



C·V·R·D

COWICHAN VALLEY REGIONAL DISTRICT

COWICHAN VALLEY REGIONAL HOSPITAL DISTRICT

NOTICE OF REGULAR BOARD MEETING

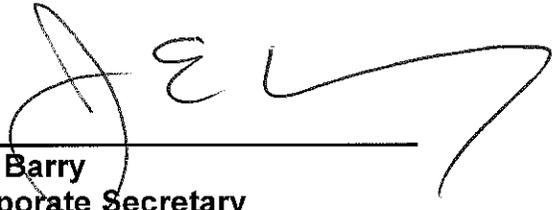
DAY: **WEDNESDAY**

DATE: **FEBRUARY 9, 2011**

TIME: **→** **CLOSED SESSION**
5:00 PM
REGULAR SESSION
6:00 PM

PLACE: **BOARD ROOM**

175 INGRAM STREET



Joe Barry
Corporate Secretary



REGULAR BOARD MEETING

WEDNESDAY, FEBRUARY 9, 2011

5:00 PM – CLOSED SESSION / 6:00 PM – REGULAR SESSION

AGENDA

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12. NEW BUSINESS:**13. QUESTION PERIOD:**

- a) Public
- b) Press

14. CLOSED SESSION:

Motion that the meeting be closed to the public in accordance with the Community Charter Part 4, Division 3, Section 90, Subsections as noted in accordance with each agenda item.

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15. ADJOURNMENT:

The next Regular Board meeting will be held March 9, 2011 at 6:00 p.m., in the Board Room, 175 Ingram Street, Duncan BC.

Minutes of the Regular meeting of the Board of the Cowichan Valley Regional District held in the Board Room, 175 Ingram Street, Duncan, BC, on Wednesday, January 12, 2011 at 6:00 pm.

PRESENT: Chair G. Giles,
Directors K. Cossey, M. Dorey, L. Duncan,
B. Harrison, D. Haywood, R. Hutchins,
L. Iannidinardo, P. Kent, K. Kuhn, M. Marcotte,
T. McGonigle, I. Morrison, G. Seymour and T. Walker

ALSO PRESENT: Warren Jones, Administrator
Joe Barry, Corporate Secretary
Ron Austen, General Manager,
Parks, Recreation and Culture
Kate Miller, Manager, Regional Environmental Policy
Jacob Ellis, Manager, Corporate Planning

GUEST: Chief Lydia Hwitsum

Chair Giles welcomed Chief Lydia Hwitsum to the meeting and invited Chief Hwitsum, Directors Kent and Walker to sign an Integrated Flood Management Memorandum of Understanding for the Lower Cowichan and Koksilah Rivers.

After the signing of the Memorandum of Understanding, Chief Hwitsum and Directors Kent and Walker commented on the historic significance of working together to implement integrated flood management on the Lower Cowichan and Koksilah Rivers.

APPROVAL OF AGENDA

11-001

It was moved and seconded that the agenda be amended with the:

Deletion of Agenda Item CR3 – Kerry Park Recreation Commission Report and Recommendation of Meeting of January 6, 2011

and the addition of New Business items:

NB1 Appointment to the Electoral Area C – Cobble Hill Advisory Planning Commission

NB2 Appointments to the Electoral Area F – Cowichan Lake South/ Skutz Falls Advisory Planning Commission

NB3 Appointment to the Agricultural Advisory Committee and

NB4 Appointments to the Cowichan Lake Recreation Commission,

and that the agenda, as amended, be approved.

MOTION CARRIED

ADOPTION OF MINUTES

11-002 It was moved and seconded that the minutes of the December 8, 2010 Board meeting be adopted.

MOTION CARRIED

DELEGATIONS

D1 Judy Brayden, Cowichan Valley Arts Council
Re: Description of CVAC's Strategic Direction for 2011 – 2016 and to Seek a Financial Contribution for the Council's 2011 Fiscal Year.

Judy Brayden provided an overview of the Cowichan Valley Arts Council and its activities, and asked the Board to consider their request for a grant in aid of \$27,000 to be included in the 2011 CVRD budget.

11-003 It was moved and seconded that consideration of the Cowichan Valley Arts Council request for a Regional Grant-in-Aid for \$27,000 be referred to Budget deliberations.

MOTION CARRIED

D2 William Dumont, FARMS South Cowichan
Re: Proposed South Cowichan Waste and Recycling Station on Cameron Taggart Road.

