

#### ENGINEERING & ENVIRONMENTAL SERVICES COMMITTEE

#### **WEDNESDAY, JANUARY 25, 2012 - 3:30 P.M.**

#### **CVRD Boardroom, 175 Ingram Street**

		AGENDA	
		X X	PAGES
1.	APPR	OVAL OF AGENDA:	1-2
2.	ADOP M1	PTION OF MINUTES:  Minutes of the October 26, 2011 meeting of the Engineering & Environmental Services Committee.	3–5
3.	BUSI	NESS ARISING FROM THE MINUTES:	
4.	DELE	GATIONS: - none	
5.	CORF C1	RESPONDENCE  Resolution No. NB5 from the Electoral Area Services meeting of November 1, 2011.	6
6.	REPO R1	PRTS Forgiveness for Water Use Overage Saltair Water System. Lisa Daugenet, Engineering Technologist	7
	R2	1 <sup>st</sup> Stage approval process – Warmland Properties, EA B. Louise Knodel, Senior Engineering Technologist.	8-11
	R3	Brulette Sewer Service Establishment Amendment Bylaw. EA A. Louise Knodel, Senior Engineering Technologist	12-14
	R4	Provincial Legislation for Declared Nuisances. Bob McDonald, Manager, Recycling & Waste Management	15-19
	R5	CVRD Bylaw No. 3556 - Waste Stream Management Licensing Amendment Bylaw, 2012.	20-26
	R6	Lambourn Estates Sewer & Water Systems Service Area Amendment Request - Jeralyn Jackson, Project Engineer	27-32
	R7	Lambourn Estates Sewer System Service area amendment request	33-36

		The second second
R8	Cowichan Bay Float homes and live-aboards Alina Lintea, Engineering Technologist	37-38
R9	Public Education Campaign on Open Burning Awareness Kathleen Milward, Environmental Technologist	39-40
R10	Cowichan Energy Alternatives Regional Oil Collection Kiosk Funding Kathleen Milward, Environmental Technologist	41
R11	Fisher Road Recycling - Appeal Date Bob McDonald, Manager, Recycling & Waste Management	42-43

#### 7. **NEW BUSINESS:**

#### 8. **QUESTION PERIOD:**

#### 9. <u>CLOSED SESSION:</u>

#### 10. ADJOURNMENT

The next meeting of the Engineering & Environmental Services Committee will be held February 22, 2012.

#### Distribution:

Director Iannidinardo, Chair	Director Marcotte
Director Dorey, Vice-Chair	Director McGonigle
Director Duncan	Director Morrison
Director Fraser	Director Walker
Director Giles	Director Weaver
Director Lefebure	

#### As Well As:

Warren Jones, CAO
Brian Dennison, General Manager, Engineering & Environmental Services
Bob McDonald, Manager, Recycling & Waste Management
Dave Leitch, AScT., Manager, Water Management
Kate Miller, Manager, Regional Environmental Policy
Mark Kueber, Manager, Corporate Services

#### Agenda Cover Only:

Directors Hartmann, Kent, Lines Norm Olive, P. Eng., Manager, Capital Projects Tom Anderson, General Manager, Planning & Development Joe Barry, Corporate Secretary

The Full Agenda Package is available on-line at: <a href="http://cvrd.bc.ca/Archive.asp?AMID=50">http://cvrd.bc.ca/Archive.asp?AMID=50</a>

PRESENT:

Minutes of the regular meeting of the Engineering & Environmental Services Committee held in the CVRD Boardroom, 175 Ingram Street, Duncan, on October 26, 2011 at 3:30 p.m.

PRESENT:

Director Cossey, Chair

Director Kuhn, Vice-Chair

Directors Dorey, Duncan, Giles, Harrison, Kent,

Marcotte, Morrison

ABSENT:

Directors Haywood & lannidinardo

**ALSO** 

PRESENT:

W. Jones, CAO, CVRD

B. Dennison, P. Eng., General Manager, E & E D. Leitch, AScT., Manager, Water Management B. McDonald, Manager, Recycling & Waste Man. K. Miller, Manager, Regional Environmental Policy

D. Martin, Recording Secretary

**APPROVAL** OF AGENDA The following 2 items were added under New Business:

NB1 - Waste Export Contingency Agreement

NB2 - Backyard Burning Update

It was moved and seconded that the agenda be approved as

amended.

**MOTION CARRIED** 

**ADOPTION** OF MINUTES It was moved and seconded that the minutes of the September 21, 2011 regular Engineering & Environmental

Services Committee meeting be adopted.

**MOTION CARRIED** 

**BUSINESS ARISING OUT OF MINUTES** 

No business arising

**DELEGATIONS** 

**D1** 

Brian Roberts, Cowichan Energy Alternatives provided a presentation regarding a proposed partnership between Cowichan Energy Alternatives and the CVRD to collect residential waste

vegetable oil at all existing CVRD facilities.

The delegation requested a maximum of \$25,000 from the CVRD to implement a partnership program wherein 10 bins would be placed at CVRD facilities to collect residential waste cooking oil/fats, thus removing this material from the waste stream and water/sewer systems. \$2,500. would be allocated to each bin with a small portion of funds to be used for educational purposes.

It was moved and seconded that the Cowichan Energy Alternatives partnership proposal be referred back to staff to examine the impacts to the 2012 budget.

**MOTION CARRIED** 

#### **REPORTS**

R1

A staff report was presented by the Manager, Water Management Division regarding amendments to the Arbutus Ridge Sewer and Water Management Bylaws.

It was moved and seconded that CVRD Bylaw No. 3561 – Arbutus Ridge Water System Management Amendment Bylaw. 2011 be forwarded to the Board for consideration of three readings and adoption.

It was moved and seconded that CVRD Bylaw No. 3562 – Arbutus Ridge Sewer System Management Amendment Bylaw, 2011 be forwarded to the Board for consideration of three readings and adoption.

#### **MOTION CARRIED**

R2

The Committee considered a staff report from the Manager, Water Management regarding a boundary extension to the Shawnigan Beach Estates Sewer System.

It was moved and seconded that CVRD Bylaw No. 1910 – Shawnigan Beach Estates Sewer System Service Establishment Bylaw, 1999, be amended to change the service area boundaries to include "PID 025-002-678, Lot 30, Section3, Range 2, Shawnigan District, Plan VIP72148", and that the amended bylaw be forwarded to the Board for consideration of three readings and adoption.

#### **MOTION CARRIED**

R3

The Committee considered a staff report from the Superintendent, Sold Waste Operations regarding extensions to the waste export agreements.

It was moved and seconded that the Cowichan Valley Regional District enter into two year contract extension with Marpole Transport Limited for the period of January 1, 2012 to December 31, 2013, and further that the Board Chair and Corporate Secretary be authorized to sign the extension agreement.

It was moved and seconded that the Cowichan Valley Regional District enter into a two year contract extension with Regional Disposal Company (Rabanco) for the period of January 1, 2012 to December 31, 2013, and further that the Board Chair and Corporate Secretary be authorized to sign the extension agreement.

**MOTION CARRIED** 

#### **NEW BUSINESS**

NB<sub>1</sub>

A staff report was considered from the Manager, Recycling & Waste Management regarding extending the waste export contingency agreement between the CVRD and Metro Vancouver.

It was moved and seconded that the CVRD request Metro Vancouver to extend the existing Solid Waste Export Agreement through to December 31, 2013 on a 'contingency basis' only to allow for unexpected interruptions in service to Washington State; and further that the Board Chair and Corporate Secretary be authorized to sign the extension agreement.

**MOTION CARRIED** 

NB<sub>2</sub>

#### Backyard Burning Update.

The meeting adjourned at 4:40 pm

Staff advised that letters have been sent to the Fire Chiefs in the CVRD Electoral Areas regarding the implementation of a backyard burning bylaw. Mr. Jones advised that a meeting will be held soon to discuss the progress of this issue.

Director Morrison asked that the Meade Creek Recycling Depot operating hours be extended to seven days a week to discourage backyard burning. Mr. Dennison said this request would be added under supplemental items for review during the 2012 budget process.

#### **ADJOURNMENT**

It was moved and seconded that the meeting be adjourned.

**MOTION CARRIED** 

	·	
Chair	Recording Secretary	_
	Dated:	

#### NB4 - QEP's

Director Duncan brought up the issue of the CVRD hiring qualified environmental professionals. Mr. Anderson advised that he has contacted other regional districts and Planning Directors in the Province and the only one who has actually hired their own QEP is the Central Okanagan Regional District who experienced limited success. Mr. Anderson feels that more focus should be put on the Province to do the job they are supposed to do under their current legislation.

#### It was Moved and Seconded

That staff be directed to investigate the Province's role and procedures respecting qualified environmental professionals; acquire legal opinions; and explore options for the hiring of qualified environmental professionals by local governments; and further, that a staff report be prepared outlining the findings and be forwarded to the EASC in the new year.

#### **MOTION CARRIED**

NB5 – Strata developments sewer service

Director Duncan expressed concern that Engineering reports state that we agree in principle to provide sewer and water service to strata developments. He stated he would like a heads up when agreements are being brought forward where developers are requesting sewer service for strata developments.

Directors also expressed concerns that Engineering Services should not be setting the priorities respecting service capacity for Planning and Development applications.



#### It was Moved and Seconded

That the issue of requiring that Engineering Services reports provide Directors with clear identification on whether an agreement in principle respecting sewer service is for a regular development or a strata development, be referred to the Engineering Services Committee.



