

**REGIONAL DISTRICT OF NANALMO**

**COMMITTEE OF THE WHOLE  
TUESDAY, JUNE 14, 2005  
7:00 PM**

***(RDN Board Chambers)***

**A G E N D A**

**PAGES**

**CALL TO ORDER**

**INTRODUCTION OF DELEGATES**

Introduction of Mr. Gabriel Daluos, Mr. Isaac Amankwah, Mr. Godson Ehorke from the Sunyani Municipal Assembly, Ms. Gladys Tetteh, Program Officer for the National Association of Local Authorities of Ghana, and Ms. Edith Gingras, Program Officer for the Federation of Canadian Municipalities.

**DELEGATIONS**

- 6                    **Elin Ife**, re Proposed Qualicum Bay Centre for Arts and Culture.
- 7                    **Darlene Clark**, re Proposed Hunting Closure of Nanoose Harbour.

**MINUTES**

- 8-15                Minutes of the regular Committee of the Whole meeting held Tuesday, May 10, 2005.

**BUSINESS ARISING FROM THE MINUTES**

**COMMUNICATION/CORRESPONDENCE**

**UNFINISHED BUSINESS**

***From the Board meeting held April 26, 2005:***

**UTILITIES**

French Creek Sewer Local Service Area Bylaw No. 813.31 and Northern Community Sewer Local Service Area Bylaw No. 889.30 – H & F Ventures Ltd. – Lee Road – Area G.

1. That "French Creek Sewerage Facilities Local Service Area Amendment Bylaw No. 813.31, 2005" be introduced, read three times and forwarded to the Inspector of Municipalities for approval.

2. That "Northern Community Sewer Local Service Area Amendment Bylaw No. 889.30, 2005" be introduced, read three times and forwarded to the Inspector of Municipalities for approval.

### **COMMUNITY SERVICES**

#### **REGIONAL GROWTH MANAGEMENT**

- 16-26 Urban Containment and Fringe Area Management Implementation Agreement Review.

#### **CORPORATE & COMMUNITY DEVELOPMENT**

#### **BUILDING INSPECTION**

- 27 Section 57 of the Community Charter – Contravention of Bylaws.

#### **FIRE DEPARTMENTS**

- 28-37 Bylaws to Amend the Boundaries of the Extension Fire Protection Service and to Establish a New Fire Service in the Nanaimo River/South Forks Road Area:
- Extension Fire Protection Service Conversion and Boundary Amendment Bylaw No. 1439
  - Nanaimo River Fire Protection Service Area Establishment Bylaw No. 1440
  - Nanaimo River Fire Protection Service Loan Authorization Bylaw No. 1441
  - Extension Fire Protection Service Capital Charge Bylaw No. 1444

#### **PLANNING**

- 38-65 Riparian Areas Regulation.

#### **ENVIRONMENTAL SERVICES**

#### **LIQUID WASTE**

- 66-73 French Creek Pollution Control Centre Expansion and Upgrading Strategy.
- 74-80 Fairwinds (Nanoose) Wastewater Treatment Development Cost Charge Bylaw No. 1443.

#### **SOLID WASTE**

- 81-85 Landfill Gas Utilization Development Agreement.
- 86-89 Residential Food Waste Collection Pilot Project.

#### **UTILITIES**

- 90-91 Acquisition of the Breakwater Utility.

- 92-97 French Creek Sewer Local Service Area Bylaw No. 813.33 and Northern Community Sewer Local Service Area Bylaw No. 889.33 – 889 Cavin Road – Area G.
- 98-99 Capital Asset Management Review – Infrastructure Planning (Study) Grant Applications.
- 100-101 Water System Audit – Infrastructure Planning (Study) Grant Applications.
- 102-118 Nanoose Bay Peninsula Water Services Amalgamation.

**COMMISSION, ADVISORY & SELECT COMMITTEE**

**Electoral Area 'G' Parks & Open Space Advisory Committee Appointment.**

J. Stanhope (Verbal).

**District 69 Recreation Commission.**

- 119-123 Minutes from the meeting of the District 69 Recreation Commission held May 19, 2005. (for information)

*That the Board release the freeze placed on the District 69 Recreation Youth and Community Grant funds, that they continue their discussions with regard to the Community Policing Services and plan for Community Policing as a budget item in 2006 and that they approve the recommendations from the District 69 Recreation Commission Grants Committee for the following Recreation Youth and Community Grants:*

**Youth Recreation Grants**

<i>Ballenas Cheer Team</i>	<i>\$1,500</i>
<i>District 69 Family Resource Association- Youth Link</i>	<i>\$2,000</i>
<i>Kidfest</i>	<i>\$1,500</i>
<i>Kwalikum Senior Secondary School Prom and Dry Grad Committee</i>	<i>\$1,250</i>
<i>Oceanside Arts Council- summer youth theatre</i>	<i>\$725</i>
<i>Oceanside Minor Baseball- improve Springwood old Pee Wee field</i>	<i>\$2,500</i>
<i>Women and Girls in Sport- hockey clinics and equipment</i>	<i>\$1,350</i>

**Community Recreation Grants**

<i>Errington Therapeutic Riding Association- insurance and tack</i>	<i>\$1,300</i>
<i>Errington War Memorial Hall Association- chairs</i>	<i>\$2,250</i>
<i>Nanoose Place Landscaping Project</i>	<i>\$1,500</i>
<i>Nicholls Park Revitalization Project</i>	<i>\$1,000</i>
<i>Oceanside Lyric Ensemble</i>	<i>\$1,100</i>
<i>Parksville Seniors Athletic Group</i>	<i>\$230</i>
<i>Qualicum Beach Family Day</i>	<i>\$750</i>
<i>Village Voices of Qualicum Beach- choral risers</i>	<i>\$2,100</i>

**Alternate recommendation:**

*That if the previous motion is defeated by the Regional Board, it is recommended that the following Youth and Community Grants be approved:*

**Community Recreation Grants**

<i>Errington War Memorial Hall Association- chairs</i>	<i>\$503</i>
<i>Nicholls Park Revitalization Project</i>	<i>\$1,000</i>
<i>Parksville Seniors Athletic Group</i>	<i>\$230</i>
<i>Qualicum Beach Family Day</i>	<i>\$750</i>
<i>Village Voices of Qualicum Beach- choral risers</i>	<i>\$2,100</i>

**Regional Growth Monitoring Advisory Committee/State of Sustainability Project.**

- 124-126 Minutes from the meeting of the Regional Growth Monitoring Advisory Committee/State of Sustainability Project held May 18, 2005. (for information)

**Regional Parks Plan Review Select Committee.**

- 127-137 Minutes from the meeting of the Regional Parks Plan Review Select Committee held May 10, 2005. (for information)

*That the Terms of Reference for the establishment of the Regional Parks and Trails Advisory Committee be approved with the inclusion of the Board Chair as a voting member.*

**Area 'H' Parks & Open Space Advisory Committee.**

- 138-140 Minutes from the meeting of the Area 'H' Parks & Open Space Advisory Committee held March 16, 2005. (for information)

**Nanoose Bay Parks and Open Space Advisory Committee.**

- 141-142 Minutes from the meeting of the Nanoose Bay Parks and Open Space Advisory Committee held May 2, 2005. (for information)

***Verbal Reports As Available:***

Arrowsmith Water Service Management Committee  
Deep Bay Harbour Authority  
Island Corridor Foundation  
Mt. Arrowsmith Biosphere Foundation  
Municipal Finance Authority  
Municipal Insurance Association  
North Island 911 Corporation  
RDN Emergency Planning Committee  
Regional Library Board

Regional Transportation Advisory Committee  
Treaty Advisory Committee  
Vancouver Island Biosphere Centre

**ADDENDUM**

**BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS**

**NEW BUSINESS**

**BOARD INFORMATION** (Separate enclosure on blue paper)

**IN CAMERA**

*That pursuant to Section 90(1)(g) of the Community Charter the Board proceed to an In Camera meeting to consider items relating to legal matters.*

**ADJOURNMENT**

**Pearse, Maureen**

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**From:** Elin Ife  
**Sent:** Wednesday, May 18, 2005 4:33 PM  
**To:** Pearse, Maureen  
**Subject:** Proposed Qualicum Bay Centre for Arts and Culture  
**Attachments:** "AVG certification"

Hello Maureen,

**Re: Qualicum Bay Centre for Arts and Culture**

The Lighthouse Country Business Association is sponsoring the proposed Qualicum Bay Centre for Arts and Culture. The 'steering committee' for this project, would like to make a presentation to your Board, at the next meeting of the Committee of the Whole, on June 14th at 7 p.m. Would you please advise if you can put us on the agenda as a delegation for that evening?

Many thanks for your consideration.

Elin Ife, Steering Committee

Qualicum Bay Centre for Arts and Culture

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**Burgoyne, Linda**

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**From:** Darlene Clark  
**Sent:** Sunday, June 05, 2005 7:23 PM  
**To:** Burgoyne, Linda  
**Subject:** presentation to the Committee of the Whole  
**Attachments:** "AVG certification"

Hi Linda,  
I would like to request some time at the Nanaimo Regional Committee of the Whole Meeting on Tuesday, June 14th, in order to make a presentation regarding the proposed hunting closure of Nanoose Harbour. I will have a few people with me, that may have something to add as well.  
Thank you,  
Darlene Clark  
resident  
Wildlife Federation Vancouver Island Region

**REGIONAL DISTRICT OF NANAIMO**

**MINUTES OF THE COMMITTEE OF THE WHOLE  
MEETING HELD ON TUESDAY, MAY 10, 2005, AT 7:00 PM  
IN THE RDN BOARD CHAMBERS**

**Present:**

Director J. Stanhope	Chairperson
Director H. Kreiberg	Electoral Area A
Director G. Lund	Electoral Area B
Director E. Hamilton	Electoral Area C
Director D. Haime	Electoral Area D
Director G. Holme	Electoral Area E
Director L. Biggemann	Electoral Area F
Director D. Bartram	Electoral Area H
Director R. Longmuir	City of Parksville
Director T. Westbroek	Town of Qualicum Beach
Director C. Haime	District of Lantzville
Director L. Sherry	City of Nanaimo
Alternate	
Director D. Brennan	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
B. Lapham	Deputy Administrator
N. Connelly	General Manager of Community Services
D. Trudeau	Manager of Liquid Waste
N. Avery	Manager of Financial Services
S. Schopp	Manager of Inspection & Enforcement
N. Tonn	Recording Secretary

**CALL TO ORDER**

The Chairperson welcomed Alternate Director Brennan to the meeting.

**DELEGATIONS**

**Ken Zakreski, Gabriola Radio, re Funding.**

Mr. Zakreski expressed the importance of providing Gabriola Island residents with a radio station capable of transmitting crucial information during an emergency. Mr. Zakreski requested the Board's support in their CRTC application.

**LATE DELEGATION**

**Paul Sanderson, re Section 57, Contravention of Bylaws – 3023 Park Place – Area E.**

Mr. Sanderson raised his concerns regarding the use of the property located at 3023 Park Place and noted that he was in possession of a petition signed by neighbouring residents which would be available to Board members and staff.



**MINUTES**

MOVED Director Sherry, SECONDED Director Krall, that the minutes of the Committee of the Whole meeting held April 12, 2005 be adopted.

CARRIED

**COMMUNICATION/CORRESPONDENCE**

**Errin Armstrong, UBCM, re Policing Costs Resolution.**

MOVED Director Westbrook, SECONDED Director Sherry, that the correspondence received from UBCM with respect to policing costs resolution sent to UBCM and the Province's response, be received.

CARRIED

**Murray Coell, Minister of Community, Aboriginal and Women's Services, re Water Conservation Regulation.**

MOVED Director Westbrook, SECONDED Director Sherry, that the correspondence received from the Minister of Community, Aboriginal and Women's Services with respect to the Province's new Water Conservation Plumbing Regulation, be received.

CARRIED

**Raymond Brookes, re Section 57, Contravention of Bylaws – 3023 Park Place – Area E.**

MOVED Director Westbrook, SECONDED Director Sherry, that the correspondence received from Raymond Brookes with respect to the possible Section 57 filing on the property located at 3023 Park Place, be received.

CARRIED

**COMMUNITY SERVICES**

**EMERGENCY PLANNING**

**West Nile Virus Risk Reduction Initiative.**

MOVED Director Bartram, SECONDED Director C. Haime, that the WNV Risk Reduction project for 2005 be approved.

CARRIED

**REGIONAL GROWTH MANAGEMENT**

**Regional Growth Strategy – Annual Report for 2003-2004.**

MOVED Director Holdom, SECONDED Director Bartram, that the Regional Growth Strategy annual report for 2003 and 2004 be received.

CARRIED

**CORPORATE SERVICES**

**ADMINISTRATION**

**Renewal of Legal Services Contracts.**

MOVED Director McNabb, SECONDED Director Longmuir, that the Board renew its legal services agreements with Staples, McDannold, Stewart in the area of municipal law and Harris & Co. in the area of labour law for a three year term expiring February 2008.

CARRIED

**FINANCE**

**2004 Financial Information Report.**

MOVED Director Sherry, SECONDED Director Westbrook, that the 2004 *Financial Information Act* report be received, approved and be forwarded to the Ministry of Community, Aboriginal and Women's Services.

CARRIED

**2004 Audited Financial Statements.**

MOVED Director Hamilton, SECONDED Director Holdom, that the report on the audited financial statements for the year ended December 31, 2004 be received.

CARRIED

**Operating Results to March 31, 2005.**

MOVED Director Krall, SECONDED Director McNabb, that the summary report of financial results from operations to March 31, 2005 be received for information.

CARRIED

**Annual Report of Directors' and Committee Members' Remuneration and Expenses.**

MOVED Director Sherry, SECONDED Director Hamilton, that the 2004 report on remuneration and expenses for Board and Committee members be received.

CARRIED

**Amendments to Authorization to Purchase and Pay – Policy A2.9.**

MOVED Director Krall, SECONDED Director McNabb, that the Purchasing Policy amendments to describe sole source awards, to reduce the number of quotations for goods and services costing less than \$10,000 from three to two and to acknowledge purchasing awards on other than strictly low price be approved.

CARRIED

**Selection of Consultants – Policy A2.17.**

MOVED Director Westbrook, SECONDED Director Brennan, that the Selection of Consultants Policy A2.17 be approved as presented.

CARRIED

**Alberni Clayoquot Regional District – Permissive Tax Exemption.**

MOVED Director Hamilton, SECONDED Director Holme,:

1. That the Board consider annually the merits of a permissive tax exemption for the Mt. Arrowsmith Regional Park.
2. That "Property Tax Exemption (Mt. Arrowsmith Regional Park) Bylaw No. 1437, 2005" be introduced for first three readings.
3. That "Property Tax Exemption (Mt. Arrowsmith Regional Park) Bylaw No. 1437, 2005" having received three readings be adopted.

CARRIED

## HOSPITAL

### 2004 Audited Financial Statements.

MOVED Director Sherry, SECONDED Director Krall, that the report on the 2004 audited financial statements of the Nanaimo Regional Hospital District be received.

CARRIED

## DEVELOPMENT SERVICES

## ENGINEERING

### Request for Authority to Establish a Sidewalk Function in Electoral Area 'E'.

MOVED Director Holme, SECONDED Director Bartram, that the Board endorse the resolution attached to the corresponding staff report, requesting the authority for the operation and maintenance of a sidewalk function within Electoral Area 'E'.

CARRIED

## BUILDING INSPECTION

### Section 57 of the Community Charter – Contravention of Bylaws.

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.

Raymond Brookes provided information with respect to his rental vacation property at 3023 Park Place, Nanoose Bay.

MOVED Director Holme, SECONDED Director Westbrook, that a notice be filed against the titles of the properties listed, pursuant to Section 57 of the *Community Charter* and that if the infractions are not rectified within ninety (90) days, legal action will be pursued:

- (a) Lot 3, Section 3, Gabriola Island, Plan 23476, Nanaimo District, 1983 South Road, Electoral Area 'B', owned by D. Ingram;
- (b) Parcel D (DD368811) of Section 13, Range 6, Mountain District, 2300 East Wellington Road, Electoral Area 'D', owned by D. Shortt;
- (c) Lot 5, Sections 12 and 13, Range 2, Plan 30985, Mountain District, 3116 Northwood Road, Electoral Area 'D', owned by L. Tiedjens;
- (d) Lot 20, District Lot 78, Plan 14212, Nanoose District, 3023 Park Place, Electoral Area 'E', owned by R. & S. Brookes.

CARRIED

## BYLAW ENFORCEMENT

### Bylaw Enforcement Ticket Information Bylaw No. 1418.

MOVED Director McNabb, SECONDED Director Kreiberg, that "Regional District of Nanaimo Bylaw Enforcement Ticket Information Bylaw No. 1418, 2005" be introduced and receive three readings.

CARRIED

MOVED Director McNabb, SECONDED Director Kreiberg, that "Regional District of Nanaimo Bylaw Enforcement Ticket Information Bylaw No. 1418, 2005" having received 3 readings be adopted.

CARRIED

MOVED Director McNabb, SECONDED Director Kreiberg, that "Regional District of Nanaimo Ticket Information Utilization Bylaw No. 1015, 1998" be repealed.

CARRIED

**Discharge of Firearms in Nanoose Harbour Area.**

MOVED Director Holme, SECONDED Director Krall, that the request to the Ministry of Water, Land and Air Protection by Nance Roach to restrict the discharge of firearms in the Nanoose Harbour Area be supported.

CARRIED

**ENVIRONMENTAL SERVICES**

**LIQUID WASTE**

**Sewage Disposal Regulation Amendment Bylaw No. 1224.02 – Pump and Haul.**

MOVED Director Sherry, SECONDED Director Biggemann,:

1. That "Regional District of Nanaimo Sewage Disposal Regulation Amendment Bylaw No. 1224.02, 2005" be read three times.
2. That "Regional District of Nanaimo Sewage Disposal Regulation Amendment Bylaw No. 1224.02, 2005", having been read three times, be forwarded to the Inspector of Municipalities for approval.

CARRIED

**SOLID WASTE**

**Solid Waste Management Regulation Bylaw No. 1428 – Commercial Food Waste Ban.**

MOVED Director Sherry, SECONDED Director Longmuir, that "Regional District of Nanaimo Solid Waste Management Regulation Bylaw No. 1428, 2005" be introduced for three readings.

CARRIED

MOVED Director Sherry, SECONDED Director Longmuir, that "Regional District of Nanaimo Solid Waste Management Regulation Bylaw No. 1428, 2005" having received three readings be adopted.

CARRIED

**Ground and Surface Water Monitoring Services Contract – Regional Landfill.**

MOVED Director Sherry, SECONDED Director McNabb, that a contract for the provision of ground and surface water monitoring services at the Regional Landfill for 2005 to 2007 be awarded to Morrow consultants at a cost of \$201,455.

CARRIED

**UTILITIES**

**Melrose Terrace Water Local Service Area Rates and Regulations Bylaw No. 1434 – Area F.**

MOVED Director Biggemann, SECONDED Director McNabb, that the Regional District of Nanaimo "Melrose Terrace Water Local Service Area Rates and Regulations Bylaw No. 1434, 2005" be introduced for three readings.

CARRIED

MOVED Director Biggemann, SECONDED Director McNabb, that the Regional District of Nanaimo "Melrose Terrace Water Local Service Area Rates and Regulations Bylaw No. 1434, 2005" having received three readings be adopted.

CARRIED

**Melrose Terrace Water Local Service Area Uses Restrictions Bylaw No. 1435 – Area F.**

MOVED Director Biggemann, SECONDED Director Krall, that Regional District of Nanaimo “Melrose Terrace Water Local Service Area Uses Restrictions Bylaw No. 1435, 2005” be introduced for three readings.

CARRIED

MOVED Director Biggemann, SECONDED Director Krall, that Regional District of Nanaimo “Melrose Terrace Water Local Service Area Uses Restrictions Bylaw No. 1435, 2005” having received three readings be adopted.

CARRIED

**French Creek Sewer Local Service Area Bylaw No. 813.32 and Northern Community Sewer Local Service Area Bylaw No. 889.31 – 1355 Lundine Lane – Area G.**

MOVED Director Westbrook, SECONDED Director Hamilton,:

1. That “French Creek Sewer Local Service Area Bylaw No. 813.32, 2005” (re 1355 Lundine Lane, Area G) be introduced, read three times and forwarded to the Inspector of Municipalities for approval.
2. That “Northern Community Sewer Local Service Area Bylaw No. 889.31, 2005” (re 1355 Lundine Lane, Area G) be introduced, read three times and forwarded to the Inspector of Municipalities for approval.

CARRIED

**Surfside Sewer Local Service Area Bylaw No. 1124.04 and Northern Community Sewer Local Service Area Bylaw No. 889.32 – 121 Kinkade Road – Area G.**

MOVED Director McNabb, SECONDED Director Holdom,:

1. That “Regional District of Nanaimo Surfside Sewer Local Service Area Bylaw No. 1124.04, 2005” be introduced, read three times and forwarded to the Inspector of Municipalities for approval.
2. That “Northern Community Sewer Local Service Area Bylaw No. 889.32, 2005” be introduced, read three times and forwarded to the Inspector of Municipalities for approval.

CARRIED

**COMMISSION, ADVISORY & SELECT COMMITTEE**

**District 69 Recreation Commission.**

MOVED Director Bartram, SECONDED Director Biggemann, that the minutes of the District 69 Recreation Commission meeting held April 21, 2005 be received for information.

CARRIED

MOVED Director Bartram, SECONDED Director Biggemann, that the Commission support the City of Parksville, the Town of Qualicum Beach and the Regional District in preparing a bid to host the 2007 or 2008 BC Seniors Games with the condition that a volunteer Community Champion may be found to promote the bid.

CARRIED

MOVED Director Bartram, SECONDED Director Biggemann, that the Regional District, on behalf of the Parksville Curling Club, request that the City of Parksville seek electorate consent to lease the subject property to the RDN for a term of twenty years for the purpose of the operation of a public recreation facility.

CARRIED

MOVED Director Bartram, SECONDED Director Biggemann, that the implementation of a three month pass program for Oceanside Place beginning September 1, 2005, be approved.

CARRIED

**Regional Growth Monitoring Advisory Committee/State of Sustainability Project.**

MOVED Director Holdom, SECONDED Director Bartram, that the minutes of the Regional Growth Monitoring Advisory Committee/State of Sustainability Project meeting held April 28, 2005 be received for information.

CARRIED

**Area 'A' Recreation Services Study Project Advisory Committee.**

MOVED Director Kreiberg, SECONDED Director Hamilton, that the minutes of the Electoral Area 'A' Recreation Services Study Project Advisory Committee meetings held April 12, 2005 and April 21, 2005 be received for information.

CARRIED

**Emergency Preparedness Standing Committee.**

MOVED Director Biggemann, SECONDED Director Bartram, that the minutes of the Emergency Preparedness Standing Committee meeting held April 28, 2005, be received for information.

CARRIED

**Grants-in-Aid Committee.**

MOVED Director Hamilton, SECONDED Director Westbroek, that the minutes of the Grants-in-Aid Committee meeting held April 29, 2005, be received for information.

CARRIED

MOVED Director Hamilton, SECONDED Director Westbroek, that the following grants be approved:

*School District 68:*

Cedar School & Community Enhancement Society	\$	800
Festival Gabriola	\$	400
Nanaimo Pumpkin Festival	\$	400
Nanaimo Search & Rescue	\$	800

*School District 69:*

Bard to Broadway Theatre Society	\$	400
District 69 Family Resource Association	\$	900
Ladies Auxiliary to Royal Canadian Legion – Bowser	\$	2,000
Lighthouse Country Business Association	\$	500
Oceanside Community Response Network	\$	300
Old School House Arts Centre	\$	900
Parksville Garden & Parkland Society	\$	500
Qualicum Cat Rescue	\$	500

CARRIED

**BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS**

**Gabriola Radio Funding.**

MOVED Director Lund, SECONDED Director D. Haime, that staff investigate and report back to the Committee on the District's ability to address the Gabriola Radio's request for funding and support in their application for a FM license through the CRTC.

CARRIED

**NEW BUSINESS**

**Pesticide Strategy.**

MOVED Director Westbroek, SECONDED Director Holdom, that staff contact the Cowichan Valley Regional District regarding their newly adopted Pesticide Reduction Strategy and investigate the viability of the RDN pursuing a similar approach.

CARRIED

**ADJOURNMENT**

MOVED Director Sherry, SECONDED Director Longmuir, that this meeting terminate.

CARRIED

TIME: 7:52 PM

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CHAIRPERSON



REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MoF	
JUN - 6 2005			
<i>Neil</i>			

MEMORANDUM

**TO:** Neil Connelly  
General Manager, Community Services

**DATE:** June 3, 2005

**FROM:** Christina Thomas  
Senior Planner, Community Services

**FILE:** 2240 20 URB

**SUBJECT:** URBAN CONTAINMENT AND FRINGE AREA MANAGEMENT  
IMPLEMENTATION AGREEMENT REVIEW

PURPOSE

The purpose of this report is to provide the Urban Containment Implementation Agreement (UCA) for consideration.

BACKGROUND

The UCA is the product of the review of the Urban Containment and Fringe Area Management Implementation Agreement (UCFAMIA) directed by the RDN Board on September 9, 2003. The purpose of the review was to fulfill Regional Growth Strategy (RGS) Bylaw No. 1309 policy commitments to address issues regarding:

- the level and type of develop that warrants consideration as an urban development on land inside the Urban Containment Boundary (UCB) and the coordination between jurisdictions regarding urban land use and development on land inside the UCB (Policy 1D); and
- development on rural land and the coordination between jurisdictions regarding land and development outside the UCB (Policy 3E).

The UCA is provided (see Attachment 1).

The UCA replaces the UCFAMIA as the implementation agreement<sup>1</sup> between the RDN, the City of Nanaimo, the City of Parksville, the Town of Qualicum Beach and the District of Lantzville concerning urban containment and the protection of rural values. The following describes the similarities and differences between the two agreements:

- The UCA establishes criteria for UCB changes that provide more flexibility to the parties to make UCB changes that contribute towards the achievement of the RGS goals. Each party to the Agreement is empowered to make the determination that there is a community need in their jurisdiction that warrants a UCB change (criteria 4.1 b). Furthermore, UCB changes must, on balance, contribute towards the RGS goals (criteria 4.1 c). Like the UCFAMIA, the UCA specifies that land proposed for inclusion inside the UCB must not be in the Agriculture Land Reserve (criteria 4.1 a).
- Like the UCFAMIA, the UCA defines the roles and responsibilities of the RDN and member municipalities regarding the review and revision of UCBs, establishes the criteria for UCB changes and defines the process for the consideration of those changes, and enables jurisdictions to consider

<sup>1</sup> Implementation agreements may be developed by regional districts pursuant to Local Government Act section 868 for the purpose of coordinating activities relating to regional growth strategy implementation.



UCB changes at intervals they deem appropriate (as specified in an official community plan), rather than just once every five years coincident with scheduled RGS reviews

- The UCIA more clearly describes the process for UCB changes than the UCFAMIA.
- The direction included in the UCFAMIA regarding decisions about municipal boundary extensions was not included in the UCIA in recognition that the *Local Government Act* takes precedence regarding boundary extensions and includes sufficient direction for decision making about this matter
- The UCIA formally includes the District of Lantzville as a signatory<sup>2</sup> unlike the UCFAMIA.

The UCIA was developed in consultation with staff from the member municipalities. RDN Regional Growth Management Services staff conducted one-on-one meetings with a planning staff representative/s from each of the member municipalities between April and June of 2004 to identify issues to be addressed in the UCFAMIA Review. Ten meetings of the Intergovernmental Advisory Committee (IAC), which is comprised of RDN and member municipality staff representatives, were conducted, between February 17, 2004, and March 31, 2005, to fully discuss the issues related to the UCFAMIA and the possible methods of addressing them. RDN Regional Growth Management Services staff and a Ministry of Community, Aboriginal and Women's Services staff representative (Brent Mueller, Manager, Growth Strategies, Vancouver Island) facilitated the IAC discussions. The IAC reviewed a series of initial drafts of the UCIA, and provided direction regarding desired amendments. Once the IAC deemed the UCIA acceptable for advancement to the RDN Board for formal consideration, a special meeting of the IAC and the administrators for the RDN and the member municipalities was conducted on April 28, 2005, to confirm that the UCIA is ready to advance forward for formal consideration. Based on the positive results of this April 28<sup>th</sup> meeting, the Agreement is now provided for RDN Board consideration.

As a part of the review of the UCFAMIA a wide variety of issues that initially seemed relevant to the Agreement were discussed. However, upon further discussion it was determined that some topics would be more appropriately addressed in a future RGS Review (*see Attachment 2*). Similarly, upon further discussion it was determined that the topic of jurisdictions' input into other jurisdiction's decisions about land use matters is better addressed through a separate, custom agreement, rather than the subject urban containment agreement or a future RGS Review. In this regard, Town of Qualicum Beach staff indicated that their jurisdiction might wish to participate in particular types of land use decisions for land within a specific, to be defined, area of interest (such as their watershed area). Staff from the other member municipalities concur that RGS policies (1A, 1B, 1C, 3A, 3B, 3C and 3D) provide a sufficient level of certainty regarding the type and density of development that may be supported in other jurisdictions, that adequate processes are in place to facilitate other jurisdictions' involvement in the consideration of developments that are inconsistent with RGS policy through the RGS amendment process, and that adequate processes are in place for each jurisdiction's involvement in other jurisdiction's decisions about land uses that are consistent with the RGS.

### *Next Steps*

Pursuant to the RDN Board-approved terms of reference for the project, an opportunity must be provided for the public to participate in the review of the UCFAMIA. It is proposed that residents of the City of Nanaimo, the City of Parksville, the Town of Qualicum Beach, the District of Lantzville, and Electoral Areas A, C, D, E, F, G and H be informed about the Agreement via an advertisement published on the RDN web site and in local newspapers during the last week of June 2005. The advertisement will invite residents to provide comments about the UCIA to the RDN by July 22, 2005. The UCIA will be made available for public review at the RDN Administration Office and on the RDN web site. It is proposed

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<sup>2</sup> Although the District of Lantzville is not a formal signatory to the UCFAMIA it is a party to the UCFAMIA pursuant to the letters patent that incorporated the new municipality.

that the results of the public consultation be reported to the Committee of the Whole/Board in August, for consideration prior to any formal decision to approve the Agreement.

Also, since the UCIA is an agreement amongst the RDN, the City of Nanaimo, the City of Parksville, the Town of Qualicum Beach, and the District of Lantzville, opportunities must be provided for each of the parties to formally consider the Agreement. Planning and administrative staff from each of these jurisdictions have already been involved in the development of the Agreement, and have indicated that the Agreement appears to be acceptable for their respective jurisdictions. It is proposed that the RDN refer the Agreement to the member municipalities at the commencement of the public consultation process for information, so all parties are aware of the public consultation opportunity. Further, it is proposed that the RDN refer the Agreement to the member municipalities for comment and confirmation that the Agreement is acceptable once the public consultation is complete.

