



PUBLIC HEARING REPORT
Bylaws No. 3564 and 3565

The following is a summary of the proceedings of the Public Hearing for Official Community Plan Amendment Bylaw No. 3564 and Zoning Amendment Bylaw No. 3565 (Van Isle Waterfront Development Corp.), applicable to Electoral Area I – Youbou/Meade Creek, held on Monday, May 27, 2013, at the Youbou Community Hall (Lower Hall), 8550 Hemlock Street, Youbou, B.C. at 7:02 p.m.

**HEARING
DELEGATES**

Director P. Weaver, Electoral Area I – Youbou/Meade Creek, Chair
Director I. Morrison, Electoral Area F – Cowichan Lake South/Skutz Falls
Director M. Dorey, Electoral Area G – Saltair/Gulf Islands

**CVRD STAFF
PRESENT**

Mr. R. Conway, Manager, Planning & Development Department
Ms. D. Leitch, Planner II, Planning & Development Department
Ms. L. Knodel-Joy, Senior Engineering Technologist, Engineering Services Department
Ms. J. Hughes, Recording Secretary, Planning & Development Department

Members of the Public:

There were 14 members of the public present.

CALL TO ORDER

Director P. Weaver chaired the Hearing and called the meeting to order. The Chair introduced the Hearing Delegates and CVRD staff present.

PROCEDURES

Ms. Leitch explained the requirements under Section 890 of the *Local Government Act*. She advised that notice of the Public Hearing was advertised in two consecutive issues of the *Lake Cowichan Gazette* (Wednesday, May 15, 2013 and Wednesday, May 22, 2013) and *Citizen* (Friday, May 17, 2013 and Wednesday, May 22, 2013) and letters had also been sent to adjacent owners and occupiers of the property as required by the *Local Government Act*.

Official Community Plan Amendment Bylaw No. 3564 proposes to amend Youbou/Meade Creek Official Community Plan Bylaw No. 2650 by adding a new Tourist Recreational Commercial Policy to the Official Community Plan that would permit the occupancy of the Cottages at Marble Bay to occur on a year-round basis. Bylaw No. 3564 would also add new development permit guidelines for the upland portion of the property that is currently undeveloped.

Zoning Amendment Bylaw No. 3565 proposes to amend Electoral Area I – Youbou/Meade Creek Zoning Bylaw No. 2465 by creating a new zone, the Lakeview Recreational Zone (LR-11), adding definitions for building footprint and recreational residence, and amending Schedule A (Zoning Map) to rezone Strata Plan VIS 5772, Block 180, Cowichan Lake District and Remainder of Lot 1, Block 180, Cowichan Lake District, Plan VIP78710 from C-4 (Tourist Commercial 4 Zone) to Lakeview Recreational 11 Zone.

If approved, OCP Amendment Bylaw No. 3564 and Zoning Amendment Bylaw No. 3565 would permit both seasonal and year round residency on the subject properties. Under the existing zoning, the cottages can only be occupied by any one individual or family for up to a maximum of 22 weeks in a calendar year.

A covenant would be in place that would prohibit further subdivision of the remainder of the lands until such a time as the subject properties become part of a CVRD Community Sewer System and a CVRD Community Water System. A covenant would also be in place regarding the establishment of an east-west trail corridor on the upland portion of the property that is undeveloped.

A public hearing was held for the subject amendment bylaws on October 18, 2012. In response to concerns raised at the hearing regarding traffic and road safety, the applicant has proposed a contribution of \$50,000 to be used for future road and intersection improvements or pedestrian safety upgrades. The contribution would be secured by a covenant and would be payable prior to subdivision of the undeveloped land. The CVRD Board has directed that a second public hearing be held so the public can comment on the contribution and the proposed amendment bylaws.

Ms. Leitch stated that 22 pieces of correspondence had been received at the CVRD office from the date the advertising was placed within the local newspapers to the close of the CVRD office today, May 27, 2013, at 4:30 p.m.

