications for sewage disposal permits could not be approved. The properties are greater than 700 m² each, and conform to the existing zoning bylaws.

In addition to the Restrictive Covenant placed on the properties ensuring a continuous contract with a pump out company, a Land Use Covenant shall be placed on the titles of the above properties, which would restrict the parcels to recreational use only, as anticipated by the future zoning bylaw.

6. Lot 58, DL 78, Plan 14275, Nanoose Land District
3168 Dolphin Drive
David and MaryLou Karakochuk
Area E

Mr. and Mrs. Karakochuk have petitioned to be included into the Regional District of Nanaimo Pump and Haul Local Service Area, Bylaw No. 975. A letter from the Central Vancouver Island Health Region Environmental Health Program dated July 9, 2002 indicates that the above-noted property does not meet the requirements of the Health Act Regulation 411/85 for an on-site sewage disposal system, and an application for a sewage disposal permit could not be approved.

ALTERNATIVES

- 1) Do not accept the applications.
- 2) Accept the applications.

FINANCIAL IMPLICATIONS


The applicants pay an application fee and an annual user fee. The pump and haul program is a user pay service. Currently the applicants have access to the RDN's pollution control facilities, but since they are not included in the pump and haul bylaw, they are subject to a rate of \$0.05/gallon. Including them into the bylaw would reduce their rate to \$0.01/gallon.

SUMMARY/CONCLUSIONS

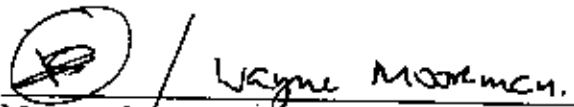
The applications meet all requirements for inclusion into the pump and haul function, specifically the parcel sizes are greater than 700m² each, a community sewer system is not available, sewage disposal permits could not be obtained under the provincial Sewage Disposal Regulation, and the properties conform to zoning bylaws. Appropriate Land Use Covenants and/or Restrictive Covenants have been drawn up for each property and have been approved by Planning and Environmental Services staff.

RECOMMENDATION


1. That "Regional District of Nanaimo Pump & Haul Local Service Area Amendment Bylaw No. 975.25, 2002" be read three times and forwarded to the Inspector of Municipalities for approval.