#### **ALTERNATIVES**

1. To receive the Urban Containment Implementation Agreement, consult with the public about the Agreement, and refer the Agreement to the member municipalities for information at the commencement of the public consultation.
2. To provide alternative direction.

#### **FINANCIAL IMPLICATIONS**

Receipt of the UCIA has no financial implications for the RDN. The RDN Regional Growth Management Services 2005 budget includes sufficient resources to complete the recommended public consultation component of the project.

#### **GROWTH MANAGEMENT IMPLICATIONS**

The UCIA establishes an Agreement regarding decision making about UCB changes. The criteria established in the Agreement are intended to result in decisions about the UCB location that support the integrity of the RGS.

#### **PUBLIC CONSULTATION IMPLICATIONS**

Residents will be provided an opportunity to comment about the UCIA, and the RDN Committee of the Whole/Board will be able to consider these comments prior to any formal decision to approve the Agreement. The member municipalities will also be able to use this information in their decisions about the Agreement.

#### **INTERGOVERNMENTAL IMPLICATIONS**

Until such time as the RDN, the City of Nanaimo, the City of Parksville, the Town of Qualicum Beach and the District of Lantzville formally sign the UCIA the UCFAMIA will continue to provide direction regarding UCB changes. The IAC concurs with the recommended next steps regarding Agreement public consultation and referral to the member municipalities.

#### **SUMMARY**

The Urban Containment Implementation Agreement (UCIA) is provided (*see Attachment 1*). It is the product of the RDN Board-directed review of the Urban Containment and Fringe Area Management Implementation Agreement (UCFAMIA). The review of the UCFAMIA included discussion of a wide

variety of issues, and all applicable issues are addressed in the UCIA. The UCIA focuses on decisions about UCB changes, and gives the parties to the Agreement a degree of independence to determine when a UCB change is required. It also provides some flexibility in terms of the criteria for UCB changes that still ensures that changes respect the RGS.

**RECOMMENDATIONS**

1. That the Urban Containment Implementation Agreement be received.
2. That RDN staff be directed to consult with the public about the Urban Containment Implementation Agreement as recommended in the staff report.
3. That the Urban Containment Implementation Agreement be referred to the City of Nanaimo, the City of Parksville, the Town of Qualicum Beach and the District of Lantzville for information, at the commencement of the public consultation.

*Christina Thomas*

Report Writer

*[Signature]*

General Manager Concurrence

*[Signature]*

CAO Concurrence

## ATTACHMENT 1

# Urban Containment Implementation Agreement

**Amongst:** Regional District of Nanaimo  
City of Nanaimo  
City of Parksville  
Town of Qualicum Beach  
District of Lantzville

### 1.0 Purpose of the Agreement

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This agreement follows up on the commitments in the January 1997 *Master Implementation Agreement Regarding the Growth Management Plan for the Regional District of Nanaimo* to more fully define the roles and responsibilities of the Regional District of Nanaimo and its member municipalities in the review and revision of urban containment boundaries.

The agreement is intended to provide flexibility to the parties to be able to make changes to the urban containment boundary at whatever interval each party deems appropriate, based on community needs while maintaining the integrity of the Regional Growth Strategy.

Regional Growth Strategy Policy 1C states:

The RDN and member municipalities agree that Urban Containment Boundaries (UCBs) should only be amended every five years in conjunction with a review of the regional growth strategy, or at an interval specified in an official community plan. The RDN and member municipalities agree that all UCB changes should be considered according to the process and criteria of the Urban Containment and Fringe Area Management Implementation Agreement.

This agreement replaces the Urban Containment and Fringe Area Management Implementation Agreement.

### 2.0 Goals

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This agreement builds on the goals expressed in the Regional Growth Strategy and official community plans of member municipalities and electoral areas. All parties have expressed primary goals to:

- a) contain and support urban growth within urban containment boundaries; and,
- b) protect rural values.

The parties also acknowledge the importance of having a measure of flexibility to meet unanticipated regional and community needs while maintaining the integrity of these primary goals.

### **3.0 Principles**

---

The parties appreciate the need for and are committed to cooperation in the development and implementation of individual and joint actions with respect to urban containment and growth and development management based on the following principles:

#### **3.1 Areas within urban containment boundaries**

- a) Sufficient suitable land for urban growth has been designated within urban containment boundaries of the Regional Growth Strategy, at the time of its adoption, to accommodate a 25 year population projection; and
- b) Since the forecast rate of growth may change and unanticipated regional or community needs may arise from ongoing community planning, the urban containment boundary may be reviewed periodically in response to the demonstration of regional or community needs which cannot be met within the existing urban containment boundary.

#### **3.2 Urban growth management**

Within urban containment boundaries, urban growth should be phased so that it is:

- a) first located in areas already characterized by urban development that have existing capacity of public facilities and services to serve such development;
- b) then located in areas already characterized by urban development that can be efficiently served by upgrading existing public facilities and services; and
- c) then located in areas that are extensions of existing urban areas which can be efficiently served by upgrading existing public facilities and services.

## **4.0 Revision of Urban Containment Boundaries**

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### **4.1 Criteria**

It is agreed that a revision to the urban containment boundary can occur when the proposed change meets the following criteria:

- a) the land proposed for inclusion inside the Urban Containment Boundary is not in the Agriculture Land Reserve;
- b) the jurisdiction making the request deems there is a community need within their jurisdiction to move the Urban Containment Boundary to either include the land inside the Urban Containment Boundary or to exclude the land from inside the Urban Containment Boundary;
- c) the inclusion of the land inside the Urban Containment Boundary or the exclusion of the land from inside the Urban Containment Boundary on balance contributes towards the following:
  - i) the containment of urban sprawl by focusing development within well defined urban containment boundaries;
  - ii) the encouragement of mixed-used communities that include places to live, work, learn, play, shop, and access services;
  - iii) the protection and strengthening of rural economy and lifestyle;
  - iv) the protection of the environment and minimization of ecological damage related to growth and development;
  - v) the improvement and diversification of mobility options;
  - vi) strategic economic development;
  - vii) the provision of cost efficient services and infrastructure where urban development is intended, or the provision of services in other areas where the service is needed to address environmental or public health issues;
  - viii) cooperation among jurisdictions.

### **4.2 Process**

It is agreed that the proposed change initiated by the regional district or by the municipality:

- a) will only be considered at periodic review intervals specified in the Regional Growth Strategy and Municipal Official Community Plans and will require amendment of both the RGS and OCP provisions regarding applicable urban containment boundaries;
- b) will be supported by information, impact assessments and impact management conditions which address the above criteria;
- c) will be subject to a technical review and recommendations by the Core Group of the Intergovernmental Advisory Committee; and

- d) if approved, and where advised by the responsible government agencies, will be subject to conditions to protect ongoing resource production and environmental quality.

(see Appendix 1 for a flow chart outline of the process for revision of urban containment boundaries)

**5.0 Monitoring, Reporting and Amendment of this Agreement**

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The Core Group of the Intergovernmental Advisory Committee (IAC) will advise and report on matters in this agreement.

**EXECUTED BY THE REGIONAL DISTRICT OF NANAIMO** at Nanaimo, British Columbia, this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_ )  
 Chair )  
 \_\_\_\_\_ )  
 Deputy Administrator )

**EXECUTED BY THE CITY OF NANAIMO** at Nanaimo, British Columbia, this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_ )  
 Mayor )  
 \_\_\_\_\_ )  
 City Clerk )

**EXECUTED BY THE CITY OF PARKSVILLE** at Parksville, British Columbia,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_)  
\_\_\_\_\_)  
Mayor \_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
City Clerk \_\_\_\_\_)

**EXECUTED BY THE TOWN OF QUALICUM BEACH** at Qualicum Beach,  
British Columbia, this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_)  
\_\_\_\_\_)  
Mayor \_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
Deputy Clerk \_\_\_\_\_)

**EXECUTED BY THE DISTRICT OF LANTZVILLE** at Lantzville,  
British Columbia, this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_)  
\_\_\_\_\_)  
Mayor \_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
Corporate Administrator \_\_\_\_\_)



## Appendix 1

### **Revision of Urban Containment Boundaries**

1. Applicant submits proposal to amend the Urban Containment Boundary to the jurisdiction in which the land is located. The submission should include information about how the UCB change proposal meets the criteria for UCB changes.
2. Municipality or Electoral Area Planning Committee conducts an impact assessment of the proposal for the purpose of assessing the proposal's compliance with the UCB change criteria and deciding whether it wants the UCB change considered by the RDN Board.
3. Municipal Council or Electoral Area Planning Committee decides whether it wants the UCB change proposal considered by the RDN Board. If yes, it submits the UCB change proposal, accompanied with the impact assessment, to the RDN.
4. IAC reviews the requested UCB change pursuant to the UCB change criteria and makes its recommendation to the RDN Board.
5. RDN Board considers the recommendation of the IAC and makes a decision about the proposed UCB change.
6. For requests made by a municipality, municipality considers 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> reading and adoption of OCP bylaw effecting UCB changes, pending outcome of step 5. For requests made by the Electoral Area Planning Committee, proceed with a concurrent amendment to the RGS, pending outcome of step 5.

## **ATTACHMENT 2**

### **ISSUES TO ADDRESS IN A FUTURE REVIEW OF THE REGIONAL GROWTH STRATEGY**

#### **The utilization of land inside the UCB:**

- Are jurisdictions developing and implementing policies that encourage densification and mixed-uses on lands inside the UCB to the extent deemed necessary or desirable?
- Should the RGS provide more direction regarding the amount of development to be accommodated within UCBs, and the target densities for that development?

#### **Regional Growth Strategy land use designation of parks and golf courses:**

- Should land uses such as parks and golf courses be included in the RGS Resource Lands and Open Space land use designation or some new land use designation specifically for Open Spaces?
- Should the RGS contain policy specific to open spaces such as parks and golf courses?

#### **The relationship between Regional Growth Strategy Policy 3A and UCB Changes:**

- Should the RGS clearly specify that Policy 3A is not applicable to land that is included inside the UCB, and that a land use designation change from Resource Lands and Open Space or Rural Residential to Urban Area is intended to be contemplated at the same time as the decision to include the land inside the UCB?



REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MoF	
JUN - 2 2005			
<i>Call</i>			

# MEMORANDUM

**TO:** Stan Schopp  
Manager, Building Inspection Services

**DATE:** June 2, 2005

**FROM:** Allan Dick  
Senior Building Inspector

**FILE:** 3810-20

**SUBJECT:** Section 57 of the Community Charter - Contravention of Bylaw Meeting Date – June 14, 2005

### PURPOSE

To provide for the Committee's review, proposed Section 57 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.

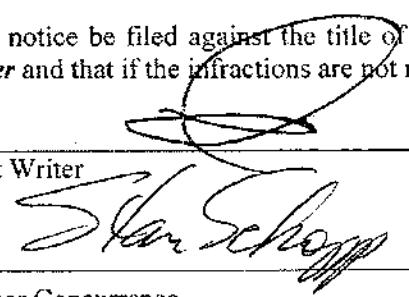
### SUMMARY OF INDIVIDUAL INFRACTIONS

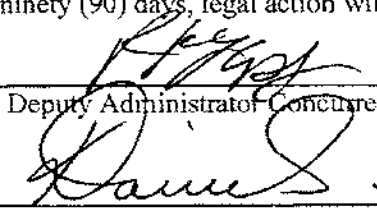
- Owners Name: Randy Marston, Teresa Marston  
 Legal Description: Lot 15 Block 564 Nanoose District Plan Vip76465  
 Street Address: 1978 Kaye Road

**Summary of Infraction:**  
 August 10, 2004 – BP 26347 issued for agricultural building.  
 November 03, 2004 – Permit issued for sfd/att. garage.  
 November 22, 2004 – Permit completed for agricultural building.  
 May 25, 2005 – RDN became aware of dwelling unit illegally constructed in agricultural building.  
 May 26, 2005 – Letter sent from bylaw officer regarding illegal construction.  
 May 26, 2005 – Stop Work Order posted for 2<sup>nd</sup> dwelling in contravention of zoning and ALC regulations.  
 May 31, 2005 – Letter sent regarding Stop Work Order.  
 June 2, 2005 – File forwarded for filing notice.

### RECOMMENDATION

That a notice be filed against the title of the property listed, pursuant to Section 57 of the *Community Charter* and that if the infractions are not rectified within ninety (90) days, legal action will be pursued.

Report Writer  
  
 Manager Concurrence

Deputy Administrator Concurrence  
  
 CAO Concurrence



REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		McF	
JUN - 8 2005			
<i>Cole</i>			

MEMORANDUM

**TO:** K. Daniels  
Chief Administrative Officer

**DATE:** June 7, 2005

**FROM:** N.Avery  
Manager, Financial Services

**FILE:**

**SUBJECT:** Bylaws to amend the boundaries of the Extension Fire Protection Service and to establish a new fire service in the Nanaimo River/South Forks Rd. area

**PURPOSE:**

To introduce for first three readings:

- Extension Fire Protection Service Conversion and Boundary Amendment Bylaw No. 1439, 2005
- Nanaimo River Fire Protection Service Area Establishment Bylaw No. 1440, 2005
- Regional District of Nanaimo(Nanaimo River Fire Protection Service) Loan Authorization Bylaw No, 1441, 2005
- Extension Fire Protection Service Capital Charge Bylaw No. 1444, 2005

**BACKGROUND:**

The Director for Electoral Area C has been working with staff and about 45 property owners along Nanaimo River and South Forks Rds. regarding the feasibility of establishing a fire protection service for the area. Until recently the primary impediment was certain equipment requirements of the Fire Underwriters service. The Fire Underwriters service has relaxed its stance somewhat on those requirements and is prepared to "rate" most of the additional properties as protected, under a boundary amendment to the Extension Fire Protection Service Area with the proviso that the newly incorporated area establish within a reasonable period of time a basic firehall with equipment and a register of volunteer firefighters. A recent neighbourhood poll indicated that property owners are prepared to fund a firehall while participating in the operations of an expanded Extension Fire Protection Service. The trustees of the Extension Fire Service have also given their approval to the initiative.

The approach to these particular circumstances is somewhat unique. The boundaries of the Extension Fire Protection Service will be amended by Bylaw No. 1439 to include certain properties along Nanaimo River and South Forks Rds. Once included within the extended boundaries the properties will participate fully in the annual budget for the Extension Fire Protection Service, including operating and any capital requirements.

A new fire protection service will be concurrently established by Bylaw No.1440 covering only the additional properties for the sole purpose of funding the start up capital and equipment for the extended area. Loan Authorization Bylaw No. 1441 is attached to fund start up capital estimated at \$280,000. Some start up construction costs are expected to be "paid" for by way of donated goods and services, so the authorization of \$280,000 in the bylaw may not be fully drawn down once the owners have organized the approach to constructing the firehall.

The new service area will be assessed a capital charge of \$12,000, to be transferred to the Extension Fire Protection Service Area as consideration for that area's investment in buildings, vehicles and equipment. The capital charge will be financed through the loan authorization bylaw noted above. Bylaw No.1444 establishes the capital charge for this boundary extension.

Finally, staff have identified that there is certain Crown land fronting on a portion of Nanaimo River Rd. which would be a suitable location for a secondary firehall. Staff recommend that the Province be approached for a Crown grant covering approximately one acre for the purposes of providing a firehall.

#### **ALTERNATIVES:**

1. Receive and give first three readings to the bylaws as presented and direct staff to approach the Province for a Crown grant on land along Nanaimo River Rd.
2. Make further recommendations and give three readings to any amended bylaws and direct staff to approach the Province for a Crown grant on land along Nanaimo River Rd.

#### **FINANCIAL IMPLICATIONS:**

The additional properties will represent about 17% of the property value of the fully expanded service area. The Extension Fire department proposes to increase it's annual requisition somewhat (from \$85,480 to \$95,000) to provide training costs, with any unused portion of the higher limit being used to top up existing reserve funds. In 2005 the property tax rate for the existing Extension Fire Protection service area is estimated at \$1.84/\$1,000. The property tax rate calculated to raise \$95,000 for an expanded service area is estimated at \$1.69, resulting in a net "savings" to existing property owners despite raising additional revenues.

Should the full amount of the loan authorization be borrowed, the new fire service area properties will pay an additional \$2.60 per \$1,000 – for a total cost of \$4.29 per \$1,000 (or \$429.00 per \$100,000). This is by far the highest tax rate for fire protection services in the Regional District; however, there are no practical alternatives. In fact, the greatest advantage to these properties is that they will receive the benefit of a responding department while they undertake to build their local infrastructure.

#### **OTHER COMMENTS:**

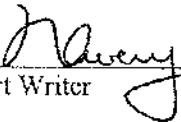
Petitions will be distributed to the new property owners shortly. Assuming a successful petition (50% positive response) and a prompt turnaround by the Province, these properties could have fire protection by the end of July or early August, in time for the highest fire risk portion of the year.

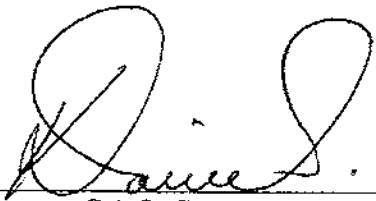
#### **SUMMARY/CONCLUSIONS:**

This report introduces four bylaws which will result in the extension of fire protection services to approximately 45 properties along Nanaimo River and South Forks Rds. Fire protection will be provided by the Extension Fire department. At the same time a new service area will be established to fund start-up capital including construction of a firehall, acquisition of a vehicle(s) and purchase of equipment. The rationale for the overlapping service areas is to ensure that the new fire protection assets required for the extended area are paid for solely by those property owners. Once the start-up capital debt is retired, staff anticipate that the Nanaimo River Fire Service will be merged with the Extension Fire Protection Service Area and the department will go forward under a single property taxation regime.

**RECOMMENDATIONS:**

1. That "Extension Fire Protection Service Conversion and Boundary Amendment Bylaw No. 1439, 2005" be introduced for first three readings and be forwarded to the Ministry of Community, Women's and Aboriginal Services for approval.
2. That "Nanaimo River Fire Protection Service Area Establishment Bylaw No. 1440, 2005" be introduced for first three readings and be forwarded to the Ministry of Community, Women's and Aboriginal Services for approval
3. That "Regional District of Nanaimo(Nanaimo River Fire Protection Service) Loan Authorization Bylaw No, 1441, 2005" be introduced for first three readings and be forwarded to the Ministry of Community, Women's and Aboriginal Services for approval.
4. That "Extension Fire Protection Service Capital Charge Bylaw No. 1444, 2005" be introduced for first three readings and be adopted once all other establishing and boundary amendment requirements have been met.

  
Report Writer

  
C.A.O. Concurrence

**COMMENTS:**

**REGIONAL DISTRICT OF NANAIMO**

**BYLAW NO. 1439**

**A BYLAW TO CONVERT  
A FIRE SPECIFIED AREA  
TO A SERVICE AREA**

WHEREAS the Board of the Regional District of Nanaimo did by Bylaw No. 638 create a specified area known as the Extension Fire Protection Specified Area;

AND WHEREAS the Board of the Regional District of Nanaimo has received a sufficient petition requesting that the boundaries of the service area be extended;

AND WHEREAS under Section 774.2(3) of the *Local Government Act*, a Regional District may convert a continued service to one exercised under the authority of an establishing bylaw and by the same bylaw, amend the service to the extent that it could if the service were exercised under the authority of an establishing bylaw;

AND WHEREAS a bylaw under Section 774.2(3) must:

- a) meet the requirements of Section 800.1 (required content) for an establishing bylaw, and
- b) be adopted in accordance with the requirements of Section 802 (amendment or repeal of establishing bylaw) as if it were a bylaw amending an establishing bylaw.

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

1. The boundaries of the "Extension Fire Protection Specified Area" created by Bylaw No. 638, are amended to include the properties outlined on Schedule 'A' attached hereto and forming part of this bylaw, to be known as the "Extension Fire Protection Service Area".
2. The sole participant in the service is a portion of Electoral Area 'C'.
3. The amended boundaries of the service area are shown outlined on Schedule 'B' attached to and forming a part of this bylaw.
4. The maximum amount that may be requisitioned under Section 800.1(e) for this service shall be the greater of:
  - a) the sum of one hundred and twenty six thousand, four hundred dollars (\$126,400) or;

- b) the product obtained by multiplying the net taxable value of land and improvements within the service area by a property tax value rate of two dollars and twenty five cents (\$2.25) per thousand dollars of assessment.
5. The annual costs for this service may be recovered, pursuant to the *Local Government Act*, under Section 803(1) by one or more of the following:
- i. property value taxes imposed in accordance with Division 4.3 (Requisition and Tax Collection);
  - ii. fees and other charges imposed under Section 363 (imposition of fees and charges);
  - iii. revenues raised by other means authorized under this or another Act;
  - iv. revenues received by way of agreement, enterprise, gift, grant or otherwise.
6. The service area established by this bylaw may be merged with any other service area or areas for the same purpose, whether contiguous or not, in the manner provided in the *Local Government Act*.
7. "Extension Fire Protection Specified Area Bylaw No. 638, 1983", is hereby repealed.
8. This bylaw may be cited as "Extension Fire Protection Service Conversion and Boundary Amendment Bylaw No. 1439, 2005".

Introduced and read three times this 28th day of June, 2005.

Received the approval of the Inspector of Municipalities this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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CHAIRPERSON

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DEPUTY ADMINISTRATOR



**REGIONAL DISTRICT OF NANAIMO  
BYLAW NO. 1440**

**A BYLAW TO ESTABLISH A SERVICE WITHIN ELECTORAL AREA 'C'  
FOR THE PURPOSE OF CONSTRUCTING, ACQUIRING AND OTHERWISE  
OBTAINING LAND, BUILDINGS, VEHICLES AND EQUIPMENT TO  
PROVIDE FIRE PROTECTION SERVICES**

WHEREAS the Board of the Regional District of Nanaimo may, pursuant to Section 796 of the *Local Government Act*, operate any service that the Board considers necessary or desirable for all or a part of the Regional District;

AND WHEREAS owners of parcels in a portion of Electoral Area 'C' have petitioned the Regional District pursuant to Section 797.4 of the Act to establish a service for the purpose of constructing, acquiring and otherwise obtaining land, buildings, vehicles and equipment to provide fire protection services;

AND WHEREAS the petitions have been judged sufficient pursuant to Section 797.4(4) of the Act;

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

1. A service to construct, acquire and otherwise obtain land, buildings, vehicles and equipment to provide fire protection services is hereby established.
2. The boundaries of the service area are shown on Schedule 'A' attached to and forming part of this bylaw.
3. The sole participant in the service is a portion of Electoral Area 'C'.
4. The entire cost of providing the service established by this bylaw shall be borne by the owners of land within the service area and may be recovered pursuant to Section 803 of the Act by one or more of the following:
  - (a) property value taxes imposed in accordance with Division 4.3;
  - (b) fees and other charges imposed under Section 363;
  - (c) revenues raised by other means authorized under this or another Act;
  - (d) revenues raised by way of agreement, enterprise, gift, grant or otherwise.

5. The maximum amount that may be requisitioned for this service shall be the greater of:
  - (a) the sum of Twenty Five Thousand Dollars (\$25,00.00); or
  - (b) the product obtained by multiplying the net taxable value of land and improvements within the service area by a property tax value rate of \$2.60 per thousand dollars of assessment.
  
6. This bylaw may be cited as the "Nanaimo River Fire Protection Service Area Establishment Bylaw No. 1440, 2005".

Introduced and read three times this 28th day of June, 2005.

Received the approval of the Inspector of Municipalities this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
DEPUTY ADMINISTRATOR

**REGIONAL DISTRICT OF NANAIMO**

**BYLAW NO. 1441**

**A BYLAW TO AUTHORIZE BORROWING FOR THE  
PURPOSE OF CONSTRUCTING, ACQUIRING AND UPGRADING  
LAND, BUILDINGS, VEHICLES OR EQUIPMENT FOR THE  
NANAIMO RIVER FIRE PROTECTION SERVICE AREA**

WHEREAS Regional District of Nanaimo Bylaw No. 1440 established the “Nanaimo River Fire Protection Service Area”;

AND WHEREAS the Board wishes to acquire and improve land, buildings, vehicles and equipment for the service;

AND WHEREAS the estimated cost of acquiring, constructing or otherwise obtaining land, buildings, vehicles or equipment is the sum of \$280,000;

AND WHEREAS the financing of this capital program is to be undertaken by the Municipal Finance Authority of British Columbia pursuant to proposed agreements between the Authority and the Regional District of Nanaimo;

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

1. The Board is hereby empowered and authorized to acquire and carry out or cause to be carried out the following capital program:

Fire protection service assets	\$280,000
--------------------------------	-----------

2. To borrow upon the credit of the Regional District a sum not exceeding \$280,000.
3. To acquire all such real and personal property, rights or authorities as may be requisite or desirable for, or in connection with, the foregoing capital program, and all related ancillary works and equipment deemed necessary by the Board for the management of the service authorized under “Nanaimo River Fire Protection Service Area Establishment Bylaw No.1441, 2005”.
4. The maximum term for which debentures may be issued to secure the debt intended to be created by this bylaw is 20 years.

5. This bylaw may be cited for all purposes as "Regional District of Nanaimo (Nanaimo River Fire Protection Service) Loan Authorization Bylaw No. 1441, 2005".

Introduced and read three times this 28th day of June, 2005.

Received the approval of the Inspector of Municipalities this \_\_\_\_ day of \_\_\_\_\_, 2005.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
DEPUTY ADMINISTRATOR

**REGIONAL DISTRICT OF NANAIMO**

**BYLAW NO. 1444**

**A BYLAW TO IMPOSE A CAPITAL CHARGE WITH RESPECT TO THE  
EXTENSION FIRE PROTECTION SERVICE AREA**

WHEREAS the Board of the Regional District of Nanaimo established by "Extension Fire Protection Service Area Conversion and Boundary Amendment Bylaw No. 1439, 2005", a service area for the provision of fire protection;

AND WHEREAS Section 363 of the *Local Government Act* authorizes a Board, by bylaw, to impose a fee or charge in respect of all or part of a service of the Regional District;

AND WHEREAS capital improvements have been made to provide the service and therefore the Board desires to impose a capital charge on each parcel added to the local service area under a boundary expansion;

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

1. A charge of \$12,000 is hereby established as a contribution in recognition of the capital value of Extension Fire Protection Specified Area assets and as consideration for extending the boundaries of the Extension Fire Protection Specified Area to include properties within the Nanaimo River Fire Protection Service Area.
2. The charge imposed under Section 1 shall be levied in the first annual budget of the Nanaimo River Fire Protection Service.
3. This bylaw may be cited for all purposes as "Extension Fire Protection Service Area Capital Charge Bylaw No. 1444, 2005.

Introduced and read three times this 28th day of June, 2004.

Adopted this 28th day of June, 2004.

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CHAIRPERSON

---

DEPUTY ADMINISTRATOR



REGIONAL DISTRICT OF NANAIMO	
CHAIR	GM Cms
CAO	GM ES
DA CCD	MoF
JUN - 7 2005	
<i>Old Board</i>	

**MEMORANDUM**

**TO:** Robert Lapham  
General Manager, Development Services

**DATE:** June 7, 2005

**FROM:** Jason Llewellyn  
Manager of Community Planning

**FILE:** 0410-20-RAR

**SUBJECT: Riparian Areas Regulation**

**PURPOSE**

To inform the Board of the implications of changes to provincial regulation governing the protection of riparian areas for fish protection purposes, to obtain Board approval to request a time period extension order for implementation of the regulations, and to obtain Board approval to begin the process to amend development permit area guidelines as required to implement the *Riparian Areas Regulation*.

**BACKGROUND**

The Riparian Areas Regulation (RAR) pursuant to the *Fish Protection Act* (FPA) was scheduled to come into effect on March 31, 2005. In February, 2005 UBCM requested that the Ministry of Water, Land and Air Protection (MWLAP) extend the effective date of the RAR given the lack of information provided by the province on the regulations, the number of unanswered questions regarding implementation of the regulations, and the resulting inability of local governments to implement the RAR. UBCM conducted a poll of local governments earlier that month and 93% of responding local governments indicated they were not ready to implement the RAR on March 31, 2005.

UBCM recommended an implementation date of December 31, 2005 to MWLAP and suggested that most local governments would require 9 to 12 months to prepare for implementation, provided that the province presents immediate answers to the outstanding issues. These answers have not yet been provided. A copy of this UBCM letter is included as Attachment No. 1. On March 31<sup>st</sup> the province extended the effective date of the RAR by 3 months, until June 30, 2005. Shortly after March 31, 2005 the province released the "Riparian Areas Regulation Implementation Guidebook", which provides the province's opinion on how local governments may interpret and implement the RAR.

There exists an environment of relative uncertainty with respect to the responsibilities and liabilities of local governments and the implementation of the regulations. These uncertainties and implementation challenges are discussed in this report, the UBCM letter (Attachment No.1), and the legal opinion from Lidstone, Young, Anderson provided for the Board's information as Attachment No. 2.

## THE NEW REGULATIONS

### Process Overview

In the province's opinion the RAR is an alternate model for urban riparian management that satisfies the statutory obligations of the federal *Fisheries Act*, provides certainty and flexibility to urban land owners and developers, and is not dependent on local, provincial and federal government resources.

The RAR requires local governments to protect riparian areas during residential, commercial, and industrial development by requiring that proposed activities are subject to an assessment conducted by a Qualified Environmental Professional (QEP) prior to approvals under Part 26 of the *Local Government Act*. The QEPs, hired by the developers, are to assess riparian areas and habitat, assess the potential impacts of development on the riparian areas and habitat, and develop mitigation measures to avoid impacts of development to fish and fish habitat.

The RAR contains assessment methodology that the province believes provides clear direction to QEPs on how to assess impacts, how to determine setbacks based on site conditions, and what measures need to be employed to maintain the integrity of the riparian areas and habitat. QEPs will have to certify they have the qualifications, experience and skills necessary to conduct the assessment. The provincial and DFO involvement in riparian protection during development approval is intended to be replaced by the assessment report.

The RAR provides that if a local government has established Streamside Protection and Enhancement Areas (SPEA) in accordance with the Streamside Protection Regulations (SPR) by March 31, 2005 the local government has met the requirement of the RAR in those areas and assessment reports are not required to be provided. The Regional District of Nanaimo (RDN) has not established SPEAs in accordance with the SPR.

### Local Government Responsibilities

The *Fish Protection Act* requires certain local governments to ensure its bylaws and permits provide a level of protection that it meets or exceeds the level of protection established in the RAR. The RAR requires the Regional District to ensure that the province receives an assessment conducted by a QEP before it issues or approves any of the following:

- Development Permit;
- Development Variance Permit;
- Temporary Use Permit;
- site specific Zoning Bylaw Amendment;
- site specific Official Community Plan Amendment;
- Servicing Agreement; or,
- Land Use Contract amendment.

The assessment is required if any permit, bylaw or agreement noted above involves any of the following development in a riparian assessment area:

- removal, alteration, disruption or destruction of vegetation;
- disturbance of soils;
- construction or erection of buildings or structures;
- creation of non-structural impervious or semi-impervious surfaces;
- flood protection works;
- construction of roads, trails, docks, wharves and bridges;

- provision and maintenance of sewer and water services;
- development of drainage systems;
- development associated with subdivision; or,
- development of utility corridors.