Ms. Leitch gave a Power Point Presentation (EXHIBIT 1) and stated the following:

Application No. 1-I-09RS (Cottages at Marble Bay) – Slide #1

- Rezoning Application was received by the CVRD in January, 2010 from Van Isle Waterfront Development Corporation.
- Applicant is requesting year-round occupancy of the Cottages at Marble Bay, which are comprised of 50 strata lots as well as the undeveloped upland remainder.
- Site is zoned Tourist Recreational Commercial 4, which allows high density if tourist accommodation is developed.
- CVRD wishes to ensure that any zoning approval given here also rationalizes the servicing.
- Sewer service to the existing 50 lots is presently a private utility (which was intended to be transferred to CVRD).
- Water service to the existing 50 lots is a private utility.
- CVRD has previously stated in writing to the applicant that no lots beyond 50 lots may be created until the existing and proposed lots are connected to a CVRD sewer system.
- Application provides an opportunity to resolve servicing issues as well as normalize the zoning with the actual use on the subject properties.

Subject Properties Map Slide - Slide #2

- Subject properties are located approximately 2 km from Youbou Road and are located in the Marble Bay area.
- Subject properties include 50 strata lots and an upland undeveloped remainder that is approximately 20 acres in size.
- To the north of the properties there are residential uses and some park uses.
- To the south is the Lake and some parkland.
- To the east is some residential lands and forestry lands.
- To the west there is some parkland and the Woodland Shores Residential Development.

Current Zoning – Slide #3

- Current zoning of the property is C-4 the Tourist Commercial 4 Zone.
- Zoning permits a wide variety of uses including: a recreation facility, hotel, motel, campground, a resort among other uses.
- Generally, this type of zoning is designed for tourists and recreational users and limits the occupancy of the users, in this case, the Cottages at Marble Bay to a maximum of 22 weeks per calendar year. This means that a family or persons visit or stay at any one time is limited to 22 weeks in a calendar year, and then a new family or person can occupy the cottages for 22 weeks and so on.
- Application has been made to change the zoning on these lands so that the occupants at the Cottages at Marble Bay can occupy their cottages for longer than 22 weeks in a calendar year, up to 52 weeks per calendar year if they wish to do so.
- New zone, called the Lakeview Recreational 11 Zone, is being proposed for the properties.

Official Community Plan Map Area - Slide #4

- Subject properties are designated Tourist Commercial in the Official Community Plan.
- With this rezoning application Planning Staff are proposing that the OCP designation for the subject properties remain tourist commercial
- Staff has included a new policy within the Tourist Commercial Policy Section of the Official Community Plan that would recognize year round occupancy at the cottages at Marble Bay.

Proposed Draft Covenants- Slide #5

Three covenants are being proposed with the rezoning application:

The first covenant is in regards to the dedication of a trail corridor on the northwest portion of the site that would connect lands in Marble Bay to the Woodlands Shores development which is located to the west of the subject properties.

The second covenant proposed would restrict subdivision and development on any remaining lands until these lands are brought within the boundaries of a community sewer service and a community water service area that are both owned and operated by the Cowichan Valley Regional District - with the exception of one recreational residence.

The third covenant would be registered to secure the proposed \$50,000 contribution (for future road and intersection improvements or pedestrian safety upgrades) that and this would be paid prior to subdivision of the undeveloped lands.

These covenants have been made available for the public at the back of the Hall.

Amendment Bylaw – Slide #6

Bylaw No. 3564 is the Official Community Plan Amendment Bylaw:

Amendment Bylaw proposes to add a new Policy to the existing list of Tourist Commercial Policies that would recognize occupancy of cottages on a year-round basis.

Amendment Bylaw also proposes to add a new development permit area called Water Management Development Permit Area in order to protect the environment and protect surrounding lands from impacts associated with the development of vacant undeveloped upland portion of the site.

Bylaw No. 3565 is the Zoning Amendment Bylaw:

Amendment Bylaw proposes to rezone the existing 50 strata lots along with the vacant upland area lands to a new zone called the Lakeview Recreational 11 Zone.

Zone is a recreational zone that would permit occupancy of the cottages on both a seasonal or year round basis beyond the 22 weeks per calendar year so the occupancy of the cottages at Marble Bay would not be limited to 22 weeks in a calendar year if this zoning was implemented on the site.

Just a couple of key things about the new proposed zoning:

This is a recreational zone, not a residential zone; this zone would permit occupancy of the cottages at Marble Bay for longer than 22 weeks for a person or family in a calendar year.

Recreational residence is defined as a building similar to single family residences which may be occupied both seasonally and on a year round basis.

Another thing about this new Zone is that it includes a servicing excerpt that states that all parcels in the LR-11 Zone shall be connected to a community water and community sewer system.