William Dumont advised that his presentation would take more than the allotted 10 minutes.

11-004 It was moved and seconded that the Board approve extending the length of the FARMS delegation time limit from 10 minutes to 20 minutes.

MOTION CARRIED

The presentation on behalf of the Friends Against Rubbish Management Site (FARMS) requested the CVRD reconsider its decision to develop the property on Cameron Taggart Road (Area B – Shawnigan Lake) as an EcoDepot and detailed FARMS objections to the process and the proposed use of the site.

REPORT OF CHAIRPERSON

RC1 The Chair provided an overview of the 2011 CVRD Standing Committee appointments.

The **2011 CVRD Standing Committee** appointments are listed for information:

2011 STANDING COMMITTEES**REGIONAL SERVICES COMMITTEE:**

Director P. Kent, Chair	Director L. Iannidinardo
Director R. Hutchins, Vice Chair	Director K. Kuhn
Director K. Cossey	Director M. Marcotte
Director M. Dorey	Director T. McGonigle
Director L. Duncan	Director I. Morrison
Director G. Giles	Director G. Seymour
Director B. Harrison	Director T. Walker
Director D. Haywood	

ELECTORAL AREA SERVICES COMMITTEE:

Director L. Iannidinardo, Chair	Director G. Giles
Director B. Harrison, Vice Chair	Director K. Kuhn
Director K. Cossey	Director M. Marcotte
Director M. Dorey	Director I. Morrison
Director L. Duncan	

ENGINEERING & ENVIRONMENTAL SERVICES COMMITTEE:

Director K. Cossey, Chair	Director D. Haywood
Director K. Kuhn, Vice Chair	Director L. Iannidinardo
Director M. Dorey	Director P. Kent
Director L. Duncan	Director M. Marcotte
Director G. Giles	Director I. Morrison
Director B. Harrison	

PARKS COMMITTEE:

Director M. Dorey, Chair	Director B. Harrison
Director I. Morrison, Vice Chair	Director D. Haywood
Director K. Cossey	Director L. Iannidinardo
Director L. Duncan	Director P. Kent
Director G. Giles	Director K. Kuhn

TRANSIT COMMITTEE:

Director G. Seymour, Chair	Director D. Haywood
Director I. Morrison, Vice Chair	Director L. Iannidinardo
Director K. Cossey	Director P. Kent
Director L. Duncan	Director K. Kuhn
Director G. Giles	Director T. McGonigle
Director B. Harrison	

HEALTH ADVISORY COMMITTEE:

Director G. Seymour, Chair	Director R. Hutchins
Director M. Marcotte, Vice Chair	Director L. Iannidinardo
Director M. Dorey	Director P. Kent
Director G. Giles	

COMMUNITY SAFETY ADVISORY COMMITTEE:

- Director K. Kuhn, Chair
- Director L. Iannidinardo, Vice Chair
- Councillor J. Koury, District of North Cowichan
- Councillor T. Duncan, City of Duncan
- Councillor J. Ingram, Town of Lake Cowichan
- Councillor J. Dashwood, Town of Ladysmith
- Councillor L. Evans (Alternate), Town of Ladysmith
- Theresa Gerritsen, Cowichan Women Against Violence Society
- Jim Harnden, Cowichan Independent Living
- Corporal Kevin Day, RCMP
- Constable M. Lueder (Alternate), RCMP
- Candace Spilsbury, Cowichan Valley School District No. 79
- Michelle Nowzek, Social Planning Cowichan
- Carol-Ann Rolls, Community Policing
- Michelle Bell, Community Representative
- Bruce Ingram, Community Representative

TREATY ADVISORY COMMITTEE:

- Director L. Duncan, Chair (TAC Rep)
- Director T. Walker, Vice Chair (TAC Alt)
- Director G. Giles
- Director R. Hutchins
- Director P. Kent

COMMUNICATIONS COMMITTEE:

- Director B. Harrison, Chair
- Director R. Hutchins, Vice Chair
- Director G. Giles
- Director K. Kuhn
- Director M. Dorey
- Director L. Duncan
- Director P. Kent
- Director I. Morrison

COMMUNITY RECOGNITION COMMITTEE:

- Director K. Kuhn, Chair
- Director L. Iannidinardo, Vice Chair
- Director R. Hutchins
- Director M. Dorey
- Director G. Giles