The "riparian assessment area" is defined as the area:

- within 30 metres of the high water mark of a stream;
- within 30 metres of the top of a ravine bank; or,
- within 10 metres of the top of a ravine bank where the ravine is more than 60 metres in width.

The RAR does not apply to:

- the issuance of a building permit;
- subdivision approval by Approving Officer;
- strata conversions;
- Board of Variance decisions;
- development permits or development variance permits enabling reconstruction or repair of a permanent structure containing a legal non-conforming use; or,
- farm uses on Agricultural Land Reserve land (there is some question regarding this exclusion).

## ALTERNATIVES

1. To approve the recommendations in this report.
2. To accept this report and provide specific direction to staff in response to the RAR.

## BYLAW AND PERMIT AMENDMENT IMPLICATIONS

### *Building Permit Approval Process*

The RAR requirements only apply to Part 26 approvals; therefore, the building permit approval process is not directly impacted. However, as is current practice, a Building Permit is not issued for a building prior to the issuance of any required development permit, development variance permit, or other Part 26 approval that may be required.

### *Zoning Bylaws and the Bylaw Amendment Approval Process*

According to the RAR a site specific zoning bylaw amendment or variance to a zoning bylaw, cannot be approved by the Board if that approval applies to a "riparian assessment area" without ensuring that an assessment is first prepared by a QEP and submitted to the province. The assessment must state that the project will result in no harmful alteration, disruption or destruction (HADD) of fish habitat. Where a HADD would occur the Board may not finalize the rezoning, or issue a development variance permit, until DFO approves the HADD.

Currently, in general terms, both "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" and "Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002" require a setback of 30 metres from the Nanaimo River, Little Qualicum River, Big Qualicum River, and lower French Creek, and 15 metres from all other watercourses. The Board retains its ability to deny any setback



variance or rezoning at its discretion, and is under no obligation to approve a reduced setback or rezone a property as the result of an assessment report provided by a QEP.

Zoning is an inefficient tool to implement the RAR. Zoning can only implement the RAR by regulating the use of land and the siting of structures. Zoning cannot regulate the disturbance of soil, or the removal of trees – which are critical components in protection riparian areas. Therefore, it is not recommended that the RDN rely on zoning to implement the RAR.

### ***Development Permit Areas and the Permit Approval Process***

According to the RAR a development permit cannot be approved by the Board if that approval applies to a "riparian assessment area" without ensuring that an assessment is first prepared by a QEP and submitted to the province. The assessment must state that the project will result in no HADD of fish habitat. Where a HADD would occur the Board may not issue a permit, until DFO approves the HADD.

It is staff's opinion that development permits are the most efficient and effective tool to implement the RAR. Development Permits are relatively flexible, can be issued in a relatively short time frame, and provide the ability to regulate building location as well as the removal of vegetation, and the disturbance of soil. Also, the RDN has been using development permits to protect riparian areas for some time; therefore, the public and development community are familiar with this approach.

The various natural environment development permit areas in the Regional District's Official Community Plans establish the requirement to obtain a development permit prior to certain works occurring within certain distances from watercourses. These distances are, generally, as follows:

#### Electoral Area A – DPA NO. 5

- Nanaimo River and Haslam Creek = 30 metres
- All other watercourses = 15 metres

#### Electoral Area C – Watercourse Protection DPA

- Nanaimo River, Englishman River, and Haslam Creek = 30 metres
- All other watercourses = 15 metres

#### Electoral Area D – Environmentally Sensitive Areas DPA

- All watercourses = 30 metres

#### Electoral Area E – Watercourse Protection DPA (proposed)

- All Watercourses = 30 metres

#### Electoral Area F – Watercourse Protection DPA

- Little Qualicum River, lower French Creek and the Englishman River = 30 metres
- All other Watercourses = 15 metres

#### Electoral Area G – French Creek OCP Watercourse Protection DPA

- French Creek = 30 metres
- All other watercourses = 15 metres

#### Electoral Area G – Shaw Hill Deep Bay OCP Environmentally Sensitive DPA

- All watercourses = 15 metres

Electoral Area H – Environmentally Sensitive features DPA

- Big Qualicum River, Thames Creek and Nile Creek = 30 metres
- All other watercourses = 15 metres

To ensure compliance with the RAR these development permit areas should be amended to require the issuance of a permit for any works within the riparian assessment area as prescribed in the RAR. This would involve increasing the requirement to at least 30 metres for all watercourses. It is noted that the existing DPA maps may not cover all watercourses as defined in the RAR; therefore, as Official Community Plans are reviewed over time further work can be done to identify and map all water features required by the RAR. This is a potentially expensive and time consuming exercise. It is noted that the RAR definition of a watercourse that requires protection is very inclusive and potentially applies to features such as ditches. A strict application of the RAR to all of these water features is not practical and is a potential area of local government liability.

It is noted that the Board is under no obligation to issue a development permit if the proposed development is contrary to the guidelines for that development permit area, regardless of the recommendations of a QEP in the assessment report.

## IMPLEMENTATION IMPLICATIONS

### *Impact on Applicants*

The province has set a date of June 30, 2005 for the RAR to apply. Therefore, the RDN should not give any final approvals, if the approvals are for work within the prescribed riparian assessment area, unless an assessment report is received by the province stating that there is no HADD. This will primarily impact the rezoning process and the development permit application process. Those applicants shall have to retain a QEP to provide an assessment report and submit that report to the province. The RDN will be able to access that report directly from the QEP or from the province's web site. Staff shall then review the assessment report to ensure it adequately corresponds to the development permit application received. Staff must also identify any conditions outlined in the assessment report and determine the most appropriate way to secure those conditions. It is possible that these conditions may have to be met prior to permit approval or issuance or secured through financial security. This work is in addition to the regular information required from an applicant and the typical staff review of applications.

### *Legalizing Existing Illegal Development*

In the Regional District of Nanaimo, given the lack of building inspection and the high levels of development occurring over a large area, it is not uncommon for property owners to remove riparian vegetation within development permit areas and then attempt to subsequently legalize the land clearing and building by obtaining a development permit. As part of this approval process the Regional District commonly requires the applicants to hire an environmental consultant, and perhaps consult with DFO, to develop a restoration plan to reclaim the riparian area.

Where such situations occur in the future, the applicant shall be required to obtain an assessment from a QEP to determine if a HADD has occurred. If the development has resulted in a HADD the Regional District can not approve the development permit without an official approval of the HADD from DFO. Where DFO is unwilling to provide such approvals the property owner may not be able to develop their property further.

### *Monitoring and Enforcement of Conditions of Approval*

Where an assessment report provided by a QEP certifies that a development proposal will have no HADD if certain conditions are met, those conditions must be secured as part of the development permit approval process. The province is looking to local governments to ensure adequate monitoring and enforcement of these conditions, which are built into development permits. Due diligence requires staff to ensure that conditions contained in the assessment report are practical and enforceable. This draws staff into interpreting and assessing the recommendations of the assessment reports. The province has not identified their role in enforcement and monitoring; however, experience would suggest that their planned involvement in the review or approval of assessment reports, and enforcement of development permit conditions based on assessment reports, will be the exception rather than the rule. DFO is expected to be involved only where they have reason to believe a HADD has occurred or when they are requested to approve a proposed HADD.

Another complication is that local governments are required to issue development permits if the development application conforms to the development permit area guidelines and an assessment report has been provided. The RDN's development permit area guidelines must be amended so that the development permit can be legally refused by the Board if a QEP's recommendations or conditions are unacceptable or not adequately secured. Local governments have no authority to directly enforce the conditions of a QEP report if those conditions are not incorporated as development permit conditions.

### *DFO Sign Off*

DFO have not officially signed off on the RAR. This means that if a QEP provides an assessment report following the assessment criterion required by the province and gives his opinion that there is no HADD in association with the development, there is still no guarantee that DFO will not commence prosecutions under the *Fisheries Act* if a HADD has occurred in their opinion. Staff understands that DFO and the province are currently discussing this issue and that changes may be required to the assessment methods in order for DFO to officially accept all assessment reports based on those methods.

This is a potential liability concern to the RDN as we would likely be named in Court action should DFO charge a developer for undertaking work that we approved. If this concern is not adequately addressed it may be advisable for local governments to delay or withhold approval of a development pending review of the assessment report by DFO. This would largely defeat the purpose of the RAR, which was to create objective assessment methods and transfer responsibility for undertaking that assessment from the province and DFO to the private sector. It is expected that the potential local government liability in this area will be discussed in the UBCM legal review of local government liability that is currently underway.

This lack of a DFO sign off also creates uncertainty for the QEP and the developer. There is no certainty for the QEP that DFO will agree with their assessment even if they fully meet the province's assessment requirements. Also, there is the obvious uncertainty this creates for the developer who would be charged by DFO.

The legal opinion from Lidstone, Young, Anderson (see Attachment No. 2) provided further discussion on the unanswered questions, legal issues, and implementation challenges surrounding the RAR.

## **THE NEED FOR DEFERRED IMPLEMENTATION**

As noted, staff are concerned with the implementation of the RAR on June 30<sup>th</sup> as proposed by the province. Staff are in agreement with the UBCM that implementation should not occur until December 31, 2005 at the earliest, to allow the RDN, the development community, and MWLAP to appropriately prepare for implementation of the RAR.

Staff recommends that the Minister of Water, Land, and Air Protection be requested to provide a time period extension order delaying implementation of the RAR in the Regional District of Nanaimo until December 31, 2005. The justification for this request is discussed below and is also discussed in the February 28, 2005 letter from UBCM to the Deputy Minister of Water, Land and Air Protection (Attachment No. 1).

### **Availability of Qualified Environmental Professionals**

Malaspina University College (MUC) was planning, in cooperation with MWLAP, to offer a course to train QEPs regarding the RAR and the provision of assessment reports. However, this course was cancelled. It is speculated that the DFO sign-off issue is the reason for the cancellation of the QEP training course by MUC.

RDN staff are concerned that if the RAR is implemented on June 30<sup>th</sup>, there will be a shortage of QEPs available to prepare acceptable assessment reports. This could result in a significant and serious bottleneck to development approvals in the RDN until such time as an adequate number of trained QEPs are available to provide assessment reports.

### **UBCM Legal Review of Liability to Local Government**

As previously noted, UBCM is currently undertaking a legal review of local government liability associated with the RAR. The review is expected to be complete shortly. The information provided as a result of this review will require analysis and may impact the manner in which the RDN chooses to amend its bylaws and implement the RAR.

It would be beneficial to review this information prior to finalizing our implementation plan.

### **Outstanding Issues that the Province Should Clarify**

The province should respond to the issues raised by UBCM, contained on pages 4-7 of the February 28<sup>th</sup>, 2005 letter from UBCM to the Deputy Minister of Water, Land and Air Protection (Attachment 1 to this report) prior to local government being required to implement the RAR.

### **Public Awareness**

The public and development community are relatively unaware of the RAR and the potential impact on development and development approvals. Given the historic lack of information, and the large number of unanswered questions, the RDN is still not in a position to provide complete information or answers to the public. Presently, staff is informing persons making inquiries regarding development in the vicinity of a watercourse that they may be required, as of June 30<sup>th</sup>, to hire a Qualified Environmental Professionals to prepare an assessment report in accordance with the RAR.

Once the outstanding issues are addressed by the province, and once the RDN has been able to finalize the appropriate bylaw amendments necessary to implement the RAR, time is then required to advise the public and development community of the impacts of the RAR.

### **Required OCP Amendments**

The process to draft the required amendments to the numerous OCPs, undertake public consultation, and obtain the required provincial government approval of the bylaws prior to adoption takes at a minimum a number of months. In this case, where the issues are rather complex and unclear the process additional time is required to ensure that appropriate bylaw amendments are made to appropriately implement the RAR.

### **Province Recommended Use of Section 909 of LGA**

It has been suggested by representatives from the Ministry of Water, Land and Air Protection (MWLAP) that local governments consider adopting a bylaw under Section 909 of the *Local Government Act* as a short term fix to comply with the requirements of the RAR. This would allow an earlier implementation of the RAR as a bylaw under Section 909 does not require the public input process that an OCP amendment requires, and may be quickly adopted by the Board. In addition to the issues noted above staff do not see this as an advisable approach for the following reasons:

- Drafting, and adopting such a bylaw for use for only a few short months would be a waste of staff resources.
- Requiring the development community to become familiar with, and meet the requirements of, the regulations in such a bylaw for only a few months would not be appropriate.
- A bylaw under this section of the LGA allows no discretion and little flexibility, to staff or the Board in implementation. Therefore it is not a practical tool to implement the requirements of the RAR.

### **Local Governments in the Area**

The Comox-Strathcona Regional District, Cowichan-Valley Regional District, City of Nanaimo, City of Parksville, Town of Qualicum Beach, and the District of Lantzville have not begun the process to amend their bylaws to conform to the RAR, and are not in a position to implement the RAR on June 30<sup>th</sup>.

### **SUMMARY**

The Riparian Areas Regulation (RAR) pursuant to the *Fish Protection Act* (FPA) is scheduled to come into effect on June 30<sup>th</sup>, 2005. The RAR requires local governments to protect riparian areas during residential, commercial, and industrial development by requiring that proposed activities are subject to an assessment conducted by a Qualified Environmental Professional (QEP) prior to approvals under Part 26 of the *Local government Act*. The QEP, hired by the developers, are to assess riparian areas and habitat, assess the potential impacts of development on the riparian areas and habitat, and develop mitigation measures to avoid impacts of development to fish and fish habitat based on the assessment methods contained in the RAR.

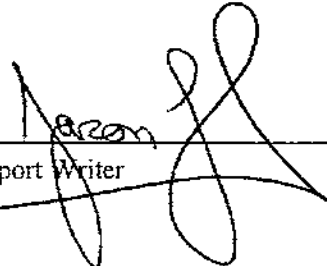
It is staffs opinion that development permits are the most efficient and effective tool to implement the RAR. However, the development permit area guidelines, contained in the Electoral Area OCPs, must first be amended to implement the requirement of the RAR.


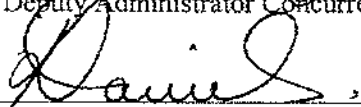
There are many unanswered questions and unresolved issues surrounding the implementation of the RAR that are required to be addressed. In staff's opinion the province, the development community, and the RDN are not in a position to adequately implement the RAR because of these issues. Further work and consultation are required to appropriately amend RDN bylaws to implement the RAR.

Therefore, staff recommend that the Minister of Water, Land, and Air Protection be asked to provide a time period extension order delaying implementation of the RAR in the RDN until December 31<sup>st</sup>, 2005. It is also recommended that staff be directed to begin work on the process to amend development permit area guidelines as required to implement the Riparian Areas Regulation.

### RECOMMENDATIONS

1. That the Board receive this report for information.
2. That the Board request that the Minister of Water, Land, and Air Protection provide a time period extension order delaying implementation of the RAR until December 31<sup>st</sup>.
3. That the Board direct staff to begin the process to amend the development permit areas as required to implement the Riparian Areas Regulation.

  
Report Writer

  
Deputy Administrator Concurrence  
  
CAO Concurrence

### COMMENTS:

devsr/reports/2005/dp ju 0410 20 rar

## Attachment No. 1

February 28, 2005  
BY

**URGENT**  
**COURIER**

Gordon Macatee  
Deputy Minister  
Ministry of Water, Land and Air Protection  
PO Box 9339  
STN PROV GOVT  
Victoria BC  
V8W 9M1

Dear Mr. Macatee:

### **RE: RIPARIAN AREAS REGULATION: MEETING WITH MINISTER**

UBCM will meet with the Minister, for the third time since the July decision to discuss the implementation of the riparian areas regulation, on March 31, 2005 to discuss the status of the implementation and readiness of local government.

We will be asking the Minister to consider an extension to the effective date on application of those local governments that indicate that they are not yet prepared to deal with the new regulatory process.

This request is based on considerable examination of the issue that we have undertaken with respect to:

- the readiness of local governments;
- status of the ministry's implementation activities; and
- an independent legal opinion on the consequences.

In summary our analysis shows:

- most local governments don't feel that they are ready to implement the Riparian Areas Regulation on March 31, 2005;
- even if the ministry meets its (reduced) implementation plan targets on March 31, 2005 the materials will not be in the hands of local government to actually use;
- legal concerns remain outstanding (above and beyond those to be addressed in the liability review).

The clear risk the ministry must weigh is what will happen to development activity in British Columbia: Will it be slowed down or stymied because of the uncertainty?; Is this a risk that the government wish to take at this time?

Or is a more prudent route to allow those local governments that wish to proceed under the new Riparian Areas Regulation to do so, and allow others to delay the implementation until they see the results of the implementation activities and modify their current process.

The consequences for both local government and the development industry are clear in the analysis that follows. A summary of the findings are outlined below:

- local governments lack the information needed to address developer and public concerns;
- local governments are not ready to implement the new regulation do to a large number of uncertainties;
- local governments need to develop bylaws and educate staff and the public about the new system;
- uncertainties in implementing the new regulation may create major costs for the development industry;
- the new regulation could potentially capture development agriculture, mining and forestry uses;
- lack of transition measures will create delays in both existing development proposals and new development proposals .

Given these introductory comments, I would like to turn to our three part analysis.

## **1. READINESS OF LOCAL GOVERNMENT**

We have conducted a survey of affected local governments. While our staff have been cooperative, their reports on the state of local government preparedness have been seen by some officials as obstructionist. A decision was made to survey the affected members directly. A copy of the survey and the preliminary results are appended (Appendix 1 and 2).

The key results are:

- 89% indicated that they would require further information in order to implement the Riparian Areas Regulation;
- 75% stated that they would not be ready to implement the Riparian Areas Regulation on March 31, 2005;
- 90% stated that they would like an extension – 30% requested 1 year, 30% requested 9 months; and
- 54% stated that they currently are not using a SPEA process.

What this tells us is that the majority of local governments do not feel that they have the information required to move forward on this issue and they will not be ready to implement the new regulation on March 31, 2005. Overall, local



government would need an extension of 9 to 12 months in order to be ready to implement the new regulation and that the majority of local governments would not be able to use the existing process.

More importantly we wish to draw your attention to the concerns raised by local government and why they see not being ready to go on March 31, 2005. These comments include:

#### **Information Needs**

- *local governments require more information, especially on the implementation tools, and an opportunity to review the guidebook and the future monitoring and enforcement tools that will be provided.*
- *series of outstanding questions that need to be addressed prior to the municipality being in a position to ascertain whether to proceed with the RAR or implement another streamside protection approach.*
- *the 31<sup>st</sup> is an unrealistic date even if additional information is provided – there has not been complete information provided to date and too many uncertainties remain.*

#### **Readiness**

- *we have limited staff resources to evaluate RAR information;*
- *we do not have the budget or expertise to undertake necessary mapping and site identification.*
- *there is insufficient information on the key aspects of the RAR at this time and we cannot advance until the information is provided.*
- *the city has received no response to questions previously submitted and it is unclear how the regulations will be integrated into existing city processes;*
- *not ready to implement under the RAR framework due to a number of uncertainties and we need additional information to address council, developer and public concerns.*

#### **Extension Needs**

- *December 31, 2005 would be reasonable if the Province delivers what was promised – if they don't additional time would be required.*
- *bylaw amendments in regional districts often require more extensive preparation, consultation and education to achieve success than one might normally encounter in a more geographically confined municipality.*
- *following the delivery of all the provincial tools, we will need 6 months for bylaw preparation and public consultation.*
- *we will require 9 to 12 months to be able to integrate the RAR, educate staff and developers, and create bylaws.*

- *small cities do not have the manpower and resources of the larger cities and districts to implement the required tools (e.g. bylaws).*

## **2. READINESS OF IMPLEMENTATION MATERIALS**

Attached is our assessment of readiness in terms of the Ministry's implementation plan (Appendix 3). It appears that even if the scaled back and reduced level of activities may be completed by March 31, 2005, the results of these activities will not be distributed to local government in time for them to review them and incorporate this information into their existing development approval process.

Again you are presenting a threat to development approvals that we don't feel the ministry has adequately considered.

## **3. LEGAL ADVICE**

We obtained independent legal advice to determine what the possible consequences of implementing the Riparian Areas Regulation might be for local government before they are prepared and ready.

That opinion is attached (Appendix 4). We undertook this initiative because we are concerned about the negative impacts on development activity.

It is a lengthy opinion and some of the conclusions are:

### General

*In a narrow sense, it is accurate to say that the implementation of the RAR raises no significant implementation issues for local governments, beyond an adjustment in their permitting and approval processes to accommodate the senior government sign-off on the QEP report. Unfortunately in our opinion, the RAR ignores some important implementation issues which many local governments, in an attempt to be responsible stewards of the riparian areas within their jurisdiction, will likely attempt to address without having been provided appropriate tools via the FPA, the RAR or amendments to Part 26 of the Local Government Act.*

### Determining Compliance with SPR

*The Province did not under the SPR, and does not under the RAR, provide any objective certification or confirmation that a local government has in fact established SPEAs, or has done so in accordance with s.6 of the SPR. Thus, both the local government and developers whose projects might be subject to the RAR are obliged to proceed on the basis that the local government is deemed to be in compliance with the RAR, in an atmosphere of uncertainty. For developers, the*

*uncertainty may be very serious in that, if the RAR assessment and certification requirement does in fact apply to them contrary to the position of the local government, it may become necessary at a later date to engage a QEP to assess and certify the project after the fact, and compliance with the QEP's recommendations ensuring that no HADD will occur may be very expensive, and may be impossible. In cases where the SPEAs are being established on the eve of the coming into force of the RAR, the permitting procedures associated with them may have been used only a few times or not at all by March 31, 2005, with the result that it might be difficult for the local government to form a proper opinion as to whether its system of bylaws and permits does "meet or beat" the protection provisions established by the SPR.*

#### Amending SPEAs After March 31, 2005

*Since B.C. Reg. 376/2004 repeals the SPR, provincial law will no longer provide any guidance for local governments wishing to modify their SPEA designations. The practical effect may be that SPEAs established before March 31, 2005 will be unalterable after that date.*

#### "Development"

*There is some uncertainty as to whether the RAR is intended to apply to development in agricultural areas including the Agricultural Land Reserve. Information on the MWLAP website states that "the regulation does not apply to agriculture, mining or forestry-related land uses". The basis of this statement is not at all clear from the Regulation, which expressly applies to "industrial activities", which in its ordinary meaning includes at least some aspects of mining and forestry, and to "residential and commercial activities" which would probably include the construction of a dwelling in the ALR as well as farm-based commercial activities such as wineries and markets.*

#### Non-Discretionary Approvals

*In issuing authorizations under existing regulatory bylaws, local governments are simply unable to attach ad hoc conditions related to QEP assessments. An amendment to Part 26, to the Fish Protection Act, or to some other provincial legislation would be required to equip local governments with this power.*

There are also problems in exercising partly discretionary actions.

#### Monitoring

*It is not clear whether the drafter of the Schedule was assuming that the QEP or some other person or some other person would be doing the monitoring.*

Developments “In Stream” on March 31, 2005

Section 4 of the RAR prohibits a local government from “approving or allowing” development to proceed in riparian assessment areas until the conditions set out in that section have been met. In our opinion, the point at which this prohibition operates is the point at which the local government adopts a bylaw or resolves to issue a permit or other authorization. Because the RAR contains no special provisions dealing with in-stream development applications, such as s.943 of the Local Government Act, s.4 must be interpreted in accordance with the usual principle that legislation applies prospectively from the date it comes into force, and retrospectively with respect to substantive matters that are engaged by the legislation. This seems to us to require compliance with the RAR if the decision in question is made after March 31, 2005 notwithstanding that the development application may have been made prior to that date. Clearly, adding an additional approval step once a development project is in-stream will be perceived as unfair and will create friction at the local government applications counter. Complying with QEP recommendations may require developments to be redesigned, with the result that some completed local government approvals may have to be re-done, with additional expense to the applicant and further delay.

There are further complications depending on the type of approval.

The opinion concludes that:

*In our view, the following matters would have to be dealt with by the Province before the RAR comes into effect, in order that a relatively smooth transition to the RAR regime can be made.*

- 1. The Province should confirm in writing, at the request of individual local governments, whether the Province considers the local government to have established SPEAs in accordance with the SPR as of March 31, 2005, to give assurance to the local government and development applicants that QEP reports are not required in that jurisdiction.*
- 2. The Province should amend the RAR to provide objective criteria for the establishment of SPEAs, similar in concept to those contained in the SPR, so that local governments that have complied with the SPR before March 31, 2005, will be able to amend the bylaws that establish these areas.*
- 3. The Province should review the definition of “development” in the RAR to ensure that it actually exempts the activities that the Province is asserting that it exempts, and to clarify the effect of the regulation on subdivision and on agriculture, mining and forestry uses.*

- 4. The Province should build provincial enforcement and monitoring provisions into the RAR or, if the intention is that local governments be responsible for enforcement and monitoring, amend either the RAR or Part 26 of the Local Government Act to provide both authority for such enforcement and monitoring by local governments, and a means to recover the cost from development applicants. An example of an enforcement power would be a power like that in s.910(11) for DP areas designated under s.919.1(1)(a), but referring instead to the recommendations of a QEP.*
- 5. The Province should amend the RAR to exempt in-stream developments from the Regulation.*

## **CONCLUSION**

Confronted with this body of analysis and opinion we cannot understand why the government would continue on its course and risk the consequences to the development process and the economy.

The upcoming meeting is our last scheduled opportunity to deal with this matter before the implementation date. Our efforts in this is not to defend any local government interest or authority, but the broader interest of effective, timely development approvals – an intent both governments share.

For these reasons we will be asking the Minister to recommend to Cabinet an extension to the effective date on application of those local governments that indicate that they are not yet prepared to deal with the new regulatory process and to deal with the other issues identified by our legal advisors.

Yours truly,

Richard Taylor  
Executive Director

cc. Gerry Armstrong, Deputy Minister, Ministry of Community, Aboriginal  
and Women's Services

## Attachment No. 2

### APPENDIX 4

#### LIDSTONE, YOUNG, ANDERSON BARRISTERS & SOLICITORS

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207 - 1441 Ellis Street  
Rizzo Plaza  
Kelowna, BC V1Y 2A3  
Tel: (250) 712-1130  
Fax: (250) 712-1180

1616 - 508 Nelson Street  
Box 12147, Nelson Square  
Vancouver, BC V6Z 2H2  
Tel: (604) 689-7400, Fax: (604) 689-3444  
Toll Free: 1-800-665-3540

#### VIA FAX

REPLY TO: VANCOUVER OFFICE

February 23, 2005

Mr. Richard Taylor  
Executive Director  
Union of British Columbia Municipalities  
Suite 60 - 10551 Shellbridge Way  
Richmond, B.C. V6X 2W9

Dear Mr. Taylor:

**Re: Riparian Areas Regulation  
Our File No. 00043-0154**

You have requested our comments and opinion on implementation issues for local governments arising from the scheduled coming into force on March 31, 2005 of the Riparian Areas Regulation (RAR) pursuant to the *Fish Protection Act* (FPA) and B.C. Reg. 376/2004. The Regulation also repeals the Streamside Protection Regulation (SPR), which required local governments subject to the regulation to establish streamside protection and enhancement areas (SPEAs) by January 2006.

#### Differences Between SPR and RAR

Before commenting on specific implementation issues that will likely arise, we would note that the RAR differs significantly from the predecessor SPR, and therefore raises significantly different implementation issues for local governments. In a nutshell, the approach of the government under the SPR was to establish specific standards for the content of local bylaws regulating development in riparian areas, and thereby accomplish provincial riparian area protection objectives indirectly via the normal operation of local bylaw administration procedures. The RAR does not, by contrast, establish standards for the content of local bylaws; rather, it imposes a senior government "sign-off" requirement on a range of local government development permitting and approval processes, in relation to a mandatory impact assessment and certification by a "qualified environmental professional" (QEP).<sup>1</sup> The assessment methods in

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<sup>1</sup> The Province has indicated in material it has circulated about the RAR that the change in approach is intended to reduce both expense and liability exposure for local governments involved in riparian area protection. Cost savings

the Schedule to the RAR that QEPs must follow in carrying out this work require the professional to determine that the project will result in no harmful alteration, disruption or destruction (HADD) of fish habitat.

In a narrow sense, it is accurate to say that the implementation of the RAR raises no significant implementation issues for local governments, beyond an adjustment in their permitting and approval processes to accommodate the senior government sign-off on the QEP report. Unfortunately in our opinion, the RAR ignores some important implementation issues which many local governments, in an attempt to be responsible stewards of the riparian areas within their jurisdiction, will likely attempt to address without having been provided appropriate tools via the FPA, the RAR or amendments to Part 26 of the *Local Government Act*.

### **Implementation Options under the RAR**

Section 8(2) of the RAR provides that, if a local government had before March 31, 2005 established SPEAs in accordance with the SPR, the local government is deemed to have met the requirements of the RAR in respect of those areas. This appears to mean that the RAR requirement for senior government sign-off on a QEP report in respect of individual projects that are within the scope of the RAR, does not apply to projects within the jurisdiction of these local governments. The inference is that, if a local government had not established such areas before March 31, 2005, the local government must henceforth meet the requirements of the RAR and in particular the sign-off requirement.

### **Option 1: Deemed Compliance with the RAR**

#### **Determining Compliance with SPR**

What does it mean for a local government to have “established SPEAs in accordance with the SPR”? Section 5 of the SPR requires local governments to establish SPEAs in accordance with s.6 of the SPR, and s.6 sets out a detailed methodology for defining the extent of such areas in various conditions of topography, vegetation and other natural phenomena. The context for the SPR is s.12(4) of the *Fish Protection Act*, which requires local governments to do one of the following:

1. include riparian area protection provisions in accordance with the SPR in their zoning bylaws.

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are presumably related to the fact that local governments will not have to do the research and data collection on riparian areas within their jurisdiction that is involved in the identification of SPEAs under the SPR; this work will, under the RAR, be done by a QEP at the expense of a development applicant in the context of a specific development application, and reviewed for completeness by the senior governments. The reasons for the Province’s references to liability exposure in this material are obscure; no liability consequences could flow from an incorrect identification of an SPEA, as such identification would ordinarily be effected by means of a local government policy decision encompassed in a bylaw: *Just v. British Columbia* [1989] 2 S.C.R. 1228 (Supreme Court of Canada).

2. ensure that their bylaws and permits under Part 26 provide a level of protection for riparian areas that is, in the local government's opinion, comparable to or in excess of that established by the SPR.