NB6 – New Contaminated Soils Regs. Director Duncan referred to a recent article where the BC Government has approved a dumping bylaw change in the Saanich Peninsula area where the Saanich communities may regulate the dumping of soils/contaminated soils on their agricultural lands, and noted that districts in the Saanich Peninsula are now moving forward to amend their bylaws. There is concern that these changes could mean that more contaminated soils may find their way to the Cowichan Valley.

#### It was Moved and Seconded

That staff be directed to contact the Districts encompassing the Saanich Peninsula to investigate what bylaws respecting the dumping of soils on agricultural lands are being proposed or have been adopted, and report back their findings to the EASC.

#### **MOTION CARRIED**





#### STAFF REPORT

#### **ENGINEERING & ENVIRONMENTAL SERVICES COMMITTEE MEETING OF JANUARY 25, 2012**

DATE:

January 9, 2012

FILE NO:

1820-20-SWS/01

FROM:

Lisa Daugenet, Engineering Technologist

SUBJECT: Forgiveness for Water Use Overage – Saltair Water System

#### Recommendation/Action:

The Committee's direction is requested.

Relation to the Corporate Strategic Plan: An essential service.

Financial Impact: (Reviewed by Finance Division:

In accordance with CVRD Bylaw No. 1763 - Saltair Water System Management Bylaw, 1996, the CVRD offers a one-time forgiveness for water usage overages, if an undetected leak is discovered on a homeowner's property. Additionally, a cap of \$1,500 per owner is in place for subsequent leaks after the first "forgiveness" is granted. The property owner at 11231 Chemainus Road has paid the \$1500.00 cap for a subsequent leak, but is requesting a second forgiveness be granted, which would result in a refund of \$1.319.82.

#### Background:

In order to receive the first forgiveness, the property owner must provide written verification describing the nature of the leak and the action taken to rectify the problem. The one-time forgiveness is in place to encourage homeowners to replace the waterline in its entirety once leaks have been detected, thereby minimizing the potential for future leaks.

The property owner at 11231 Chemainus Road was granted a forgiveness in 2000 for a leak that occurred between the main residence and the water service at the property line. At that time the entire line was replaced, thereby fully meeting the requirements of the bylaw. In October of 2011, the property owner experienced another leak on the property and requested a subsequent forgiveness. This second leak occurred between the main house and a cottage located on the property. The property owner replaced the waterline, between the main house and the cottage, in its entirety and an adjustment was made to the account to reflect the \$1500.00 cap for subsequent leaks. This amount was paid on December 23, 2011.

Although the forgiveness for an undetected leak is granted on a one-time basis per property, in 2000 the property owner followed the advice of the CVRD staff and replaced the water service in its entirety only to encounter the same problem with a secondary line going to the other home on the property, which was also entirely replaced in 2011.

Submitted by.

Lisa Daugenet, Engineering Technologist

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Reviewed by: Division Manager:

oved by:



#### STAFF REPORT

R2

# ENGINEERING & ENVIRONMENTAL SERVICES COMMITTEE MEETING OF JANUARY 25, 2012

DATE:

January 5, 2012

FILE NO:

0400-EA B

FROM:

Dave Leitch, Manager, Water Management Division

SUBJECT

First Stage Approval - Warmland Properties Development Sewer Systems

#### **Recommendation:**

That it be recommended that the CVRD Board provide first stage approval and authorize staff time to continue with the process of investigating takeover of the Warmland Property development's three small sewer systems, located in Electoral Area B, as requested by Strata Corporations VIS6204, VIS6337 and VIS6597, subject to the following conditions and with the understanding that nothing is intended by this approval to fetter future CVRD Board decisions on required bylaws:

- All lands with infrastructure works are to be transferred to CVRD, or, if not possible, be placed within registered Statutory Rights-of-way, using the CVRD's standard charge terms;
- A utility transfer agreement be executed between the CVRD and the owners;
- The CVRD undertake a review of the systems in order to address deficiencies in the sewer systems;
- The owners of the utilities be willing to transfer the systems to the CVRD;
- A public consultation process regarding CVRD takeover be undertaken;
- A petition process be carried out and completed by at least 50% of the owners of parcels within the proposed service area with the total value of the parcels representing at least 50% of the net taxable value of all land and improvements in the service area.
- That an assessment of the three systems be carried out, funded to a maximum cost of \$15,000, with \$5,000 from the CVRD Electoral Area Feasibility Study Function and \$10,000 through a Provincial Feasibility Study Grant; and that, upon completion of a successful petition process, bylaws be prepared to create a service area for this utility.
- This list is not exhaustive and items may be added, deleted or altered prior to a formal agreement being executed

Relation to the Corporate Strategic Plan: Provides a reliable essential service.

Financial Impact: (Reviewed by Finance Division:

All costs to operate this utility would be borne by the users of the system. The feasibility study will be funded to a maximum cost of \$15,000, with \$5,000 provided by the CVRD Feasibility Study Function and \$10,000 from the Provincial Feasibility Study Grant Program. If the application for a study grant is not successful, residents will be asked if they wish to pay the \$10,000.

.../2

#### **Background:**

The Warmland Properties Strata Sewer Systems consist of three phased strata developments with three small sewer systems built under Vancouver Island Health Authority approvals and do not meet Class A effluent quality. The current homeowners are interested in dissolving the stratas, and converting lots to fee simple status.

Construction of phase one of this development began in 2007 with construction of phase 3 currently underway. Thirty-one of the proposed forty-one homes have been constructed.

A review of the three systems is required to assess necessary upgrades required for the CVRD to take over and operate these sewer systems, and managed as a single 41 lot sewer utility.

Submitted by,

Dave Leitch, Manager / Water Management Division

DL:LKJ/jlb

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Reviewed by: Division Manager:

Approved by: General Manager Louise Knodel-Joy
Senior Engineering Technologist
Water Management
Engineering & Environmental Service Department
175 Ingram Street
Duncan, BC
V9L 1N8

October 12, 2011

#### Re: Septic System Utility Takeover

On behalf of Strata VIS6204 (Phase 1), Strata VIS 6337 (Phase 2), and Strata VIS 6597 (Phase 3) of Warmland Properties, we would like to thank you and David for taking the time to meet with us on Thursday, October 6, 2011.

We would like the Cowichan Valley Regional District to take over the operation of our septic systems.

We would also like to request your assistance in applying for a grant and funding through the CVRD to have a feasibility engineering study done.

Sincerely,

Lucrecia simon (lucre79@yahoo.com.ar)

Strata Council President

Strata VIS6204

Karen Best (karen.best@shaw.ca)

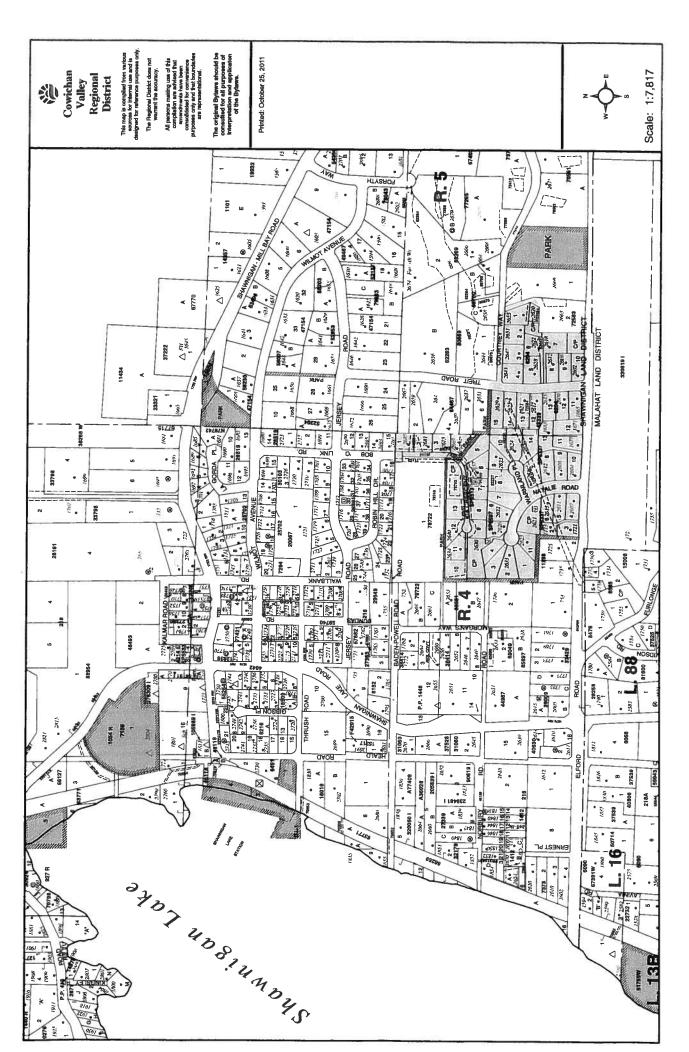
Strata Council President

Strata VIS 6337

Carmen Boudreau (westofwest@gmail.com)

Strata Council President

Strata VIS 6597





#### STAFF REPORT

R3

#### **ENGINEERING & ENVIRONMENTAL SERVICES COMMITTEE MEETING OF JANUARY 25. 2012**

DATE:

January 11, 2012

FILE NO:

5340-30-BPS/09

FROM:

Dave Leitch, Manager, Water Management Division

SUBJECT: Brulette Sewer Service Establishment Amendment Bylaw, Electoral Area A.

#### Recommendation:

That it be recommended to the Board:

That the Certificate of Sufficiency, confirming that a sufficient petition requesting inclusion into the Brulette Place Sewer System Service Area be received.