REGIONAL RECREATION COMMITTEE:

- Director T. McGonigle, Chair
- Director G. Giles, Vice Chair
- Director T. Walker
- Director B. Harrison
- Director R. Hutchins

RC1a

2011 COMMISSION APPOINTMENTS

11-005

It was moved and seconded that the following appointments to the Economic Development Commission be approved:

Appointed for a Term to Expire November 30, 2011:

- Director P. Kent**
- Director I. Morrison**

MOTION CARRIED

11-006 It was moved and seconded that the following appointments to the Environment Commission be approved:

Appointed for a Term to Expire November 30, 2011:

Director R. Hutchins
Director P. Kent
Director T. Walker

MOTION CARRIED

RC1b **2011 NON-CVRD COMMITTEES/AUTHORITIES APPOINTMENTS**

11-007 It was moved and seconded that the following appointments to the Cowichan Communities Health Network Planning Group be approved:

Appointed for a Term to Expire November 30, 2011:

Director R. Hutchins
Director P. Kent
Director L. Iannidinaro

Director G. Giles
Director G. Seymour

MOTION CARRIED

11-008 It was moved and seconded that the following appointment to the Island Corridor Foundation (ICF) to replace W.J. (Jack) Peake be approved:

Appointed for a Term to Expire November 30, 2011:

Director K. Kuhn

MOTION CARRIED

RC2 **DRAFT 2011 CVRD COMMITTEE CALENDAR**

11-009 It was moved and seconded that the 2011 CVRD Committee Calendar be approved.

MOTION CARRIED

11-010 It was moved and seconded that the August 10, 2011 Board meeting be rescheduled to August 3, 2011.

Opposed: Director Seymour

MOTION CARRIED

CORRESPONDENCE

C1 Correspondence from the Union of British Columbia Municipalities (UBCM) announcement re: Province-wide Community to Community Forum to be held Tuesday, March 1, 2011 was provided for information.

C2 Director Dorey
Re: Chemainus Secondary Grant-In-Aid Request

11-011 It was moved and seconded that a grant-in-aid (Area G) be given to Chemainus Secondary in the amount of \$500. for a Saltair Community Bursary.

MOTION CARRIED

C3 Director Cossey
Re: Cowichan Station Area Association Grant-In-Aid Request

11-012 It was moved and seconded that a grant-in-aid (Area B) be given to the Cowichan Station Area Association in the amount of \$5,000. to assist with gym roof repairs for the Cowichan Station Hub Project.

MOTION CARRIED

C4 Director Harrison
Re: Cowichan Therapeutic Riding Association Grant-In-Aid Request

11-013 It was moved and seconded that a grant-in-aid (Area A) be given to the Cowichan Therapeutic Riding Association in the amount of \$1,500. to assist with expenses to feed and care for the therapeutic horses.

MOTION CARRIED

C5 Director Cossey
Re: Cowichan Therapeutic Riding Association Grant-In-Aid Request

11-014 It was moved and seconded that a grant-in-aid (Area B) be given to the Cowichan Therapeutic Riding Association in the amount of \$1,000. to assist with expenses to feed and care for the therapeutic horses.

MOTION CARRIED

C6 Director Giles
Re: Cowichan Therapeutic Riding Association Grant-In-Aid Request

11-015 It was moved and seconded that a grant-in-aid (Area C) be given to the Cowichan Therapeutic Riding Association in the amount of \$500. to assist with expenses to feed and care for the therapeutic horses.

MOTION CARRIED

C7 Director Iannidinardo
Re: Cowichan Therapeutic Riding Association Grant-In-Aid Request

11-016 It was moved and seconded that a grant-in-aid (Area D) be given to the Cowichan Therapeutic Riding Association in the amount of \$500. to assist with expenses to feed and care for the therapeutic horses.