The first approach has inherent limitations given the scope of the SPR; zoning bylaws deal principally with the regulation of permitted uses of land and densities of land use and the siting and size of buildings and structures, while the SPR applies to a defined class of "development" that includes the disturbance of soils or vegetation, matters that are beyond the reach of the zoning power. Accordingly, most local governments attempting to meet the January 2006 deadline for complying with the SPR have focussed on the second approach, and specifically the use of development permit (DP) area designations under s.919.1(1)(a) of the *Local Government Act* (protection of the natural environment, its ecosystems and biological diversity) and the imposition of DP conditions under s.920(7) of the Act. This approach is potentially more effective because s.920(1)(d) of the *Local Government Act* provides that land within such an area "must not be altered" until a development permit has been obtained; this likely catches the disturbance of soils and vegetation. In any event, the DP approach in general allows for a more fine-grained approach to land use control than an approach based entirely on the zoning power, and is therefore more suitable for achieving land use objectives in the very diverse local circumstances that exist in riparian areas. However, because DP areas must be designated in official community plans and the amendment of OCPs is subject to detailed consultation and other procedural requirements, the process is cumbersome.

The wording of s.12(4) of the FPA, and in particular the subjective nature of this compliance option (resting as it does on the local government's own opinion) is giving and will continue to give rise to uncertainty as to whether the RAR process actually applies in particular local government jurisdictions. The Province did not under the SPR, and does not under the RAR, provide any objective certification or confirmation that a local government has in fact established SPEAs, or has done so in accordance with s.6 of the SPR. Thus, both the local government and developers whose projects might be subject to the RAR are obliged to proceed on the basis that the local government is deemed to be in compliance with the RAR, in an atmosphere of uncertainty. For developers, the uncertainty may be very serious in that, if the RAR assessment and certification requirement does in fact apply to them contrary to the position of the local government, it may become necessary at a later date to engage a QEP to assess and certify the project after the fact, and compliance with the QEP's recommendations ensuring that no HADD will occur may be very expensive, and may be impossible. In cases where the SPEAs are being established on the eve of the coming into force of the RAR, the permitting procedures associated with them may have been used only a few times or not at all by March 31, 2005, with the result that it might be difficult for the local government to form a proper opinion as to whether its system of bylaws and permits does "meet or beat" the protection provisions established by the SPR.



### Amending SPEAs After March 31, 2005

Finally, we note that s.8 of the RAR also provides that, if SPEAs established before March 31, 2005 are “amended”<sup>2</sup> such amendment must be in accordance with the RAR. We noted at the outset that the RAR differs from the SPR in that it does not contain a methodology for, or even a requirement for, establishing SPEAs; it is concerned instead with the process by which local governments issue development approvals that might affect such areas. Since B.C. Reg. 376/2004 repeals the SPR, provincial law will no longer provide any guidance for local governments wishing to modify their SPEA designations. The practical effect may be that SPEAs established before March 31, 2005 will be unalterable after that date.

### **Option 2: Compliance with the RAR**

#### “Development”

Section 4 of the RAR prohibits a local government from approving or allowing “development” to proceed in a riparian assessment area unless the requirements of the RAR for senior government approval of the development have been met.<sup>3</sup> The term “development” is defined to mean “any of the following associated with local government regulation or approval of residential, commercial or industrial activities or ancillary activities to the extent that they are subject to local government powers under Part 26 of the *Local Government Act*:

- (a) removal, alteration, disruption or destruction of vegetation;
- (b) disturbance of soils;
- (c) construction or erection of buildings and structures;
- (d) creation of nonstructural impervious or semi-impervious surfaces;
- (e) flood protection works;
- (f) construction of roads, trails, docks, wharves and bridges;
- (g) provision and maintenance of sewer and water services;
- (h) development of drainage systems;
- (i) development of utility corridors;

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<sup>2</sup> Presumably it is the bylaw establishing the SPEA that is amended, and not the SPEA itself. Such amendment would usually be undertaken to alter the boundaries of the SPEA, since s.6 of the SPR is concerned mainly with determining the spatial extent of these areas.

<sup>3</sup> Like the SPR, the RAR applies only to the Capital, Central Okanagan, Columbia-Shuswap, Comox-Strathcona, Cowichan Valley, Fraser Valley, Greater Vancouver, Nanaimo, North Okanagan, Okanagan-Similkameen, Powell River, Squamish-Lillooet, Sunshine Coast and Thompson-Nicola Regional Districts and the trust area under the *Islands Trust Act*.

(j) subdivision as defined in section 872 of the *Local Government Act*.”

Clearly there are local government development approval decisions that are unaffected by the RAR, apart from the express exemption for a DP or development variance permit enabling reconstruction or repair of a permanent structure containing a non-conforming use (s.3(2) of the RAR). These include:

- the issuance of **building permits** pursuant to bylaws adopted under s.8 of the *Community Charter* in municipalities, and Part 21 of the *Local Government Act* in regional districts
- the issuance of **soil removal and deposit permits** pursuant to bylaws adopted under s.8(3)(m) of the *Community Charter*
- the issuance of **tree cutting permits** pursuant to bylaws adopted under s.8(3)(c) of the *Community Charter* (tree cutting permits issued under Part 26 bylaws are subject to the RAR)
- the issuance of **siting and use permits** and *ad hoc* development approvals under the *Islands Trust Act*
- the approval of **subdivisions** under the *Land Title Act* and the *Strata Property Act*<sup>4</sup>
- the approval of **strata conversions** under the *Strata Property Act*
- all Part 26 approvals related to **institutional development** containing no residential, commercial or industrial aspect
- **all development** outside a riparian assessment area as defined in the RAR
- **all development** in the City of Vancouver, which exercises no powers under Part 26 of the *Local Government Act*
- **Board of Variance** decisions, which are not made by a “local government” as defined in the *Fish Protection Act* (that is, a council or regional board)

There is some uncertainty as to whether the RAR is intended to apply to development in agricultural areas including the Agricultural Land Reserve. Information on the MWLAP website<sup>5</sup> states that “the regulation does not apply to agriculture, mining or forestry-related land uses”. The basis of this statement is not at all clear from the Regulation, which expressly applies to

<sup>4</sup> The express inclusion of “subdivision as defined in s.872 of the *Local Government Act*” in the definition of “development” is inconsistent with the opening words of the definition, which includes the listed items within the definition to “development” only to the extent that they are subject to local government powers under Part 26. While local governments do exercise some powers with respect to subdivision under Part 26, such as the imposition of servicing standards and the specification of minimum parcel areas, the subdivision approval power itself is in other legislation (the *Land Title Act* and the *Strata Property Act*) and is exercised by the approving officer and not by the “local government”, which is defined in the *Fish Protection Act* to mean the local elected officials.

<sup>5</sup> [http://wlapwww.gov.bc.ca/habitat/fish\\_protection\\_act/riparian/riparian\\_areas.html](http://wlapwww.gov.bc.ca/habitat/fish_protection_act/riparian/riparian_areas.html)

“industrial activities”, which in its ordinary meaning includes at least some aspects of mining and forestry, and to “residential and commercial activities” which would probably include the construction of a dwelling in the ALR as well as farm-based commercial activities such as wineries and markets.

Implementing the Requirement for QEP Reports or DFO Authorizations

The following regulatory actions of local governments undertaken under Part 26 of the *Local Government Act* in relation to a “riparian assessment area” are likely subject to s.4 of the RAR:

- adoption of site-specific **OCP amendments**
- adoption of site-specific **zoning amendments**
- any authorization issued under a s.907 **runoff control** bylaw
- any authorization issued under a s.908 **sign** bylaw
- any authorization issued under a s.909 **screening or landscaping** bylaw
- any exemption from a **flood plain requirement** under s.910(5)
- any authorization issued under a s.917 **farm** bylaw
- any **development permit** except those mentioned in s.3(2) of the RAR
- any **temporary commercial or industrial use permit**
- any **development variance permit** except those mentioned in s.3(2) of the RAR
- any authorization to cut trees pursuant to a s.923 **tree cutting** bylaw
- the approval of construction of subdivision and development **works and services** (usually in the context of a servicing agreement, but sometimes a highway use permit)
- any **land use contract modification** under s.930

Section 4 of the RAR prohibits local governments from approving or allowing development to proceed unless it has been notified that Fisheries and Oceans Canada and the Ministry of Water, Land and Air Protection (MWLAP) have been provided with a copy of a QEP report in respect of the development, or the Minister of Fisheries and Oceans has authorized a HADD resulting from the development under s.35 of the *Fisheries Act* (Canada). It is expected that the latter type of authorization will be relatively rare and we will therefore focus on the first alternative, to which we have been referring as a senior government “sign-off” on the project.

On the face of things, compliance with the RAR on the part of local governments will involve the following initial steps in relation to one of the foregoing listed approvals or authorizations:

1. determining whether the action is being taken in relation to a “development” as defined in the RAR, which includes
2. determining whether the development is in a “riparian assessment area” defined in the RAR to mean the area within 30 meters of the high water mark of a stream; within 30 meters of the top of the ravine bank in the case of a ravine less than 60 meters wide; and within 10 meters of the top of the ravine bank in the case of a wider ravine;
3. advising the development applicant that the local government approval is subject to s.4 of the RAR so that the applicant can engage a QEP to prepare a report and submit it to the senior governments; and
4. suspending the usual approval process until the local government has been notified that the matters covered in s.4 of the RAR have been dealt with to the satisfaction of the senior governments.

It is our opinion that no particular regulatory adjustments or amendments are required for local governments to be able to implement this aspect of the RAR. The authority and indeed the duty to suspend the ordinary development approval procedures to make room for senior government “sign-off” of a QEP report arises directly from s.4 of the RAR, and no local bylaw amendments are necessary. Some local governments might amend their development application procedures bylaw enacted under s.895 of the *Local Government Act* to require applicants to indicate whether they propose to undertake activities within the RAR definition of “development” and within a riparian assessment area, to assist the local government in determining whether the RAR applies to the development.

#### Are New Bylaws Required to Protect Riparian Areas?

One additional issue that arises from the wording of the RAR is whether local governments that do not have regulatory bylaws in place that would trigger the application of the RAR must enact such bylaws in order to comply with the RAR. Take, for example, the case of a local government that has not adopted an OCP with natural environment DP areas, in whose jurisdiction buildings and structures may be placed in riparian assessment areas and soil and vegetation removed from them without any local government authorization except a building permit (not issued pursuant to a Part 26 power).

Section 4 of the RAR provides that a local government must not “approve or allow” development in a riparian assessment area without complying with the Regulation. The term “approve” implies an active role in authorizing the development, such as the issuance of a permit; where there is no permit requirement, no “approval” is involved. The term “allow” is broader, and could arguably include refraining from exercising powers (such as the DP area designation power in s.919.1) that, if exercised, could give the local government an approval function. However, the term “development” is defined to mean listed activities associated with or resulting from the local government “regulation or approval” of residential, commercial or industrial development. This wording again implies an active role on the part of the local government in authorizing development, and does not seem to us to address situations in which

the local government is not regulating and not approving under Part 26. It therefore seems that not having a DP areas designation is not “allowing development” in a riparian assessment area and is not contrary to the RAR.

It should also be noted that s.6 of the RAR states that, “*when exercising its powers* with respect to development, a local government must protect its riparian areas in accordance with this regulation” (emphasis added). This wording does not suggest any compulsion to exercise powers with respect to development; it merely addresses how powers must be exercised when they are exercised. We therefore conclude that the RAR does not require local governments to enact bylaws.<sup>6</sup>

#### Implementing QEP or DFO Conditions of Approval

Section 4 of the RAR permits a local government to allow development to proceed if a QEP certifies that there will be no HADD if the development is implemented as proposed, or alternatively certifies that there will be no HADD if the measures identified in the QEP report to protect the integrity of the SPEAs identified in the report are implemented by the developer. Section 7 of the RAR requires an assessment report to include “the measures necessary to protect the integrity of the streamside protection and enhancement area”. This gives rise to the issue of how such measures are going to be enforced and monitored for compliance.

The term “enforcement” appears only in two places in the RAR: s.2(b)(vi), which deals with the scope of intergovernmental cooperation agreements, the facilitation of which is one of the purposes of the RAR, and s.5(b) which requires local governments to “cooperate” with MWLAP and DFO in developing strategies for monitoring and enforcement to ensure that assessment reports have been properly implemented. The RAR does not place any specific enforcement or monitoring obligations on local governments and does not grant them any powers to enforce or monitor compliance with QEP recommendations; rather, s.6 of the Regulation merely requires a local government to “protect its riparian areas in accordance with this regulation” when exercising its powers with respect to development.

#### 1. Discretionary Approvals

Implementation of QEP recommendations will be relatively straightforward in the case of truly discretionary local government decisions including the following:

- adoption of site-specific **OCP amendments**
- adoption of site-specific **zoning amendments**

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<sup>6</sup> It must be recalled that the *Fish Protection Act* itself requires local governments to include riparian area protection provisions in their zoning bylaws, or ensure that their Part 26 bylaws and permits “meet or beat” (after March 31, 2005) the RAR. Thus there is an argument that new bylaws may be required. The problem is, however, that the new directive with which such bylaws must comply, the RAR, sets out no standards for local bylaws; indeed, the RAR and s.12 of the FPA do not seem to be part of the same legislative scheme.

- any exemption from a **flood plain requirement** under s.910(5)<sup>7</sup>
- any **temporary commercial or industrial use permit**
- any **development variance permit**
- any **land use contract modification** under s.930

Local governments may comply with the requirement in s.6 of the RAR to protect riparian areas when exercising their powers with respect to development, by imposing *ad hoc* development approval conditions when granting truly discretionary approvals.

## 2. Non-Discretionary Approvals

Many development authorizations issued under Part 26 are issued in the context of regulatory bylaws that do not, and under the applicable legal principles cannot, retain in the local government a residual discretion to refuse the authorization or attach conditions to the authorization in relation to matters not contained within the bylaw. The example usually used is the building bylaw, though many Part 26 bylaws have a similar legal character. If a local government refuses to issue a permit or other authorization after the applicant has established eligibility to receive the approval under the terms of the applicable bylaw, the applicant can obtain from the B.C. Supreme Court an order of *mandamus* forcing the local government to grant the approval. Non-discretionary approvals issued under Part 26 include the following:

- any authorization issued under a s.907 **runoff control** bylaw
- any authorization issued under a s.908 **sign** bylaw
- any authorization issued under a s.909 **screening or landscaping** bylaw
- any authorization issued under a s.917 **farm** bylaw
- any authorization to cut trees pursuant to a s.923 **tree cutting** bylaw
- the approval of construction of subdivision and development **works and services**

In issuing authorizations under existing regulatory bylaws, local governments are simply unable to attach *ad hoc* conditions related to QEP assessments. An amendment to Part 26, to the *Fish Protection Act*, or to some other provincial legislation would be required to equip local governments with this power.

## 3. Partly Discretionary Approvals: Development Permits

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<sup>7</sup> These decisions are also subject to provincial guidelines established under the *Environmental Management Act* (see s.910(5), *Local Government Act*).

The most commonly used riparian area regulatory tool is the **development permit**, and the use of this tool to implement QEP recommendations presents special problems which can be illustrated with a couple of examples. Assume that the local government has imposed a development permit requirement to regulate the form and character of development under s.919.1(1)(f) of the *Local Government Act* in an area that happens to also be a “riparian assessment area” under the RAR. Under s.4, it cannot issue a development permit until there is a DFO authorization or a QEP report has been prepared and accepted by MWLAP. Assume that the QEP recommends development conditions that could be imposed under s.920(7) of the *Local Government Act* if the area had been designated under s.919(1)(a). It would appear to be impossible for the local government to impose those conditions in the development permit because they have nothing to do with the form and character of the development.

Even if the area had been designated under s.919.1(1)(a) and the local government was therefore clearly “exercising its powers with respect to development” in the area for the purpose of the protection of the natural environment, problems might arise in the implementation of particular QEP-recommended development conditions from s.920(3), which specifically requires that development permit conditions and requirements be imposed only in accordance with the applicable guidelines specified in the OCP or zoning bylaw. In many cases, the particular conditions recommended by a QEP will not have been anticipated in the local government’s guidelines. It is not a viable solution to this problem to add a general development permit guideline that permits the local government to specify any development permit condition recommended by a QEP, as this would likely be an improper delegation of the local government’s powers to establish guidelines.<sup>8</sup>

#### 4. Monitoring

The monitoring development for compliance with QEP recommendations, or to ensure that it is carried out in accordance with a design that the QEP has certified will result in no HADD, is also omitted from the RAR except to the extent that it is contemplated as within the scope of the agreements discussed below. The Assessment Methods in the Schedule to the RAR also state that a monitoring component must be included in an assessment report, and “should identify actions to be taken to ensure all proposed activities are completed as described” and “should detail the proposed monitoring schedule”. It is not clear whether the drafter of the Schedule was assuming that the QEP or some other person would be doing the monitoring. If monitoring is not within the scope of work that the QEP has been retained to do, some QEPs may be reluctant to certify the projects will result in no HADD unless they are confident that some person other than their client will be monitoring the project.

#### 5. Intergovernmental Cooperation Agreements

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<sup>8</sup> Section 920(11) of the *Local Government Act* expressly permits this type of approach to establishing DP conditions for DP areas designated under s.919.1(1)(b) (protection of development from hazardous conditions). The fact that it is not expressly permitted in relation to areas designated under s.919.1(1)(a) would be considered significant under the usual principles of statutory interpretation.

As noted above, one of the purposes of the RAR is to facilitate an intergovernmental cooperation agreement between MWLAP, DFO and the UBCM "including the ability for individual intergovernmental cooperation agreements with local governments" for, among other things, the implementation of the RAR, describing roles and responsibilities regarding use of authority and program mandates, and a compliance strategy, including enforcement and monitoring. It may have been the Province's intention that enforcement and implementation matters would be dealt with in such agreements; however, no such agreements appear to be in prospect by the in force date of the RAR. In any event, it appears that additional local government powers will be required to implement and enforce the RAR approach to riparian area protection, and it is not possible for such additional power to be granted to local governments, either individually or as a group, through an intergovernmental agreement. At the least, a Regulation would be required.

#### **Developments "In Stream" on March 31, 2005**

Section 4 of the RAR prohibits a local government from "approving or allowing" development to proceed in riparian assessment areas until the conditions set out in that section have been met. In our opinion, the point at which this prohibition operates is the point at which the local government adopts a bylaw or resolves to issue a permit or other authorization. Because the RAR contains no special provisions dealing with in-stream development applications, such as s.943 of the *Local Government Act*, s.4 must be interpreted in accordance with the usual principle that legislation applies prospectively from the date it comes into force, and retrospectively with respect to substantive matters that are engaged by the legislation. This seems to us to require compliance with the RAR if the decision in question is made after March 31, 2005 notwithstanding that the development application may have been made prior to that date. Clearly, adding an additional approval step once a development project is in-stream will be perceived as unfair and will create friction at the local government applications counter. Complying with QEP recommendations may require developments to be redesigned, with the result that some completed local government approvals may have to be re-done, with additional expense to the applicant and further delay.

Where the approval in question is the adoption of a site-specific OCP or zoning bylaw amendment, the preparation of a QEP assessment and certification would give rise to a requirement for a further public hearing if the QEP report is going to be made available to the members of Council or the regional board, which would be necessary if the QEP recommendations are going to be made a part of the local government's approval of the development.

In cases where the development approval takes the form of a development variance permit or temporary use permit, each of which is subject to a statutory notice requirement, altering the form of the permit to take into account the QEP's recommendations may require that public and individual notifications be repeated so that persons notified may examine the altered form of the permit before the Council or board makes its decision.



Summary

In our view, the following matters would have to be dealt with by the Province before the RAR comes into effect, in order that a relatively smooth transition to the RAR regime can be made.

1. The Province should confirm in writing, at the request of individual local governments, whether the Province considers the local government to have established SPEAs in accordance with the SPR as of March 31, 2005, to give assurance to the local government and development applicants that QEP reports are not required in that jurisdiction.
2. The Province should amend the RAR to provide objective criteria for the establishment of SPEAs, similar in concept to those contained in the SPR, so that local governments that have complied with the SPR before March 31, 2005, will be able to amend the bylaws that establish these areas.
3. The Province should review the definition of "development" in the RAR to ensure that it actually exempts the activities that the Province is asserting that it exempts, and to clarify the effect of the regulation on subdivision and on agriculture, mining and forestry uses.
4. The Province should build provincial enforcement and monitoring provisions into the RAR or, if the intention is that local governments be responsible for enforcement and monitoring, amend either the RAR or Part 26 of the *Local Government Act* to provide both authority for such enforcement and monitoring by local governments, and a means to recover the cost from development applicants. An example of an enforcement power would be a power like that in s.910(11) for DP areas designated under s.919.1(1)(a), but referring instead to the recommendations of a QEP.
5. The Province should amend the RAR to exempt in-stream developments from the Regulation.

Sincerely,

LIDSTONE, YOUNG, ANDERSON

Bill Buholzer  
[buholzer@lya.bc.ca](mailto:buholzer@lya.bc.ca)

BB/pd



**MEMORANDUM**

REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MoF	
JUN - 8 2005			
<i>Cow</i>			
TO:		DATE:	
J. Finnie General Manager, Environmental Services		June 7, 2005	

**FROM:** Dennis Trudeau  
Manager, Liquid Waste (Transportation Services)

**FILE:** 0810-20-FCPC

**SUBJECT:** Liquid Waste  
French Creek Pollution Control Center Expansion and Upgrading Strategy

**PURPOSE**

To inform the Board on expansion and upgrading plans for the French Creek Pollution Control Center (FCPCC) and to introduce for first and second reading, "Northern Community Sewer Service Area Development Cost Charges Bylaw No. 1442, 2005".

**BACKGROUND**

*Expansion requirements*

The FCPCC was last expanded in 1996 to accommodate an equivalent population of 24,000 persons. The new plant has been successful in achieving high levels of effluent quality. The debt for the expansion will be retired in 2012.

The plant currently serves a service area with a population of approximately 22,500 people, growing at about 2.5% per year. Generally, when a facility is nearing its rated capacity, expansion plans would be implemented. In anticipation of the foregoing expansion pressures and as a part of the Liquid Waste Departments (LWD) overall infrastructure management plan, the FCPCC has been the subject of a number of stress tests and audits to assist in determining when the plant will require upgrading and expansion. The LWD strategy is to maximize the usefulness of the existing works before embarking on a full-fledged secondary expansion. The stress tests and audits indicate, that there are some optimizations and interim capital projects that will provide the facility with the capacity to accept flows from an additional 8,000 persons. Depending upon actual growth rates in the near future, the major secondary expansion project can be deferred until 2012 to coincide with the repayment of the debt.

The projects that must be carried out to maximize the capacity of the existing works are as follows:

- Optimization of the Trickling Filter/Solids Contact Process \$ 930,000
  - Expansion of solids contact tank into existing reclaimed water tank
  - Upgrade turborators
  - Optimize flow equalization
  - Upgrade secondary clarification
- Add effluent pumping capacity \$ 350,000
- Add Returned Biological Sludge (RBS) pumping capacity \$ 65,000
- Grit channel expansion \$ 300,000
- Headworks expansion \$ 275,000
- Implement Chemically Enhanced Primary Treatment (CEPT) \$ 490,000
  - Chemical storage
  - Dosing system

Commission Fifth Auto Thermal Aerobic Digester (ATAD)	\$ 200,000
Solids Contact Expansion	\$ <u>600,000</u>
• Construct new solids contact tank	
• Construct new effluent pumping well	
• Install new fine bubble diffuser aeration system	
• Optimize secondary effluent channel	
<b>Total</b>	<b>\$ <u>2,373,000</u></b>

Once the above works have been completed, the remaining capital projects related to growth are as follows:

Qualicum interceptor	\$ 300,000
Parksville interceptor	\$ 600,000
New Outfall	\$ 7,700,000
New Secondary Treatment (New plant or expand existing trickling filter process)	<u>\$15,300,000</u>
<b>Total</b>	<b><u>\$23,900,000</u></b>

The timing for these final projects is phased over a four year period from 2011 to 2014.

### *Development Cost Charges*

A development cost charge (DCC) is a means provided by sections 932 through 937 of the Local Government Act to assist local governments in paying the capital costs of installing services that are directly or indirectly related to the development of lands or alteration of buildings. The Regional District's DCC bylaw was first adopted in 1995 and has been the subject of a lengthy staff review over the last year. The Ministry of Community, Aboriginal and Women's Services Best Practices Guide has been used by staff to develop DCC's for this next phase of growth. The DCC's reflect the capital requirements, an apportionment of benefit between existing and new users and a municipal assist factor of 1%, the minimum allowable. Staff from the Regional District, City of Parksville and Town of Qualicum Beach have met and are in agreement with the contents of the bylaw introduced with this report.

Local governments are required to consult with the construction industry and other interested parties to provide an explanation of the capital projects and the calculations used to determine the DCC charges. A meeting will be held on June 22<sup>nd</sup>, in the Council Chambers of the Parksville City Hall to present this information. Feedback will be gathered and if deemed necessary or desirable, the DCC bylaw will be amended and be returned to the Board for third reading as amended, in July. The bylaw must be reviewed and approved by the Ministry prior to its adoption by the Regional District.

### **ALTERNATIVES**

1. Give the DCC bylaw as appended to this report first and second reading and forward it to the public consultation meeting scheduled for June 22<sup>nd</sup>.
2. Amend the DCC bylaw as appended to this report and give first and second reading to the amended bylaw and forward it to the public consultation meeting scheduled for June 22<sup>nd</sup>.

## FINANCIAL IMPLICATIONS

### Alternative 1

Schedule 'A' attached to this report shows the changes to the DCC rates which result from this recent review. The significant change to per unit rates are primarily a result of increases in the unit prices for the outfall pipe and construction costs for the secondary treatment expansion. Board members are aware that pipe and steel costs have risen significantly in the last two years due to global economic demand and this is reflected in the most recent capital estimates.

DCC's are payable at two stages -- the first is at the subdivision stage where new properties are created. DCC's are also payable where the value of a building permit is greater than \$50,000 or the building created will contain more than four residential units. Recent legislative amendments permit local governments to vary both of those criteria either by setting the permit value greater than \$50,000 or by reducing the number of residential units on a building permit which will trigger the collection of DCC's. The updated bylaw removes the four unit restriction for residential construction -- therefore a DCC will be assessed on all new residential units constructed beyond a single unit on a property. Parksville and Qualicum have recently approved new DCC bylaws and this provision is consistent among all three jurisdictions.

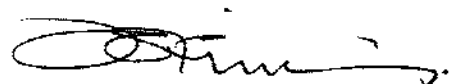
### Alternative 2

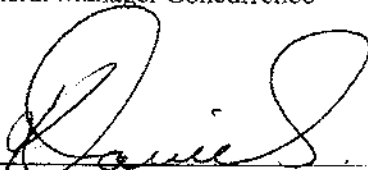
Given the pace of construction at this time it is important that this revised bylaw move forward as the value of future DCC collections is entirely dependent on the rates in effect from time to time.

## RECOMMENDATION

That "Northern Community Sewer Service Area Development Cost Charges Bylaw No. 1442, 2005" be introduced for first and second readings and be forwarded for consultation as outlined in this report.

  
Report Writer

  
General Manager Concurrence

  
C.A.O. Concurrence

COMMENTS:

## SCHEDULE A

Proposed Development Cost Charge rates for the Northern Community Sewer Service Area :

<b>Development Type</b>	<b>Current</b>	<b>Proposed</b>
Single family lots or buildings	\$2,765.00 per lot or unit	\$4,744.54 per lot or unit
Multi family	\$2,765.00 per unit	\$3,163.02 per unit
Commercial	\$6.53 sq m	\$17.79 sq m
Industrial	\$5.28 sq m	\$10.68 sq m
Airport Industrial	N/A	\$1.98 sq m
Institutional	\$6.53 sq m	\$21.75 sq m

REGIONAL DISTRICT OF NANAIMO

BYLAW NO. 1442

A BYLAW TO IMPOSE DEVELOPMENT COST CHARGES  
WITHIN THE NORTHERN COMMUNITY SEWER SERVICE AREA

WHEREAS the Board may, pursuant to Section 933 of the *Local Government Act*, impose development cost charges under the terms and conditions of that section;

AND WHEREAS development cost charges may be imposed for the sole purpose of providing funds to assist the Regional District to pay the capital cost of providing, constructing, altering or expanding wastewater treatment facilities, including treatment plants, trunk lines, pump stations and other associated works in order to serve, directly or indirectly, the development for which the charges are imposed;

AND WHEREAS in establishing the development cost charges under this bylaw, the Board has considered the future land use patterns and development, and the phasing of works and services within the boundaries of the Northern Community Sewer Service area;

AND WHEREAS the Board is of the opinion that the development cost charges imposed under this bylaw:

- (a) are not excessive in relation to the capital costs of prevailing standards of service,
- (b) will not deter development, and
- (c) will not discourage the construction of reasonably priced housing or the provision of reasonably priced serviced land,

within the Regional District of Nanaimo.

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

1. INTERPRETATION

In this bylaw:

**"Airport Industrial Use"** means any building constructed on airport lands for airport purposes.

**"Assisted living"** means a building or buildings used for multiple family residential use, where there may be common facilities and a cafeteria or eating area, but where residents are ambulatory and live in private rooms or units which can be locked and which are not automatically accessible to care staff.

**"Building"** means any structure and portion thereof, including mechanical rooms, that is used or intended to be used for the purpose of supporting or sheltering any use or occupancy.

**"Commercial Use"** means the use of land or buildings for any retail, tourist accommodation, restaurant, personal or professional services, commercial entertainment or commercial recreational use, and any other business use which is not an industrial or institutional use.

**"DCC"** means a development cost charge.

**"Dwelling Unit"** means one self-contained unit with a separate entrance intended for year-round occupancy, and the principal use of such dwelling unit is residential, with complete living facilities for one or more persons, including permanent provisions for living, sleeping, cooking and sanitation.

**"Gross Floor Area"** means the total of the horizontal areas of all floors in a building, including the basement, measured to the outside of the exterior walls of the building.

**"Industrial Use"** means the use of land or buildings for any manufacturing, processing, repair, storage, wholesaling or distribution of goods.

**"Institutional Use"** means the use of land or buildings for any school, hospital, correctional facility, care facility, or for the purposes of a public body or publicly regulated utility, but does not include "assisted living" uses.

**"Lot"** means a parcel created by registration of subdivision under the *Land Title Act* (British Columbia) or the Bare Land Strata regulation under the *Strata Property Act* (British Columbia)

**"Mobile Home Park"** means an unsubdivided parcel of land, not subdivided pursuant to the *Strata Property Act* and amendments thereto, on which are situated three or more mobile homes for the purposes of providing residential accommodation, but specifically excludes a hotel;

**"Multiple Family Residential"** means a building or buildings containing two or more dwelling units on a parcel and includes row housing, cluster housing, townhouses, apartment and "assisted living" uses and includes Tourist Accommodation units in excess of 69.675 sq m (750 sq ft).

**"Tourist/Resort Accommodation"** means a building or group of buildings with more than 2 units where the majority of units are less than 69.675 sq m (750 sq ft).

## 2. CHARGES

Every person who obtains:

- a) approval of the subdivision for any purpose of a parcel of land under the *Land Title Act* or the *Strata Property Act* which creates fee simple or bare land strata lots which are zoned to permit no more than two dwelling units, or
- b) a building permit authorizing the construction, alteration or extension of a building, including a building containing less than four self-contained dwelling units and that will, after the construction, alteration or extension, be put to no other use other than the residential use in those dwelling units.
- c) a building permit for any new floor area which has a construction value in excess of \$50,000.00;

shall pay, at the time of the approval of the subdivision or the issuance of the building permit, the applicable development cost charges as set out in Schedule "A" attached to and forming part of this bylaw.