Report Writer



Manager Concurrence

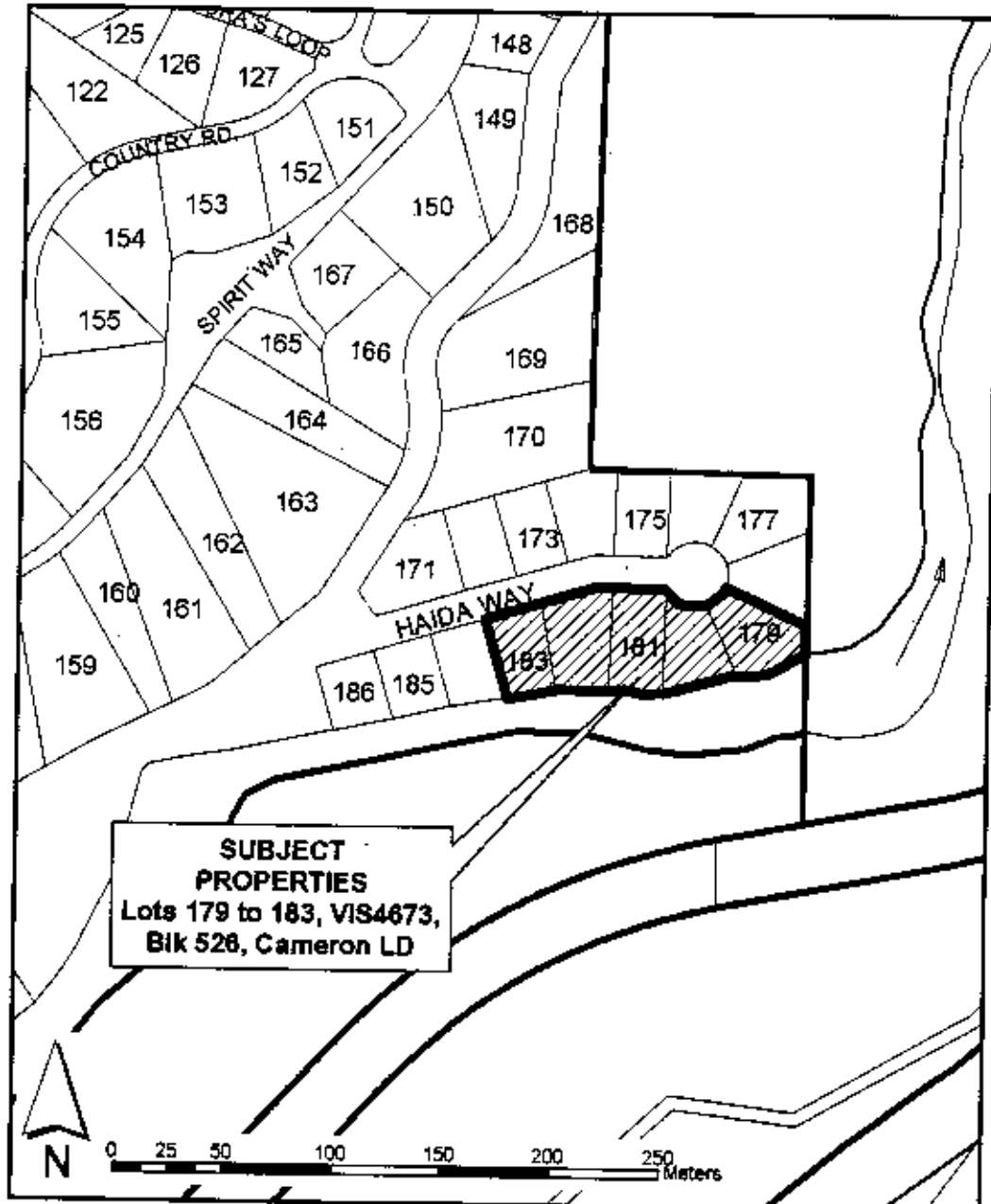


General Manager Concurrence



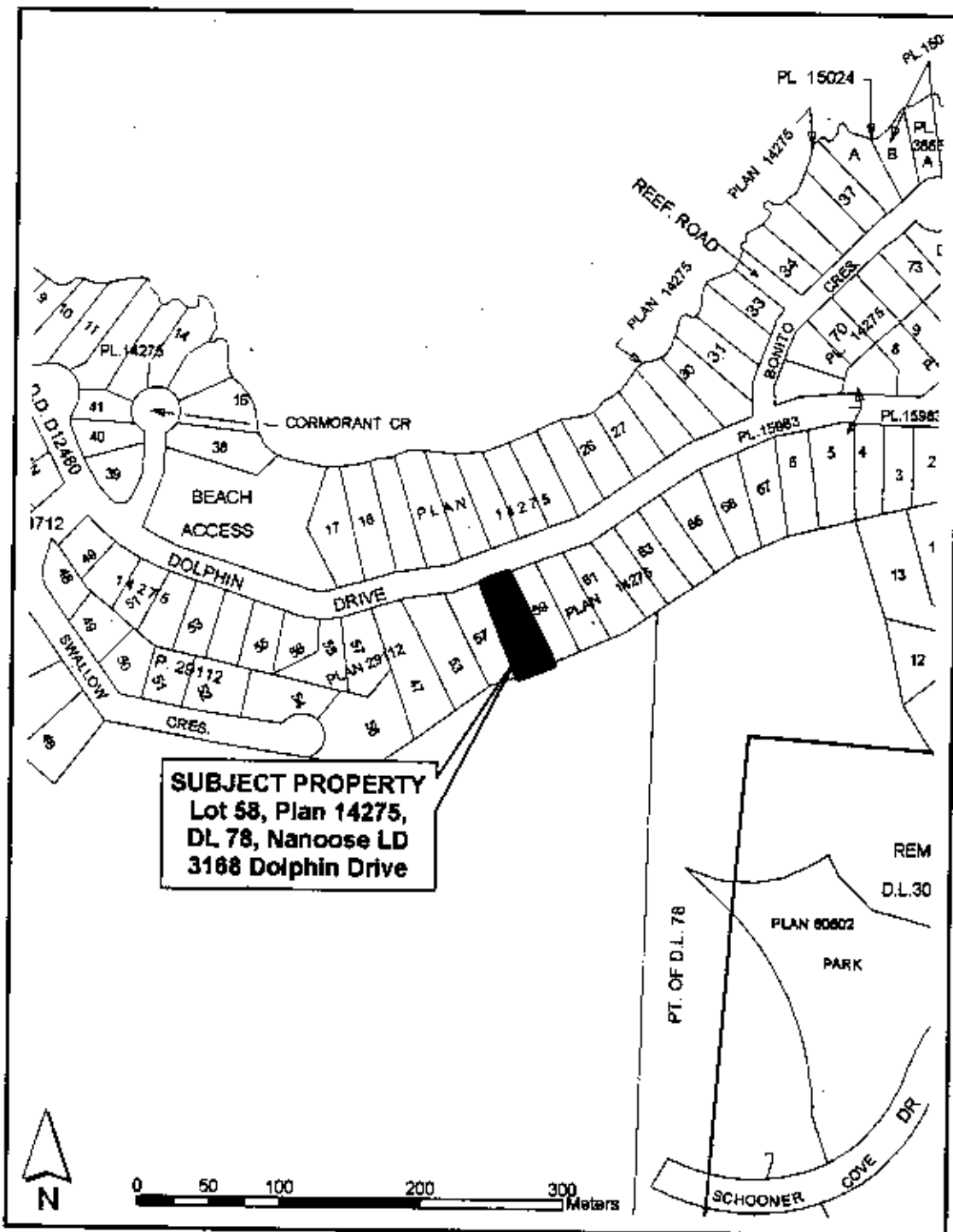
A CAO Concurrence

COMMENTS:



**SUBJECT
PROPERTIES**
Lots 179 to 183, VIS4673,
Bik 526, Cameron LD

BOGS Map Sheet No. 92F.038.1.1



REGIONAL DISTRICT OF NANAIMO

BYLAW NO. 975.25

**A BYLAW TO AMEND THE REGIONAL
DISTRICT OF NANAIMO PUMP AND
HAUL LOCAL SERVICE AREA
ESTABLISHMENT BYLAW NO. 975**

WHEREAS Regional District of Nanaimo Pump and Haul Local Service Area Establishment Bylaw No. 975, as amended, established the pump and haul local service area;

AND WHEREAS the Directors of Electoral Areas 'B', 'D', 'E', 'F', and 'H' have consented, in writing, to the adoption of this bylaw;

AND WHEREAS the Council of the City of Nanaimo has consented, by resolution, to the adoption of Bylaw No. 975.25;

AND WHEREAS the Board has been requested to amend the boundaries of the local service area to include the following properties:

Lot 58, District Lot 78, Plan 14275, Nanoose Land District (Electoral Area E)

Strata Lot 179, Block 526, Plan VIS4673, Cameron Land District

Strata Lot 180, Block 526, Plan VIS4673, Cameron Land District

Strata Lot 181, Block 526, Plan VIS4673, Cameron Land District

Strata Lot 182, Block 526, Plan VIS4673, Cameron Land District