Both Amendment Bylaws have been made available for the public at the back table.

Process to date and next steps – Slide #7

- Application was reviewed by the Electoral Area I APC in both March and April 2012
- APC recommended that the application go to a Public Hearing.
- EASC reviewed the application in May 2012 and recommended that the application be referred to a Public Meeting.
- Public Meeting was held on May 24, 2012.
- Application was referred back to the EASC in June 2012.
- EASC recommended that the draft Amendment Bylaws be forwarded to the Regional Board for First and Second Readings and that the application move forward to a Public Hearing.
- Public Hearing for the application was held on October 18, 2012.
- Application was forwarded to the CVRD Board on December 12, 2012.

Process to Date and Next Steps – Slide #8

- Board referred the application to staff and to the EASC in order for staff to look at options for addressing road and intersection issues raised at the October 18, 2012, Public Hearing.
- Application was considered by the EASC in January 2013.
- EASC recommended a second Public Hearing be held so the public could provide input on the proposed intersection contribution and Amendment Bylaws.
- Board ratified this recommendation on March 13, 2013.

Next Steps

After the Public Hearing the Bylaws will be forwarded to the Regional Board along with the Public Hearing Minutes and the Regional Board will determine if the Amendment Bylaws receive Third Reading and Adoption.

Lot 3 Covenant Release

- In conjunction with the Rezoning Application the applicants have also applied to discharge a Covenant over Lot 3 and Block 180.
- Lot 3 is surrounded by the first 50 lots of the Marble Bay development but is not part of the strata plan and is not part of a reserve area under the *Municipal Sewage Regulation* for the 50 lots that already exist.

Ms. Leitch concluded her presentation by stating that copies of both Amendment Bylaws and the draft covenants were available at the back of the Hall.

Correspondence

The following items were received and are attached to the Minutes as Exhibits:

- 1) CVRD Power Point Presentation (EXHIBIT 1);
- 2) Email dated May 20, 2013, from Roy Chambers (EXHIBIT 2);
- 3) Email response from Rob Conway, Manager, Development Services Division, Planning & Development Department to Rob Chambers dated May 21, 2013, (EXHIBIT 3);
- 4) Email dated May 24, 2013, from Brent and Evelyn Beaton (EXHIBIT 4);
- 5) Email dated May 26, 2013, from Warren Little, PHD, P.Eng. (Retired) (EXHIBIT 5);
- 6) Email dated May 26, 2013, from Drew & Karla Barnes (EXHIBIT 6);
- 7) Email dated May 27, 2013, from Arlene Rutherford & Terry Lunn (EXHIBIT 7);
- 8) Email dated May 27, 2013, Alexander and Betty Miller (EXHIBIT 8);
- 9) Email dated May 27, 2013, from Roy Chambers (EXHIBIT 9);
- 10) Fax dated May 27, 2013, from Dave Mills and Pauline Mills (EXHIBIT 10);
- 11) Email dated May 27, 2013, from Patrick Miller (EXHIBIT 11);
- 12) Email dated May 27, 2013. From Rod Peters, Lake Cowichan Home Centre Ltd (EXHIBIT 12);
- 13) Email dated May 27, 2013, from Robert & Heather Parker (EXHIBIT 13);
- 14) Email dated May 27, 2013, from Chris Yost (EXHIBIT 14);
- 15) Email dated May 27, 2013, from Julie Swift, VI Modular Homes Ltd. (EXHIBIT 15);
- 16) Email dated May 27, 2013, from Stew Millett (EXHIBIT 16);
- 17) Email dated May 27, 2013, from Doug & Lonni Swanlund (EXHIBIT 17);
- 18) Email dated May 27, 2013, from Linda Irvine (EXHIBIT 18);
- 19) Email dated May 27, 2013, from John Morris (EXHIBIT 19);
- 20) Email dated May 27, 2013, from Cindy and Rick Balfour (EXHIBIT 20);
- 21) Email dated May 27, 2013 and attached letter dated May 27, 2013, from J. Allan McLaren, Seaboard Mortgage Corporation (EXHIBIT 21);
- 22) Email dated May 27, 2013, from John Dewar (EXHIBIT 22);
- 23) Email dated May 27, 2013, from Pat Duringer, RE/MAX of Lake Cowichan (EXHIBIT 23);
- 24) Email dated May 27, 2013, from Bill and Bernice Dixon (EXHIBIT 24);
- 25) Email dated May 27, 2013, from Derrice and John Knight (EXHIBIT 25).