- 2. That "CVRD Bylaw No. 3296 - Brulette Place Sewer System Service Establishment Bylaw, 2009", be amended to include "PID 009-497-862; that part of Section 4. Range 8. Shawnigan District, shown outlined in red on Plan 677R except that part in Plan VIP52681 and VIP72005".
- 3. That the amended bylaw be forwarded to the Board for consideration of 3 readings and adoption.

Relation to the Corporate Strategic Plan: An essential service

Financial Impact: (Reviewed by Finance Division:

New users brought into the service area, will generate additional user fees, thereby improving the financial stability of this system. The property owner is responsible for all construction costs.

#### Background:

The owner of the above noted property is requesting inclusion into the Brulette Place Sewer System service area and is intending to develop this property. As the Wastewater Treatment Plant (WWTP) is nearing its capacity, the property owner will be required to contribute to capital upgrades to the WWTP for any additional connections beyond the single connection to the parent property.

The amendment bylaw would require approval of the service area voters before it can be adopted. In cases where a sufficient petition for services has been received, voter approval may be obtained by the Electoral Area Director consenting, in writing, to the adoption of the Engineering & Environmental Services are responsible for the operation and administration of these services. A valid and sufficient Petition for Services has been received. The Certificate of Sufficiency and a site plan are attached for consideration.

Submitted by.

Dave Leitch, Manager

Water Management Division

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Reviewed by: Division Manager:

Approved by: General Manage



#### **CERTIFICATE OF SUFFICIENCY**

I hereby certify that the petition for inclusion in the *Brulette Place Sewer System Service Area* within a portion of Electoral Area A – Mill Bay/Malahat is sufficient, pursuant to section 797.4 of the *Local Government Act*.

DATED at Duncan, British Columbia ) this 18<sup>th</sup> day of January, 2011

Kathleen Harrison, Deputy Corporate Secretary

#### Brulette Place Sewer System Service Area

Total Number of Parcels requesting inclusion in Service Area: 1 (PID 009-497-862)

Net Taxable Value of All Land and Improvements of Parcels requesting inclusion in the Service Area:

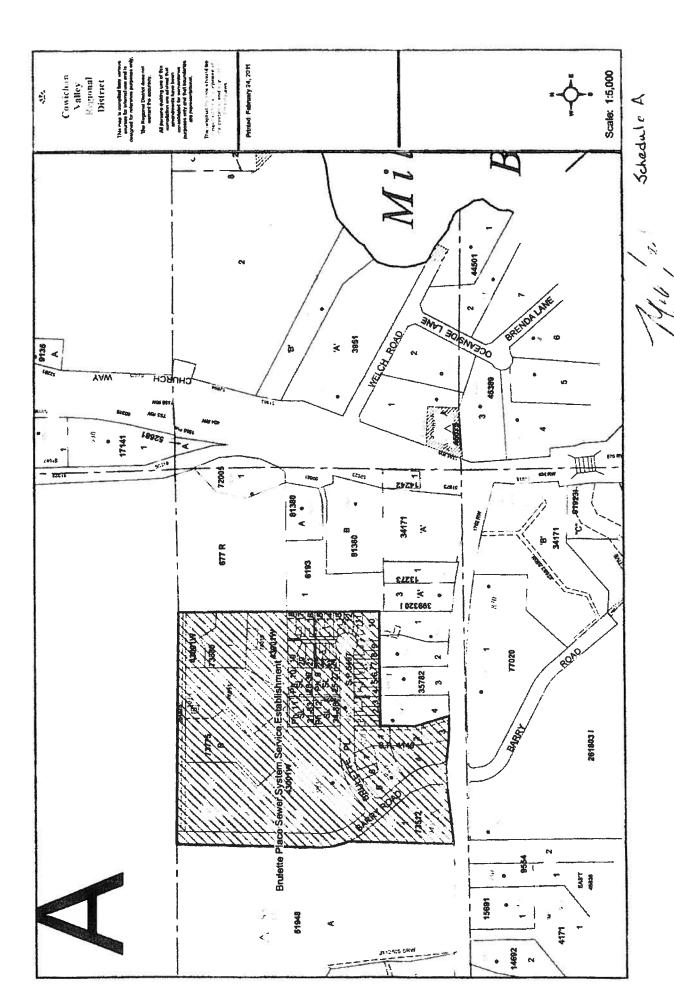
\$435,000

Number of Petitions received:

1

Net Taxable Value of Petitions received (Land and Improvements):

\$435,000





#### STAFF REPORT

R4

#### **ENGINEERING & ENVIRONMENTAL SERVICES COMMITTEE MEETING OF JANUARY 25, 2012**

DATE:

January 10, 2012

FILE No:

4320-25-FIS

FROM:

Bob McDonald, Manager, Recycling and Waste Management

**SUBJECT:** Provincial Legislation for Declared Nuisances

#### **Recommendation/Action:**

That a letter from the Chair be sent to the Province requesting that legislation be introduced that would allow a Regional District to take measures to address 'declared nuisances'.

Relation to the Corporate Strategic Plan: Healthy Environment, Establish Sustainable Communities.

Financial Impact: (Reviewed by Finance Division: Not required)

No negative financial impact is expected, given that fewer staff resources would be used in addressing, tracking and monitoring composting odour complaints, if the 'declared nuisance' could be eliminated.

#### Background:

There are three existing composting facilities in the region, and all are capable of producing odours that result in numerous complaints from local residents and/or businesses. Extensive staff time and resources has been committed to resolving such issues, and, although significant strides have been made with the respective facilities, some odours continue to exist. Current bylaws and legislation at our disposal are very limited in terms of dealing with 'nuisance odours'.

A very similar situation existed in Newmarket, Ontario (see attached article), and was addressed to a large degree through Section 447.1 of the Ontario Municipal Act, which permits a municipality to apply to a Court to close a premises where the activities or circumstances on or in the premise constitute a public nuisance. However, a legal review indicates there is no existing provision in British Columbia legislation equivalent to that of Ontario, which would allow a regional district to take such action (although a municipality does have some allowance in this area). Therefore, it is recommended that a request for legislation of this nature be forwarded from the CVRD to the Province.

Submitted by,

Bob McDonald.

Manager, Recycling and Waste Management

BMc:jlb

\\Cvrdstore1\e\_e\Administration\E&E Staff Reports\E&E\2012\SWM Declared Nuisances-Jan25-12.docx

# SMALL TOWN BREAKS LEGAL GROUND TO CLEAN UP ODOUR PROBLEM

William M. Glenn and Barry Spiegel



William M. Glenn



Barry Spiegel

The stench from a waste recycling plant was making life miserable for the residents of Newmarket, a picturesque community situated about halfway between Toronto and Barrie, Ontario. As a last resort, the town used the public nuisance provisions in the Municipal Act, 2001 in an attempt to shut the offender down.

The records of odour complaints, logged week after week after week for more than two years, make for evocative reading.

"Last night was the night of 1,000 skunks."

"We were blasted with wave after wave of garbage."

"It's a combo of severe gas, burned peas and burning garbage."

"Gut wrenching stench, by far the worse so far."

In June 2004, Halton Recycling Ltd. reopened a small composting plant located on the east side of town, after installing new equipment to process source-separated organics – mostly kitchen scraps, dirty diapers, coffee grinds and the other wastes collected from municipal "green boxes" – into biogas and compost. There had been a history of odour problems with the previous owners, but Halton was able to satisfy the provincial Ministry of the Environment (MOE) it would operate

the facility cleanly and properly.

It didn't work out that way.

#### **Background**

In the first two years of operation, between July 2004 and July 2006, more than 1,100 odour complaints were logged. Many came from the RCMP detachment located right next door. And, there were even more from East Hill Court, a neighbourhood of well-maintained, middle class homes built in the early 1980s, about 900 metres northwest and sometimes downwind of the plant.

A health survey showed that the air emissions weren't hazardous, per se, to human health. However, they were foul, overwhelming and pervasive.

"It got so that people couldn't even sit outside their homes in the summer," says Tom Taylor, who served as Newmarket's mayor nine years until retiring in 2006. Taylor, who posted his home phone number on the town's website, was routinely rousted out of bed at all hours – 11:00 at night, 2:00 in the morning, whenever – by neighbourhood complaints. "I couldn't blame

William Glenn is a journalist specializing in environment, health and safety policy and legal issues. Barry Spiegel is Director of Research and Professional Development at Willims & Shier Environmental Lawyers LLP <www.willmsshier.com>.

them," he says. "The smell was sickening."

The mayor wasn't the only one called out in the middle of the night. The town was forced to keep by-law enforcement staff on call 24/7 to respond to complaints, confirm whether they were valid, and document the intensity of the odour. They also hired an engineering consulting firm, to pinpoint the source of the problem. Two or three times a week, that source was Halton Recycling.

"This was an incredibly expensive and time-consuming undertaking for a small municipality," says Esther Armchuk-Ball, a solicitor with Newmarket's legal services branch and responsible for the Halton Recycling file. There were endless meetings over this problem with Halton Recycling,

Ontario Superior Court of Justice to declare Halton Recycling Ltd. a public nuisance, under section 433 of the *Municipal Act, 2001*, and to order the operation closed.

Under section 433, the Ontario Superior Court can shut down a premises for up to two years if the presiding justice is satisfied that its operations constitute a public nuisance; that such a nuisance has a detrimental impact on the use and enjoyment of property in the vicinity; and that the company knew of the problem and had not taken sufficient action to address it.