Strata Lot 183, Block 526, Plan VIS4673, Cameron Land District

(Electoral Area F)

NOW THEREFORE the Regional District of Nanaimo, in open meeting assembled, enacts as follows:

1. Schedule 'A' of Bylaw No. 975.24 is hereby repealed and replaced with Schedule 'A' attached hereto and forming part of this bylaw.
2. This bylaw may be cited for all purposes as "Regional District of Nanaimo Pump and Haul Local Service Area Amendment Bylaw No. 975.25, 2002".

Introduced and read three times this 10th day of September, 2002.

Received the approval of the Inspector of Municipalities this ____ day of _____, 2002.

Adopted this ____ day of _____, 2002.

CHAIRPERSON

GENERAL MANAGER, CORPORATE SERVICES

PAGE
7/6

Chairperson

General Manager, Corporate Services

BYLAW NO. 975.25

SCHEDULE 'A'

Electoral Area 'B'

1. Lot 108, Section 31, Plan 17658, Nanaimo Land District.
2. Lot 6, Plan 17698, Section 18, Nanaimo Land District.
3. Lot 73, Plan 17658, Section 31, Nanaimo Land District.
4. Lot 24, Plan 19972, Section 5, Nanaimo Land District.
5. Lot 26, Plan 23619, Section 12, Nanaimo Land District.
6. Lot 185, Plan 17658, Section 31, Nanaimo Land District.
7. Lot 177, Section 31, Plan 17658, Nanaimo Land District.

Electoral Area 'D'

1. Lot 24, Plan 27557, District Lot 44, Wellington Land District.
2. Lot A, District Lot 27G, Plan 29942, Wellington Land District.