Location of the File

Director Weaver advised that the Information Binder was available for review at the back of the Hall along with copies of the proposed Amendment Bylaws and advised that any letters or submissions which were to be included as part of the Public Hearing record must be received at the front table prior to the close of the Public Hearing.

**APPLICANT,
Rick Bourque/Van
Isle Waterfront
Development Corp.**

Joe Bourque and Rick Bourque, applicants, were present with regard to Rezoning Application No. 1-I-09RS.

Joe Bourque, President, Van Isle Waterfront Development Corp. stated the following:

- The meeting is to listen to public comments and answer any questions with regard to the proposed amendments.

QUESTION PERIOD

Chair Weaver opened the public question period of the Public Hearing. She stated that the Public Hearing Delegates and staff members could answer questions at this time, and that after the close of the Question Period and the opening of the official Public Hearing there could be no questions taken, only comments received.

Speaker

- When is the next meeting where the Board will deal with the application?

Rob Conway

- After the close of the Hearing the Minutes will be prepared and when ready they will be forwarded onto a future Regional Board Agenda which will likely be the July Board meeting.

Director Weaver

- Asked that when speakers ask a question or make comment they give their name and address for the official record.

Speaker

- Application has been in the works for quite a long time and hopes it moves ahead quickly as the whole area is falling apart.

Director Weaver

- This is the question period of the Public Hearing and comments should be made during the official comments section of the Hearing.

Speaker

- Why is the Board letting the area fall apart?

Director Weaver

- Regional Board is not letting the area fall apart, they are helping the area.

Speaker

- Whole area is falling apart because the Board cannot make a decision whether to proceed or not.

Director Weaver

- After the close of the first Public Hearing the applicant brought forward the \$50,000. contribution for future road safety improvements and that was considered to be new information received which then required that a second Public Hearing be held.
- Understands the public's frustration with the process.

Mike Lailey

- One of the owners in the subdivision.
- What are the covenant stipulations regarding building and foundation size?

Dana Leitch

- Asked if the question is about the present covenant or the proposed zoning of the property?
- Covenant presently registered on the property limits the footprint to 1,100 sq. ft. and it will remain on the property.

Mike Lailey

- Is it a reinforcement of the existing zoning?

Dana Leitch

- Yes, the proposed Amendment Bylaw states 105 sq. m. for the footprint area which is consistent with the Covenant registered on title.

- Director Weaver** ➤ Asked for further questions from the public regarding Official Community Plan Amendment Bylaw No. 3564 and Zoning Amendment Bylaw No. 3565.
- Rob McCowan** ➤ Lot 10, Marble Bay Cottages.
➤ What are the plans for the \$50,000. that are being set aside for future road improvements?
- Rob Conway** ➤ The intent of the Covenant is that it will be used for traffic or pedestrian improvements.
➤ The CVRD does not control roads and are not able to take money for road improvements. The Covenant has been prepared and reviewed, with legal advice. It states the developers are restricted from subdividing until they have spent up to \$50,000. in road improvements. If that is not possible due to the Ministry of Transportation not permitting it or there is not a project available at that time for the money to go to there is a fall back that states the \$50,000. could go towards the Area I Parks function with the intent of that money being used for trail and pedestrian improvements. It is hoped that the money will be used for the road issue but if that is not possible it will be used for pedestrian trail improvements.
- Director Weaver** ➤ Good question as she would also like to see it attached to something else and not left out there.
- Director Dorey** ➤ What is the process to actually use the money? Does the improvement plan come forward from the developer or by the CVRD Parks Division and then does it go to the Electoral Area Services Committee (EASC) for approval to see whether it is an appropriate way to spend that money?
- Rob Conway** ➤ If the contribution were to end up in the Parks function the Regional Board would ultimately decide where that money would go and if it was used for traffic improvements it would be up to the Ministry of Transportation.
- Joe Bourque** ➤ He would also like to have a say as to where that money should go.
- Rob Conway** ➤ Prior to subdivision the developer would have to be in communications with both the CVRD and Ministry of Transportation and it would likely be worked out during that stage.
➤ A bit unsure at this point in time as to when those phases would occur. Woodland Shores may be further advanced in which case they may pick up the bulk of the improvements or perhaps there may be an opportunity for the Woodland Shores developers and the subject developers to partner together to do some of the improvements.
➤ At this stage the CVRD is only trying to tie down the \$50,000. contribution but noted where that money ultimately ends up is still to be determined.
- Director Weaver** ➤ Is there a stipulation in the Covenant that states the money should be used in the Marble Bay area as that money is coming forward from this development application?
- Rob Conway** ➤ Intent is that it be used for local road network improvements and the Covenant is not specific as to where it has to be used, for example, possibly the Youbou/Meades Creek intersection.
- Director Weaver** ➤ Asked for further questions from the public present regarding the proposed Amendment Bylaws.