MOTION CARRIED

- C8 Director Giles
Re: The Cowichan Spirit of Women Grant-In-Aid Request
- 11-017 **It was moved and seconded that a grant-in-aid (Area C) be given to The Cowichan Spirit of Women in the amount of \$250. to assist with the operation of the Womens Resource Centre.**
- MOTION CARRIED
- C9 Director Cossey
Re: Cowichan Family Caregivers Support Society Grant-In-Aid Request
- 11-018 **It was moved and seconded that a grant-in-aid (Area B) be given to the Cowichan Family Caregivers Support Society in the amount of \$2,000. to aid with the delivery of a caregivers support program.**
- MOTION CARRIED
- C10 Director Cossey
Re: Cowichan Food Connection Society Grant-In-Aid Request
- 11-019 **It was moved and seconded that a grant-in-aid (Area B) be given to the Cowichan Food Connection Society in the amount of \$500. to help support the "Bread Van".**
- MOTION CARRIED
- C11 Director Giles
Re: Frances Kelsey School Grant-In-Aid Request
- 11-020 **It was moved and seconded that a grant-in-aid (Area C) be given to Frances Kelsey School in the amount of \$1,500. to provide three Area C awards.**
- MOTION CARRIED
- C12 Director Giles
Re: Cowichan Secondary School Grant-In-Aid Request
- 11-021 **It was moved and seconded that a grant-in-aid (Area C) be given to Cowichan Secondary School in the amount of \$1,000. for one Area C Bursary.**
- MOTION CARRIED
- C13 Director Giles
Re: Cowichan Family Caregivers Society Grant-In-Aid Request
- 11-022 **It was moved and seconded that a grant-in-aid (Area C) be given to the Cowichan Family Caregivers Society in the amount of \$500. to assist in caregiving efforts.**
- MOTION CARRIED

Director Iannidinardo requested the Board allow the consideration of three additional grant-in-aid requests which was granted.

- C14 Director Iannidinaro
Re: Cowichan Secondary School Grant-In-Aid Request
- 11-023 **It was moved and seconded that a grant-in-aid (Area D) be given to Cowichan Secondary School in the amount of \$1,000. for two Area D Bursaries.**
- MOTION CARRIED**
- C15 Director Iannidinaro
Re: Frances Kelsey School Grant-In-Aid Request
- 11-024 **It was moved and seconded that a grant-in-aid (Area D) be given to Frances Kelsey School in the amount of \$1,000. for two Area D Bursaries.**
- MOTION CARRIED**
- C16 Director Iannidinaro
Re: Cowichan Family Caregiver Support Society Grant-In-Aid Request
- 11-025 **It was moved and seconded that a grant-in-aid (Area D) be given to the Cowichan Family Caregiver Support Society in the amount of \$500. to aid with the delivery of a caregivers support program.**
- MOTION CARRIED**

COMMITTEE REPORTS

- CR1 The report and recommendation of the Engineering & Environmental Services Committee meeting of November 24, 2010 listing one item, were considered.
- 11-026 **It was moved and seconded that, as requested by the Town of Lake Cowichan, a *critical location* streetlight be installed at the corner of South Shore Road and the entrance road to the Lakeview Campground and Cowichan Lake Education Centre in Electoral Area F – Cowichan Lake South/Skutz Falls, and further that all capital costs are to be borne by the Town of Lake Cowichan.**
- MOTION CARRIED**
- CR2 The report and recommendations of the Cowichan Lake Recreation Commission meeting of December 16, 2010 listing two items were considered.
- 11-027 **It was moved and seconded:**
- 1. That the Board authorize staff to proceed with the application process for Canadian Heritage Celebrate Canada Funding and Canada's New Multi-Cultural Grants and Contribution Program, and further that the Chair and Corporate Secretary be authorized to sign the applications and enter into the agreements on behalf of the CVRD.**

2. That the Board approve the renewal of the Joint Facilities Use Agreement between Cowichan Valley School District No. 79 and the CVRD with the agreement to expire December 31, 2015, and further that the Chair and Corporate Secretary be authorized to sign the agreement on behalf of the CVRD.

MOTION CARRIED

CR3 Deleted upon Adoption of Agenda as amended.

STAFF REPORTS

SR1 The Staff Report from the Manager, Finance Division dated December 17, 2010 re: Interim Borrowing for the Regional District was considered.

11-028 **It was moved and seconded that the Finance Division be authorized to proceed with Interim Borrowing through the Municipal Finance Authority in an amount not to exceed \$11,000,000. for operational purposes only and that CVRD Bylaw No. 3456 Cowichan Valley Regional District 2011 Revenue Anticipation Borrowing Bylaw be considered for three readings and adoption.**

MOTION CARRIED

SR2 The Staff Report from the Manager, Parks and Trails Division dated December 20, 2010 re: Extension of Infrastructure Stimulus Funding for Historic Kinsol Trestle Project was considered.