The statutory provisions, part of a package of amendments that came into force January 1, 2003, were designed (according to the Conservative government of the day) to give municipalities "the tools they need to tackle the chal-

too impressed with the ministry's efforts to get the odour problem under control. "I understand the Minister [of Environment] has the authority to shut down a plant," says Taylor, "but we couldn't even get an appointment with her."

Instead, the MOE had issued a series of Director's Orders. The most recent, in November 2005, limited the number of truckloads of rotting organic waste the company could handle each week. The company appealed the order to the province's Environmental Appeal Tribunal, and the whole matter went to mediation. Behind closed doors, the company and the ministry were able to hammer out a settlement agreement in March 2006.

"Unfortunately, there was a critical piece missing from the settlement agreement," says Armchuk-Ball. "The

Instead of relying on the town's odour by-law, the team opted for a bold new approach that had never before been tested in an Ontario courtroom. The town filed an application to declare Halton Recycling a public nuisance under the *Municipal Act*, 2001, and to order the operation closed.

with the mayor and council, with ministry officials, with York Region, and with the affected residents.

And still the complaints flooded in.
That's when the town council decided to go to court. "Newmarket has an odour by-law on the books, but a by-law can impose only very limited sanctions," says environmental law specialist Marc McAree of Willms & Shier, lead trial counsel for the town. "The legal process of laying a charge before a justice of the peace can be intense and, at the end of the day, the company might get only a very modest fine.
That's hardly an effective deterrent."

#### **Public Nuisance Approach**

Instead of relying on the town's odour by-law, the legal team opted for a bold new approach, one that had never before been tested in an Ontario court-room. In November 2005, the Town of Newmarket filed an application in the

lenges of governing in the 21st century." While section 433 doesn't mention odour problems specifically, the legal team believed that the stench emanating from Halton Recycling's Newmarket facility should certainly qualify as a public nuisance.

Shutting down the recycling company was considered a tactic of last resort. "We agreed in principle with what the company was trying to do," says Tom Taylor. Municipal staff had carefully evaluated the proposed operation before giving it the green light, and the town had sent engineers to Europe to observe the technology in action. "If it's operated properly, there shouldn't be any problems. It's good for the environment, good for everyone," says Taylor.

#### **MOE Involvement**

However, the plant was not operating in accordance with its two MOE Certificates of Approval, and Taylor was not ministry accepted the company's word that its remedial action plan would resolve the odour complaints without including specific technical details about how the plan would be implemented and without imposing firm deadlines for compliance." Unsatisfied with the result, and besieged by the continuing barrage of odour complaints, Newmarket and its environmental litigators prepared to go to court.

#### **Case Goes to Court**

On August 8, 2006 the case went before Superior Court Justice Alan Bryant. It took nine days to plow through the huge pile of consultants' reports, ministry certificates and orders, complaints, maps and business records that had been filed. "A substantial amount of evidence was required to document the environmental problems and support the action," says Marc McAree. "For example, there were 33 The judge cited "compelling evidence that Halton [Recycling] was the source for most of the odour complaints identified by the applicants," and that the company's "activities affect a significant number of people who live and work in the vicinity of Halton and constitute a public nuisance."

affidavits filed by the town, including detailed affidavits from 22 different complainants.

In its defense, the company argued that other sources – including a nearby printing company, an industrial drum recycler, and a defective sewer main – were responsible for many of the complaints; that the town's complaint tracking system was faulty; that remedial measures undertaken by the company had resolved much of the problem; and that any remaining fugitive odours would be abated in the near future.

Justice Bryant disagreed. On September 29, 2006, he issued his decision, cit-

ing "compelling evidence that Halton [Recycling] was the source for most of the odour complaints identified by the applicants," and that the company's "activities affect a significant number of people who live and work in the vicinity of Halton and constitute a public nuisance." He also concluded that the company was not meeting the regulatory standard set by the MOE and, since it failed to comply with its operating certificates of approval, Halton Recycling "falls below the industry standard for processing facilities."

As a result, he ordered the plant to close until June 28, 2007, but stayed the

order for 90 days to give the company a final opportunity to demonstrate it is no longer a public nuisance. During that grace period, Halton Recycling was required to limit the amount of organic waste accepted for processing to just 10 truckloads a week; to reduce fugitive emissions and odours; and to fully implement its remedial action plan.

#### **Municipal Authority Upheid**

The company had also argued that section 433 did not apply to odours or any other matter that falls under the purview of the Ministry of Environment. Again, Justice Bryant disagreed, saying that if

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the province didn't want to extend authority over environmental concerns to municipalities, it would have exempted MOE activities from the provision.

"We are seeing a broadening out or sharing of jurisdiction over local environmental concerns," says McAree. The 2001 decision of the Supreme Court of Canada (in *Spraytech v. Town of Hudson*) confirmed the powers of municipalities to control the use of pesticides within their boundaries. "This judgment reaffirms that municipalities have the authority to protect their citizens from environmental threats and harm," says McAree.

McAree says this decision has taught municipalities two important lessons. First, it's essential to have a system in place for tracking and documenting complaints about foul odours or other kinds of nuisance problems. "In addition to tracking and documenting odour episodes, the town also prepared a complaints map," he says. "This turned out to be a powerful visual demonstration of the scope of the odour impacts on the community."

Secondly, it's important to clearly document your good faith efforts to resolve the problem with the company causing the nuisance. "The town was able to show that it had tried to work with the ministry and with Halton Recycling for two years," says McAree. "On this basis, the judge was able to determine that Halton Recycling knew of the problem, but did not take adequate steps to resolve it."

#### It's Not Over ...

Will the plant be forced to close its doors? Under the terms of the court order, the company has had to go back to court, ask that the order be suspended and convince the judge that continued operation of the facility won't constitute a public nuisance ... if it wants to remain open. As this issue of Municipal World goes to press, the court was still debating the issue. "Halton Recycling has been pushing hard for additional site plan and building permit approvals so that it can complete its remedial action plan," says Armchuk-Ball, "and the town has cooperated. We issued a building permit for a new cover over the

wood chip pile in October 2006, but Halton did not file a building permit application for an expanded biofilter until the end of October 2006." The town has expedited the review, and will issue permit paperwork as quickly as possible.

In the meantime, the town is "still logging odour complaints," says Taylor. Unless the situation changes dramatically, Taylor thinks the company is going to have a tough time convincing the judge it deserves an extension. But even if Halton Recycling is granted a few more months to finish the remediation work, it will still face a court-ordered shutdown if the odour problems are not resolved.

"In pursuing this case, the municipal council of the day took a very bold, proactive stand on behalf of its ratepayers," says McAree. Basing its action on section 433 was a novel strategy. The provision had been in force for only a short time, and had never been tested in court. "You have to give the municipality credit for pursuing this course of action to see where it would lead," he says. "The decision sends a very strong message to the company that their behaviour was unacceptable to the community."

Tom Taylor shares the credit with the town's in-house legal team and its out-side counsel. "They did a great job," he says. "I understand that it's the first time an operation has been deemed a public nuisance under the Act."

The decision may have established an important legal precedent, but it's been a very expensive experience for the town. Not counting in-house staff time, Newmarket's already spent in excess of \$300,000 on the Halton odour problem. "It's been a real burden," says Armchuk-Ball. "There has been other important business, including other environmental concerns, which have taken a back seat because our staff has been tied up with this one odour problem."

"They say we set a precedent," says Taylor. "I hope it works, but we can't afford to set too many more."

Full text of the decision can be downloaded from <www.canlii.ca>.





STAFF REPORT

#### ENGINEERING & ENVIRONMENTAL SERVICES COMMITTEE MEETING **OF JANUARY 25, 2012**

DATE:

January 11, 2012

FILE NO:

Bylaw 2570

FROM:

Bob McDonald, Manager, Recycling & Waste Management

SUBJECT: Amendment to Bylaw 2570 - Waste Stream Management Licensing

#### Recommendation/Action:

That it be recommended that CVRD Bylaw No. 3556 - Waste Stream Management Licensing Amendment Bylaw, 2012 be forwarded to the Board for three readings and. following Provincial approval, be adopted.

#### Relation to the Corporate Strategic Plan:

This initiative relates to the Healthy Environment and Sustainable Infrastructure sections of the Corporate Strategic Plan.

Financial Impact: (Reviewed by Finance Division:

Legal fees to review the draft bylaw amendment are the only expenditures anticipated for this initiative, which is estimated at \$5,000, and is included in the 2012 Solid Waste budget.

#### **Background:**

In 2005, the CVRD adopted Bylaw 2570 - Waste Stream Management Licensing to regulate and help reduce the social and environmental impacts associated with private municipal solid waste and recycling facilities. Further, the bylaw is meant to help enforce and reduce illegal dumping incidents across the region and provide a level playing field for licensed facilities. There are currently 8 businesses licensed under Bylaw 2570 throughout the CVRD. These businesses include metal salvage operations, multi-material drop-off transfer stations, and composting facilities.

The bylaw has been successful on several fronts. Prior to bylaw adoption, the solid waste and recycling industry was not regulated which provided little environmental protection or assurance to communities that best management practices were being adhered to. This resulted in the lowest operating standards. Although the bylaw is not perfect, it has tightened up industry standards and has required facilities to invest large amounts of money in infrastructure to help reduce social and environmental impacts. Licensed facilities have also provided more viable disposal options for both district residents and the CVRD. The bylaw has also helped reduce the number of illegal dumping incidents across the region.