- Evelyn Lailey**
- Lot 17, Marble Bay.
 - When will the Board be making their decision?
- Director Weaver**
- Public Hearing Minutes will likely be forwarded to the July Board meeting.
- Rob Conway**
- Clarified that there are two Board meetings in July and fully expects the Minutes would be ready for one of those meetings. It is up to the Board at that point as to what direction they are going with the Amendment Bylaws.
- Evelyn Lailey**
- Is it still open ended?
- Rob Conway**
- Yes, still open ended as it is up to the Board as to how they are going to deal with the application and bylaws. The most the Board could do in July is to consider giving the Bylaws Third Reading as the Covenants would need to be registered prior to adoption of the Bylaws.
- Evelyn Lailey**
- Is there a statutory time limit when the Board must make a decision on an application?
- Rob Conway**
- No statutory time limit as to when the Board has to make a decision on an application.
- Director Morrison**
- The need for the 2nd Public Hearing is regulation driven as the applicants brought forward the contribution of \$50,000. for road improvements after the close of the 1st Public Hearing. Legally when a Public Hearing is officially closed the Regional Board Directors cannot receive any new information.
 - Road safety issues were an issue during the 1st Public Hearing and after the close of that 1st Public Hearing it was the applicant's who brought forward the \$50,000. contribution for road safety improvements to the Regional District to be entertained and that was considered as new information being received which then legally forced the application to go back to the Public Hearing stage.
 - Directors are in attendance at this Public Hearing to listen to community concerns and what the thoughts are around the \$50,000. contribution.
 - When the Bylaws go back to the Regional Board for a decision he does not know which way the Board will decide.
 - CVRD Board of Directors wants to deal with the issue in as short order as they possibly can and also ensuring they do an effective job in making the decision.
- Evelyn Lailey**
- Board is quite impartial as to whether or not that \$50,000. contribution is enough to satisfy the community?
- Director Morrison**
- Three Directors at the Public Hearing are there to listen to what the community has to say.
 - All Electoral Area Directors will receive the Public Hearing Minutes and Exhibits from the Public Hearing and they will review them prior to making any decision on the proposed Bylaws.
- Evelyn Lailey**
- Were people at the previous Public Hearing most concerned about road traffic and safety issues in the Marble Bay area?
- Director Weaver**
- What she heard at the October Public Hearing was that road safety and traffic issues were the biggest issues. After the close of that October Public Hearing the applicant offered the \$50,000 contribution for road safety

improvements which then brought the Hearing back to a 2nd Public Hearing.