Electoral Area 'E'

1. Lot 86, District Lot 78, Plan 15983, Nanoose Land District.
2. Lot 69, District Lot 68, Plan 30341, Nanoose Land District.

Electoral Area 'E' (continued)

3. Lot 1, Plan 17681, District Lot 72, Nanoose Land District.
4. Lot 2, Plan 18343, District Lot 117, Nanoose Land District.
5. Lot 17, District Lot 78, Plan 14212, Nanoose Land District.
6. Lot 32, District Lot 68, Plan 26680, Nanoose Land District.
7. Lot 13, Block E, District Lot 38, Plan 13054, Nanoose Land District.
8. Lot 5, District Lot 78, Plan 25366, Nanoose Land District.
9. Lot 24, District Lot 68, Plan 30341, Nanoose Land District.
10. Lot 13, District Lot 78, Plan 25828, Nanoose Land District.
11. Lot 58, District Lot 78, Plan 14275, Nanoose Land District.

Electoral Area 'F'

1. Lot 22, District Lot 74, Plan 29012, Cameron Land District.
2. Lot 2, District Lot 74, Plan 36425, Cameron Land District.
3. Lot A, Salvation Army Lots, Plan 1115, Except part in Plan 734 RW, Nanoose Land District.
4. Strata Lot 179, Block 526, Plan VIS4673, Cameron Land District.
5. Strata Lot 180, Block 526, Plan VIS4673, Cameron Land District.
6. Strata Lot 181, Block 526, Plan VIS4673, Cameron Land District.
7. Strata Lot 182, Block 526, Plan VIS4673, Cameron Land District.
8. Strata Lot 183, Block 526, Plan VIS4673, Cameron Land District.

Electoral Area 'H'

1. Lot 22, District Lot 16, Plan 13312, Newcastle Land District.
2. Lot 29, District Lot 81, Plan 27238, Newcastle Land District.
3. Lot 46, District Lot 81, Plan 27238, Newcastle Land District.

Electoral Area 'H' (continued)

4. Lot 9, District Lot 28, Plan 24584, Newcastle Land District.
5. Lot 41, District Lot 81, Plan 27238, Newcastle Land District.
6. Lot 20, District Lot 16, Plan 13312, Newcastle Land District

City of Nanaimo

1. Lot 43, Section 8, Plan 24916, Wellington Land District.



REGIONAL DISTRICT OF NANAIMO	
AUG 19 2002	
CHAIR	GMCrS
CAO	GMDS
GMCmS	GMES
<i>(Signature)</i>	
DATE:	

MEMORANDUM

TO: Carey McIver
Manager, Solid Waste

August 12, 2002

FROM: Dave Leitch, ASCT
Supervisor, Solid Waste Facilities

FILE: 1240-20-SW

SUBJECT: Landfill Refuse Compactor
Tender Award

PURPOSE

To award the acquisition of a sanitary landfill refuse compactor.

BACKGROUND

Garbage compaction is essential to the effective operation of a modern sanitary landfill. Daily compaction and covering of garbage with soil minimizes problems associated with rodents, birds and litter as well as reducing leachate and odour production. Compaction also saves space, which can mean substantial cost savings over the life of the landfill.

Compacting waste in a sanitary landfill is a very harsh, abrasive and dusty environment. Experience has proven that major equipment components begin failing after 10,000 hours of use. A CAT 826 refuse compactor is presently being used at the Regional Landfill. This piece of equipment was leased from Finning in 1998. The term of the lease was four years (10,000 hours) and the lease expires in August 2002. To maintain compaction efficiency and avoid excessive repair costs, most landfill operators replace their equipment at this time.

A tender call for the acquisition of a new refuse compactor was advertised in June 2002. Vendors were requested to guarantee a residual value for the purpose of utilizing the Municipal Finance Authority (MFA) leasing program. Under this option the MFA purchases the equipment and the RDN enters into a lease with MFA to finance the acquisition. At the end of the lease period the equipment is returned to the vendor for a guaranteed residual buy-back price.

Tenders closed on July 5, 2002. The following tenders were received:

Vendor	Equipment	Purchase Price	Residual	Net Cost
Finning (Canada)	CAT 826	\$562,000	\$197,500	\$364,500
Al-Jon Inc	Impact 81K	\$555,088	\$102,000	\$453,088
Brandt	Bomag	\$539,000	\$120,000	\$419,000
HeavyQuip	Trashmaster	\$475,000	\$ 45,000	\$430,000
Raymax	Trashmaster	\$470,982	\$ 60,000	\$410,982

The lowest net cost was received from Finning for a CAT 826. The MFA leasing program offers the best cost of financing at Prime minus 1%. Therefore the least cost option is to finance the acquisition of a new CAT 826 through the MFA leasing program.