Since adoption of Bylaw No. 2570, staff have experienced several challenges in administering it and regulating private waste management facilities. The primary challenge has been regulating social impacts associated with these facilities, considering the bylaw mainly focuses on environmental protection. Often these facilities are sited in unfavourable areas and in close proximity to other businesses and residents, causing nuisance dust and odours.

.../2

With respect to compost facilities, this problem has been compounded with a relatively weak and inadequate Provincial parenting regulation, the Organic Matter Recycling Regulation (OMRR). There are several gaps with the OMRR, including a lack of regulation regarding nuisance odours and environmental protection from the storage of Class A compost

Decision-making regarding facility licenses and bylaw compliance is another challenge with which staff have been dealing. More specifically, quite often compliance issues that arise with the facilities are very contentious within the community and therefore add a social dimension to technical issues. This has put staff in a difficult position as they try to balance decision-making, based on technical information, while respecting community concerns, a role quite naturally that of the elected Board.

Staff are recommending a set of amendments to CVRD Bylaw 2570 in order to help improve the regulation of private waste and recycling facilities, and to further reduce the potential social and environmental impacts associated with these operations. In brief, the proposed bylaw amendments include housekeeping items such as adding specific definitions for municipal solid waste and recyclable materials, providing more rigid language regarding facility operations, reducing ambiguity and loop holes with certain sections, enabling the transfer of specific liabilities back onto proponents for such things as inspection audits, and making compliance documentation submitted by licensee's part of the public record.

Further, it is proposed that decision-making in the current bylaw be transferred from the *Manager* to the *Board*. This will help streamline the decision-making process much like the current system with Development Services. The day-to-day administration of the bylaw would not change, other than staff would now be directly acting on behalf of the *Board* and that the appeal mechanism (the Board) in the bylaw would be removed. Decisions regarding license and amendment applications, as well as compliance issues would be brought to Committee for discussion and further direction. Staff reports would be presented in a similar fashion to other Engineering and Environment projects and issues, with recommendations for proceeding. It would then be up to the Board to support staff recommendations or provide alternative direction to staff.

Submitted by,

Bob McDonald, Manager Recycling & Waste Management Division

BMc:jlb

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Reviewed by: Division Manage



#### **COWICHAN VALLEY REGIONAL DISTRICT**

#### **BYLAW No. 3556**

## A Bylaw To Amend Bylaw No. 2570 – Waste Stream Management Licensing Bylaw.

**WHEREAS** the Board of Directors of the Cowichan Valley Regional District established a bylaw to regulate the management of municipal solid waste and recyclable material under the provisions of Bylaw No. 2570, cited as "CVRD Bylaw 2750 - Waste Stream Management Licensing Bylaw, 2004".

AND WHEREAS the Board deems it desirable and expedient to amend the language of the Bylaw.

**AND WHEREAS** the Board of the Cowichan Valley Regional District has obtained the approval of the Minister of Environment, in accordance with the Environmental Management Act.

**NOW THEREFORE** the Board of Directors of the Cowichan Valley Regional District, in open meeting assembled, enacts as follows:

#### 1. CITATION

This Bylaw may be cited for all purposes as "CVRD Bylaw No. 3556 - Waste Stream Management Licensing Amendment Bylaw, 2012".

#### 2. **AMENDMENT**

That Bylaw No. 2570 be amended as follows:

.1 That the following definitions be added under Section 2 - Definitions:

#### "municipal solid waste" means

- a) refuse that originates from residential, commercial, institutional, demolition, land clearing or construction sources; or
- b) refuse specified by the Ministry of Environment to be included in a waste management plan.

"recyclable material" means a product or a substance that has been diverted from disposal, and satisfies at least one of the following criteria:

a) is organic material from residential, commercial, or institutional sources and is capable of being composted, or is being composted, at a site; or

- is managed as a marketable commodity with an established market by the owner or operator of a site;
- is being used in the manufacture of a new product that has an established market or is being processed as an intermediate stage of an existing manufacturing process;
- d) has been identified as a recyclable material in a Solid Waste Management Plan;
- e) is any other material prescribed by the **Board**.
- .2 That the definition for *Manager* be deleted in its entirety.
- .3 That where the word "*Manager*" appears within the bylaw, it be deleted and replaced with "*Board*".
- .4 That the definition for "Qualified Professional" be deleted in its entirety and replaced with the following:

#### "Qualified Professional" means a person who:

- a) is registered in British Columbia with his or her appropriate professional association, acts under that professional association's code of ethics, and is subject to disciplinary action by that professional association; and
- through suitable education, experience, accreditation and knowledge may, in the opinion of the board, be reasonably relied on to provide advice within his or her area of expertise as it relates to this bylaw
- .5 That Section 5.3 be deleted in its entirety and replaced with the following:

**Adequate Notice.** Despite Section 5.2, if in the opinion of the *Board*, any method of giving notice set out in Section 5.2 is not adequate or practical, the *Board* may, within ninety (90) days after receipt of the application, require an applicant to give notice of the application by another method that is, in the opinion of the *Board*, more effective.

- .6 That Section 6.1. (g) be deleted in its entirety and replaced with the following:
  - g) ensure that an employee is present at all times that the facility is open for business or accepting municipal solid waste or recyclable material;
- .7 That the following be added to Section 6.1:
  - install and maintain impermeable surfaces with leachate containment for the processing, curing, and storage of composting materials and finished compost itself.

- .8 That with the addition of clause 6.1(p) amendments must also be made to 6.1(i) to delete the word "and" and to 6.1(o) to replace the period at the end of the sentence with "and".
- .9 That Section 6.2 (h) be deleted in its entirety and replaced with the following:
  - (h) require the *Licensee*, at such times and in such a manner as is acceptable to the *Board*, to measure, record, and submit information to the *Board* that will become part of the public record relating to:
- .10 That the following be added to Section 6.2:
  - install and maintain impermeable aerated surfaces with leachate containment for the processing, curing, and storage of composting materials and finished compost itself.
- .11 That with the addition of clause 6.1(k) amendments must also be made to 6.1(i) to delete the word "and" and to 6.1(j) to replace the period at the end of the sentence with "and".
- 12 That Section 8.2 be deleted in its entirety and replaced with the following:

**Prohibition**. No *responsible person* shall deliver, deposit, *Store*, abandon, or burn, cause or allow to be delivered, deposited, *Stored*, abandoned, or burned, municipal solid waste or recyclable material on or within any lands or improvements except a facility that holds a valid and subsisting *Facility License* within the area of the Cowichan Valley Regional District. Municipal solid waste or recyclable material must:

- a) be placed in a receptacle for scheduled curbside collection by a hauler or a local government; or
- b) be taken to a facility outside the boundaries of the Cowichan Valley Regional District that complies with all applicable enactments, including without limitation, land use bylaws.
- .13 That Section 9.1 be deleted in its entirety and replaced with the following:

**Amendment of a Facility Licence**. The **Board** may amend the terms and conditions of a **Facility Licence** either in whole or in part:

- a) on the **Board's** own initiative where it considers it necessary due to changes to or impacts from the facility's practices; or
- b) on an application in writing by a *Licensee*; and
- c) on the **Board's** own initiative where it considers it necessary due to changes external to the operations of the facility.
- .14 That Section 9.2 (v) be deleted in its entirety and replaced with the following:

- (v) an increase in the authorized quantity of municipal solid waste or recyclable material accepted, but not **Stored** such that the increase does not exceed 10% of the authorized quantity specified in the license first received by the facility
- .15 That the following be added to Section 9.3:
  - c) No more than one (1) minor amendment can be processed annually for any type or quantity of material managed under an existing *License*.
- .16 That Section 14.8 be deleted in its entirety and replaced with the following:
  - 14.8 **Records**. Notwithstanding Sections 4.2, 6.1, and 12.4, the **Board** may require the owner or operator of a facility, site, or premises at which municipal solid waste or recyclable material is managed to keep records of volumes, weights, types, amounts, quantities, and composition of municipal solid waste or recyclable material originating from within the Cowichan Valley Regional District that is brought onto or removed from the facility, site, or premises and to submit, on request the records to the **District**.
- .17 That the following be added to Section 14:
  - 14.9 **Costs.** The **Board** may require that an owner, operator, or **Licensee** cover, in part or whole, costs incurred by the **District** to carry out inspections, observations, measurements, tests and sampling and to otherwise ascertain whether the terms of this bylaw or a **Facility License** have been or are being complied with.
- .18 That Section 17 Appeals be deleted in its entirety.
- .19 That with the deletion of Section 17 Appeals being deleted in its entirety, the order of the subsequent sections will be revised.
- .20 That where the term **Ministry of Water, Land and Air** appears in the bylaw, it be replaced with **Ministry of Environment**.