3. The charges outlined on Schedule 'A' will apply to properties outlined on Schedule 'B', attached to and forming a part of this bylaw.

4. The charges outlined on Schedule 'A' will be based on the actual use of the building not the zoning category of the property and;
- a) where there is more than one use, each use is subject to the charge based on the actual use and there may be more than one category applied per building.
  - b) mezzanines, storage or similar areas within a building are subject to development cost charges based on the same use that the majority area of the building contains.
  - c) where a building is vacant and its future use cannot be determined, development cost charges are payable in accordance with the zoning category for the land upon which the building is situated.

5. **EXCEPTIONS**

- a) Section 2 does not apply to a subdivision or building in respect of which the imposition of a development cost charge is prohibited by statute.
- b) If by statute or by operation of law, this Bylaw does not apply to an application to subdivide or an application for a building permit made prior to the adoption of this bylaw, any bylaw repealed by this bylaw shall remain unrepealed and in force and effect in relation to such applications, so far as is necessary to impose development cost charges under that bylaw at the time of subdivision approval or issuance of the building permit.

6. **GRACE PERIOD**

The effective date of the rates contained within this bylaw will be 60 calendar days after the date of adoption.

7. **REMAINDER OF BYLAW TO BE MAINTAINED INTACT**

In the event that any portion of this bylaw is declared ultra vires, such portion shall be severed from this bylaw with the intent that the remainder of this bylaw shall continue in full force and effect.

8. **TITLE**

This bylaw may be cited for all purposes as "Northern Community Sewer Service Area Development Cost Charges Bylaw No. 1442, 2005".

Introduced for first and second readings this 14th day of June, 2005.

Read a third time this 26th day of July, 2005.

Approved by the Inspector of Municipalities this \_\_\_\_ day of \_\_\_\_\_ 2005.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
DEPUTY ADMINISTRATOR



\_\_\_\_\_  
 Chairperson

\_\_\_\_\_  
 Deputy Administrator

**SCHEDULE 'A'**

**Development Cost Charges for Wastewater Treatment/Sanitary Sewer Works and Services**

1. Pursuant to Section 2 of this bylaw, development cost charges shall be levied in those areas that will be serviced by wastewater treatment/sanitary sewerage works and services as outlined on the map attached hereto as Schedule 'A-1'.
2. The assist factor for wastewater treatment/sanitary sewerage works and services shall be 1%.
3. All charges shall be paid in full prior to the approval of a subdivision or building permit unless paid by way of installments in accordance with BC Reg 166/84.
4. The Development Cost Charge Schedule is as follows :

<b>Category</b>	<b>Subdivision</b>	<b>Building Permit</b>
Single Family	\$4,744.54 per lot being created	\$4,744.54 per residential unit constructed
Multi-Family		\$3,163.02 per residential unit constructed
Commercial		\$17.79 per square meter of building gross floor area
Industrial (all uses except Airport)		\$10.68 per square meter of building gross floor area
Airport Industrial		\$1.98 per square meter of building gross floor area
Institutional		\$21.75 per square meter of building gross floor area



REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MoF	
JUN - 8 2005			
<i>Call</i>			

**MEMORANDUM**

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**TO:** K. Daniels  
Chief Administrative Officer

**DATE:** June 7, 2005

**FROM:** N. Avery  
Manager, Financial Services

**FILE:**

**SUBJECT:** A Bylaw to Continue the Imposition of Development Cost Charges for the Fairwinds (Nanoose) Wastewater Treatment Plant

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**PURPOSE:**

To introduce for three readings "Fairwinds (Nanoose) Wastewater Treatment Development Cost Charge Bylaw No. 1443, 2005".

**BACKGROUND:**

The Regional District's Bylaw 934 establishes development cost charges (DCC's) for both the Northern Community and Fairwinds wastewater treatment service areas. The DCC's for the Northern Community Sewer Service Area have been reviewed and a new bylaw has been proposed to establish updated rates. As a housekeeping amendment and to provide consistency in the wording and application of DCC's for the Fairwinds Service Area, Bylaw 934 must be repealed and a separate bylaw covering only the Fairwinds Service area needs to be adopted. The bylaw attached to this report makes no changes to the existing rates as they are under review.

**ALTERNATIVES:**

1. Introduce the bylaw as attached for first three readings.
2. Make further amendments and give three readings to a revised bylaw.

**FINANCIAL IMPLICATIONS:**

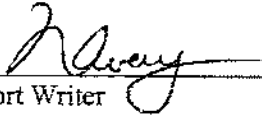
There are no new financial implications to property owners or developers as a result of this new bylaw.

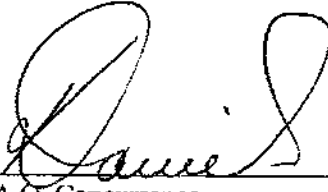
**SUMMARY/CONCLUSIONS:**

Bylaw 934 is the current authority under which DCC's are collected for both the Northern Community Sewer Service Area (Parksville, Qualicum Beach and the French Creek Sewer service area) and the Fairwinds (Nanoose) Wastewater Treatment service areas. A new development cost charge bylaw has been introduced for the Northern Community Sewer Service Area following a review of the capital plan and costs for upgrades and expansion of the French Creek Pollution Control Center facilities. Accordingly, it is appropriate as a housekeeping measure to introduce a separate bylaw for the Fairwinds (Nanoose) Sewer service area. Bylaw 1443 attached to this report contains the same wording as the revised Northern Community Sewer Service DCC bylaw. No changes have been made to the DCC rates, as they are under review and there are no new financial implications as a result of this amendment bylaw.

**RECOMMENDATION:**

That " Fairwinds (Nanoose) Wastewater Treatment Development Cost Charges Bylaw No. 1443, 2005" be introduced for first three readings and be forwarded to the Ministry of Community, Aboriginal and Women's Services.

  
\_\_\_\_\_  
Report Writer

  
\_\_\_\_\_  
C.A.O. Concurrence

**COMMENTS:**

## REGIONAL DISTRICT OF NANAIMO

### BYLAW NO. 1443

#### FAIRWINDS (NANOOSE) WASTEWATER TREATMENT DEVELOPMENT COST CHARGES

WHEREAS the Board may, pursuant to Section 933 of the *Local Government Act*, impose development cost charges under the terms and conditions of that section;

AND WHEREAS development cost charges may be imposed for the sole purpose of providing funds to assist the Regional District to pay the capital cost of providing, constructing, altering or expanding wastewater treatment facilities, including treatment plants, trunk lines, pump stations and other associated works in order to serve directly or indirectly, the development for which the charges are imposed;

AND WHEREAS in establishing the development cost charges under this bylaw, the Board has considered the future land use patterns and development, and the phasing of works and services within the boundaries of the Northern Community Sewer Service area;

AND WHEREAS the Board is of the opinion that the development cost charges imposed under this bylaw:

- (a) are not excessive in relation to the capital costs of prevailing standards of service,
- (b) will not deter development, and
- (c) will not discourage the construction of reasonably priced housing or the provision of reasonably priced serviced land,

within the Regional District of Nanaimo.

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

#### 1. INTERPRETATION

In this bylaw:

**"Assisted living"** means a building or buildings used for multiple family residential use, where there may be common facilities and a cafeteria or eating area, but where residents are ambulatory and live in private rooms or units which can be locked and which are not automatically accessible to care staff.

**"Building"** means any structure and portion thereof, including mechanical rooms, that is used or intended to be used for the purpose of supporting or sheltering any use or occupancy.

**"Commercial Use"** means the use of land or buildings for any retail, tourist accommodation, restaurant, personal or professional services, commercial entertainment or commercial recreational use, and any other business use which is not an industrial or institutional use.

**"DCC"** means a development cost charge.

**"Dwelling Unit"** means one self-contained unit with a separate entrance intended for year-round occupancy, and the principal use of such dwelling unit is residential, with complete living facilities for one or more persons, including permanent provisions for living, sleeping, cooking and sanitation.

**"Gross Floor Area"** means the total of the horizontal areas of all floors in a building, including the basement, measured to the outside of the exterior walls of the building.

**"Industrial Use"** means the use of land or buildings for any manufacturing, processing, repair, storage, wholesaling or distribution of goods.

**"Institutional Use"** means the use of land or buildings for any school, hospital, correctional facility, care facility, or for the purposes of a public body or publicly regulated utility, but does not include "assisted living" uses.

**"Lot"** means a parcel created by registration of subdivision under the *Land Title Act* (British Columbia) or the Bare Land Strata regulation under the *Strata Property Act* (British Columbia).

**"Mobile Home Park"** means an unsubdivided parcel of land, not subdivided pursuant to the *Strata Property Act* and amendments thereto, on which are situated three or more mobile homes for the purposes of providing residential accommodation, but specifically excludes a hotel.

**"Multiple Family Residential"** means a building or buildings containing two or more dwelling units on a parcel and includes row housing, cluster housing, townhouses, apartment and "assisted living" uses and includes Tourist Accommodation units in excess of 69.675 sq m (750 sq ft).

**"Tourist/Resort Accommodation"** means a building or group of buildings with more than 2 units where the majority of units are less than 69.675 sq m (750 sq ft).

## 2. CHARGES

Every person who obtains:

- a) approval of the subdivision for any purpose of a parcel of land under the *Land Title Act* or the *Strata Property Act* which creates fee simple or bare land strata lots; or
- b) a building permit authorizing the construction, alteration or extension of a building including a building containing less than four self-contained dwelling units and that will, after the construction, alteration or extension, be put to no other use other than the residential use in those dwelling units;

- c) a building permit for any new floor area which has a construction value in excess of \$50,000.00,

shall pay, at the time of the approval of the subdivision or the issuance of the building permit, the applicable development cost charges as set out in Schedule 'A' attached to and forming part of this bylaw.

The charges outlined on Schedule 'A' will be applied to the areas outlined on Schedule 'B' attached to and forming a part of this bylaw.

The charges outlined on Schedule 'A' will be based on the actual use of the building not the zoning category of the property and:

- a) where there is more than one use, each use is subject to the charge based on the actual use and there may be more than one category applied per building.
- b) mezzanines, storage or similar areas within a building are subject to development cost charges based on the same use that the majority area of the building contains.
- c) where a building is vacant and its future use cannot be determined, development cost charges are payable in accordance with the zoning category for the land upon which the building is situated.

### 3. EXCEPTIONS

- a) Section 2 does not apply to a subdivision or building in respect of which the imposition of a development cost charge is prohibited by statute.
- b) If by statute or by operation of law, this Bylaw does not apply to an application to subdivide or an application for a building permit made prior to the adoption of this bylaw, any bylaw repealed by this bylaw shall remain unrepealed and in force and effect in relation to such applications, so far as is necessary to impose development cost charges under that bylaw at the time of subdivision approval or issuance of the building permit.

### 4. REMAINDER OF BYLAW TO BE MAINTAINED INTACT

In the event that any portion of this bylaw is declared ultra vires, such portion shall be severed from this bylaw with the intent that the remainder of this bylaw shall continue in full force and effect.

### 5. REPEAL OF PREVIOUS BYLAW

"Regional District of Nanaimo Northern Community Sewer Local Service Area Development Cost Charge Bylaw No. 934, 1994" and all amendments are hereby repealed, effective on the date that this bylaw is adopted.

6. TITLE

This bylaw may be cited for all purposes as "Fairwinds (Nanoose) Wastewater Treatment Development Cost Charges Bylaw No. 1443, 2005".

Introduced for three readings this 28th day of June, 2005.

Approved by the Inspector of Municipalities this \_\_\_\_ day of \_\_\_\_\_, 2005.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
DEPUTY ADMINISTRATOR

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Chairperson

---

Deputy Administrator

## SCHEDULE 'A'

### Development Cost Charges for Wastewater Treatment/Sanitary Sewerage Works and Services

Pursuant to Section 2 of this bylaw, development cost charges shall be levied in those areas that will be serviced by wastewater treatment/sanitary sewerage works and services as outlined on the map attached hereto as Schedule 'A-1'.

1. The assist factor for wastewater treatment/sanitary sewerage works and services shall be 1%.
2. All charges shall be paid in full prior to the approval of a subdivision or building permit unless paid by way of installments in accordance with BC Reg 166/84.
3. The Development Cost Charge Schedule is as follows :

#### **Nanoose**

Residential (per lot or unit)	\$ 3,064.00
Commercial (per square metre)	7.25
Industrial (per square metre)	6.13

#### **Fairwinds**

Residential (per lot or unit)	\$ 2,125.00
Commercial (per square metre)	5.02
Industrial (per square metre)	4.24





REGIONAL DISTRICT OF NANAIMO		
CHAIR	GM Cms	
CAO	GM ES	
TA CCD	MoF	
JUN - 8 2005		
<i>CEW</i>		

**MEMORANDUM**

**TO:** John Finnie, P. Eng.  
General Manager of Environmental Services

**DATE:** May 27, 2005

**FROM:** Carey McIver  
Manager of Solid Waste

**FILE:** 5360-46

**SUBJECT:** Landfill Gas Utilization Development Agreement

**PURPOSE**

To obtain Board approval to enter into a development agreement with Suncurrent Industries Inc. to demonstrate the commercial viability of operating external combustion engines to generate electricity using landfill gas as an alternative fuel source.

**BACKGROUND**

In 2001 the RDN retained consultants to study the feasibility of transforming the gas generated at the Regional Landfill from an environmental liability to a "green" energy asset. The study, cost-shared by the Federation of Canadian Municipalities (FCM) Green Funds, identified two utilization options with significant potential: direct use of the LFG as a low grade fuel or the generation of electricity.

In 2002 the Board directed staff to expand the existing landfill gas (LFG) collection system to optimize gas collection prior to selecting the most beneficial utilization option. The new LFG collection system was completed in 2005 at a cost of \$1.2 million. The FCM also funded this project with a conditional grant of \$580,328.

Recognizing that the long-term life of the landfill will not be determined until after the new and emerging technologies review is completed in 2006, staff issued a request for proposals (RFP) in December 2004 for a short-term (2 year) LFG utilization demonstration project. The RFP invited interested parties to submit proposals for the design, financing, construction, operation, maintenance and decommissioning of a facility that would generate marketable energy via direct or indirect combustion of LFG using innovative technology not currently being utilized at small to medium landfills.

Due to the short-term nature of the project as well as the relatively small amount of gas available only one company, Suncurrent Industries Inc. (Suncurrent) responded to the RFP. This is because most conventional LFG utilization technologies require at least a twenty year contract term as well as enough LFG to generate at least 2 MW of electricity. Since Suncurrent met all the requirements of the RFP, staff has negotiated a Development Agreement to provide for the construction of a facility to generate 0.5 MW of electricity at the Regional Landfill. Copies of the agreement are available on request.

**LFG Utilization Project**

The objective of this project is to generate 0.5 MW of electricity, with the option to expand the facility to 1 MW, utilizing STM 260 sterling engine external combustion technology. In contrast to traditional gasoline and diesel internal combustion engines that take in fuel and air for combustion inside a cylinder,

the STM engine contains a sealed-in amount of working gas that is used over and over. Rather than burning fuel inside the cylinder, the STM engine uses external heat generated from burning LFG to expand the gas contained inside the cylinder and push against its pistons.

The STM engine then recycles the same captive working gas by cooling and compressing it, then reheating it again to expand and drive the pistons, which in turn drives the generator. As a result the STM engine provides smooth, clean, quiet engine performance without the need for a compressor, muffler or emissions equipment. In addition the STM engine is highly efficient and durable.

Suncurrent's proposed \$1.5 million facility will include nine STM 260 55kW generators housed in three pre-engineered portable enclosures with a configuration of three generators per enclosure. The STM 260 will utilize LFG as a feedstock and will not be supplemented by other non-renewable energy sources. This will be the first demonstration of this technology using LFG in Canada.

## **Development Agreement**

### *General Intent*

Under the Development Agreement, the RDN agrees to supply LFG from the RDN landfill to Suncurrent as an Independent Power Producer (IPP). In return Suncurrent agrees to:

1. Construct and operate a demonstration pilot project involving finance, design, construction, and operation of an electrical generating facility at the RDN landfill to generate electricity from LFG for sale on a commercial basis;
2. Enter into an Electricity Purchase Agreement with a third party, which could be B.C. Hydro, Powerex, or another local industrial user of the power for the sale of electricity generated at the RDN landfill through the distribution wires of B.C. Hydro; and,
3. Assume sole risk regarding technology performance, fuel supply reliability, debt financing and project equity requirements.

### *Execution and Delivery of Agreements*

Following execution of the Development Agreement, (which will allow Suncurrent to obtain financing from various private and government sources), Suncurrent and the RDN agree to negotiate the following agreements:

1. The Operating Agreement for the operation of the facility;
2. The License of Occupation for use of the area at the Regional Landfill occupied by the facility; and,
3. The Waiver of Emissions Rights as required under the Project and Transfer Agreement with the FCM.

Suncurrent will also deliver copies of the Electricity Purchase Agreement and the Interconnection Agreement within twelve months from the date of execution of the Development Agreement. If the RDN and Suncurrent do not successfully negotiate any of the above agreements, then the Development Agreement may be terminated by the RDN.

### *Construction Schedule*

The construction schedule includes a twelve month construction phase which includes all activities related to the design, permitting and construction of the facility. Once the facility reaches substantial completion, the pilot phase begins which includes the commissioning and operation of the facility for a period of twelve months. The commercial operation date will be the date when electricity sale to the third party purchaser commences and shall occur no later than thirty days from substantial completion.

### *Term*

Although the RFP had anticipated a two year demonstration, Suncurrent has requested a longer term to allow them to recover their investment in the facility. Consequently staff has negotiated a five year operating term from the date of execution of the Development Agreement with an option to enter into a five year renewal.

### *Payments to the RDN*

Once the Development Agreement is executed the RDN and Suncurrent will determine a formula for calculating a monthly payment which will represent a reasonable compensation to the RDN for supply of LFG and allow a reasonable return to Suncurrent for equity investment and technology and project risk only after all costs related to debt financing and operating and decommissioning the facility are accounted for and reserved. At this point the parties anticipate that payments should commence within three to four years after the facility goes into commercial operation.

## **ALTERNATIVES**

1. Approve the Development Agreement with Suncurrent Industries Inc.
2. Do not approve the Development Agreement with Suncurrent Industries Inc and issue a new RFP for a 5 to 10 year term.
3. Do not approve the Development Agreement with Suncurrent Industries Inc.

## **FINANCIAL IMPLICATIONS**

Under Alternative 1, the only direct costs to the RDN for this project have been engineering and legal services associated with the negotiation of the agreements as well as the integration of the RDN collection and flare system with the Suncurrent facility. These costs are not anticipated to exceed \$20,000 and should be recovered from Suncurrent's future payments to the RDN for the use of the gas.

Under Alternative 2, if the RDN issues a new RFP for a 5 year term with the option for a five year renewal, the direct costs will be an additional \$20,000 over the \$15,000 that has been expended to date on the current RFP and contract negotiations. This alternative will also delay future payments to the RDN for the use of the gas.

Under Alternative 3, if the RDN does not approve the Development Agreement there will be no additional costs beyond the \$15,000 spent to date.

## **LEGAL IMPLICATIONS**

Under Alternative 1, in the opinion of our legal counsel, the RDN has the right to extend the term of this demonstration beyond that identified in the RFP without re-tendering since all the companies that expressed an interest had the ability to submit an alternative proposal similar to Suncurrent. Nevertheless, even if the RFP was re-tendered for a five year term, it is unlikely that there will be any other interest since as stated previously, independent power producers and most conventional LFG utilization technologies require a 20 year term as well as the ability to generate at least 2 MW of electricity.

## **ENVIRONMENTAL IMPLICATIONS**

LFG is a harmful greenhouse gas (GHG) when released into the atmosphere. The new LFG collection and flare system constructed at the landfill prevents a number of adverse effects, such as gas migration, foul odours and the potential for explosion as well as significantly reducing greenhouse gas emissions from the site. The electricity generated from this project will reduce greenhouse gas emissions even further as well as replace the use of non-renewable sources of fuel.


## **SUMMARY**

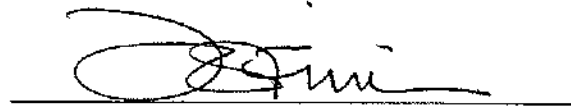
In December 2004 staff issued a request for proposals (RFP) for a short-term LFG utilization demonstration project. The RFP invited interested parties to submit proposals for the design, financing, construction, operation, maintenance and decommissioning of a facility that would generate marketable energy via direct or indirect combustion of LFG using innovative technology not currently being utilized at small to medium landfills. Only one company, Suncurrent Industries Inc. (Suncurrent), responded to the RFP.

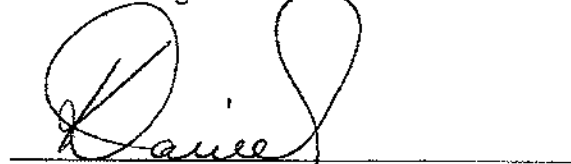
Suncurrent's project objective is to generate 0.5 MW of electricity, with the option to expand up to 1 MW, utilizing STM 260 sterling engine external combustion technology. Suncurrent's proposed facility will include nine STM 260 55kW generators housed in three pre-engineered portable enclosures with a configuration of three generators per enclosure. The STM 260 will utilize LFG as a feedstock and will not be supplemented by other non-renewable energy sources. This will be the first demonstration of this technology using LFG in Canada.

**RECOMMENDATION**

That the Board approve the Development Agreement with Suncurrent Industries Inc. to demonstrate the commercial viability of operating external combustion engines to generate electricity using landfill gas as an alternative fuel source.

  
\_\_\_\_\_  
Report Writer

  
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General Manager Concurrence

  
\_\_\_\_\_  
CAO Concurrence

COMMENTS:



REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MoF	
JUN - 2 2005			
<i>Coled</i>			

## MEMORANDUM

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**TO:** Carey McIver  
Manager of Solid Waste

**DATE:** May 30, 2005

**FROM:** Alan Stanley  
Solid Waste Program Coordinator

**FILE:** 5365-72

**SUBJECT:** Residential Food Waste Collection Pilot Project

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### PURPOSE

To obtain Board approval to conduct a residential food waste collection pilot project in 2006.

### BACKGROUND

#### *Solid Waste Management Plan*

In April 2005 the Minister of Water, Land, and Air Protection gave final approval to the RDN Solid Waste Management Plan (SWMP). The SWMP, approved by the Board in July 2004, addresses both waste diversion and residual management and will serve to guide solid waste management related activities and policy development in the RDN.

The SWMP has three components: a Zero Waste Plan, a Residual Waste Management Plan; and a Waste Stream Management Licensing Bylaw. The Zero Waste Plan identifies organics diversion as the primary means to reach the goal of 75% diversion by 2010. A ban on the disposal of organic waste from the commercial sector and collection of organics from single-family residences were the two main programs outlined in the Plan to meet this ambitious target.

#### *Organics Diversion Strategy*

In February 2005 the Board approved the Organics Diversion Strategy (ODS), a plan to provide the Board, the general public and the business community with information on how organic waste will be diverted from disposal. The ODS comprises the framework for the education and promotion program for organics diversion.

As outlined in the Zero Waste Plan, the main initiatives contained in the ODS are a disposal ban on commercial food waste and a study and subsequent possible pilot project for residential organics diversion which could lead to curbside collection of organics. The commercial food waste disposal ban, the first phase of the ODS to be implemented, was approved by the Board in May, 2005.

#### *Residential Organics Collection Update*

In a waste composition study conducted in September 2004 at RDN solid waste disposal facilities, 48% of the residential waste stream was found to be compostable food waste. This represents 7,314 tonnes of landfilled food waste per year or 13.5% of all the waste landfilled by the RDN per year and is a significant opportunity for additional waste diversion. The ratio of compostable food waste in residential collection programs was consistent between urban and rural routes. While rural properties have a greater ability to manage and self-compost yard waste, they still put about the same amount of food waste in their garbage cans as their urban counterparts.

In 2005 the RDN engaged Gartner Lee Limited to conduct a study on the collection of compostable waste from the residential sector. The specific objectives of the study were to:

- Review the status of existing organics collection programs;
- Learn from the experience of existing programs;
- Determine if and how organics bans have been utilized in the communities presently involved in organics diversion; and
- Assess the need for, and potential length of an RDN pilot project.

The Gartner-Lee report (available on request) reviewed four different residential program collection options. The annual cost summaries of each program option are presented below:

	Option A	Option B	Option C	Option D
	Yard Waste Only	Food Waste Only	Food with Yard Waste (Combined)	Food and Yard Waste (Separate Streams)
Annual Cost	\$1,864,090	\$208,370	\$2,753,171	\$1,940,395
Per Household Cost <sup>1</sup>	\$46	\$5	\$69	\$49
Estimated Increase in Per Household Cost <sup>2</sup>	47%	5%	70%	50%

<sup>1</sup> Estimated program costs based on 40,000 households

<sup>2</sup> Based on an average annual collection fee of \$98

The Gartner-Lee report shows that there are a number of difficulties associated with curbside collection of yard waste including a significant increase in the amount of curbside material to be managed, reduced incentives for backyard composting and yard waste reduction initiatives and increased cost. As discussed in the ODS, current yard waste diversion programs have been successful without providing a curbside collection service. Staff concludes that a food waste only organics diversion program has the most potential to provide the greatest value by increasing organic waste diversion at the lowest cost.

*What is a Residential Food Waste Diversion Program?*

A residential food waste diversion program is a program in which residents separate compostable food waste from the other garbage, similar to current recycling programs, and the food waste is collected as part of the regular garbage and recycling collection program and taken to a composting facility instead of the landfill.

While many residents use backyard composting to reduce the amount of waste that they put out for collection, many fully compostable items are not appropriate for backyard composting. When put in a backyard composter, cooked food, meat, fish and baked waste tend to attract rodents, flies and bears, however, these are all fully compostable materials in an industrial scale composting facility such as the International Composting Corporation (ICC) plant at Duke Point in Nanaimo.

Residential food waste means compostable organic material including raw and cooked food waste from a commercial premise and includes but is not limited to:

- Fruits and vegetables
- Meat, fish, shellfish, poultry and bones
- Dairy products
- Bread, pasta and baked goods
- Tea bags, coffee grounds and filters
- Soiled paper plates and cups
- Soiled paper towels and napkins
- Soiled waxed paper
- Food soiled cardboard and paper
- Egg shells

### *Pilot Program Design*

After discussing the Gartner-Lee report with City of Nanaimo staff and consultants, staff have determined that a pilot project should be undertaken that is comprised of a series of tests of the various methods being used in other areas to provide relevant information on what would work best in the RDN. It is anticipated that test areas would include waste collection routes within the City of Nanaimo, City of Parksville and a rural area of the RDN to acquire an adequate cross-section of data.

A pilot project design is required prior to conducting any tests. The intention of the project design phase is to identify which collection routes would be most appropriate to test, what collection methods should be tested, the duration of the tests, the equipment required for the tests, what data will be collected, how the data will be analyzed and establishment of a detailed budget to carry out the tests.

### **ALTERNATIVES**

1. Conduct a residential food waste collection pilot project in 2006.
2. Do not conduct a residential food waste collection pilot project in 2006.

### **FINANCIAL IMPLICATIONS**

Under Alternative 1, the pre-design cost estimate to undertake a pilot program was identified as \$82,000 in the approved Zero Waste Plan. If the Board approves this alternative, staff will engage consultants to undertake a detailed design study for completion in August to provide a more accurate and current cost estimate for the Board to consider in the 2006 Budget and Financial Plan. Staff estimates that the cost to complete the detailed design study would be \$15,000. There are sufficient funds available in the 2005 Solid Waste Budget for this work.

The data generated from this RDN funded pilot project would be reviewed by City of Nanaimo and RDN staff to determine the costs of full implementation in their respective collection programs. With full costing information, the City of Nanaimo Council and RDN Board would then decide whether or not to add food waste collection to their respective garbage and recycling collection programs.

### **ENVIRONMENTAL IMPLICATIONS**

Locally composted organic material provides an environmentally safe product alternative for landscapers, gardeners and farmers. Residential organics diversion will save valuable landfill space.

### **PUBLIC RELATIONS IMPLICATIONS**

The Organics Collection Update report was presented to the Regional Waste Advisory Committee (RWAC) in April 2005. RWAC discussed the report in detail and expressed support for a food waste diversion pilot program. The RDN public has consistently supported waste reduction and recycling initiatives. During the public consultation process for the SWMP, composting of organics was strongly supported.

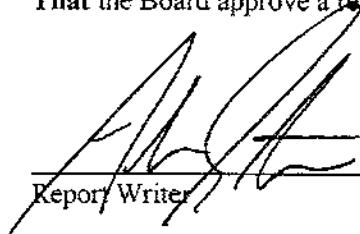


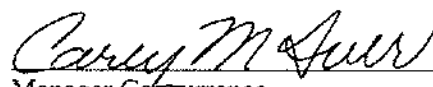
**SUMMARY/CONCLUSIONS**

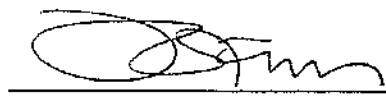
The RDN Zero Waste Plan identifies organics diversion as the primary means to reach the goal of 75% diversion by 2010. A ban on the disposal of organic waste from the commercial sector and collection of organics from single-family residences were the two main programs outlined in the Plan. In 2005 the RDN engaged Gartner-Lee Limited to conduct a study on the collection of compostable waste from the residential sector. Based on the results of this study, staff recommend that a residential food waste collection pilot project be conducted in 2006. The pre-design cost estimate to undertake a pilot was identified as \$82,000 in the Zero Waste Plan. If the Board approves this alternative, staff will engage consultants to undertake a detailed design study for completion in August to provide a more accurate and current cost estimate for the Board to consider in the 2006 Budget and Financial Plan. Staff estimates that the cost to complete the detailed design study would be \$15,000. The data generated from this RDN funded pilot project would be reviewed by City of Nanaimo and RDN staff to determine the costs of full implementation in their respective collection programs. With full costing information, the City of Nanaimo Council and RDN Board would then decide whether or not to add food waste collection to their respective garbage and recycling collection programs.


**RECOMMENDATION**

That the Board approve a residential food waste diversion pilot project to be carried out in 2006.

  
\_\_\_\_\_  
Report Writer

  
\_\_\_\_\_  
Manager Concurrence

  
\_\_\_\_\_  
General Manager Concurrence

  
\_\_\_\_\_  
CAO Concurrence

COMMENTS:



REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCG		McF	
MAY 16 2005			
<i>[Signature]</i>			
		<b>DATE:</b>	

**MEMORANDUM**

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**TO:** Kelly Daniels  
Chief Administrative Officer

**FROM:** John Finnie, P. Eng.  
General Manager of Environmental Services

**SUBJECT:** Acquisition of the Breakwater Utility

**DATE:** May 16, 2005

**FILE:** 5500-31-BR-01

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**ISSUE**

Costs associated with the process to acquire the Breakwater water utility.