11-029 **It was moved and seconded that:**

WHEREAS the federal and provincial governments will make a one-time extension of the deadline for funding projects under the Building Canada Fund – Communities Top-Up from March 31, 2011 to October 31, 2011;

AND WHEREAS all funding from the Government of Canada and the Province will cease after October 31, 2011;

AND WHEREAS the Cowichan Valley Regional District has asked the provincial government for an extension to October 31, 2011 for the Kinsol Trestle Rehabilitation Project (Project #25959);

THEREFORE be it resolved that the Cowichan Valley Regional District attests that it will continue to contribute its share of the required funding for the aforementioned project;

AND BE IT FURTHER RESOLVED that actual claims for all eligible costs incurred by March 31, 2011, for the aforementioned project must be and will be submitted no later than April 15, 2011 to the Province;

AND BE IT FURTHER RESOLVED that the Cowichan Valley Regional District will ensure the project will be completed.

MOTION CARRIED

SR3 The Staff Report from the Manager, Corporate Planning dated January 5, 2011 re: Usage Study of Recreation Facilities was considered.

11-030 It was moved and seconded that staff be directed to engage the services of an independent consultant to conduct a usage study of the nine (9) regionally significant recreation facilities in the Cowichan Region consisting of:

1. Cowichan Aquatic Centre
2. Cowichan Lake Sports Arena
3. Cowichan Sportsplex
4. Cowichan Theatre
5. Frank Jameson Community Centre
6. Fuller Lake Arena
7. Island Savings Centre
8. Kerry Park Recreation Centre
9. Shawnigan Lake Community Centre.

Opposed Director Marcotte

MOTION CARRIED

SR4 The Staff Report from the General Manager, Corporate Services Department dated December 22, 2010 re: Mill Bay Ferry was considered.

11-031 It was moved and seconded:

1. That the Board send a letter of support for the Mill Bay/ Brentwood Ferry to the Premier of BC, the Minister of Transportation and Infrastructure, and to the BC Ferries CEO expressing the significance of this route to the community and the importance of its continuation.
2. That a letter be sent to the BC Ferries requesting the establishment of an advisory committee comprising of members from Mill Bay and Brentwood Bay communities.

MOTION CARRIED

SR5 The Staff Report from the Manager, Regional Environmental Policy Division dated January 6, 2011 re: Climate Action Revenue Incentive Program (CARIP) was considered.

11-032 It was moved and seconded that the Board receive the attached information in fulfillment of the BC Climate Action Charter public reporting process for the 2010 period and further, that the revenue generated by the participation in the incentive program (CARIP) be set aside to assist in the development of a refined corporate CVRD GHG action plan in 2011.

MOTION CARRIED

BYLAWS

**B1
11-033** It was moved and seconded that “CVRD Bylaw No. 3446 – Saltair Community Parks Service Amendment Bylaw, 2010”, be adopted.

MOTION CARRIED

**B2
11-034** It was moved and seconded that “CVRD Bylaw No. 3447 – South Cowichan Community Parks Service Amendment Bylaw, 2010”, be adopted.

MOTION CARRIED

7:48 pm Directors Dorey and Walker left the Board Room at 7:48 pm.

**B3
11-035** It was moved and seconded that “CVRD Bylaw No. 3456 – Cowichan Valley Regional District Revenue Anticipation Borrowing Bylaw, 2011”, be granted 1st, 2nd and 3rd reading.

MOTION CARRIED

**B3
11-036** It was moved and seconded that “CVRD Bylaw No. 3456 – Cowichan Valley Regional District Revenue Anticipation Borrowing Bylaw, 2011”, adoption.

MOTION CARRIED

**B4
11-037** It was moved and seconded that “CVRD Bylaw No. 3457 – Douglas Hill Water System Service Amendment Bylaw, 2011”, be granted 1st, 2nd and 3rd reading.

MOTION CARRIED

RESOLUTIONS

**RES1
11-038** It was moved and seconded that the following appointments to the Electoral Area H – North Oyster/Diamond Advisory Planning Commission be approved:

Term to Expire November 30, 2011:

- Ben Cuthbert**
- Mike Fall**
- Chris Gerrand**
- John Hawthorn**
- Allison Heikes**
- Jody Shupe**
- Jan Tukham**
- Gordon Wyndlow**

MOTION CARRIED

7:52 pm Director Dorey returned to the Board Room at 7:52 pm.