- Evelyn Lailey**
- Has not yet heard from anyone at the Hearing about that \$50,000. contribution and what that money should be used for.
 - Is that contribution going to be used to base the decision on the application?
- Director Weaver**
- Depends on what is stated at the Public Hearing.
- Evelyn Lailey**
- In favour of the \$50,000. being enough money going toward road traffic safety issues in the area.
- Director Weaver**
- Public Hearing is still in the question period and that official comments should be made during the comment section of the Public Hearing.
- Director Weaver**
- Asked for further questions from the public present three times regarding Official Community Plan Amendment Bylaw No. 3564 and Zoning Amendment Bylaw No. 3565.
- PUBLIC COMMENTS**
- The Public Hearing was then opened to those members of the public present who deemed themselves affected by the proposed Amendment Bylaws. Chair Weaver reminded the public that the Information Binder was available for review at the back of the Hall along with copies of the proposed Amendment Bylaws and draft Covenants, and that all submissions must be received at the head table prior to the close of the Public Hearing.
- Evelyn Lailey**
- Lot 17, Kestral Drive, Marble Bay
 - In favour of the proposed rezoning going ahead.
- Rod Peters**
- 258 River Road
 - Owns Lake Cowichan Home Centre (Irly Bird)
 - Has a vested interest in the application as it enhances his business from the people buying materials.
 - Quite disappointed to see the amount of time and frustration the Bourque's have had to go through with this process. Seems that the Government levels in this area, CVRD and Town of Lake Cowichan, are not working fast enough to develop the area as it has deteriorated.
 - Business is booming in building permits but the number of regulations and bureaucracy that are holding applications up is scary and things could be done faster.
 - Disappointed in the CVRD and Town of Lake Cowichan as they are making it really difficult for people to build our community, even though they are not against the community, they are making it really tough for the community to grow.
 - Faster this application goes through the better it will be for the community as a whole.
- Mike Lailey**
- Lot 17, Marble Bay
 - All of the developments in the Marble Bay area have gone through a development review process and have received approval as developments.
 - As far as Marble Bay is concerned the development is a 22 week residency or occupancy but noted it can still be occupied up to 52 weeks a year by different people.
 - Roads, sewer and development review have already been put forward and the issue before them is whether or not they will be permitted to live on site 52 weeks a year instead of 22 weeks.


- Application does not have to do with \$50,000. as the number of people going up and down the road will be the same.
 - Application should go forward, make the change and carry on with life.
- Nasim Charnia**
- Operates her Real Estate Office in Lake Cowichan.
 - Has been marketing some of the properties in the development and there have been difficulties selling some of them due to the 22 week occupancy restriction.
 - Hopes the rezoning goes through quickly and supports the application.
- Roy Chambers**
- 9232 Kestral Drive
 - Joe Bourque gave the CVRD 800 acres for parkland which is about a Million Dollars and now he has to cough up another \$50,000. which he stated is highway robbery and blackmail?
- George deLure**
- 9808 Miracle Way
 - He is the advocate that brought up the complaints of the road and intersection at Meades Creek.
 - Has had in-depth conversations with Rick Bourque and understands a little more of the current situation.
 - Does not think the \$50,000. should be in the hands of the CVRD, it should be in the hands of a community based organization so they can use it to enhance the community, with the setup of funds as a 5-1 ratio for uses, as an example, the Youbou truck wash, Lake Stewardship request for money, a signage project or a possible flashing light at the Youbou/Meades Creek Road intersection.
- Director Weaver**
- Asked for further comments or submissions with regard to the proposed Amendment Bylaws.
- George DeLure**
- Precedent is being set in this application and he would like to see Woodland Shores treated in the same respect as these applicants regarding how the \$50,000. was attained.
- Mike Lailey**
- The developments that are in the area are going to impact traffic in the neighbourhood and the roads will have to be possibly widened by 1-2 feet and trees will have to be removed.
 - Has owned his property, which does not yet have a house on it, for 5 years and there will be further increases in traffic within the neighbourhood in the future and advised that \$50,000. will not cover the demand for road improvements that are needed. Other than the normal tax base there should not be any other tax put onto the public road improvements needed in the area.
- ADJOURNMENT**
- Chair Weaver asked for public comments or submissions three times from the public present regarding Official Community Plan Amendment Bylaw No. 3564 and Zoning Amendment Bylaw No. 3565.
- Chair Weaver declared the Public Hearing closed at 7:42 p.m.

CERTIFICATION:

We attended the Public Hearing on Monday, May 27, 2013, and hereby certify that this is a fair and accurate report of the Public Hearing.


Director P. Weaver, Chair

Date June 25/13


Director I. Morrison

Date June 24, 2013


Director M. Dorey

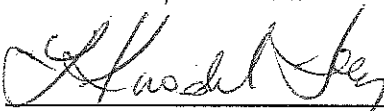
Date June 24, 2013


Rob Conway, Manager

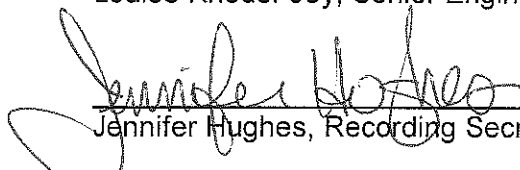
Date June 20, 2013


Dana Leitch, Planner II

Date June 24, 2013


Louise Knodel-Joy, Senior Engineering Technologist

Date June 25, 2013


Jennifer Hughes, Recording Secretary

Date June 21, 2013.