**BACKGROUND**

At the January 25<sup>th</sup>, 2005 meeting of the Board, a draft Memorandum of Understanding (MOU) between the RDN and EPCOR for the acquisition of the Breakwater water utility was approved. That MOU outlined a strategy and principles to facilitate both parties working towards an agreement to transfer the Breakwater utility from EPCOR to RDN and for EPCOR to retain a 20-year operational agreement for the system.

The legal and consultant fee costs expended to date to investigate acquisition of the Breakwater utility total \$18,570 and have been funded from the feasibility fund. The feasibility fund has now been exhausted. Staff estimates about an additional \$45,000 will be required to complete the negotiations including legal, consulting, referendum and associated costs. The total cost to develop the agreement is therefore estimated to be about \$60-65,000.

**ALTERNATIVES**

1. Authorize the expenditure of an additional \$45,000 in legal, accounting and other consulting fees to facilitate the Breakwater water utility acquisition from EPCOR.
2. Do not approve further expenditures for this purpose.

**FINANCIAL IMPLICATIONS**

The Local Government Act provides the authority to undertake feasibility studies. Where a service is established, the funds are recovered from the new service area – in this instance from the proposed Breakwater service area. If a service is not established, the funds may be recovered from the Electoral Area within which the proposed service is located. In this case, should a purchase not be concluded, the estimated \$45,000 would be recovered from Electoral Area G on a one time basis in 2006.

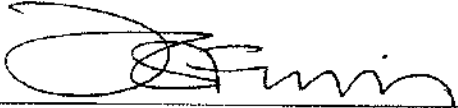
**SUMMARY/CONCLUSIONS**

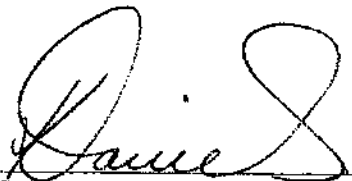
The feasibility funds available to review and negotiate a Memorandum of Understanding and Transfer and Operating Agreements associated with a potential purchase of the Breakwater utility have been fully expended. Staff estimates that an additional \$45,000 will be required to facilitate negotiations and fund remaining legal, accounting and other consultant costs and, if required, a referendum.

The funds will be recovered from the residents of the Breakwater water service area should an agreement be reached and an RDN service area is created. If an agreement is not reached then the property owners of Electoral Area "G" will be assessed the outstanding costs on a one time basis in 2006.

**RECOMMENDATION**

That the Board support the expenditure of \$45,000 to assist in completing the transfer and operational agreements with EPCOR for ownership and operation of the Breakwater utility.

  
\_\_\_\_\_  
Report Writer

  
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C.A.O. Concurrence

COMMENTS:



REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MoF	
JUN - 1 2005			
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MEMORANDUM

TO: Mike Donnelly, ASCT  
 Manager of Utilities

DATE: May 24, 2005

FROM: Chris Brown, ASCT  
 Engineering Technologist

FILE: 5500-20-FC-01

SUBJECT: Utilities  
 Inclusion into the French Creek Sewer Local Service Area and  
 Northern Community Sewer Local Service Area (889 Cavin Road)

PURPOSE

To consider the request to include Lot A, Plan 20738, DL 29, Nanoose LD (Winch property) into the French Creek Sewer Local Service Area (see attached map).

BACKGROUND

The subject property is an ocean front property located at 889 Cavin Road, west of Parksville in Electoral Area G.

The owner of the above-noted property has petitioned the Regional District of Nanaimo (RDN) to include the subject property into the French Creek Sewer Local Service Area (FCLSA). The policies in Section 6.4 of the French Creek OCP encourage the extension of sewer services to unserved neighborhoods in urban areas, and support the provision of community sewer services to those lands located within the community sewer service area. Both the RGS and the French Creek OCP support the extension of sewer service to the subject property. From a land use planning perspective, Development Services has no objection to the boundary amendment required for this application.

The property is already developed with one existing single-family dwelling, and sewage disposal is to an on-site septic field.

The Northern Community Sewer Local Service Area Bylaw No. 889, 1998 and the FCSLSA Bylaw No. 813, 1990 both require amendment in order to service this property with sewer. Both bylaw amendments are addressed in this report.

ALTERNATIVES

1. Do not accept the application.
2. Accept the application.

FINANCIAL IMPLICATIONS

There are no financial implications to the RDN. If accepted into the FCLSA, all costs associated with the connection would be at the expense of the applicant. When brought into the local service area, the subject property will pay a Capital Charges of \$2,084 per lot, pursuant to Northern Community Sewer Local Service Area Bylaw No. 1331 (sewage treatment) and \$573 pursuant to French Creek Sewage Facilities Local Service Area Bylaw 1330.01 (sewage collection). Current sewer user fees are approximately \$137.

**DEVELOPMENT IMPLICATIONS**

The subject property is currently zoned Residential 1 (RS1) and is within the "Q" Subdivision District pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The "Q" Subdivision District provides a minimum parcel size of 700 m<sup>2</sup> where the property is serviced with both community water and sewer. As the property is approximately 2400 m<sup>2</sup> a covenant will be placed on the title restricting any subdivision.

**INTERDEPARTMENTAL IMPLICATIONS**

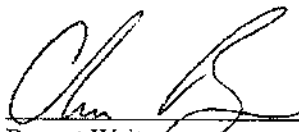
Development Services has no objection to the boundary amendments required to bring the subject property into the sewer local service area.

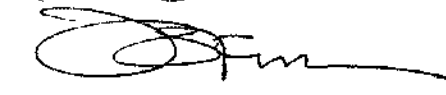
**SUMMARY/CONCLUSIONS**


A petition has been received to amend the boundaries of the French Creek Sewer Local Service Area and the Northern Community Sewer Local Service Area. The property being considered for inclusion is within the Urban Containment Boundary of the Regional Growth Strategy, and is identified for connection to a community sewer system. The property is also within the benefiting area of the French Creek Pollution Control Centre. All costs associated with connection to the RDN sewer system will be at the expense of the property owner.

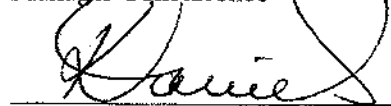
**RECOMMENDATIONS**

1. That "Regional District of Nanaimo French Creek Sewer Local Service Area Bylaw No. 813.33, 2005" be introduced, read three times, and forwarded to the Inspector of Municipalities for approval.
2. That "Northern Community Sewer Local Service Area Bylaw No. 889.33, 2005" be introduced, read three times and forwarded to the Inspector of Municipalities for approval.

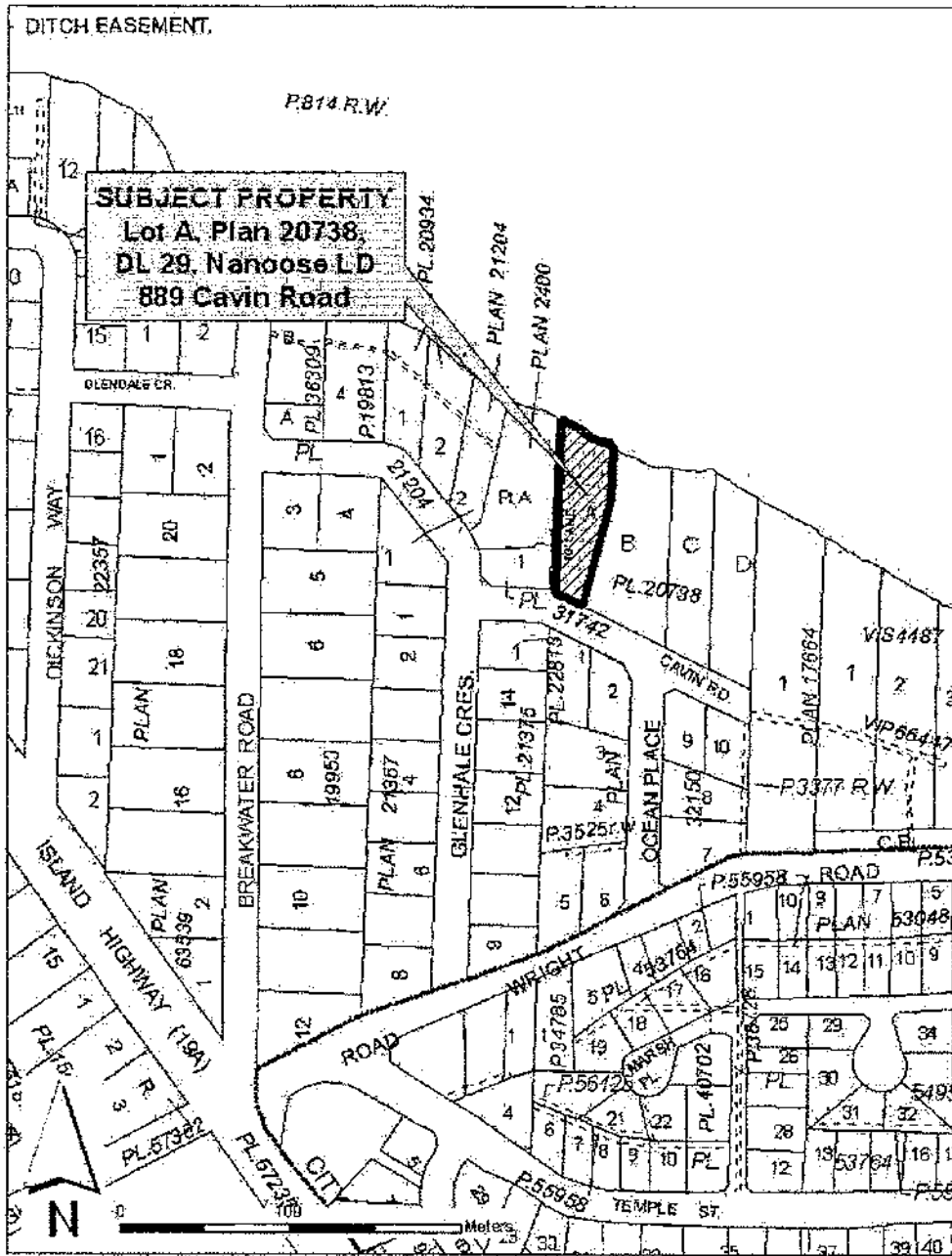
  
\_\_\_\_\_  
Report Writer

  
\_\_\_\_\_  
General Manager Concurrence

  
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Manager Concurrence

  
\_\_\_\_\_  
CAO Concurrence

COMMENTS:



**REGIONAL DISTRICT OF NANAIMO**

**BYLAW NO. 889.33**

**A BYLAW TO AMEND THE NORTHERN COMMUNITY  
SEWERAGE FACILITIES LOCAL SERVICE AREA  
ESTABLISHMENT BYLAW NO. 889**

WHEREAS the Board has enacted the "Regional District of Nanaimo Northern Community Sewer Local Service Conversion Bylaw No. 889, 1993", as amended, which establishes the Northern Community Sewer Local Service Area;

AND WHEREAS the Board wishes to amend Schedule 'C' to include the property legally described as Lot A, District Lot 29, Plan VIP20738, Nanoose Land District;

AND WHEREAS the Board wishes to amend Schedule 'E' to exclude the property legally described as Lot A, District Lot 29, Plan VIP20738, Nanoose Land District;

AND WHEREAS the Board has obtained the consent of at least two thirds of the participants;

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

1. This bylaw may be cited as "Regional District of Nanaimo Northern Community Sewer Local Service Area Amendment Bylaw No. 889.33, 2005".
2. Schedules 'C' and 'E' attached to and forming a part of Bylaw No. 889.32 are hereby deleted and replaced with Schedules 'C' and 'E' attached to and forming part of this bylaw.

Introduced and read three times this \_\_\_\_ day of \_\_\_\_\_, 2005.

Received the approval of the Inspector of Municipalities this \_\_\_\_ day of \_\_\_\_\_, 2005.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
GENERAL MANAGER, CORPORATE SERVICES

**REGIONAL DISTRICT OF NANAIMO**

**BYLAW NO. 813.33**

**A BYLAW TO AMEND THE FRENCH CREEK  
SEWERAGE FACILITIES LOCAL SERVICE AREA  
ESTABLISHMENT BYLAW NO. 813**

WHEREAS "French Creek Sewerage Facilities Local Service Establishment Bylaw No. 813, 1990"; as amended, establishes the French Creek Sewerage Facilities Local Service Area;

AND WHEREAS the Board has been petitioned to expand the local service area;

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

1. The boundaries of the French Creek Sewerage Facilities Local Service Area, established by Bylaw No. 813, as amended, are hereby further amended to include the property shown outlined on Schedule 'B-1' attached hereto and forming part of this bylaw.
2. The amended boundary of the French Creek Sewerage Facilities Local Service Area shall be as shown outlined on Schedule 'A' attached hereto and forming part of this bylaw.
3. Schedule 'A' of Bylaw No. 813.32 is hereby repealed.
4. This bylaw may be cited as "French Creek Sewerage Facilities Local Service Area Amendment Bylaw No. 813.33, 2005".

Introduced and read three times this \_\_\_\_ day of \_\_\_\_\_, 2005.

Received the approval of the Inspector of Municipalities this \_\_\_\_ day of \_\_\_\_\_, 2005.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2005.

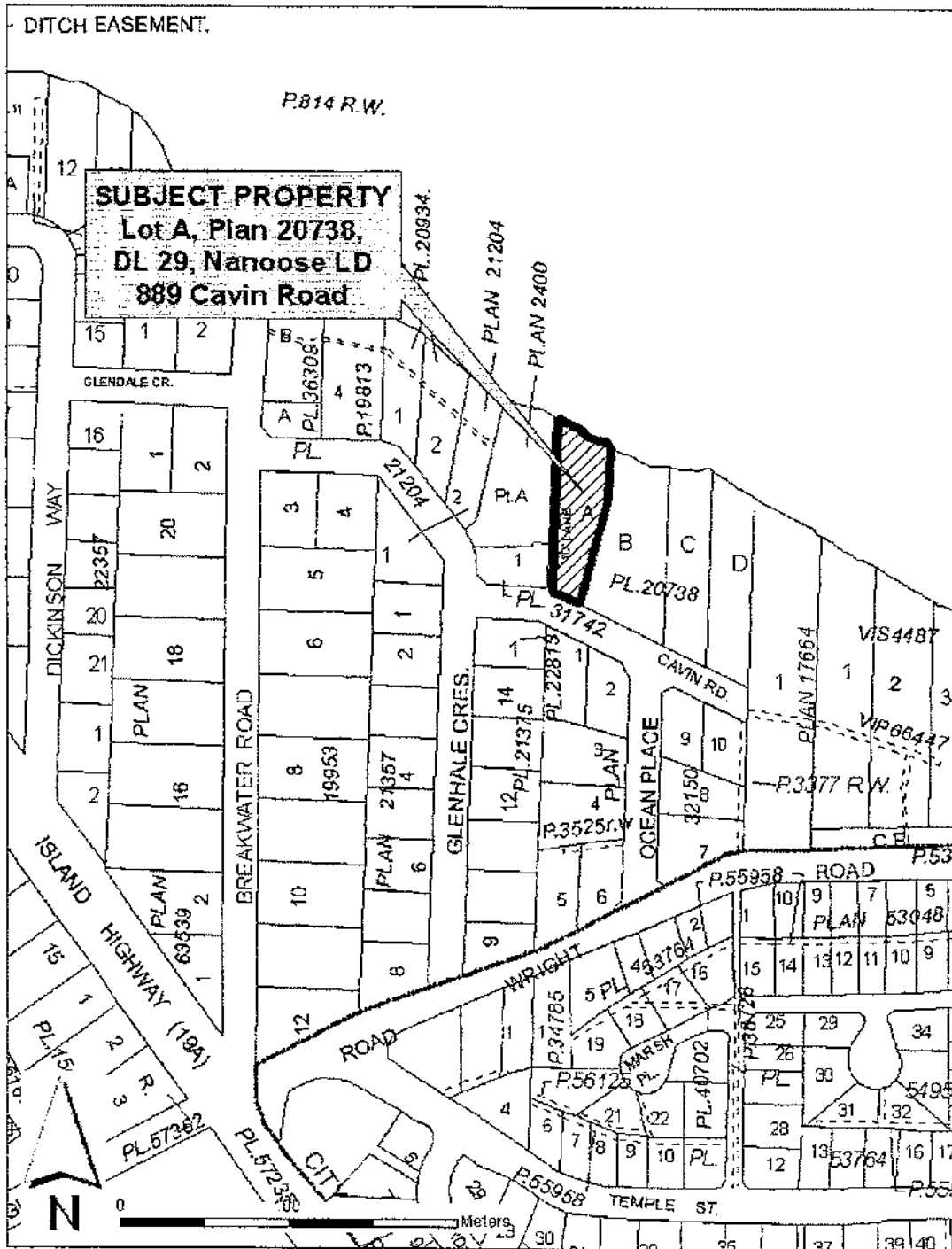
\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
GENERAL MANAGER, CORPORATE SERVICES



Chairperson

General Manager, Corporate Services





Regional District of Nanaimo	
CHAIR	GM Cms
CAO	GM ES
DA COO	MoF
MAY 25 2005	
<i>Collie</i>	
DATE:	

**MEMORANDUM**

**TO:** John Finnie, P. Eng.  
General Manager of Environmental Services

**DATE:** May 16, 2005

**FROM:** Mike Donnelly, AScT  
Manager of Utilities

**FILE:** 1855-03  
1025-20-UTILITIES

**SUBJECT:** Capital Asset Management Review  
Infrastructure Planning (Study) Grant Applications

**PURPOSE**

To obtain Board support for Infrastructure Planning (Study) Grant Applications for the Capital Asset Management reviews currently underway in a number of water and sewer service areas.

**BACKGROUND**

The 2005 water utilities work-plan includes a Capital Asset Management review for Fairwinds, Nanoose, Arbutus Park and San Pareil Water Local Service Areas and the Fairwinds Sewer Local Service Area. The review being undertaken will establish a complete inventory of local service area plans and will provide information necessary for effective development of long term capital management plans.

The Ministry of Community, Aboriginal and Women's Services make grants available for such projects. The applications must be approved by the Board before they can be considered by the Ministry. Grants usually cover 100% of the first \$5,000 in study costs plus 50% of the next \$10,000 to a maximum grant of \$10,000. Separate grant applications for each of the following local service areas are being recommended for this year.

Local Service Area	Budget
Fairwinds Water	\$15,000
Nanoose Water	\$15,000
Arbutus Park Water	\$10,000
San Pareil Water	\$10,000
Fairwinds Sewer	\$15,000

**ALTERNATIVES**

1. Approve submission of the Infrastructure Planning (Study) Grant applications for the Capital Asset Management Review.
2. Do not approve submission of the grant applications.

**FINANCIAL IMPLICATIONS**

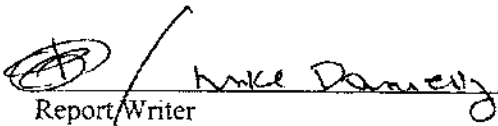
Should the grants not be received, the budget funds in place will be sufficient to complete the project. The grants will offset the costs to the local service areas.

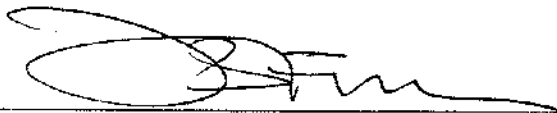
**SUMMARY/CONCLUSIONS**


The 2005 budget includes funding for a Capital Asset Management review of a number of water and sewer areas however, staff recommend applying for Infrastructure Planning Grants as an supplementary source of funding. The applications for these grants require Board support.

**RECOMMENDATION**

That the Board support the applications to the Ministry of Community, Aboriginal & Women's Services for planning grants to support the Capital Asset Management Reviews for Fairwinds Water, Nanoose Water, Arbutus Park Water, San Pareil Water and Fairwinds Sewer.

  
Report/Writer

  
General Manager Concurrence

  
C.A.O. Concurrence

COMMENTS:



REGIONAL DISTRICT OF NANAIMO	
CHAIR	GM Cms
CEO	GM ES
ACC	MoF
MAY 25 2005	
<i>Coll</i>	

**MEMORANDUM**

**TO:** John Finnie, P.Eng.  
General Manager of Environmental Services

**DATE:** May 16, 2005

**FROM:** Mike Donnelly, AScT  
Manager of Utilities

**FILE:** 1855-03  
5500-22-NB-01

**SUBJECT:** Water System Audit – Infrastructure Planning (Study) Grant Applications

**PURPOSE**

To obtain Board support for Infrastructure Planning (Study) Grant Applications for the Water System Audits being undertaken in the Nanoose Peninsula.

**BACKGROUND**

The 2005 water utilities work-plan includes a water audit for the Nanoose Peninsula service areas. The audit is being undertaken to identify any system losses which can be reduced to acceptable levels in order to reduce the cost of producing and treating water in excess of consumer needs. An estimate of \$33,000 to complete the audits is included in the 2005 budget.

The Ministry of Community, Aboriginal and Women’s Services make grants available for such projects. The applications must be approved by the Board before they can be considered by the Ministry. Grants usually cover 100% of the first \$5,000 in study costs plus 50% of the next \$10,000 to a maximum grant of \$10,000. Separate grant applications for each of the following local service areas are being recommended for this year.

Local Service Area	Budget
Madrona Water	\$ 8,000
Fairwinds Water	\$10,000
West Bay Water	\$5,000
Nanoose Water	\$5,000
Arbutus Park Water	\$5,000

**ALTERNATIVES**

1. Approve submission of the Infrastructure Planning (Study) Grant applications for the 2005 Water System Audit.
2. Do not approve submission of the grant applications.

**FINANCIAL IMPLICATIONS**

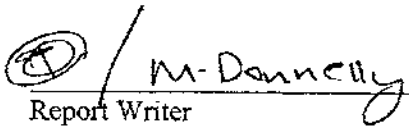
Should the grants not be received, the budget funds in place will be sufficient to complete the project. If received, the grants will offset the costs to the local service areas.


**SUMMARY/CONCLUSIONS**


The 2005 budget includes funding for a water system audit for the Nanoose Peninsula water service areas however, staff recommend applying for Infrastructure Planning Grants as a supplementary source of funding. The applications for these grants require Board support.

**RECOMMENDATION**

That the Board support the applications to the Ministry of Community, Aboriginal & Women's Services for planning grants to support the Water System Audit for the Nanoose Peninsula Water Local Service Areas.

  
Report Writer

  
General Manager Concurrence

  
C.A.O. Concurrence

COMMENTS:



REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MeF	
JUN - 8 2005			

# MEMORANDUM

**TO:** J. Finnie, P. Eng.  
General Manager of Environmental Services

**DATE:** May 31, 2005

**FROM:** M. Donnelly, AScT  
Manager of Utilities

**FILE:** 5500-22-01

**SUBJECT:** Nanoose Bay Peninsula Water Services Amalgamation

## PURPOSE

To introduce bylaws which will amalgamate the Nanoose Bay Peninsula RDN water services and amend the purpose of the existing water local service areas.

## BACKGROUND

At the December 14, 2004 RDN Board meeting, an informational report outlining the concept of amalgamating the water services on the Nanoose Bay Peninsula was received (Appendix A). The amalgamation is being carried out in two stages. Stage 1 will amalgamate the seven water local service areas for operational purposes. Stage 2 will focus on the eventual financial amalgamation with respect to reserves, surpluses and capital.

Stage 1 of the amalgamation will result in one operational water service area for the Nanoose Bay Peninsula. The interconnection of these systems has been underway since the approval of the AWS bulk water supply and was done to facilitate the distribution of bulk water to the various water services. This interconnection also allows for a stronger water distribution and supply system that improves system resiliency during peak demand periods, increases fire protection flows and reduces capital expenditures over the long term. Currently water consumption rates in the seven areas except for the Driftwood WLSA (which has only a minor difference) are the same. This stage will also allow for one water consumption rate structure to be used. The same approach would be used for the establishment of one Water Use Regulation bylaw.

Stage 2 of the amalgamation will recognize the various reserves, debt and surpluses for each of the WLSA's. Existing WLSA reserves and surpluses will be applied to offset the costs of capital projects in those service areas. Once reserves and surpluses have been exhausted in the WLSA's then new capital will be funded by the amalgamated service area. Timing of the use of reserves and surpluses will vary between WLSA's depending on their level of reserves, debt, surpluses and capital expenditure programs. Further information regarding the phasing of Stage 2 will be brought forward to the Board as part of the 2006 budget cycle.

## ALTERNATIVES

1. Adopt the bylaws as presented.
2. Amend the bylaws and adopt them as amended.
3. Do not proceed further at this time.

## FINANCIAL IMPLICATIONS

Bylaw 867.01 is the bylaw which amalgamates the water services for operating purposes. This has been accomplished by amending the boundaries, purpose and requisition limits of the former Wall Beach service area. The Wall Beach service has no debt, operating surplus or reserves and provides the simplest administrative approach to a boundary amendment. The new service is called the Nanoose Bay Peninsula Water Service. Bylaws 788.04, 929.04, 930.03, 1255.02, 1288.01 and 1372.02 amend the existing WLSA bylaws to address capital and the repayment of existing debt.

One of the objectives of the amalgamation in Stage 1 is to ensure the combination of user rates and parcel taxes do not change significantly as a result of the amalgamation. Water user rate revenues fund about 50% of the amalgamated operating budget. A parcel tax is proposed for 2006 to recover the remainder. User rates will be adjusted over the next three years to adjust the balance of operational cost recovery towards user rates with parcel taxes reflecting the funding of long term capital.

## SUMMARY/CONCLUSIONS

Introduced with this report are a number of bylaw amendments required in order to allow for Stage 1 of the amalgamation of the water services on the Nanoose Bay Peninsula. A new service will be established under the name "Nanoose Bay Peninsula Water Service" for operating purposes.

The remaining water service bylaws have been amended for Stage 2 of the amalgamation which allows for the repayment of existing debt, use of reserves, surpluses and capital projects funding until full amalgamation is achieved.

Amalgamation of the systems does not incur additional operational costs. The intention therefore is to manage user rates and parcel tax revenues to minimize fluctuations occurring as a result of the amalgamation.

## RECOMMENDATIONS:

1. That the following bylaws be introduced for first three readings and be forwarded to the Ministry of Community, Aboriginal and Women's Services for approval.

"Nanoose Bay Peninsula Water Services Amalgamation Bylaw No. 867.01, 2005".

"West Bay Estates Water Local Service Area Purpose Amendment Bylaw 929.04, 2005".

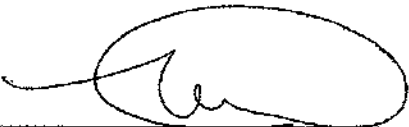
"Arbutus Park Estates Water Local Service Area Purpose Amendment Bylaw 930.03, 2005".

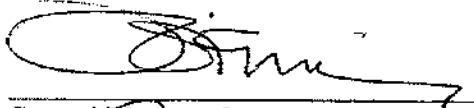
"Madrona Point Water Service Purpose Amendment Bylaw 788.04, 2005".

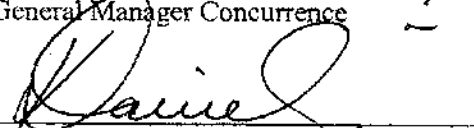
"Driftwood Water Supply Service Area Purpose Amendment Bylaw 1255.02, 2005".

"Fairwinds Water Service Area Purpose Amendment Bylaw 1288.01, 2005".

"Nanoose Bay Water Supply Service Area Purpose Amendment Bylaw 1372.02, 2005".

  
\_\_\_\_\_  
Report Writer

  
\_\_\_\_\_  
General Manager Concurrence

  
\_\_\_\_\_  
CAO Concurrence

## COMMENTS:



## MEMORANDUM

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**TO:** John Finnie, P. Eng.  
General Manager of Environmental Services

**DATE:** December 3, 2004

**FROM:** Mike Donnelly  
Manager of Utilities

**FILE:** 5500-22-01

**SUBJECT:** Amalgamation of the Nanoose Peninsula Water Local Service Areas

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**PURPOSE**

To provide the Board with information related to the amalgamation of the seven water local service areas located on the Nanoose Peninsula.

**BACKGROUND**

The Nanoose Peninsula currently supports seven water local service areas (WLSA's) serving approximately 4,900 people and 2,253 lots. These systems, described below are currently interconnected for operational purposes but are not considered as one water local service area for bylaw purposes.

The purpose of amalgamation of these systems would be to provide for one WLSA area for the Nanoose Peninsula for both operating and bylaw purposes. Below is a brief outline of the service areas.

*Fairwinds*

The Fairwinds Water Local Service Area was established in 1988 and comprises an area around Fairwinds Drive and Dolphin Drive on the Nanoose Peninsula. There are currently 371 residential connections and 24 commercial connections to the water system. The water source for the Fairwinds WLSA comes from a series of groundwater wells located nearby. The water source is chlorinated and stored in two reservoirs located on Notch Hill.

*Arbutus Park*

The Arbutus Park Water Local Service Area was established in 1983 and comprises an area lying north and south of Powder Point Road, near Garry Oak Drive, Anchor Way, and Florence Drive on the Nanoose Peninsula. There are currently 120 residential connections and 1 commercial connection to the water system. The water source for the Arbutus Park WLSA comes from a series of groundwater wells located nearby. The water source is chlorinated and stored in one dedicated reservoir located on Link Place and in the shared Fairwinds reservoirs.

*Madrona*

The Madrona Water Local Service Area was established in 1973 and comprises an area located, for the most part, between Northwest Bay Road and Madrona Point on the Nanoose Peninsula. There are currently 274 residential connections and no commercial connections to the water system. During the winter months the water source for the Madrona WLSA comes from a groundwater well which is



supplemented from May to October of each year by surface water from the Englishman River. Both the groundwater and surface water sources are chlorinated and stored in one reservoir located near the railroad tracks by the Northwest Bay logging road.

#### *Wall Beach*

The Wall Beach Water Local Service Area was established in 1992 and comprises an area lying west of Seahaven Road on the Nanoose Peninsula. There are currently 14 residential connections and no commercial connections to the water system. During the winter months the water source for the Madrona WLSA comes from a groundwater well which is supplemented from May to October of each year by surface water from the Englishman River. Both the groundwater and surface water sources are chlorinated and stored in one reservoir located near the railroad tracks by the Northwest Bay logging road.

#### *Driftwood*

The Driftwood Water Local Service Area was established in 2001 and comprises an area on Higginson Road and Delanice Way on the Nanoose Peninsula. There are currently 11 residential connections and no commercial connections to the water system. The water source for the Driftwood WLSA comes from a series of groundwater wells located nearby. The water source is chlorinated and stored in one reservoir located on Claudet Road.

#### *Nanoose*

The Nanoose Water Local Service Area was established in 1980 when the Eagle Heights water service area was merged with the Beachcomber/Seacrest/Dorcas Point water service area. Today, the Nanoose WLSA comprises the majority of the properties within 300 metres of the ocean on the north shore of the Nanoose Peninsula. There are currently 805 residential connections and 5 commercial connections to the water system. The water source for the Nanoose WLSA comes from a series of groundwater wells located nearby. The water source is chlorinated and stored in three reservoirs located on Claudet Road, Davenham Road and Radford Place.