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ALTERNATIVES

1. Award the tender for the acquisition of a CAT 826 refuse compactor to Finning and finance the transaction through the MFA leasing program.
2. Do not award the tender.

FINANCIAL IMPLICATIONS

The current lease with Finning is included in the 2002 Solid Waste Facilities budget at \$114,360 annually. Under the proposed MFA lease program the annual cost for a new compactor will be \$104,952. Leasing this equipment not only avoids a large capital outlay every four years but also eliminates the risk and cost involved with re-selling the equipment in a specialized market.

SUMMARY

Garbage compaction is essential to the effective operation of a modern sanitary landfill. The four-year lease for the current refuse compactor at the Regional Landfill expires in August 2002. Tenders were called for the acquisition of a new landfill refuse compactor. With the guaranteed residual buy-back included, the low tender was received from Finning for a CAT 826. The lowest lease financing was received from Municipal Finance Authority (Prime minus 1%). Therefore the least cost option is to finance the acquisition of a new CAT 826 refuse compactor through the MFA leasing program.

RECOMMENDATION

That the RDN enter into lease through the MFA leasing program, to finance the acquisition of a CAT 826 landfill refuse compactor from Finning.

for

Report Writer

General Manager Concurrence

Manager Concurrence

C.A.O. Concurrence

COMMENTS:



**REGIONAL
DISTRICT
OF NANAIMO**

REGIONAL DISTRICT OF NANAIMO			
AUG 22 2002			
CHAIR		GMCrS	
CAO		GMDS	
GMCmS		GMES	
COW Agenda			✓

MEMORANDUM

TO: Kelly Daniels
Chief Administrative Officer

DATE: August 21, 2002

FROM: John Fimie, P. Eng.
General Manager
Environmental Services

FILE: 5500-22-FC-01

SUBJECT: Request to Impose a Development and Construction Moratorium in the Chartwell Subdivision (French Creek)

PURPOSE

To present information for the Board's consideration regarding a request for a moratorium on new construction in the Chartwell subdivision in French Creek.

BACKGROUND

The French Creek Residents Association has referred a request from the residents of the Chartwell subdivision "that a moratorium on development and construction in the Chartwell community be put into place, as the water levels at the pumps are seriously depleted and any further strain on the system, in all likelihood, will cause irreparable harm to the aquifer and the residents".

The French Creek Water Local Service Area (FCWLSA) system (Chartwell and Sandpiper subdivisions) currently has 6 production wells on line and one additional well that could potentially be connected to the supply. The system serves approximately 650 properties. The wells are capable of providing adequate water for normal domestic consumption (and fire protection) but cannot provide unlimited irrigation water in the summer months. Watering restrictions are in place in the French Creek service area, as they are in other communities on Vancouver Island and throughout the province, but staff have identified a lack of compliance with our restrictions. Outside water use imposes a significant demand on the water supply and this affects groundwater levels in the supply aquifer.

Staff monitor groundwater elevations in our supply wells and the monitoring indicates that watering restrictions do assist in water level recovery. Excessive water use and/or extended dry weather periods will depress the levels. As of August 21 this year, the groundwater levels were about 6-10 feet above the well intakes in three of the wells and 20-25 feet in the others. Although these levels are not yet critical, staff are concerned about further level decreases and continue to monitor for changes. Watering restrictions have been issued but many residents oppose the restrictions due to potential adverse affects on lawns and gardens. A copy of the restrictions effective July 8, 2002 and an August 16, 2002 reminder notice to FCWLSA residents is appended.

Breakwater Enterprises supplies water to about 1200 users in the French Creek area. They operate 15 wells on their system and draw from the same groundwater regime as the Chartwell wells. Breakwater is also on watering restrictions.