DEAD A FIDOT TIME ALI-		-1			
READ A FIRST TIME this	<u></u>	day of		_ , 2012.	
READ A SECOND TIME th	is	day of	<del>- ,</del>	, 2012.	
READ A THIRD TIME this		_ day of	·	, 2012.	
I hereby certify this to be aday	of	, 2	012.	iven Third Rea	ding on the
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ADOPTED this	day of		77.77.7	, 2012.	
 Chairperson		Corpor	ate Secretary		



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#### STAFF REPORT

### ENGINEERING AND ENVIRONMENTAL SERVICES COMMITTEE MEETING OF JANUARY 25, 2012

**DATE:** January 11, 2012

FILE NO:

5340-30-LES/09

5600-30-LEW/09

FROM:

Jeralyn Jackson, AScT., PMP, Capital Projects

SUBJECT: Lambourn Estates Water and Sewer Service Areas Amendment Request – Martin

#### **Recommendation:**

That it be recommended to the Board:

- 1. That the *Certificate of Sufficiency*, confirming that sufficient petitions requesting inclusion into the Lambourn Estates sewer and water service areas be received.
- 2. That CVRD Bylaw No. 3052 Lambourn Estates Sewer System Service Establishment Bylaw, 2008, be amended to include "PID 027-834-921, Lot B, Section 5, Range 6, Plan VIP86371, Cowichan District".
- 3. That CVRD Bylaw No. 3034 Lambourn Estates Water System Service Establishment Bylaw, 2008 be amended to include "PID 027-834-921, Lot B, Section 5, Range 6, Plan VIP86371, Cowichan District".
- 4. That the amended bylaws be forwarded to the Board for consideration of 3 readings.
- 5. That the amendment bylaws not be considered for adoption until the following conditions have been met:
  - 1. A covenant be registered on title of each of the two properties, addressing CVRD Planning concerns.
  - 2. A Lambourn Estates Sewer and Water Servicing Agreement be executed by each of the Developers and the CVRD.

Relation to the Corporate Strategic Plan: Provides a reliable essential service.

Financial Impact: (Reviewed by Finance Division:

New users brought into the service area, will generate the following additional user fees:

<u>User Fee</u> Parcel Tax

Water System: \$270.00 \$277.00

Sewer System: \$350.00 \$200.00

thereby improving the financial stability of this system.

#### **Background:**

The CVRD has been working with a group of five developers that will extend the sewer system to include 24 residents in Lambourn Estates that are not serviced by the existing sewer system in exchange for inclusion in the Lambourn Estates sewer and water service areas and provision of sewer and water service to a proposed 27 new lots. A cost of \$240,000 has been estimated to construct the sewer service expansion. An open house was held in October, 2010, to determine if the area residents were in favour of this project and 79% of the attendees voted 'yes' to these developments. This is a very favourable opportunity for the CVRD to provide sewer service at no cost to the area residents.

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One of the five developers, Nick Faber, received CVRD Board approval on January 11, 20112, to prepare the bylaws for inclusion of his development property into the Lambourn Estates sewer and water service areas. Mike Martin has now paid connection fees and has completed petitions requesting inclusion into the Lambourn Estates sewer and water service areas. Mr. Martin's development will create 4 lots. He will pay for all costs associated with provision of sewer and water services to his property, as well as a percentage of the \$240,000 upgrades, in accordance with the number of lots.

Reviewed by: Division Manager:

Approved by:

General/Manager

A valid Certificate of Sufficiency and site plan are attached for information.

Submitted by,

Jeralyn Jackson, AScT., Capital Projects, Engineering & Environmental Services

JHJ:jlb

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#### **CERTIFICATE OF SUFFICIENCY**

I hereby certify that the petition for inclusion in the *Lambourn Estates Sewer System Service Area* within a portion of Electoral Area D – Cowichan Bay is sufficient, pursuant to section 797.4 of the *Local Government Act*.

)

DATED at Duncan, British Columbia ) this 18<sup>th</sup> day of January, 2012

Kathleen Harrison, Deputy Corporate Secretary

\$812,000

#### Lambourn Estates Sewer System Service Area

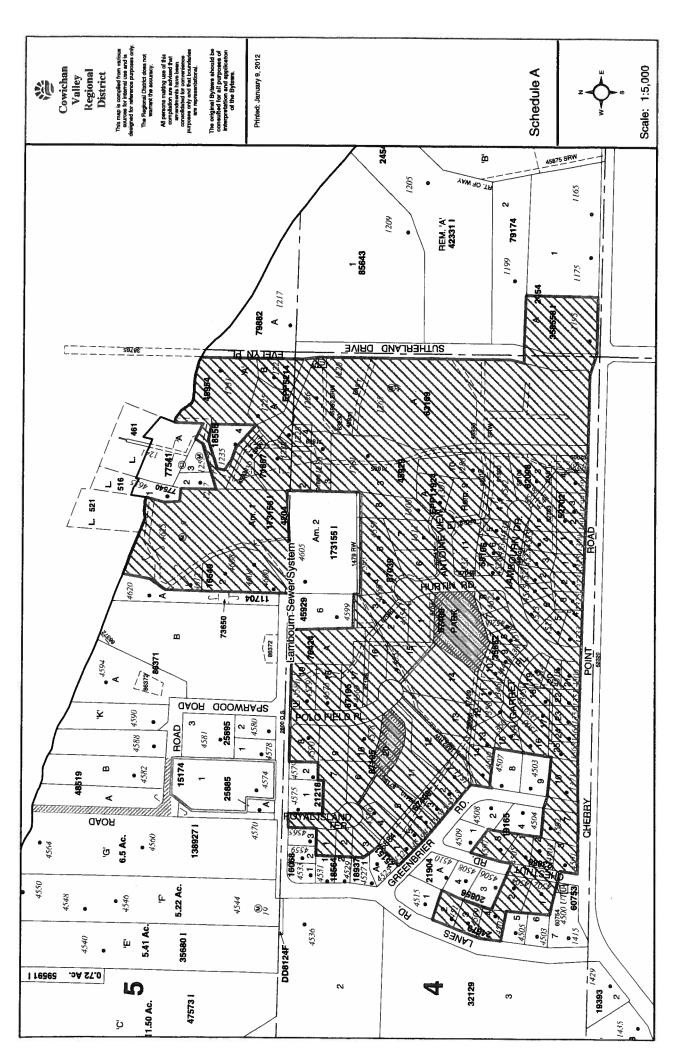
Total Number of Parcels requesting inclusion in Service Area: 1 (PID 027-834-921)

Net Taxable Value of All Land and Improvements of Parcels requesting inclusion in the Service Area:

Number of Petitions received:

Net Taxable Value of Petitions received (Land and Improvements): \$812,000

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#### **CERTIFICATE OF SUFFICIENCY**

I hereby certify that the petition for inclusion in the *Lambourn Estates Water System Service Area* within a portion of Electoral Area D – Cowichan Bay is sufficient, pursuant to section 797.4 of the *Local Government Act*.

)

DATED at Duncan, British Columbia ) this 18<sup>th</sup> day of January, 2012

Kathleen Harrison, Deputy Corporate Secretary

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#### Lambourn Estates Water System Service Area

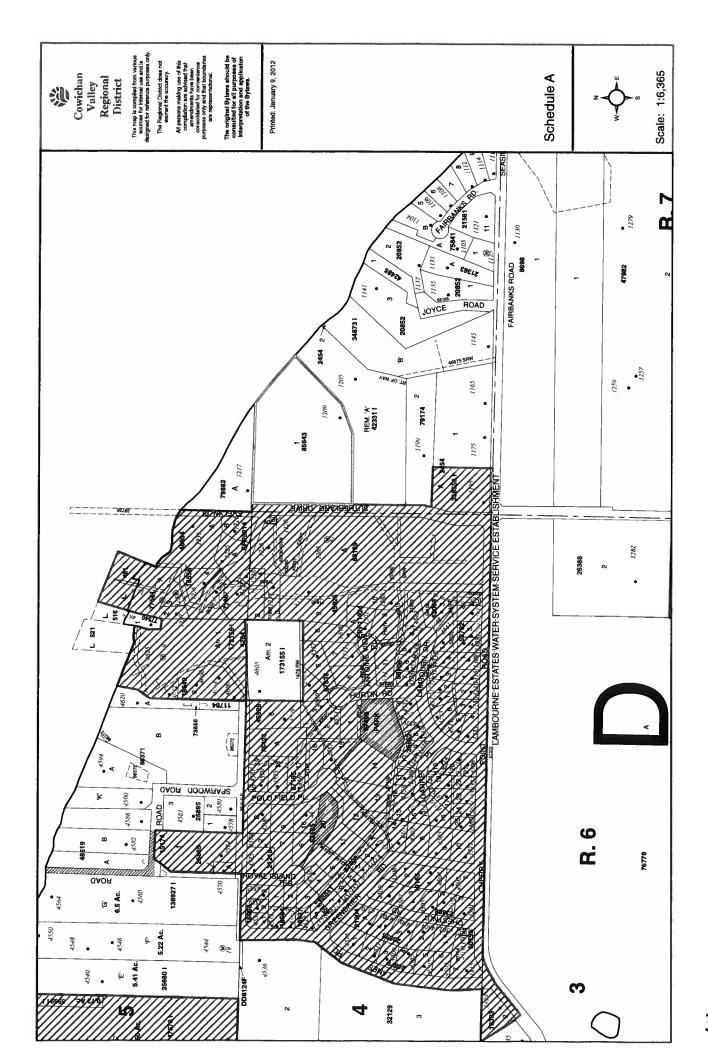
Total Number of Parcels requesting inclusion in Service Area: (PID 027-834-921)

Net Taxable Value of All Land and Improvements of Parcels requesting inclusion in the Service Area:

\$812,000

Number of Petitions received:

Net Taxable Value of Petitions received (Land and Improvements): \$812,000





STAFF REPORT

#### **ENGINEERING AND ENVIRONMENTAL SERVICES COMMITTEE MEETING OF JANUARY 25, 2012**

DATE:

January 11, 2012

FILE NO:

5340-30-LES/09

FROM:

Jeralyn Jackson, AScT., PMP, Capital Projects

SUBJECT: Lambourn Estates Sewer Service Area Amendment Request – Waibel

#### Recommendation:

That it be recommended to the Board:

- 1. That the Certificate of Sufficiency, confirming that a sufficient petition requesting inclusion into the Lambourn Estates sewer service area be received.
- 2. That CVRD Bylaw No. 3052 Lambourn Estates Sewer System Service Establishment Bylaw. 2008, be amended to include "PID 004-211-286, Lot 1, Section 5, Range 6. Cowichan District, Plan 15174, except that part in Plan 25885.
- 3. That the amended bylaw be forwarded to the Board for consideration of 3 readings.
- 4. That the amendment bylaw not be considered for adoption until the following conditions have been met:
  - 1. A covenant be registered on title of this property, addressing CVRD Planning
  - 2. A Lambourn Estates Sewer and Water Servicing Agreement be executed by the Developers and the CVRD.