#### *West Bay*

The West Bay Water Local Service Area was established in 1980 and comprises the Red Gap Shopping Centre and surrounding residential area on the Nanoose Peninsula. There are currently 164 residential connections and 9 commercial connections to the water system. The water source for the West Bay WLSA comes from a series of groundwater wells located nearby. The water source is chlorinated and stored in the two Fairwinds reservoirs located on Notch Hill.

#### *Bulk Water & Interconnection*

In the early 1990's, following many years of discussions and investigations regarding a supplementary long term supply of water for parts of the region, the AWS bulk water initiative began to take shape. Those early discussions included the benefits of an amalgamation of the Nanoose area water systems supplied by local wells supplemented with water from Arrowsmith Lake via an intake on the Englishman River.

Operational system interconnection of some of the Nanoose WLSA's began in the mid 90's to provide strengthened fire flow and emergency supply capabilities. With the approval of the Arrowsmith Water

service (AWS) bulk water system in 1997; additional interconnections were completed to link all the Nanoose systems. This was done to ensure that the bulk water distribution system for water on the Peninsula was established in time for the bulk water supply. Bulk water from the AWS system is intended to supplement groundwater supplies to the water local service areas in Nanoose.

Supply of bulk water to Nanoose began in 2001 with water being diverted from the City of Parksville water intake on the Englishman River using the then newly constructed Northwest Bay Road Supply line. This supply main was the first step in providing a transmission system to support the necessary quantity of water required for the long term development of the Nanoose Peninsula.

With full interconnection all wells, reservoirs and treatment facilities have the capability to support each other during peak demand periods and provide for enhanced delivery of emergency supplies of water for fire suppression purposes. Individual systems enjoy a reduced risk of service interruptions due to incidents such as well pump failures as they can be supported by neighbouring systems and by sharing of reservoir facilities.

It is important, for administrative reasons, to recognize this interconnected system by bylaw. Currently the budgets are developed for each individual system annually. Capital plans, capital reserves, operational costs and revenues are determined on an individual service area basis. While this is necessary under the current WLSA bylaws, the actual operation of the system should be carried out to provide for the most efficient and effective operation of the water systems as a whole.

Amalgamation of the systems would result in operational, capital and capital reserve decisions being made based on one single system on a community wide basis. Amalgamation would allow for the current infrastructure to be operated, maintained and expanded based on system wide needs, allow AWS water to be distributed to all RDN service areas and reduce the need to build individual, capital intensive systems.

It is therefore now prudent to administratively complete the amalgamation of the Nanoose systems through bylaw consolidation. This will insure reliable and effective operation of the RDN water systems in Nanoose and further prepare for future delivery of AWS water to the Nanoose peninsula. Further work is planned for 2005 to define budgetary/financial and legal issues and timing of the amalgamation. Key financial issues would relate to the treatment of the individual WLSA capital reserves and surplus funds.

## **ALTERNATIVES**

This report is being provided to the Board for information at this time.

## **FINANCIAL IMPLICATIONS**

There are no financial implications associated with this report. Full financial implications will be presented as part of a subsequent report recommending amalgamation.

## **CITIZEN IMPLICATIONS**

The approval of the amalgamation in principle will allow staff to begin more detailed work on the concept. Information on the concept will be included on the RDN web site and will be disseminated through local resident associations and RDN publications where possible.

**SUMMARY/CONCLUSIONS**

The seven WLSA's on the Nanoose Peninsula have become interconnected over time for two key reasons. One, interconnection has provided for a stronger water distribution and supply system that enhances the system resiliency during peak demand periods, increases fire protection flows and reduces capital expenditures over the long term. Secondly, integration of the Nanoose water local service areas was always intended as part of the development of the AWS bulk water supply initiative to facilitate the distribution of bulk water to the various water service areas. Key bulk water distribution infrastructure has been built and is currently being used for water transmission on the Nanoose Peninsula.

Operational interconnection has largely been accomplished, thereby allowing the systems to be operated as an integrated facility. Amalgamation of the bylaws is now required to support this initiative. The WLSA bylaws are in place for each individual system which requires systems to be operated independently. Amalgamation of the systems into one entity will address this issue.

Further information will be brought forward for the Board's review in early 2005.

**RECOMMENDATION**

1. That the report on amalgamation of the Nanoose Peninsula Water Local Service Areas be received for information.

*M Donnelly*

\_\_\_\_\_  
Report Writer

*J Finnie*

\_\_\_\_\_  
General Manager Concurrence

*K Daniels*

\_\_\_\_\_  
C.A.O. Concurrence

COMMENTS:

**REGIONAL DISTRICT OF NANAIMO**

**BYLAW NO. 867.01**

**A BYLAW TO ESTABLISH A SERVICE AREA WITHIN A PORTION OF  
ELECTORAL AREA 'E' OF THE REGIONAL DISTRICT OF NANAIMO  
FOR THE PURPOSE OF PROVIDING A DOMESTIC WATER SUPPLY  
AND DISTRIBUTION SYSTEM**

WHEREAS the Board of the Regional District of Nanaimo may, pursuant to its establishing bylaws merge services for the same purpose, whether contiguous or not;

AND WHEREAS the Board considers it desirable to amalgamate the water services located on the Nanoose Bay Peninsula for the purposes of operational and administrative efficiencies;

AND WHEREAS it is deemed most practical to amalgamate the water services by amending the boundaries of the existing Wall Beach Water Supply Local Service Area;

AND WHEREAS the consent of the Director for Electoral Area 'E' has been obtained;

AND WHEREAS the approval of the Inspector of Municipalities has been obtained under Section 802(3) of the *Local Government Act*;

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

1. The Wall Beach Water Supply Local Service Establishment Bylaw No. 867, 1992 is amended as follows:
  - 1.1 by deleting Section 1 and replacing it with the following:

"The Board hereby establishes a service to operate works and facilities for the supply, storage, distribution and treatment of water to be known as "Nanoose Bay Peninsula Water Service".
  - 1.2 by adding a new Section 2 as follows:

"2. The boundaries of the service area are shown in heavy outline on Schedule 'A' attached to this bylaw."
  - 1.3 by adding a new Section 3 as follows:

"3. Electoral Area 'E' is the participating area for this service."
  - 1.4 by renumbering the original Section 2 to Section 4 and replacing it with the following:

- “4. The entire cost of providing the service established by this bylaw shall be borne by the owners of land within the service area and may be recovered pursuant to Section 803 of the Act by one or more of the following:
- (a) parcel taxes imposed in accordance with Division 4.3 of the *Local Government Act*;
  - (b) fees and other charges imposed under Section 363 of the *Local Government Act*;
  - (c) revenues raised by other means authorized under the *Local Government Act* or another Act;
  - (d) revenues raised by way of agreement, enterprise, gift, grant or otherwise.”
- 1.5 by renumbering the original Section 3 to Section 5 and replacing it with the following:
- “5 The maximum amount that may be requisitioned under Section 800.1(e) for the annual cost for this service shall be the greater of:
- (a) the sum of Six Hundred Thousand Dollars (\$600,000.00); or
  - (b) the product obtained by multiplying the net taxable value of land and improvements within the service area by a property tax value rate of \$0.73 per thousand dollars of assessment.”
- 1.6 by deleting the original Section 4.
- 1.6 by renumbering the original Section 5 to Section 6 and replacing it with the following:
- “6. This bylaw may be cited as the “Nanoose Bay Peninsula Water Service Area Bylaw No. 867, 2005.”
- 1.7 by deleting Schedule A and replacing it with the Schedule A attached to this bylaw.
2. The administration and operation of the water services established by the bylaws listed in Schedule B shall be carried out under the authority of the “Nanoose Bay Peninsula Water Service Area Bylaw No.867, 1992”.

3. This Bylaw may be cited as the "Nanoose Bay Peninsula Water Service Area Amalgamation Amendment Bylaw No. 867.01, 2005.

Introduced and read three times this 28th day of June, 2005

Received the approval of the Inspector of Municipalities this \_\_\_\_ day of \_\_\_\_\_, 2005.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
DEPUTY ADMINISTRATOR

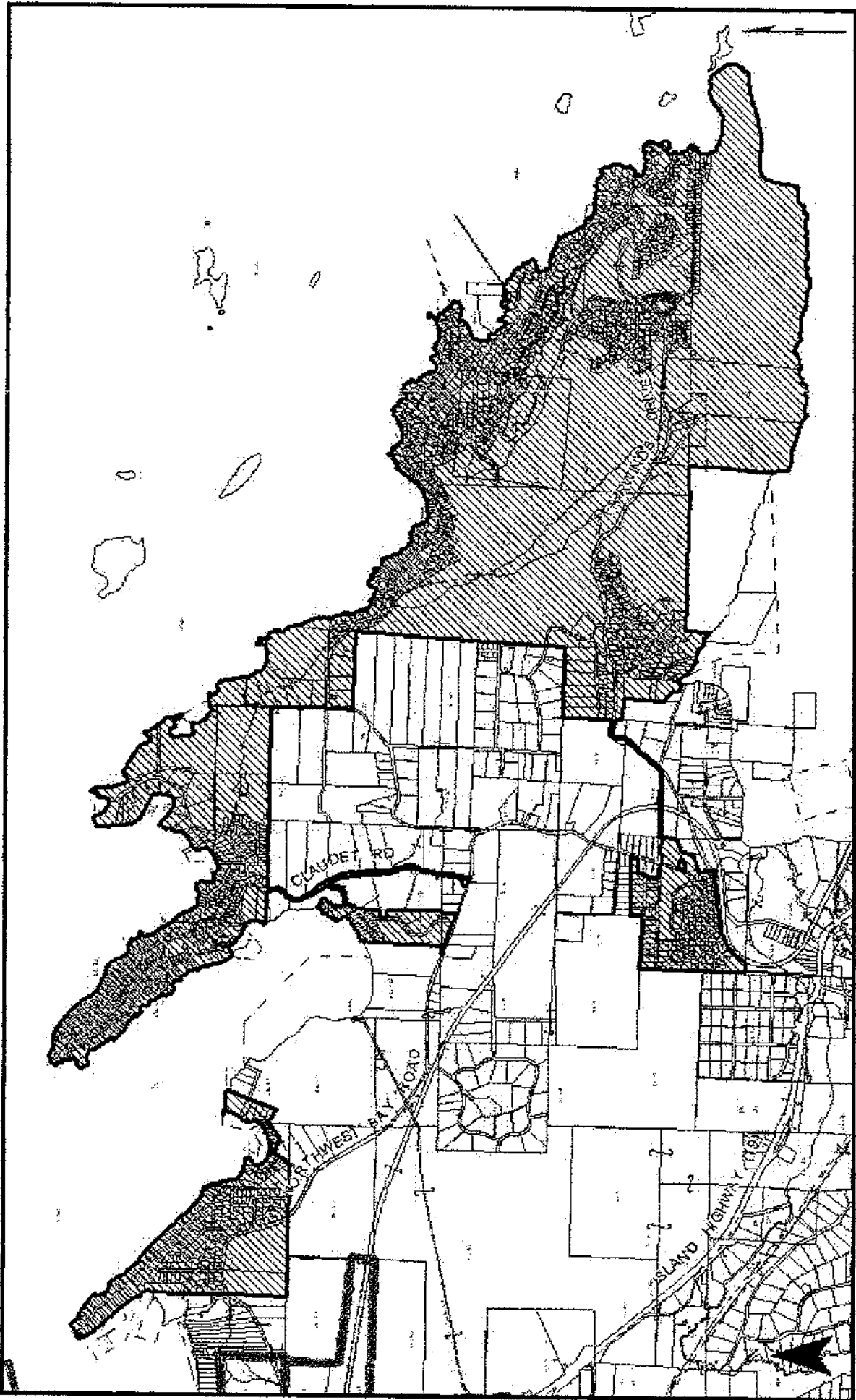
\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Deputy Administrator

The following water service areas are amalgamated for the purposes of this bylaw:

Arbutus Park Estates Water Local Service Area Conversion Bylaw No.930, 1994  
Driftwood Water Supply Service Area Establishment Bylaw No.1255, 2001  
Fairwinds Water Service Area Conversion and Boundary Amendment Bylaw No.1288, 2002  
Madrona Point Water Local Service Area Establishment Bylaw No.788, 1989  
Nanoose Water Supply Service Area Establishing Bylaw No.1372, 2004  
West Bay Estates Water Local Service Conversion Bylaw No. 929, 1994  
Wall Beach Water Supply Local Service Area Establishment Bylaw No. 867, 1992

The boundaries of the service areas above include all amendments subsequent to the original bylaw.



Nanoose Bay Peninsula Water Service Amalgamation Bylaw No. 867.01 2005



**REGIONAL DISTRICT OF NANAIMO**

**BYLAW NO. 930.03**

**A BYLAW TO AMEND THE PURPOSE  
OF THE ARBUTUS PARK ESTATES WATER  
SERVICE AREA**

WHEREAS the Regional District of Nanaimo has established the Arbutus Park Estates Water Local Service Area by Regional District of Nanaimo Bylaw No. 930, 1994 for the provision of a water supply and distribution system (the "Arbutus Park Estates Service");

AND WHEREAS the Board has adopted to amalgamate the water services on the Nanoose Peninsula for operational and administrative purposes;

AND WHEREAS the purpose of the Arbutus Park Estates Service is primarily to complete the repayment of outstanding debt, if any, and to undertake certain capital projects in 2005;

AND WHEREAS the consent of the Director for Electoral Area 'E' has been obtained;

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

1. This bylaw may be cited as "Arbutus Park Estates Water Service Area Purpose Amendment Bylaw No. 930.03, 2005".
2. Section 1 (b) of Bylaw 930 is hereby deleted and replaced with the following:  

"1(b) There is hereby established a local service for the purpose of acquiring, constructing and making capital improvements (including financing such acquisition, construction and improvements) to facilities for the supply, treatment, conveyance, storage and distribution of water for that portion of Electoral Area 'E' shown outlined in heavy black on Schedule 'A', attached hereto and forming part of this bylaw, to be known as the "Arbutus Park Estates Water Service Area"."

Introduced and read three times this 28th day of June, 2005.

Received the approval of the Inspector of Municipalities this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
DEPUTY ADMINISTRATOR

**REGIONAL DISTRICT OF NANAIMO**

**BYLAW NO. 1255.02**

**A BYLAW TO AMEND THE PURPOSE  
OF THE DRIFTWOOD WATER  
SERVICE AREA**

WHEREAS the Regional District of Nanaimo has established the Driftwood Water Service Area by Regional District of Nanaimo Bylaw No. 1255, 2001 for the supply, treatment, conveyance, storage and distribution of water (the "Driftwood Service");

AND WHEREAS the Board has adopted to amalgamate the water services on the Nanoose Peninsula for operational and administrative purposes;

AND WHEREAS the purpose of the Driftwood Service is primarily to complete the repayment of outstanding debt, if any, and to undertake certain capital projects in 2005;

AND WHEREAS the consent of the Director for Electoral Area 'E' has been obtained;

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

1. This bylaw may be cited as "Driftwood Water Service Area Purpose Amendment Bylaw No. 1255.02, 2005".
2. Section 1 of Bylaw 1255 is hereby deleted and replaced with the following:
  - "1. There is hereby established a service for the purpose of acquiring, constructing and making capital improvements (including financing such acquisition, construction and improvements) to facilities for the supply, treatment, conveyance, storage and distribution of water."

Introduced and read three times this 28th day of June, 2005.

Received the approval of the Inspector of Municipalities this \_\_\_\_ day of \_\_\_\_\_, 2005.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
DEPUTY ADMINISTRATOR

**REGIONAL DISTRICT OF NANAIMO**

**BYLAW NO. 1288.01**

**A BYLAW TO AMEND THE PURPOSE  
OF THE FAIRWINDS WATER  
SERVICE AREA**

WHEREAS the Regional District of Nanaimo has established the Fairwinds Water Service Area by Regional District of Nanaimo Bylaw No. 1288, 2002 for the the purpose of the supply, treatment, conveyance, storage and distribution of water (the "Fairwinds Service");

AND WHEREAS the Board has adopted to amalgamate the water services on the Nanoose Peninsula for operational and administrative purposes;

AND WHEREAS the purpose of the Fairwinds Service is primarily to complete the repayment of outstanding debt, if any, and to undertake certain capital projects in 2005;

AND WHEREAS the consent of the Director for Electoral Area 'E' has been obtained;

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

1. This bylaw may be cited as "Fairwinds Water Service Area Purpose Amendment Bylaw No. 1288.01, 2005".
2. Section 1(a) of Bylaw 1288 is hereby deleted and replaced with the following:  

"1(a) There is hereby established a service for the purpose of acquiring, constructing and making capital improvements (including financing such acquisition, construction and improvements) to facilities for the supply, treatment, conveyance, storage and distribution of water, to be known as the "Fairwinds Water Service Area".
3. by adding a new Section 2 as follows:  

"2. The boundaries of the service area are shown outlined on Schedule A attached to this bylaw".
4. By renumbering Sections 2 to Section 7 to Section 3 to Section 8.

Introduced and read three times this 28th day of June, 2005.

Received the approval of the Inspector of Municipalities this \_\_\_\_ day of \_\_\_\_\_, 2005.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
DEPUTY ADMINISTRATOR

**REGIONAL DISTRICT OF NANAIMO**

**BYLAW NO. 788.04**

**A BYLAW TO AMEND THE PURPOSE OF  
THE MADRONA POINT WATER LOCAL  
SERVICE AREA ESTABLISHING  
BYLAW NO. 788**

WHEREAS Madrona Point Water Local Service Establishing Bylaw No. 788 created a service for the supply, treatment, conveyance, storage and distribution of water (the "Madrona Service");

AND WHEREAS the Board has adopted to amalgamate the water services on the Nanoose Peninsula for operational and administrative purposes;

AND WHEREAS the purpose of the Madrona Service is primarily to complete the repayment of outstanding debt, if any, and to undertake certain capital projects in 2005;

AND WHEREAS the Director for Electoral Area 'E' has consented to the adoption of this bylaw;

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

1. Section 1 of Bylaw No.788 is hereby deleted and replaced with the following:

"1. The "Madrona Point Specified Area" created by Bylaw No.88, cited as "Madrona Point Specified Area Establishment Bylaw No.88, 1973", as amended by Bylaws No. 213 and 455, is hereby established as a service for that portion of Electoral Area 'E' shown outlined on Schedule 'A' attached hereto and forming part of this bylaw, for the purpose of acquiring, constructing and making capital improvements (including financing such acquisition, construction and improvements) to facilities for the supply, treatment, conveyance, storage and distribution of water and shall be know as the "Madrona Point Water Local Service"."

2. This bylaw may be cited for all purposes as the "Madrona Point Water Service Purpose Amendment Bylaw No. 788.04, 2005".

Introduced and read three times this 28th day of June, 2005.

Received the approval of the Inspector of Municipalities this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
DEPUTY ADMINISTRATOR

**REGIONAL DISTRICT OF NANAIMO**

**BYLAW NO. 1372.02**

**A BYLAW TO AMEND THE PURPOSE  
OF THE NANOOSE BAY WATER SUPPLY  
SERVICE AREA ESTABLISHING  
BYLAW NO. 1372, 2004**

WHEREAS "NanOOSE Bay Water Supply Service Area Establishing Bylaw No. 1372, 2004" created a service for the provision of the supply, treatment, conveyance, storage and distribution of water (the "NanOOSE Water Service");

AND WHEREAS the Board has adopted to amalgamate the water services on the NanOOSE Peninsula for operational and administrative purposes;

AND WHEREAS the purpose of the NanOOSE Water Service is primarily to complete the repayment of outstanding debt, if any, and to undertake certain capital projects in 2005;

AND WHEREAS the Director for Electoral Area 'E' has consented to the adoption of this bylaw;

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

1. Section 1 of Bylaw 1372 is hereby deleted and replaced with the following:
  - "1. The water supply and distribution service established within the NanOOSE Water System Specified Area is hereby converted to and established as a service within the area defined in Section 2 of this bylaw for the purpose of acquiring, constructing and making capital improvements (including financing such acquisition, construction and improvements) to facilities for the supply, treatment, conveyance, storage and distribution of water."
2. This bylaw may be cited for all purposes as the "NanOOSE Bay Water Supply Service Area Purpose Amendment Bylaw No. 1372.02, 2005".

Introduced and read three times this 28th day of June, 2005.

Received the approval of the Inspector of Municipalities this \_\_\_\_\_ day of \_\_\_\_\_, 2005

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
DEPUTY ADMINISTRATOR

**REGIONAL DISTRICT OF NANAIMO**

**BYLAW NO. 929.04**

**A BYLAW TO AMEND THE PURPOSE  
OF THE WEST BAY ESTATES WATER  
LOCAL SERVICE AREA**

WHEREAS the Regional District of Nanaimo has established the West Bay Estates Water Local Service Area by Regional District of Nanaimo Bylaw No. 929, 1994 for the provision of a water supply and distribution system (the "West Bay Estates Service");

AND WHEREAS the Board has adopted to amalgamate the water services on the Nanoose Peninsula for operational and administrative purposes;

AND WHEREAS the purpose of the West Bay Estates Service is primarily to complete the repayment of outstanding debt, if any, and to undertake certain capital projects in 2005;

AND WHEREAS the consent of the Director for Electoral Area 'E' has been obtained;

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

1. This bylaw may be cited as "West Bay Estates Water Service Area Purpose Amendment Bylaw No. 929.04, 2005".
2. Section 1 (b) of Bylaw 929 is hereby deleted and replaced with the following:  

"1(b) There is hereby established a service for the purpose of acquiring, constructing and making capital improvements (including financing such acquisition, construction and improvements) to facilities for the supply, treatment, conveyance, storage and distribution of water for that portion of Electoral Area 'E' shown outlined on Schedule 'B' attached hereto and forming part of this bylaw, to be known as the "West Bay Estates Water Local Service Area"."

Introduced and read three times this 28th day of June, 2005.

Received the approval of the Inspector of Municipalities this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
DEPUTY ADMINISTRATOR

**REGIONAL DISTRICT OF NANAIMO**

**MINUTES OF THE DISTRICT 69 RECREATION COMMISSION REGULAR  
MEETING HELD ON THURSDAY, MAY 19, 2005, AT 2:00PM  
AT OCEANSIDE PLACE**

**Attendance:**

Frank Van Eynde	Reg Nosworthy	Patty Biro
Jo-ann Chase	Jack Wilson	George Holme (RDN Board Alternate)
Chris Burger		

**Staff:**

Tom Osborne	Neil Connelly	Mike Chestnut
Marilynn Newsted – Recording Secretary		

**Absent:**

Eve Flynn	Dave Bartram
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**CALL TO ORDER**

Chair Van Eynde called the meeting to order at 2:00pm.

**MINUTES**

3.1 MOVED Commissioner Nosworthy, SECONDED Commissioner Wilson, that the Minutes of the District 69 Recreation Commission Regular Meeting held on April 21, 2005, be approved.

CARRIED

3.2 MOVED Commissioner Biro, SECONDED Commissioner Chase, that the Minutes of the District 69 Grants Committee Meeting held on May 10, 2005, be approved.

CARRIED

**COMMUNICATIONS/CORRESPONDENCE**

4 MOVED Commissioner Burger, SECONDED Commissioner Nosworthy, that the correspondence be received as follows:

- District 69 Recreation Commission to T. Torigilia re: Lifesaving Society Award
- Occanside Minor Hockey re: request for additional ice time
- BCRPA re: Oceanside Place Facility Excellence Award
- D69 Family Resource Centre Association re: Citizen Builder Program
- Qualicum Beach Seedy Saturday Association

CARRIED

## FUNCTION REPORTS

5.1 Mr. Osborne reviewed the Function Reports for the Ravensong Aquatic Centre, Oceanside Place, Recreation Coordinating and Regional Parks and Trail and Community Parks (EA 'E' – 'H') highlighting the following items:

- Tony Toriglia, Aquatic Supervisor will visit other aquatic centres gathering information for the development of a water feature at Ravensong.
- The 2005 Home and Garden Show held May 6 to 8 at Oceanside Place was very well attended.
- Staff are working with Leo Mariotto of ICR Architecture and Project Consultants, to resolve the approximately \$40,000 worth of outstanding deficiencies at the Oceanside Place.
- A tender request for Concession Services at Oceanside Place will be issued on May 24.
- All summer camp positions have been filled including the Summer Recreation Assistant and eight Site Leaders and two Outdoor Trip Leaders.
- Recreation Programmers will meet next week to review why registrations and revenues for the winter session of 2005 were at their lowest since 2000, and to explore new program content and other changes to bolster the programming area.
- Staff met with Weyerhaeuser and Ducks Unlimited representatives to discuss the preservation of Hamilton Marsh.

MOVED Commissioner Holme, SECONDED Commissioner Wilson, that the Function Reports be received.

CARRIED

The Commission requested the Recreation Coordinating Function Report include a similar flow chart as shown on appendix 1 in future reports to allow for easy comparison of program registration numbers.

## BUSINESS ARISING FROM COMMUNICATIONS/CORRESPONDENCE

7. Arena Supervisor, Mike Chestnut gave an overview of the Oceanside Minor Hockey (OMH) request for additional ice time. Mr. Chestnut noted the ice time requested by OMH is currently allocated to the Sandy Shores Figure Skating Club.

MOVED Commissioner Wilson, SECONDED Commissioner Nosworthy, that a staff report be prepared to be brought forward at the June Commission meeting reviewing the request, the impact on both organizations and the economic impact both to the organizations and to the Arena.

CARRIED



**NEW BUSINESS**

8.1 The Commissioner reviewed the District 69 Recreation Commissioner Grants Committee recommendations as stated in the minutes of May 10, 2005.

MOVED Commissioner Nosworthy, SECONDED Commissioner Biro, that the Board release the freeze placed on the District 69 Recreation Youth and Community Grant funds, that they continue their discussions with regard to the Community Policing Services and plan for Community Policing as a budget item in 2006 and that they approve the recommendations from the District 69 Recreation Commission Grants Committee for the following Recreation Youth and Community Grants:

**Youth Recreation Grants**

<b>Community Group</b>	<b>2004/2005 Approved</b>	<b>2005 Requested</b>	<b>2005 Recommended</b>
Ballenas Cheer Team	\$1,000	\$2,500	\$1,500
District 69 Family Resource Association- Youth Link	\$1,450	\$2,000	\$2,000
Kidfest	\$1,075	\$1,500	\$1,500
Kwalikum Senior Secondary School Prom and Dry Grad Committee		\$2,500	\$1,250
Oceanside Arts Council-summer youth theatre	\$1,500	\$725	\$725
Oceanside Minor Baseball-improve Springwood old Pee Wee field	\$1,350	\$2,500	\$2,500
Women and Girls in Sport-hockey clinics and equipment		\$1,600	\$1,350
<b>Total</b>			<b>\$10,825</b>

**Community Recreation Grants**

<b>Community Group</b>	<b>2004/2005 Approved</b>	<b>2005 Requested</b>	<b>2005 Recommended</b>
Errington Therapeutic Riding Association- insurance and tack		\$10,000	\$1,300
Errington War Memorial Hall Association- chairs	\$9,250	\$4,500	\$2,250
Nanoose Place Landscaping Project	\$1,750	\$3,000	\$1,500
Nicholls Park Revitalization Project		\$2,500	\$1,000
Oceanside Lyric Ensemble	\$1,300	\$2,500	\$1,100
Parksville Seniors Athletic Group	\$600	\$230	\$230
Qualicum Beach Family Day	\$750	\$2,500	\$750

Village Voices of Qualicum Beach- choral risers		\$2,100	\$2,100
<b>Total</b>			<b>\$10,230</b>

CARRIED

MOVED Commissioner Nosworthy, SECONDED Commissioner Biro that if the previous motion is defeated by the Regional Board, it is recommended that the following Youth and Community Grants be approved:

**Youth Recreation Grants**

Community Group	2004/2005 Approved	2005 Requested	2005 Recommended
Ballenas Cheer Team	\$1,000	\$2,500	\$1,500
District 69 Family Resource Association- Youth Link	\$1,450	\$2,000	\$2,000
Kidfest	\$1,075	\$1,500	\$1,500
Kwalikum Senior Secondary School Prom and Dry Grad Committee		\$2,500	\$1,250
Oceanside Arts Council-summer youth theatre	\$1,500	\$725	\$725
Oceanside Minor Baseball-improve Springwood old Pee Wee field	\$1,350	\$2,500	\$2,500
Women and Girls in Sport-hockey clinics and equipment		\$1,600	\$1,350
<b>Total</b>			<b>\$10,825</b>

**Community Recreation Grants**

Community Group	2004/2005 Approved	2005 Requested	2005 Recommended
Errington War Memorial Hall Association- chairs	\$9,250	\$4,500	\$500
Nicholls Park Revitalization Project		\$2,500	\$1,000
Parksville Seniors Athletic Group	\$600	\$230	\$230
Qualicum Beach Family Day	\$750	\$2,500	\$750
Village Voices of Qualicum Beach- choral risers		\$2,100	\$2,100
<b>Total</b>			<b>\$4,583</b>

CARRIED

MOVED Commissioner Wilson, SECONDED Commissioner Holme that the Commission objects to the use of Youth and Community Grant monies not being used as designated.

CARRIED

#### COMMISSIONER ROUNDTABLE

9. Commissioner Burger reported that a Master Park Plan Open House will be held in the near future. He also noted a request for tenders for the Waterfront Walkway has been prepared and will be posted.

#### COMMISSIONER INFORMATION

Mr. Osborne noted the Fees and Charges Committee will meet on Thursday, May 26, 2005.

#### ADJOURNMENT

MOVED Commissioner Biro, SECONDED Commissioner Holme, that the meeting be adjourned at 3:10pm.

#### NEXT MEETING

The next meeting will be held Thursday, June 16, 2005, at Oceanside Place, in the Multipurpose Room. No meetings will be scheduled for July and August.

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Frank Van Eynde, Chair

REGIONAL DISTRICT OF NANAIMO

MINUTES OF THE  
REGIONAL GROWTH MONITORING ADVISORY COMMITTEE /  
STATE OF SUSTAINABILITY PROJECT MEETING  
HELD ON WEDNESDAY, MAY 18, 2005  
IN THE COMMITTEE ROOM

**Present:**

Director Bill Holdom	Chair
Brian Anderson	
Gordon Buckingham	
Janet Farooq	
Sylvia Neden	
Ross Peterson	

**Also in attendance:**

Christina Thomas	Senior Planner, Community Services
Dolores Funk	Guest

**Absent:**

Director Dave Bartram	Deputy Chair
Douglas Anderson	
Betty Collins	
Adele McKillop	
Sharon Thomson	

**CALL TO ORDER**

Director Holdom called the meeting to order at 5:40 PM.

C. Thomas introduced guest Dolores Funk (a Malaspina University College geography student with an interest in a planning career that C. Thomas is mentoring through the Planning Institute of BC Mentorship Program).

**MINUTES**

The minutes from the previous meeting (April 28/05) were approved as presented.