**RES2
11-039**

It was moved and seconded that the following appointments to the Electoral Area C – Cobble Hill Advisory Planning Commission be approved:

Appointed for a Term to Expire November 30, 2011:

**Jens Liebgott
Jerry Tomljenovic
Rosemary Allen
Robin Brett
Brenda Krug
Dave Lloyd
Dave Thomson
Rod de Paiva
David Hart
Joanne Bond**

MOTION CARRIED

**RES3
11-040**

It was moved and seconded that the following appointments to the Electoral Area E – Cowichan Station/Sahtlam/Glenora Advisory Planning Commission be approved:

Appointed for a Term Expire November 30, 2011:

**David Coulson
Dan Ferguson
Colleen MacGregor
Ben Marrs
Frank McCorkell
David Tattam
Keith Williams**

MOTION CARRIED

**RES4
11-041**

It was moved and seconded that the following appointments to the Electoral Area C – Cobble Hill Parks and Recreation Commission be approved:

Appointed for a Term to Expire December 31, 2011:

**Ruth Koehn
John Krug
Bill Turner
Lynn Wilson**

Elected for a Term to Expire December 31, 2011:

**Alan Seal
Ian Sparshu**

MOTION CARRIED

RES5
11-042

It was moved and seconded that the following appointments to the Shawnigan Lake Community Centre Commission be approved:

Elected for a Term to Expire March 31, 2011:

Sharleen Impett
Marion Davies
Fransje Carr
Barb Shultz
Kim Rowe
Sarah Mallerby

MOTION CARRIED

7:54 pm

Director Walker returned to the Board Room at 7:54 pm.

NEW BUSINESS

NB1
11-043

It was moved and seconded that the following appointment to the Electoral Area C – Cobble Hill Advisory Planning Commission be approved:

Appointed for a Term to Expire November 30, 2011:

Don Herriott

MOTION CARRIED

NB2
11-044

It was moved and seconded that the following appointments to the Electoral Area F – Cowichan Lake South/Skutz Falls Advisory Planning Commission be approved:

Appointed for a Term to Expire November 30, 2011:

Joe Allan
Phil Archbold
Shirley Burden
Peter Devana
Sharon Devana
David Lowther
Mary Lowther
Joan McKenzie
Brian Peters

MOTION CARRIED

NB3
11-045

(Amended from original recommendation):

It was moved and seconded that the following appointments to the Agricultural Advisory Committee be approved:

Term to Expire November 30, 2011:

Rob Kline, Regional Agrologist
Rodger Hunter

MOTION CARRIED

**NB4
11-046**

It was moved and seconded that the following appointments to the Cowichan Lake Recreation Commission be approved:

Appointed for a Term to Expire November 30, 2011:

- Dean Adams**
- Laurie Johnson**
- Sheila McFarlane**
- Bill Peters**
- Dave Darling**
- Rocky Wise**

MOTION CARRIED

QUESTION PERIOD

It was brought to the attention of the Board that there was no reference in the December 8, 2010 minutes to the EcoDepot presentation that occurred at the December 8 meeting.

The Corporate Secretary checked his notes from the December 8 meeting and confirmed that Item SR5 was mistakenly omitted from the December 8 minutes. The minutes will be corrected to include the SR5 item.

ADJOURNMENT

**11-047
8:23 pm**

It was moved and seconded that the Regular Board meeting be adjourned.

MOTION CARRIED

The meeting adjourned at 8:23 pm

Certified Correct:

Chairperson

Corporate Secretary

Dated: _____

D1**Request to Appear as a Delegation****Meeting Information**

Request to Address:

 CVRD Board Committee

If Committee, specify the Committee here:

Meeting Date: Meeting Time: **Applicant Information**Applicant Name: Representing:

(Name of organization if applicable)

As:

(Capacity / Office)

Number Attending: **Applicant Contact Information**Applicant Mailing Address: Applicant City: Applicant Telephone: Applicant Fax: Applicant Email: **Presentation Topic and Nature of Request:**

Information presentation on the new "Affordable Housing Affiliate Project" which OUR ECOVILLAGE is working on with the founders of Habitat for Humanity (Fuller Foundation). OUR organization is piloting this Affiliate Program, putting together a grouping of government, Business/Corp, churches, service groups, academia, and community stakeholders. This Affiliate will be left in the Cowichan to work on all next homelessness/affordable housing projects that might be encouraged.