Relation to the Corporate Strategic Plan: Provides a reliable essential service.

Financial Impact: (Reviewed by Finance Division: 560)

New users brought into the service area, will generate the following additional user fees:

User Fee Parcel Tax

\$350.00 \$200.00

thereby improving the financial stability of this system.

#### Background:

The CVRD has been working with a group of five developers that will extend the sewer system to include 24 residents in Lambourn Estates that are not serviced by the existing sewer system in exchange for inclusion in the Lambourn Estates sewer and water service areas and provision of sewer and water service to a proposed 27 new lots. A cost of \$240,000 has been estimated to construct the sewer service expansion. An open house was held in October, 2010, to determine if the area residents were in favour of this project and 79% of the attendees voted 'ves' to these developments. This is a very favourable opportunity for the CVRD to provide sewer service at no cost to the area residents.

One of the five developers, Nick Faber, received CVRD Board approval on January 11, 2012, to prepare the bylaws for inclusion of his development property into the Lambourn Estates sewer and water service areas. Two developers, Steve Ellefson and Mike Martin have paid connection fees and have completed petitions requesting inclusion in the Lambourn Sewer and Water Service areas. The three developers mentioned above represent 24 of the 27 new properties proposed.

Alois Waibel is also one of the developers and would like to proceed with subdivision of his property into two lots. He has paid the sewer connection fee of \$10,000 per lot and has completed a petition for inclusion in the Lambourn Estates Sewer Service Area. Mr Waibel will pay for all costs associated with provision of sewer service to his property and will pay a percentage of the \$240,000 to expand the sewer system.

Reviewed by: Division Manager:

Approved by:

General Manage

A valid Certificate of Sufficiency and site plan are attached for information,

Submitted by

Jeralyn Jackson, AScT., Capital Projects, Engineering & Environmental Services

JHJ:jlb

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#### **CERTIFICATE OF SUFFICIENCY**

I hereby certify that the petition for inclusion in the *Lambourn Estates Sewer System Service Area* within a portion of Electoral Area D – Cowichan Bay is sufficient, pursuant to section 797.4 of the *Local Government Act*.

DATED at Duncan, British Columbia ) this 18<sup>th</sup> day of January, 2012

Kathleen Harrison, Deputy Corporate Secretary

#### Lambourn Estates Sewer System Service Area

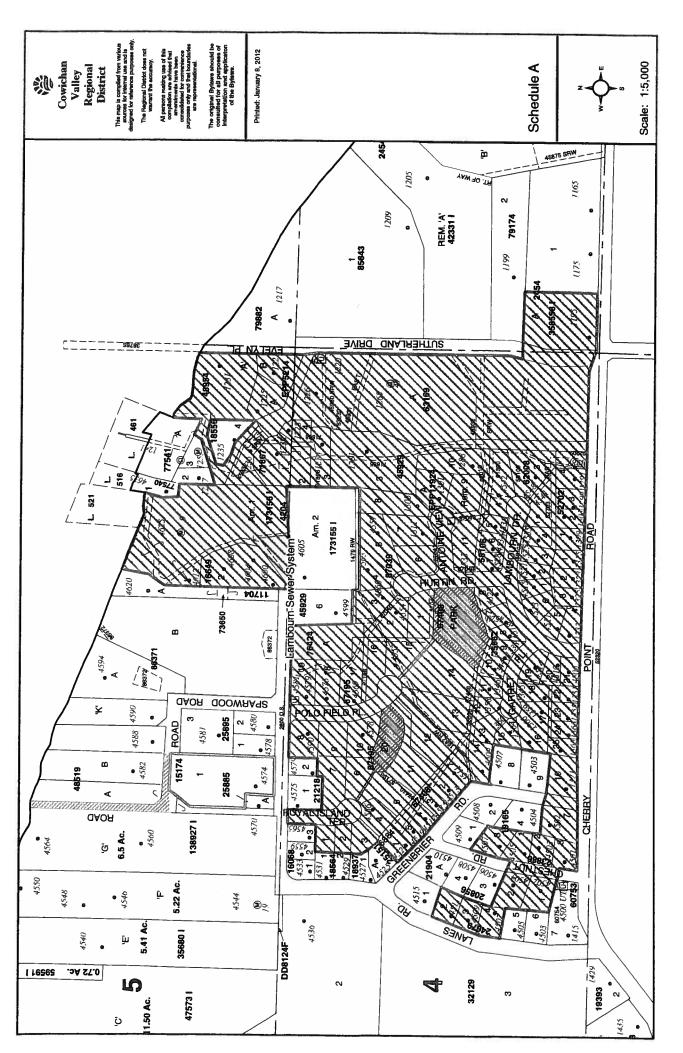
Total Number of Parcels requesting inclusion in Service Area: 1 (PID 004-211-286)

Net Taxable Value of All Land and Improvements of Parcels requesting inclusion in the Service Area:

\$557,000

Number of Petitions received:

Net Taxable Value of Petitions received (Land and Improvements): \$557,000





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#### STAFF REPORT

#### **ENGINEERING SERVICES COMMITTEE MEETING JANUARY 25, 2012**

DATE:

January 12, 2012

FILE NO:

5340-30-CBS/01

FROM:

Alina Lintea, Engineering Technologist

**SUBJECT:** Cowichan Bay Float Homes and Live-aboards

**Recommendation:** For information only.

Relation to the Corporate Strategic Plan: Protect the environment from harm and restore. rehabilitate and enhance the natural environment.

Financial Impact: (Reviewed by Finance Division: None at this time.

#### Background:

In 2007, the Electoral Area D Director expressed concern regarding the amount of sewage being discharged into Cowichan Bay from float homes and live-aboards residing in the bay. CVRD Engineering & Environmental Services staff consulted with marina owners in Cowichan Bav. and a meeting was held on October 10, 2007 to discuss the possibility of having float homes and live aboards connect to the Cowichan Bay Sewer System.

Further to the meeting, the marinas were offered the opportunity to buy sewer capacity units at the rate of \$3,500 per unit, based on the following estimated equivalent capacities, with one capacity unit being based on the expected sewage discharge from a single family home:

- float home equivalent to one half of a capacity unit
- live aboard equivalent to one third capacity unit

The list of the marinas that purchased sewer units at that time is included in the table below.

In September 2011, the CVRD Engineering & Environmental Services staff undertook two site visits and contacted the owners/managers of the marinas, in order to inventory the float home and live aboard count, and to determine the status of their sewer connections to the Cowichan Bay Sewer System.

The response to the CVRD site visits ranged from being supportive to apprehension. Some of the owners/managers expressed their opinion that the majority of sediment and discoloration in the bay originates from Koksilah River, not from the small amount sewage discharged by the boats and float homes.

The number of live aboards at the marinas was difficult to determine as owners/managers were unable to provide exact numbers. Some of the reasons cited were that the numbers fluctuate with the seasons; the marinas provide shower and toilet facilities connected to the sewer system; and in some instances where the boats have toilets aboard, the owners prefer to use the marina facilities rather than drive to a pump out station.

Out of 16 float homes, only one is connected to the sewer system. It is assumed that the rest of the float homes discharge raw sewage into the bay.

The following table summarizes the findings with numbers as reported by the owners/managers.

Marina	Float homes		Live aboards	Units	Address	Comments	
		Connected		Purchased			
Ocean Suites at Cowichan Bay	n/a		n/a		1681 Cowichan Bay Rd	Marina for complimentary guest parking (visiting boats)	
Fisherman's Wharf	0		2		1699 Cowichan Bay Rd		
Masthead Marina	3	1	0	2 '	1705 Cowichan Bay Rd	No live aboards at this time	
Cowichan Shipyard Marina	0		0	1	1719 Cowichan Bay Rd	Debating having 1 float home in the near future	
Cowichan Bay Marina Pier A	2			2	1721 Cowichan Bay Rd	Number of live aboards not provided. Toilet and shower facilities for live aboards and transient boats. Would like to hook up float homes but owners don't have financial means	
Cowichan Bay Marina Pier B	0				See above		
Cowichan Bay Marina Pier C	0			3	1725 Cowichan Bay Rd		
Pier 66 Marina	3		2		1745 Cowichan Bay Rd	Estimated total 30 boats at this time, using Cowichan Bay marina shower and toilet facilities	
Dungeness Marina	0		3.	2	1759 Cowichan Bay Rd	Shower and Toilet facilities	
Cowichan Bay Maritime Centre and Wooden Boat Society	N/a		N/a		1761 Cowichan Bay Rd	Marina for museum and display purpose only	
Bluenose Marina	5		0		1775 Cowichan Bay Rd	Toilet and laundry for transient moorage	
Total	16		5	10			

**Reviewed by:** Division Manager:

Approved by:

General Manager:

Submitted by,

Alina Lintea, Engineering Technologist Engineering and Environmental Services

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38



#### STAFF REPORT

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#### **ENGINEERING & ENVIRONMENTAL SERVICES COMMITTEE MEETING OF JANUARY 25, 2012**

DATE:

12 January, 2012

FILE NO:

3900-20-3258

FROM:

Kathleen Milward, Environmental Technologist

**SUBJECT:** Public Education Campaign on Open Burning Awareness

#### Recommendation/Action:

To inform the Committee of the upcoming open burning awareness public education campaign being undertaken by staff during the period of February through April, 2012; the goal of which is to raise awareness of impacts from all types of burning, improve regional air quality, and consequently decrease the health related effects.