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Currently, all property in Chartwell has been subdivided for residential development with the exception of one remaining parcel with potential for approximately 27 lots. With a further fill-in potential of 18 vacant lots, there are about 45 lots remaining in Chartwell to be developed. The Sandpiper area is almost fully developed with about 8 undeveloped lots remaining. Provided a developer meets current zoning and development requirements, they are entitled to complete their development plans and since the properties are within the FCWLSA, they have a legal entitlement to water supply. Our legal advice is that it is not possible for a moratorium to be successfully imposed on further construction in Chartwell – landowners have an expectation and a right to proceed with new development of their properties in the same manner as property owners with existing residences did. The properties in question are appropriately zoned, are within urban containment and meet the RDN Growth Management Strategy. RDN would not, at this time, expand the water service area boundary but properties within existing boundaries must be serviced.

It may be possible to restrict further development, based on water supply criteria, in the Breakwater service area of French Creek. Changing the definition of community water to include only systems owned by local government and Improvement Districts would restrict expansion of the private Breakwater utility. This would mean that only RDN could supply community water, which would necessitate amendments to a local service area bylaw to bring in new properties. This would give the Board control over additional development. Currently, Breakwater can expand their service area (outside of the RDN service areas) and provide for new development by bringing on additional water supply approved by the provincial government. Staff does not suggest this option at this time, however, as RDN is in discussion with Breakwater about future bulk water supply to Breakwater from the AWS system. Breakwater is within the bulk water service area.

Other initiatives are also of relevant background to this issue and to the broader issue of water supply in the French Creek area. First, as a result of a presentation to the Board earlier this year by the Arrowsmith Watershed Stewardship Team, staff intend to consider the implications of a drinking water protection plan for the Arrowsmith watersheds, which include the watersheds of the Englishman River, Romney and Carey Creeks, French Creek, Beach and Crandon Creeks, and possibly Cameron Lake/Little Qualicum River. It is anticipated that provincial legislation will eventually require water purveyors to undertake protection plans. The cost and resource implications of this study have not been established and as a first step there is a need to identify a scope and cost estimate for the Board's consideration.

Staff have also received a proposal from EBA Consultants for a hydrogeological study to continue some previous preliminary work on characterizing the subsurface conditions in the Englishman River and French Creek watersheds. The preliminary work identified that groundwater levels in the study area wells appear to be declining. One of the components of continuing this project would be the development of a hydrogeological model to assess the capacity and sustainability of the aquifers in the study area. The study would provide information regarding the maximum expected volumes of water that could be extracted from the aquifers without jeopardizing their long-term sustainability. To support the estimated \$60-70,000 cost for this phase of the study, EBA is seeking shared funding of costs in excess of \$30,000 from RDN, Parksville, Qualicum Beach and Breakwater Enterprises, all of whom could benefit from the results of the study.

Arrowsmith bulk water will provide a longer-term solution to water supply for French Creek and other areas within the bulk water service area. In the interim, at least for the FCWLSA, staff recommends exploring other supply sources, including the option for sharing existing supplies and investigating the potential of a new groundwater source for the FCWLSA.

ALTERNATIVES

1. Impose an immediate moratorium on development and construction in the Chartwell subdivision in accordance with the request from the French Creek Residents Association.
2. Direct staff to acquire information and data that will provide rationale and scientific support for a decision on whether or not to seek authority to impose a moratorium in the French Creek area, and to implement water use conservation initiatives for the RDN water local service areas.

FINANCIAL IMPLICATIONS

If it were possible to impose a moratorium, it would result in a deferment of DCC and building permit revenues during the moratorium period.

To investigate the opportunities and costs to locate and provide an additional supply for the FCWLSA is estimated to cost \$10,000, or about \$15 per property in the FCWLSA.

The next phase of the hydrogeological study of the aquifers in the Englishman River and French Creek watersheds is estimated to cost about \$60-70,000. Costs over \$30,000 could potentially be shared among COP, TQB, Breakwater and RDN. If all four parties cost-shared in the study, the RDN share would be about \$7500-\$10,000, higher if not all parties participated. \$15,000 should be budgeted which would equate to about \$7.00 per parcel for properties within the French Creek bulk water service area.

Identifying a scope, project plan and cost estimate for a drinking water protection plan study for the Arrowsmith watersheds is estimated to cost about \$2500 - \$3000.

The province's Planning Grants Financial Assistance Program is no longer in place, having been recently replaced with a Smart Development Partnership initiative. If the report recommendations are approved, staff would intend to discuss funding assistance opportunities for these studies with the Ministry of Community, Aboriginal and Women's Services.