**OLD BUSINESS**

*a) Malaspina University College Participation to Obtain Youth Perspectives About Sustainability*

C. Thomas provided an overview of the May 12, 2005 staff report "Malaspina University College Participation to Obtain Youth Perspectives about Sustainability". C. Thomas commented that the report included as an attachment a report that summarizes the Regional Growth Monitoring Advisory Committee March 30, 2005 meeting with the Malaspina University College geography class. C. Thomas thanked RGMAC member Brian Anderson for his volunteer work to prepare the meeting summary report.

The RGMAC received the May 12, 2005 staff report "Malaspina University College Participation to Obtain Youth Perspectives about Sustainability". The RGMAC also committed to taking note of the students' ideas and recommendations and using them as appropriate in the State of Sustainability Project. The RGMAC requested that the report be sent to Pam Shaw, the instructor of the geography class. The RGMAC requested that the report be made available to the public on the RDN web site.

***b) Sustainability Report***

***i) Working Notes for RGMAC Discussion of First Batch of Sustainability Indicators***

C. Thomas indicated that working notes are provided for RGMAC discussion regarding the first batch of sustainability indicators, as well as Westland Resource Group's response to the working notes. C. Thomas indicated that the working notes provide more information regarding RGMAC member comments about the sustainability indicators, such as requests for clarification or additional information. C. Thomas indicated that Westland Resource Group is undertaking the requests that are within the scope of the work they have been contracted to complete, and that Westland Resource Group has identified some requests that are outside the scope of the subject work. The RGMAC received the working notes and Westland Resource Group's response to the working notes.

***ii) RGMAC Volunteer Assignments to Prepare Sustainability Indicators Directional Statements***

C. Thomas stated that RGMAC members had been invited to volunteer to identify specific sustainability indicators for which they would like to prepare directional statements, and distributed a chart that identifies the sustainability indicator volunteer assignments. The RGMAC reviewed the sustainability indicator assignments to date, and individual RGMAC members volunteered to prepare directional statements. C. Thomas committed to revising the sustainability indicators directional statements assignment chart to reflect the additional volunteer commitments and circulating the revised assignment chart to the RGMAC.

**NEW BUSINESS**

***a). Sustainability Report***

***i) Sustainability Indicators – Graphical Representations and Interpretation Summaries – Second Batch***

The RGMAC reviewed and discussed the materials submitted by Westland Resource Group for the following 6 of the 42 sustainability indicators approved by the RDN Board:

1. Domestic water consumption trends (total and per capita) (1-R1);
2. Amount of waste to landfill per capita, amount of waste diverted from landfill in tones, and amount recycled per resident (1-R9);
3. Quality of biosolids from wastewater treatment plants (1-R10);
4. Number of applicants on waitlist for subsidized housing compared to number of housing units available (1-S6);
5. Participation in federal, provincial, and local elections (1-S9);
6. Number of business formations and bankruptcies (1-Ec6);

The RGMAC also reviewed new information provided by Westland Resource Group regarding the following 6 of the 14 indicators discussed at the April 28, 2005 RGMAC meeting:

1. Ground level ozone (1-E2),
2. PM<sub>2.5</sub> (1-E3)
3. Sustainable farming practices (1-R4),

4. Number of farms reporting sales of organic products (1-R7),
5. Education attainment levels (1-S5);
6. Unemployment rate and duration (1-Ec7).

The RGMAC provided suggestions regarding additional work that should be undertaken to either obtain a better understanding of the data and trends for selected indicators, or to more clearly illustrate or describe data and trends for selected indicators.

J. Farooq provided an update regarding work being undertaken for the sustainability indicator "Taxes paid by residents and businesses (1-Ec1)".

*ii) Technical Advice for Sustainability Indicators*

C. Thomas requested RGMAC feedback regarding the solicitation of volunteer assistance from Province of BC staff for the purpose of providing technical advice in the preparation of the sustainability report. Technical advice could include reviewing sustainability indicator data, providing additional explanatory information regarding the sustainability indicators, reviewing the draft sustainability report, and possibly contributing to the writing of parts of the sustainability report. C. Thomas indicated that a Ministry of Community, Aboriginal and Women's Services staff member has volunteered to help identify provincial government staff members with expertise in each of the 42 RDN sustainability indicators. The RGMAC concurred with this approach.

*b) Regional Growth Monitoring Advisory Committee Meeting Dates*

The next RGMAC meeting dates were set as follows: Wednesday, June 15 (5:00 PM to 9:00 PM), Wednesday, June 29 (5:00 PM to 9:00 PM), and Wednesday, July 20 (5:00 PM to 9:00 PM).

*c). Groundwater Indicator Research Project*

C. Thomas provided an update regarding the Groundwater Indicator Research Project. C. Thomas indicated that a Request for Proposals for the work was issued on May 10, 2005, that three consulting firms with local groundwater hydrology experience and knowledge were invited to submit proposals, and that the Request for Proposals is available on the RDN web site. It was noted that proposals are due on Tuesday, May 24, 2005.

**ADJOURNMENT**

Director Holdom adjourned the meeting at approximately 8:50 PM.

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Chair, Director Bill Holdom

## REGIONAL DISTRICT OF NANAIMO

### MINUTES OF THE REGIONAL PARKS PLAN REVIEW SELECT COMMITTEE MEETING HELD ON TUESDAY MAY 10, 2005, AT 1.30 pm IN THE RDN COMMITTEE ROOM

#### Present:

Director L. McNabb	Chairperson
Director H. Kreiberg	Electoral Area 'A'
Director D. Bartram	Electoral Area 'H'
Director J. Stanhope	Electoral Area 'G'

#### Also In Attendance:

N. Connelly	General Manager of Community Services
T. Osborne	Manager of Recreation and Parks
J. Ainge	Parks Supervisor

#### CALL TO ORDER

The meeting was called to order at 1.28 pm.

#### ADOPTION OF MINUTES

MOVED D. Bartram, SECONDED J. Stanhope that the minutes of the February 9, 2005 meeting be approved. CARRIED

#### TERMS OF REFERENCE - REGIONAL PARKS AND TRAILS ADVISORY COMMITTEE

T. Osborne introduced the report prepared for the Committee in response to a Board motion passed when the Board approved the new Regional Parks and Trails Plan in April. The proposed new advisory committee calls for the appointment of three residents and three Board directors. Director Stanhope requested that the Board Chair be included as a full voting member of the new committee.

Director Bartram expressed concern at the lack of links between the responsibilities of the new committee and the local community parks functions. To better meet community wishes for linkage between the two distinct parks areas, Director Kreiberg proposed a wording change in the proposed Terms of Reference.

Section 5.0 RESPONSIBILITIES, Sub-point 1, bullet 4 to now read "Liaise and consult with community groups and organizations on a wide range of Regional District parks and trail matters including:"

Director Bartram also commented on the need for a Crown Lands inventory map to reflect inherent issues and designations such as Agricultural Land Reserve.

MOVED D. Bartram, SECONDED H. Kreiberg that the Terms of Reference for the establishment of the Regional Parks and Trails Advisory Committee be approved with the inclusion of the Board Chair as a voting member. CARRIED

Upon further discussion it was agreed to move ahead with the establishment of the committee, including calls for applicants from the public by July 2005. The Terms of Reference report and recommendation

will go to the June 2005 Committee of the Whole for consideration. Director Stanhope appointed Director McNabb Chair of the new Committee.

### **PRELIMINARY REVIEW OF CROWN LAND TENURES**

T. Osborne provided a preliminary map showing various Crown Land holdings in the Region (excluding municipalities). There was general discussion on the need to better identify and possibly overlay constraints such as ALR designations, woodlot licenses, First Nation claims and so on that will limit any other agency or interested party seeking tenure of the Crown land. There will be a need for the new committee to fully understand the limitations of the map and of the lands themselves.

All Directors expressed the need for land ownership and tenure discussions to be held *in camera*, so as not to jeopardise any possible negotiations, or to impose other tenure designations upon land not owned by the RDN.

Director McNabb acknowledged the work required of staff and the new committee to prioritize and be strategic in working with Crown land.

### **OTHER BUSINESS**

N. Connelly alerted the Committee to a report he is preparing that will discuss options and opportunities for involving the municipalities along with the electoral areas with funding the Regional Parks and Trails program.

### **NEXT MEETING**

The next meeting will be the inaugural meeting of the new Regional Parks and Trails Advisory Committee, date to be confirmed but likely in August.

### **ADJOURNMENT**

The meeting adjourned at 2.15pm.

\_\_\_\_\_  
Director McNabb, Chair





REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		McF	
MAY - 2 2005			
<i>RP &amp; T Adv. Comm.</i>			

**MEMORANDUM**

**TO:** Neil Connelly  
General Manager of Community Services

**DATE:** May 2, 2005

**FROM:** Tom Osborne  
Manager of Recreation and Parks

**FILE:** 0360 20 RPTC

**SUBJECT:** Regional Parks and Trails Advisory Committee Terms of Reference

**PURPOSE**

To establish a Regional Parks and Trails Advisory Committee to review and provide information to the Regional Board regarding the parks and trail systems.

**BACKGROUND**

On March 22, 2005, the Regional Parks and Trails Plan for 2005 – 2015 was approved by the Regional Board as follows:

*“That the Regional Parks and Trails Plan 2005 – 2015 be approved as a document to guide the acquisition and development of the Regional District’s Regional Parks and Trails function.”*

In addition to the above resolution, a second resolution in regard to the continuation of the Regional Parks Plan Select Committee was approved as follows:

*“That the Regional Parks Planning Committee continue as a working group and that staff advertise for community volunteers for the Regional Parks Planning Committee to review crown lands in the Regional District of Nanaimo.”*

The Regional Parks Plan Review Select Committee, which was appointed in 2004, oversaw the development of the Plan that took place between July 2004 and February 2005. The purpose of the Regional Parks and Trails Plan is to define the future direction, policies, priorities, and actions for the Regional District of Nanaimo in the short and long term. The Regional Parks and Trails Plan is a strategic plan that provides the basic framework to shape and guide RDN Parks and Trails for the next 10 years (2005-2015).

The Plan deals specifically with the review of Provincial Crown Land of which the following recommendations are detailed as follows:

*The RDN will work with Land and Water BC to:*

- *Finalize a comprehensive and accurate inventory of Crown lands within the Regional District.*
- *Look at all the Crown lands collectively to identify the RDN’s interests in these lands for park and trail purposes, and to determine the best methods for meeting those purposes, be that through long-term tenure, Crown Grant, access agreements, acquisition through future development, or purchase.*

*The RDN will also consult with the Ministry of Sustainable Resource Management when identifying Crown land for future regional park acquisition to ensure that there is no conflict with existing provincial land use plans.*

In addition to the Board's March 22, 2005 resolution on the continuation of the Regional Parks Planning Committee, the Plan also recommends the establishment of a Regional Parks and Trails Committee to act as an advisory body and advocate for the regional parks and trails system.

#### COMMITTEE MEMBERSHIP

It is proposed that the membership of the Regional Parks and Trails Advisory Committee be appointed by the Regional Board as follows:

- Two Regional Board Members from the Electoral Areas
- One Regional Board Member from the Municipalities
- Three Members at Large preferably with a strong interest, expertise or knowledge in one or more of the following areas: park interpretation, resource conservation and management, outdoor recreation and tourism, land use planning and research, and landscape architecture/design.

#### COMMITTEE RESPONSIBILITIES

1. Make recommendations and provide advice to the Regional Board regarding a wide range of regional parks and trail issues including:
  - the acquisition and tenure of regional parks and trail sites;
  - the development and maintenance of regional parks and trail sites; and
  - implementation of recommendations set forth by the Regional Parks and Trails Plan, 2005-2015.
2. Liaise and consult with community groups and organizations on a wide range of regional parks and trail matters including:
  - volunteer park development projects;
  - obtaining input regarding park planning and acquisition priorities; and
  - trail system planning and development.
3. Play a leadership role and provide a focal point for regional co-operation on regional parks and trails issues.
4. Work with Regional Parks and Trails Plan, 2005 – 2015 as a guiding document in the acquisition, management and development of regional parks and trails.
5. Provide input on an annual basis to the Regional Board regarding the level of funding and priorities for expenditures from these budgets, including park reserve funds, for parks and trails purposes. The Committee will also have the ability to look at a variety of other funding sources and strategies and make recommendations in this regard to the Regional District.

Other options for Committee membership and responsibilities could be developed that provide for a different mix and number of Board and public representatives along with a revised list of activity and responsibility areas. The Terms of Reference reflect the approach outlined in the Regional Parks and Trail Plan in combination with the Select Committee structure that guided the preparation of the Plan.

## **ALTERNATIVES**

1. That the Terms of Reference for the establishment of the Regional Parks and Trails Advisory Committee be approved.
2. That alternative direction be given and the Regional Parks and Trails Advisory Committee Terms of Reference be amended.

## **FINANCIAL AND RESOURCE IMPLICATIONS**

There are limited financial implications associated with the implementation of the Committee other than incurring costs for advertising for the Member at Large positions.

The Committee will be working in conjunction with the General Manager of Community Services, the Manager of Recreation and Parks and the Parks Supervisor. At present the Recreation and Parks Department works with five Electoral Area Parks and Open Space Advisory Committees, one Recreation Commission and other project advisory committees such as the Electoral Area 'A' Recreation Services Study that is underway this spring. The number of meetings held by the Committee will need to take into consideration available staff resources and other RDN operational commitments. It is recommended that the Committee structure its activities to meet approximately four times per year.

## **INTERGOVERNMENTAL IMPLICATIONS**

The structure of the Committee provides for RDN Board representation from both the Electoral Areas as well as the municipalities. A separate staff report regarding possible amendments to the Regional Parks Function will be provided in June 2005. At present the Regional Parks Operating Budget is funded by both the RDN municipalities and the Electoral Areas, and the Regional Parks Capital and Acquisition budget is funded by the Electoral Areas only.

The Plan speaks to the above matters and provides for the following recommendations:

*In 2005, the RDN will examine the range of options for involving the four municipal governments in contributing to land acquisitions for parks, from individual partnerships in specific acquisitions where a municipality has a direct interest in lands outside its boundaries, to revising the Regional Parks Function to include municipal members as full participants. In collaboration with the four municipal governments, the RDN will seek partnership arrangements that serve both municipal and regional interests in acquiring future regional parks.*

The establishment of the Committee will provide for a forum to assist with the implementation of the above recommendations.

## COMMUNITY IMPLICATIONS

The community will be represented on the Committee with the appointments of three Members at Large positions. The Board will select Members at Large candidates who preferably have a strong interest, expertise or knowledge in one or more of the following areas: park interpretation, resource conservation and management, outdoor recreation and tourism, land use planning and research, and landscape architecture/design.

## CONCLUSION

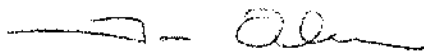
The Regional Board approved the Regional Parks and Trails Plan 2005 – 2015 at the Board's Regular Meeting on March 22, 2005. The Board also passed a resolution for the continuation of the Parks Select Committee and for staff to advertise for community volunteers for the Committee to review crown lands in the Regional District of Nanaimo.

The Regional Parks and Trails Plan supports the recommendation for the establishment of a Regional Parks and Trail Advisory Committee.

With the Plan now approved, a new Terms of Reference is required for the Committee, which includes representation from the community, in addition to Board representation from both the municipalities and the Electoral Areas.

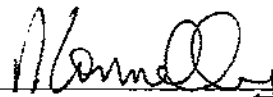
## RECOMMENDATION

That the Terms of Reference for the establishment of the Regional Parks and Trails Advisory Committee be approved.



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Report Writer



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General Manager Concurrence



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CAO Concurrence

## COMMENTS:

**REGIONAL DISTRICT OF NANAIMO**  
**REGIONAL PARKS AND TRAILS ADVISORY**  
**COMMITTEE**  
**TERMS OF REFERENCE**

**APRIL 2005**

**REGIONAL DISTRICT OF NANAIMO**  
**REGIONAL PARKS AND TRAILS ADVISORY**  
**COMMITTEE – TERMS OF REFERENCE**

APRIL 2005

**1.0 PURPOSE**

To establish a Regional Parks and Trails Committee to advise and provide information to the Regional Board regarding regional parks and trails.

**2.0 BACKGROUND**

On March 22, 2005, the Regional Parks and Trails Plan for 2005 – 2015 was approved by the Regional Board as follows:

*“That the Regional Parks and Trails Plan 2005 – 2015 be approved as a document to guide the acquisition and development of the Regional District’s Regional Parks and Trails function.”*

The Regional Parks Plan Review Select Committee, which was appointed in 2004, oversaw the development of the Plan that took place between July 2004 and February 2005.

The purpose of the Regional Parks and Trails Plan is to define the future direction, policies, priorities, and actions for the Regional District of Nanaimo in the short and long term. The Regional Parks and Trails Plan is a strategic plan that provides the basic framework to shape and guide RDN Parks and Trails for the next 10 years (2005-2015).

*Vision and Goal Statements*

Building from the previous Regional Parks and Trails Plan and from public input, the *vision* for the RDN’s Regional Parks and Trails for the next 10 years is a system that:

- Secures, protects and stewards lands and water features of environmental significance and wildlife habitat value;
- Provides rewarding outdoor recreational opportunities;
- Fosters education and appreciation of the Region’s natural environment; and
- Enhances livability for the current and future residents of the RDN.



The *goal* of the RDN is to secure for all time a system of regional parks and trails that:

- Represents key landscapes and ecosystems of the Region;
- Encompasses unique natural, historic, cultural and archaeological features;
- Assists in protecting watersheds and important habitats as part of the RDN's broader land use planning mandate;
- Promotes the enjoyment and appreciation of regional parks and trails in a manner that assures their qualities are unimpaired for generations to come;
- Provides education and interpretation of the Region's natural features;
- Links components within the system as well as with other parks and trails in the Region and adjacent Regional Districts;
- Provides opportunity to all RDN residents to access and enjoy regional parks and trails; and
- Assists the economy of the Regional District by attracting tourists and generating revenue, as appropriate, to support the parks and trails system.

### *Operational and Management Priorities*

The Plan addresses management priorities for regional parks and trails over the next 10 years. It identifies nine sites as priorities for future Park acquisition as well as several priorities for future trail establishment and development. It also identifies priorities for new bridges and the need for refits or replacement of existing bridges in the trails system.

The Plan recognizes a variety of participants in developing and managing the regional parks and trails system, and presents policies for fostering these relationships and expanding opportunities for partnerships. In addition, a series of stewardship policies is presented to ensure that acceptable standards of environmental protection, risk management, operation and maintenance are applied to enhance the character, quality and safety of regional parks and trails.

With respect to funding, the Plan acknowledges that to date, regional park acquisition and major capital items have been funded entirely by the eight electoral areas. Operational costs are shared by the electoral areas and the four municipalities under the Regional Parks Service Agreement. Given the public priority on acquisition evidenced through the public questionnaire and meetings, budget allocations and funding sources for are to be reconsidered. There are several acquisition funding options that the Plan recommends be investigated over the next 10 years, including Municipal Involvement, Development Cost Charges, Donations and other means of public or private support, and an Acquisition Fund.



### ***Committee Involvement***

The Plan recommends the establishment of a Regional Parks and Trails Committee to act as an advisory body and advocate for the regional park and trail system. At the Regional Board meeting on March 22, a resolution was also approved for the continuation of the Regional Parks Plan Review Select Committee and to advertise for community volunteers to sit on the committee with a focus on reviewing Crown Land tenures and dispositions.

### **3.0 MEMBERSHIP**

1. The Regional Parks and Trail Committee will be appointed by the Regional Board as follows:
  - two Regional Board Members from the Electoral Areas
  - one Regional Board Member from the Municipalities
  - up to three Members at Large preferably with a strong interest, expertise or knowledge in one or more of the following areas: park interpretation, resource conservation and management, outdoor recreation, land use planning and research, and landscape architecture/design.
2. The Committee will consist of a maximum of six members. The Committee may operate without all positions being occupied. A quorum shall consist of four members.
3. For the first year of operation only, the Members at Large terms shall be staggered with two members appointed for a two-year term and the third member appointed for a one-year term. Beginning in the second year Members at Large will appointed for a two-year term. Appointees from the Regional Board will be made annually by the Board.
4. The Committee will be supported as required by the General Manager of Community Services, the Manager of Recreation and Parks and the Parks Supervisor.

### **4.0 PROCEDURES**

1. The Regional Board Chair will appoint one of the Board representatives as Chairperson annually.
2. The Committee may meet as required but will structure its activities to meet approximately four times per year.
3. Minutes of Committee meetings will be forwarded to the Regional District Board for information.





## 5.0 RESPONSIBILITIES

1. Make recommendations and provide advice to the Regional Board regarding a wide range of regional parks and trail issues including:
  - the acquisition and tenure of regional parks and trail sites;
  - the development and maintenance of regional parks and trail sites; and
  - implementation of recommendations set forth Regional Parks and Trails Plan, 2005-2015.
- Liaise and consult with community groups and organizations on a wide range of regional parks and trail matters including:
  - volunteer park development projects;
  - obtaining input regarding park planning and acquisition priorities; and
  - trail system planning and development.
2. Play a leadership role and provide a focal point for regional co-operation on regional parks and trails issues.
3. Work with Regional Parks and Trails Plan, 2005 – 2015 as a guiding document in the acquisition, management and development of regional parks and trails.

## 6.0 FINANCIAL CONSIDERATIONS

The Committee will provide input on an annual basis to the Regional Board regarding the level of funding and priorities for expenditures from these budgets, including park reserve funds, for parks and open space purposes. The Committee will also have the ability to look at a variety of other funding sources and strategies and make recommendations in this regard to the Regional District.

## 7.0 REPORTING AND AUTHORITY

In the provision of their services to the Regional Parks and Trails Advisory Committee, Committee members have a responsibility to act in the best interests of their community and within the policies and guidelines established by the Regional District.



## REGIONAL DISTRICT OF NANAIMO

### MINUTES OF THE AREA 'H' PARKS AND OPEN SPACE ADVISORY COMMITTEE REGULAR MEETING HELD ON WEDNESDAY, 16 MARCH 2005 AT 7:00 PM

#### LIGHTHOUSE COMMUNITY CENTRE, QUALICUM BAY

##### **In Attendance**

Will Lemmon  
Val Hykawy

Patty Biro  
Brenda Wilson

Richard Wahlgren  
Director Dave Bartram

##### **Staff**

Joan Michel

##### **Absent**

Bill Waugh

##### **Observer**

Bob Hunt

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J. Michel called the inaugural meeting of the Area 'H' Parks and Open Space Advisory Committee (POSAC) to order at 7:00 pm. A chairperson and recording secretary will be elected at the Committee's second meeting.

#### **INTRODUCTIONS**

Each Committee member was invited to introduce themselves and express what they wish to see achieved through the Area 'H' POSAC. Member objectives are as follows:

- W. Lemmon: more parks, better use of existing parks and water accesses;
- V. Hykawy: more places to hike, secure a long-term lease for Wildwood Community Park, develop water accesses, and provide input to park dedication negotiations arising from subdivision proposals;
- R. Wahlgren: maintain a rural atmosphere, improve ability to use and access parkland, protect riparian areas, e.g., the Nile Creek corridor, and ensure permanency of access to parkland;
- D. Bartram: produce a coherent park plan for high growth Area 'H' that will provide 'vision before development';
- B. Wilson: help fight Land and Water BC Inc. Crown land sales, preserve parkland and acquire more; and
- P. Biro: develop children's play spaces in Deep Bay, and see the community work together on park matters.

J. Michel walked Committee members through the information binders provided. Each binder includes a Committee membership list, terms of reference, sample minutes from other POSACs, RDN staff contact list, 2005 Area 'H' community parks budget, Area 'H' community parks inventory, Area 'H' parks base map, RDN parks statistics, Occupiers Liability Act, and Municipal Insurance Association volunteer plan details.

#### **ADOPTION OF AGENDA**

MOVED D. Bartram, SECONDED P. Biro, that the Agenda be adopted as presented.

CARRIED

#### **NEW BUSINESS**

##### Committee Terms of Reference

J. Michel reviewed the Terms of Reference for the Area 'H' POSAC. Committee members are 'ambassadors' for Area 'H' and are encouraged to make themselves known as community representatives and seek out opinion within the community on park matters.

### Community Parks Function

J. Michel reviewed the nature of the community parks function with its emphasis on serving local needs. A high degree of community input is sought, and individual neighbourhoods often play a large role in helping to maintain and develop parkland in their immediate area. Community Parks includes park, trail and RDN managed Ministry of Transportation water accesses.

### Regional Parks Function

J. Michel outlined the function of regional parks, which includes trails like the Lighthouse Country and Big Qualicum Trails. Area 'H' enjoys a relatively high level of regional trail activity in contrast to most other areas within the Region. Unlike community parks, regional parks are promoted throughout the RDN and beyond and are intended to meet a broad range of park needs.

### Roles and Responsibilities: Committee and Staff

J. Michel noted that the key role of Committee members is to provide informed opinion and advice on the general direction of park activity within Area 'H.' RDN Parks staff is responsible for carrying out park management, maintenance and development on behalf of the community, ensuring that safety and liability issues are addressed and undertaking works in a timely manner. The adoption of Park Use Regulation Bylaw 1399 in November 2004 was noted; copies to be provided to Committee members.

### Inventory of Area 'H' Parks, Trails and Open Spaces

The Committee reviewed the inventory descriptions of the 26 Area 'H' community parks and 11 developed water accesses (i.e., the RDN has a permit from the Ministry of Transportation to improve these water or beach access). Many of the community parks in the inventory are small and unused; some like H-4 off the end of Ocean Trail, offer interesting waterfront or view development potential. This park has become accessible with the recent completion of the Thompson Clarke – Ocean Trail. The recent licence renewal on Oakdowne Community Park and the acquisition of trail licence on neighbouring Crown lots was discussed. D. Bartram noted that the community park land at Oakdowne more than doubled as a result of the concerted effort by the Director, the RDN and local interest groups to halt the sale of Crown lands in the Oakdowne area. Of 12 parcels that were to be marketed by Land and Water BC Inc., including the original Oakdowne Community Park, five have been retained for park and trail use. W. Lemmon volunteered to scout out the new parkland to be acquired and provide advice on any need for new trail development.

### Area 'H' Community Parks Budget

J. Michel led a general review of the 2005-2010 budgets. The components of the budget were reviewed and some comparisons provided as to tax assessment and development spending levels in other electoral areas. D. Bartram noted the \$15,000 one-off expenditure for roofing at the Lighthouse Community Centre.

### Area 'H' OCP and Park Plans

Director Bartram provided a brief overview of recent OCP efforts to preserve and expand parkland within Area 'H.' The proposed rezoning of federal lands along the Big Qualicum River from the hatchery to Horne Lake to a park zone was noted as an example of efforts to reduce potential development within riparian zones. Members were encouraged to familiarize themselves with the OCP; staff to provide all members with a full copy.

### Committee Business for 2005

The Committee will continue to familiarize itself with the park realm in Area 'H.' Projects like Thompson Clarke – Ocean Trail, Deep Bay Creek Trail and the expanded Oakdowne Park will require attention. R. Wahlgren and P. Biro expressed interest in helping to flag the new Deep Bay Creek Trail. R. Wahlgren noted that he is participating in the drafting of new Provincial regulations for work around water courses.

J. Michel advised that, generally speaking, RDN Parks tries to avoid running trail along watercourses because of riparian sensitivities.

#### **DIRECTOR'S UPDATE**

Director Bartram provided a brief note on work in progress in the RDN and Electoral Area 'H.'

#### **ROUND TABLE**

B. Wilson passed along an information request concerning trail in the Corcan-Larkdowne Roads area; J. Michel to follow-up.

#### **NEXT MEETING**

The next meeting will be held Wednesday, 1 June 2005 at the Lighthouse Community Centre.

#### **ADJOURNMENT**

MOVED D. Bartram, SECONDED W. Lemmon, that the meeting be adjourned.

CARRIED

**TIME**            9:05 PM

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Chair

**REGIONAL DISTRICT OF NANAIMO**

**MINUTES OF THE  
NANOOSE BAY PARKS AND OPEN SPACE ADVISORY COMMITTEE**

**MAY 2, 2005 – 7:00 PM  
NANOOSE LIBRARY HALL,  
NANOOSE ROAD, NANOOSE BAY**

**Attendance:** Gay Carlidge  
Paula Young  
Elisabeth Bakker  
Frank Van Eynde (District 69 Recreation Commission Rep)  
George Holme (Electoral Area 'E' Director)

**Staff:** Jeff Ainge (RDN Parks Supervisor)

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The meeting was called to order at 7:00 pm by Frank Van Eynde (Chair).

**ADOPTION OF THE AGENDA**

MOVED G. Holme, SECONDED G. Carlidge that the agenda be adopted. CARRIED

**APPROVAL OF MINUTES**

MOVED G. Holme, SECONDED P. Young that the minutes of the March 7, 2005 regular meeting, and minutes of the March 7, 2005 In Camera Meeting both be approved. CARRIED

**REPORTS & DISCUSSION ITEMS**

- a) Nanoose Place landscaping proposal & progress. P. Young & E. Bakker reported on the successful planting day held on April 23<sup>rd</sup> with 14 people in attendance. The installation of the spilt rail fence proved to be a good investment, and it attracted an irrigation contractor to contact the group to offer assistance with irrigation installation. Two hundred sixty (260) plants were planted; another 175 will be required for the next phase alongside the Telus building. Elisabeth will be meeting the Nanoose Bay Elementary School principal to request involving pupils in the planting. Gay passed on compliments regarding the high standard of the advertising posters, and of the work itself.
- b) Staff updated the Committee on the following local and regional parks issues.
- The grant application to the Infrastructure Program for \$260,000 was successful. Paula expressed concern that the equestrian community be involved in raising the additional funds to have the bridge compatible for horse traffic.
  - Interviews for summer parks workers have been conducted, and two students will be hired. Director Holme asked that the grass at the Park Place Community Park entrance be cut. The students will be involved with beach access identification, and Gay asked that the access at the end of Garry Oaks Drive be included.

- The application to Land and Water BC for tenure over District Lot 137 (Stewart Road crown land) was not successful. Staff is not aware of any further steps to pursue this.
  - Fairwinds is moving ahead with more development, which will have an impact on the trail system on portions of their property.
- c) Director's update: Director Holme provided copies of the latest draft OCP and urged the members to read and provide comments. Changes to the previous draft versions have been highlighted within the text. A Public Information Meeting was held for a rezoning application on a Claudet Road property. The proposal for the 20-acre parcel includes creating two residential parcels with covenants restricting them to one residence each, and for a 5-acre park parcel encompassing the creek and gully. A Public Hearing will be required after the Board has considered the application. Director Holme recently hosted an information open house to provide an opportunity for residents to meet with him. It was attended by seven residents.

#### **NEXT MEETING DATE**

The next meeting will be held Monday July 4, 2005 at Nanoose Library Hall, 7.00pm.

#### **ADJOURNMENT**

Moved by P. Young that the meeting adjourn at 7.25pm.

CARRIED

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Frank Van Eynde, Chair