#### Relation to the Corporate Strategic Plan:

Healthy Environment: Protecting the Environment from Harm.

Financial Impact: (Reviewed by Finance Division:

The 2012 Solid Waste budget contains \$5,000 for public education.

#### Background:

From a human health perspective, fine particulate matter has been identified as the air pollutant of most concern in British Columbia. Exposure to fine particulates is associated with a significant rise in premature deaths from respiratory and heart disease. It is also linked to emergency room visits, hospitalization, and absences from work and school. Long term exposure in pregnant women can cause premature births and low birth weights. Senior citizens, infants and people with pre-existing heart, lung and other illnesses are the most vulnerable. Locally, the CVRD's State of the Environment Report (2010) declared hospital admission rates for children with respiratory problems (in the Cowichan Region) to be consistently more than 20% higher than the provincial average, and at times twice this average.

Due to its natural landscape, the Ministry of Environment has designated the Cowichan Valley as a high sensitivity area for smoke pollution. Temperature inversions and air drainage restrictions influenced by topography prevent wood smoke from being dispersed. This keeps the smoke right where citizens live and breathe, polluting neighbourhoods for days or even weeks. The Cowichan Valley has also grown considerably over the past several years and has become quite urbanized; this has resulted in high urban-rural interface in many areas, where smoke complaints have become common. As air pollutants are not subject to borders, burning in one area affects all adjacent regions.

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As the traditional spring burning season fast approaches, it's an effective time to remind contractors and developers of the existence of CVRD Bylaw No. 2020 (Landclearing Management Regulation Bylaw). Implemented in August, 2009, this bylaw bans the open burning of landclearing debris in all CVRD electoral areas; it targets large-scale burning, such as that undertaken during property development, but does not affect small-scale backyard burning.

Under the bylaw, all machine-stacked landclearing debris or piles of landclearing debris that a) number three or more, or b) are larger than 2 m high by 3 m wide, cannot be open burned. The preference is for this debris to be chipped, ground, or reused onsite; if these options are not practical, the material may be burned only with the use of an air curtain or trench burner. All such burns must be registered with the CVRD prior to ignition. Burning under the bylaw must also still comply with Provincial regulations.

In tandem with this bylaw refresher geared towards CVRD electoral areas, staff plan to reiterate broader scope health messaging in a region-wide "Open Burning Awareness" campaign; this will feature information on the detrimental health effects of particulate matter and highlight the availability of burning alternatives such as composting, grinding/chipping/reusing onsite, and year-round free drop-off of yard and garden materials at CVRD recycling depots. Increasing awareness of the health effects of open burning in general will also segue nicely into recognizing backyard burning as a major contributor to air pollution across the regional district and the public's need to restrict such practices.

The awareness campaign will utilize multiple communication tools, including: all four regional newspapers; radio messaging on the morning and evening commute; website updates; brochures; CVRD recreation playbooks; networking with community groups; and an informational newsletter in the utility bill mail-out for CVRD electoral areas. Target audiences include homeowners, developers, and industry representatives.

The CVRD Board endorsed a resolution to draft a backyard burning bylaw that would apply to small hand-piled fires, not regulated under CVRD Bylaw 2020. A more recent resolution was also passed at the March 23, 2011, Engineering & Environmental Services Committee meeting to create a bylaw to prohibit the burning of construction site materials. Prior to developing an actual backyard burning bylaw, staff have been given direction to further consult with relevant fire chiefs and the new Board Of Directors. The goal is to determine alternatives for overcoming the legal issues involved in order to implement one or more bylaws for select CVRD electoral areas this year.

Submitted by,

Kathleen Milward

**Environmental Technologist** 

KM:jlb

Approved by: General Manager

Reviewed by: Division Manager:



**R10** 

#### STAFF REPORT

#### **ENGINEERING & ENVIRONMENTAL SERVICES COMMITTEE MEETING OF JANUARY 25, 2012**

DATE:

January 18, 2012

FILE NO:

0870-20/CEA

FROM:

Harmony Huffman, Environmental Technologist

SUBJECT: Cowichan Energy Alternatives Regional Oil Collection Bins Funding Discussion

#### Recommendation/Action:

That the request for \$25,000 of funding by Cowichan Energy Alternatives, for installation of ten waste vegetable oil collection bins not be given further consideration in the 2012 budget process; and further, that the CVRD use funds within the core 2012 Solid Waste Management budget to purchase three waste vegetable oil collection bins from Cowichan Energy Alternatives, at a cost of \$2,500 each, to be located at existing CVRD recycling drop-off depots.

Relation to the Corporate Strategic Plan: Responsible Waste Management

Financial Impact: (Reviewed by Finance Division:

If adopted, this recommendation would result in a cost of \$7,500 to be taken from the 2012 Solid Waste Management budget.

#### **Background & Discussion:**

On October 26, 2011, a delegation from Cowichan Energy Alternatives (CEA) made a presentation to this Committee regarding a partnership with the CVRD to install ten regional collection bins for the purpose of collecting waste vegetable oil and diverting it from the waste stream and water/sewer systems. Collection bins were to be sited at several locations throughout the region, supplementing those already in place within the City of Duncan and the Town of Ladysmith. A cost of \$2,500 per bin was proposed, a small portion of which would also be used for educational purposes. A maximum of \$25,000 was requested for this project, which has been included as a supplemental item in the 2012 budget process.

Providing funding for the region-wide operations of an independent organization is beyond the scope of the CVRD's Solid Waste Management budget. Normally, such requests for support are addressed through the grant-in-aid process, although the CVRD regularly partners with external agencies to provide additional drop-off and collection capacity at CVRD recycling facilities (such clothing drop boxes recently installed at CVRD depots, in partnership with the Canadian Diabetes Society). The diversion of waste vegetable oil from the waste stream is in keeping with the CVRD's Zero Waste mandate and supports the 'one-stop-drop' approach to waste collection services. As such, staff recommend that three collection bins, at a cost of \$2,500 each, be purchased from CEA to be installed at existing CVRD recycling drop-off facilities. Consideration of additional funding for CEA, to support their regional operations, could be referred to the grantin-aid process.

Submitted\_by.

Harmony Huffman

**Environmental Technologist** 

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Reviewed by: Division Manager: oved\_by: al Managel



**R11** 

#### STAFF REPORT

#### **ENGINEERING & ENVIRONMENTAL SERVICES COMMITTEE MEETING OF JANUARY 25, 2012**

DATE:

17 January, 2012

FILE NO:

0870-20/CEA

FROM:

Bob McDonald, Manager, Recycling and Waste Management Division

**SUBJECT:** Fisher Road Recycling – Appeal Date

#### Recommendation/Action:

It is recommended that a Special Board meeting be held on Wednesday February 15. 2012 at 6:00 p.m. to hear an appeal by Fisher Road Recycling, as allowed for under CVRD Bylaw No. 2570 - Waste Stream Management Licensing Bylaw, 2004.

#### Relation to the Corporate Strategic Plan:

Sustainable Infrastructure: Responsible Waste Management

**Financial Impact:** (Reviewed by Finance Division: not required)

No directly related costs.

#### **Background:**

The above-noted bylaw regulates all private sector solid waste management facilities within the region. The authority for this regulation stems from the provincial Environmental Management Act (EMA) and allows for the CVRD to closely regulate the operation of such facilities. The current bylaw places decisions regarding regulation with CVRD staff, particularly with the 'Manager' of the Engineering and Environmental Services department.

If a decision of the Manager is not acceptable to the licensee, they are free to appeal that decision to the CVRD Board, which acts as the appeal mechanism. This is considered a necessary step before any Court action can commence. The Board may confirm, reverse, or vary the Manager's decision, or make any decision it feels is necessary regarding the appeal.

Fisher Road Recycling has issued a formal Notice of Appeal to the CVRD regarding such a decision. Details of the nature of the appeal will be forwarded to the Board at a later date, but at this time, a date must be set for the Board to hear the appeal. Although not required, the sooner the appeal can be heard, the better, given that the initial request for an appeal is several months old and has been delayed due to the recent election.

#### The two proposed dates are:

- 1. Wednesday, February 15, 6:00 p.m. Special Board meeting
- 2. Wednesday, March 14, 6:00 p.m. In addition to the regular Board meeting

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The appeal proceedings are in open session and involve presentations by the appellant, Fisher Road Recycling, and a CVRD staff representative, with an opportunity for rebuttals by each. Although permitted to be present, there is no opportunity for public input.

#### Discussion:

Considerations for the first meeting date are that there is a Municipality of North Cowichan Council meeting at 1:30 p.m., and it could run late and possibly conflict. However, this date also allows for a closed session immediately following the appeal hearing to possibly reach a decision. The second date would make for a long regular Board meeting, and given that there is expected to be significant public turnout, this may not be ideal or allow time for a close session meeting.

Submitted by,

**Bob McDonald** 

Manager, Recycling and Waste Management Division

KM:jlb

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