IN1

MEMORANDUM

Date: January 20

File No: AVICC RES

To: Chairperson and Directors of the Board

From: Director Dorey

**Subject: Proposed AVICC Resolution
- Reducing the Price of Farmland Through Taxation**

Further to CR2 – Electoral Area Services Committee Report of meeting held January 18, 2011 recommendation number 1, the attachments entitled “Proposed AVICC Resolution Reducing the Price of Farmland Through Taxation – Cowichan Valley Regional District” and “Questions and Answers to AVICC Farmland Resolution” are provided for your information in support of this resolution.

Submitted by,

Director Dorey
Electoral Area G – Saltair/Gulf Islands

PROPOSED AVICC RESOLUTION

REDUCING THE PRICE OF FARMLAND THROUGH TAXATION

COWICHAN VALLEY REGIONAL DISTRICT

WHEREAS the price of farmland is escalating beyond the affordability of potential farmers.

AND WHEREAS farmland is being subdivided and being sold to some buyers that have no intention of ever farming the land and thus are competing with real farmers artificially driving the price up of newly subdivided farmland.

THEREFORE BE IT RESOLVED that the government institute a premium level of taxation higher than residential rates as a method of discouraging non farmers from purchasing newly subdivided farmland and using it as a country estate.

DISCUSSION;

One of the biggest obstacles to farming as a career is the price of land. It has become too expensive. Unless you inherit a farm young people can't get started in farming. Let's look at why it's so expensive. The notion exists that at some time in the future everyone will be able to subdivide farmland into small lots for residential dwellings. Residential lots are worth a lot of money. So people are willing to pay more money for farmland than actual farmers could afford to pay. This competition drives the price of farmland out of reach for farmers. This makes farming financially nonviable for farmers because of the high price of land. Non farmers are buying this land with never having any intention of farming it.

One of the possible solutions to bringing the price of farmland down to affordable levels is through taxation. Presently if you own farmland and you actually farm it, you get a reduced level of taxation. This is good. If you don't farm it, you are taxed at the residential rate which is higher. This makes sense also. A proposed third higher level of taxation for newly formed lots of Agricultural Reserve Land will help solve this problem.

Applications come forward to regional districts and municipalities to subdivide Agriculture Land Reserve land into smaller lots. Subdividing this land is thought by many to be a good thing because you can do intensive farming on a 5 acre lot economically. Young people can get started on these small lots as well. The problem arises when this land is sometimes bought by people who are never going to farm it. They say, "What's the problem, it's still in the ALR?" The problem is how do we separate the farmers buying this land from the non farmers? Some buyers just want a quiet country estate of 5 acres. The problem is, this land is lost to farming forever. How do we stop it? One solution is to tax these newly subdivided lots at a premium rate much higher than the residential rate IF THEY DON'T FARM IT. They would then think twice about buying one of these agricultural lots if they weren't serious about farming. This new high premium tax rate would only apply to newly subdivided agricultural lots. The question arises, "How serious are we about using farmland for farming?"

QUESTIONS AND ANSWERS TO AVICC FARMLAND RESOLUTION

1 QUESTION; .Does the new proposed higher level of taxation include all farmland?

ANSWER; No. It is only newly subdivided ALR land.

2. QUESTION; Would the new change in taxation encourage subdividing ALR lands.

ANSWER; No. In fact, this change is designed to discourage subdividing ALR lands by providing a penalty of a much higher level of taxation like double that of the residential rate. Presently this land is being sold to non farmers without any penalty. Subdividing should be totally discouraged unless there is a good agricultural reason.

3. QUESTION; Are rocky outcrops on farms included in this newly proposed farm taxation policy?

ANSWER; Usually no. If the land is unsuitable for farming then it should be excluded from the ALR and as result not part of the policy. The ALC is currently reviewing these lands and the BC Agriculture Council supports this action. Sometimes rocky outcrops can be an excellent place for a barn or a farmhouse and then would be a part of the policy. This would be up the ALC to decide.

4. QUESTION; If there is an existing farmhouse on the ALR land should this piece of land be subject to the new tax if farming is stopped?

ANSWER; No. Only the newly formed section of the land would be subject to the new tax IF THEY DON'T FARM IT.

5. QUESTION ; Why the new tax?

ANSWER; ALR land is being lost to residential and the price of farmland is skyrocketing to \$80,000 to \$100,000 in some places because non farmers are competing with farmers for ALR land.