INTERGOVERNMENTAL IMPLICATIONS

Although groundwater legislation has been identified as an initiative of the provincial government and a priority of the new drinking water legislation, there is currently no groundwater legislation in British Columbia, therefore no control on the extraction of groundwater supplies. The provincial government is initiating a Drinking Water Action Plan to increase the safety and security of drinking water supplies in the province. Legislation should be expected to cover things like watershed protection, system standards and conservation programs and purveyors and consumers can expect higher costs associated with the provision of drinking water.

LEGAL IMPLICATIONS

The French Creek Residents Association has referred to the *Local Government Act* and suggests that the Regional District has powers under Sections 249 & 250 to impose a development moratorium. Legal advice obtained indicates that Sections 249 & 250 of the *LGA* apply to municipalities but not to regional districts. Section 799 of the *LGA* offers similar powers to regional districts; this section indicates that the Lieutenant Governor in Council may, by regulation, grant a power to the regional district. The granting of additional powers would require the approval of the provincial cabinet. Staff would expect that before such approval would be given for the matter at hand, the Regional District would have to demonstrate that all reasonable steps had been taken to conserve the supply for priority uses. No precedent whereby cabinet has approved a moratorium on development pursuant to local government zoning could be cited.

CITIZENS/PUBLIC RELATIONS IMPLICATIONS

The French Creek Residents Association supports a moratorium. Developers and landowners with development plans within the French Creek area, particularly those who have secured subdivision approval and/or may have purchased property with the expectation of being able to construct, may object to a moratorium.

ENVIRONMENTAL IMPLICATIONS

Staff is not suggesting that concerns about water supply and groundwater levels in the French Creek area be taken lightly. Groundwater is heavily utilized in the area for residential, commercial and recreational functions. Arrowsmith water for the French Creek and Parksville areas is a number of years away and there is a need for us to be cautious about our water supplies and water use. Although a moratorium on development in Chartwell, if it was possible, would serve to reduce impact of new (albeit limited) development on supplies, staff do not consider that we have sufficient information to defend this decision at this time and that some further scientific study is first required.

SUMMARY/CONCLUSIONS

The French Creek residents Association has requested a moratorium on development and construction in the Chartwell community be put into place due to concerns with water levels of the supply aquifer.

In addition to groundwater extraction by RDN to supply the French Creek Water Local Service Area (Chartwell/Sandpiper), Breakwater Enterprises, private wells and commercial uses (e.g. Morningstar Golf Course) also draw from the aquifers in the area. Cumulatively, these extractions place considerable demand on the water supply. Additional development will impose more demand on the aquifer(s) and may reduce groundwater table levels during high summer demand periods.

Some preliminary assessments of groundwater levels have been undertaken and suggest that groundwater levels may be declining. Staff monitor groundwater levels in our supply wells and the monitoring indicates that the imposition of watering restrictions assists in water level recovery. Unfortunately, there is a lack of compliance with the watering restrictions.

Although a moratorium on development in Chartwell would serve to reduce the impact of limited new development in that area on groundwater supplies, such a decision would likely result in legal challenges from developers and landowners who have a legal right to proceed with development in accordance with established bylaws. Staff does not consider that we have sufficient information to support a moratorium at this time and although staff agree that concerns about water supply and groundwater levels must be addressed, suggest that further supporting information is first required. In addition, our legal advice is that the regional district does not have the authority to impose a construction moratorium unless first approved by cabinet.

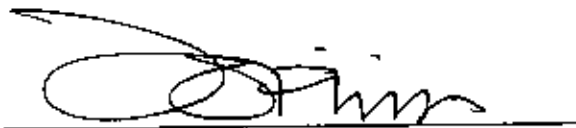
The report recommendations incorporate a strategy over the next 12-18 months to acquire further information and to reduce the impact on our groundwater resource until the Board is in a position to make a defensible decision on seeking authority to impose a development moratorium.

In the long term, bulk water will serve to supplement water supply needs of service areas within Nanoose and French Creek. At the present time, concerns exist about the quality and quantity of existing supplies, particularly in French Creek. Staff have discussed treatment options with residents and based on residents' input, are proceeding with pre-design of new reservoir and pumphouse facilities for the French Creek supply. Some residents have addressed the water quality (aesthetic) concerns by installing in-home treatment units. Watering restrictions will assist in reducing impact on groundwater levels and in


maintaining adequate supplies for in-home use and limited outside watering for the service area. A water use restriction bylaw with penalties for non-compliance should be prepared for the Board's consideration.

RECOMMENDATIONS

1. That the Board direct staff to include \$15,000 in the 2003 French Creek Bulk Water budget to participate in a hydrogeological study for the Englishman River and French Creek watersheds, subject to participation in the study by Qualicum Beach, Parksville and Breakwater Enterprises;
2. That the Board direct staff to include \$3000 in the 2003 French Creek Bulk Water budget to establish a scope, project plan and cost for a drinking water protection plan for the Arrowsmith watersheds.
3. That the Board direct staff to include \$10,000 in the 2003 French Creek Water Local Service Area budget to investigate the opportunities and costs of acquiring supplemental water supply for the FCWLSA users.
4. That the Board support watering restrictions, including restrictions on lawn sprinkling, as a means to conserve and protect the water supply source in order to meet priority in-home and fire protection requirements.
5. That the Board direct staff to include in the 2003 budget, provisions for increasing water conservation awareness and education and water use patrols for residential and commercial users throughout the regional district, to bring forward recommendations regarding water conservation rate structures for the RDN water local service areas and to prepare for the Board's consideration a Water Use Restriction Bylaw that includes penalty mechanisms for non-compliance with RDN water-use restrictions.
6. That a decision on seeking authority to impose a development moratorium be based on the outcome of recommendations 1 to 4.



Report Writer



CAO Concurrence

COMMENTS:



REGIONAL
DISTRICT
OF NANAIMO

OUTDOOR WATER USE RESTRICTIONS

*Chartwell & Sandpiper
July 8, 2002*

Wells servicing the Chartwell and Sandpiper Water Service area have recovered slightly over the last few weeks and therefore we are relaxing the watering restrictions slightly. Lawn watering is not considered a priority over other outdoor uses and is still subject to only twice per week watering. Please turn off your automatic irrigation system when wet weather provides adequate water – **every drop counts!**

Lawn Watering

Lawn watering is permitted twice per week within the following time periods:

- An odd numbered address may water from 7:30 pm on Tuesday night until 6:00 am Wednesday morning and from 7:30 pm on Friday night until 6:00 am on Saturday morning.
- An even numbered address may water from 7:30 pm on Wednesday night until 6:00 am Thursday morning and from 7:30 pm on Saturday night until 6:00 am on Sunday morning.

Landscape Watering

- Trees, shrubs, vegetable and flower gardens may be watered by hand using a hose with a spring loaded shut-off device or with a hand-held container on any day at any time.
- Trees, shrubs, vegetable and flower gardens may be watered using a sprinkler or automatic irrigation system on the same schedule as lawn watering.

Other Outdoor Uses

- Vehicle washing may be done at any time with a spring-loaded shut-off device only.
- Washing of paved surfaces such as driveways, patios and sidewalks is not permitted.
- Washing of boats and recreational vehicles is not permitted.
- Hosing down roofs and siding is not permitted.

For more information on sprinkling or water conservation, please contact
RDN Environmental Services at 954-3792 OR -1-877-607-4111.

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AN URGENT REMINDER
TO ALL RESIDENTS ON THE RDN
FRENCH CREEK WATER SYSTEM

Water is our most precious natural resource. Because of the warm, dry summer this year, we are experiencing low water levels in the wells on our French Creek Water System. In order to maintain a water supply for in-home use and fire flows we need residents to respect the sprinkling restrictions and look for ways to further reduce their water consumption.

Watering restrictions are not unique to our service areas. Similar restrictions are imposed in other communities on Vancouver Island and throughout the province to conserve water and maintain supply for priority uses.

The current restrictions for Chartwell and Sandpiper are as follows:

- An odd numbered address may water from 7:30 pm on Tuesday night until 6:00 am Wednesday morning and from 7:30 pm on Friday night until 6:00 am on Saturday morning.
- An even numbered address may water from 7:30 pm on Wednesday night until 6:00 am Thursday morning and from 7:30 pm on Saturday night until 6:00 am on Sunday morning.

(see over for the complete July 8, 2002 Water Use Bulletin)

Our water is a limited resource and everyone needs to reassess and prioritize their water use. Lawn watering is a lower priority since lawns will recover from a drought.

The priority uses for our community water are in-home use and fire protection. The cooperation of all residents on the water system is needed to maintain adequate supplies for these uses and avoid further watering restrictions.

Please help protect your water supply by adhering to the watering restrictions and limiting low priority water use.

Thank you for your cooperation and assistance!