6. QUESTION; Will this new tax policy cause the price of farmland to plummet?

ANSWER; No. This will involve very few pieces of land so it will probably arrest the rise. But it will send a message to anyone buying pieces of farmland that there is a penalty to not farming newly subdivided ALR land.

7.QUESTION; Where will the extra taxation money go that will be raised as a result of this change in policy?

ANSWER; It should not be a tax grab for the government to add to general revenues. It should go farming promotion or a farmers' retirement fund or a farmer's coop to preserve food crops, etc.

8. QUESTION; Will farmers be impacted by the tax financially?

ANSWER; Yes. There will fewer numbers of buyers for their ALR farmland and as result prices will level off. Only those interested in farming will buy the land. But the farmers have already benefitted over the years by having very low levels of taxation for farmland. The existing high price now is due to high expectations

THE UNDERLYING PRINCIPLE OF THE PROPOSED NEW PREMIUM TAX LEVEL IS TO REWARD WHAT WE WANT TO HAPPEN AND DISCOURAGE WHAT WE DON'T WANT TO HAPPEN WITH A HIGH LEVEL OF TAXATION.



**REGIONAL SERVICES COMMITTEE REPORT
OF MEETING HELD JANUARY 26, 2011**

DATE: February 1, 2011

To: Chairperson and Directors of the Board

Your Regional Services Committee reports and recommends as follows:

1. That the Cowichan Valley Regional District Audit Service Plan Year Ending December 31, 2010 be received; and
2. That CVRD Security Issuing Bylaw No. 3458 be considered for three readings and adoption.



CR2

**ELECTORAL AREA SERVICES
COMMITTEE REPORT
OF MEETING HELD JANUARY 18, 2011**

DATE: January 20, 2011
To: Chairperson and Directors of the Board

Your Electoral Area Services Committee reports and recommends as follows:

1. 1. That the following resolution be submitted to AVICC:

"REDUCING THE PRICE OF FARMLAND THROUGH TAXATION:

WHEREAS the price of farmland is escalating beyond the affordability of potential farmers;

AND WHEREAS farmland is being subdivided and being sold to some buyers that have no intention of ever farming the land and thus are competing with real farmers artificially driving the price up of newly subdivided farmland;

THEREFORE BE IT RESOLVED that the government institute a premium level of taxation higher than residential rates as a method of discouraging non farmers from purchasing newly subdivided farmland and using it as a country estate."
2. That the proposed AVICC resolution respecting "Reducing the Price of Farmland Through Taxation" be forwarded to the Regional Agricultural Committee as well as the Municipality of North Cowichan for review and comment.
2. That the request by the Cowichan Valley Trap and Skeet Club, located on Cowichan Lake Road in Area E, to hold two (2) "Special Event" Competitive Shoots in 2011 (April 9-10 and April 23-24) as well as one additional weekend shoot in October, be approved.
3. 1. That an annual financial contribution service be created within Electoral Area B – Shawnigan Lake with a maximum requisition limit of \$5,000 to assist the Cowichan Station Area Association with costs associated with the operation and maintenance of the Hub, a community space located at 2375 Koksilah Road (former Cowichan Station School Site) and the delivery of community based programs and services, heritage projects and community events.
2. That CVRD Bylaw No. 3393 – Cowichan Station Area Association Annual Financial Contribution (Area B – Shawnigan Lake) Service Establishment Bylaw, 2011", be forwarded to the Board for consideration of first three readings, and following provincial and voter approval, be considered for adoption.

3. That voter approval to establish the Cowichan Station Area Association Annual Financial Contribution (Area B – Shawnigan Lake) Service be obtained through an alternative approval process.
4. That the resignation of Trina White from the Shawnigan Lake Parks and Recreation Commission be accepted, and that a letter of appreciation be forwarded to Ms. White.

Electoral Area Directors only vote on the following bylaws under Part 26 OR Section 791 of the *Local Government Act*:

5. That rezoning application 4-A-07 RS (Logan) be denied, partial fees refunded, and the file closed, unless the following three conditions are satisfied by June 30, 2011:
 1. A letter is received from the Ministry of Transportation and Infrastructure, indicating that the sight distance issue has been resolved or can be resolved to their satisfaction;
 2. A landscaping plan is submitted, including cost estimates, for the purpose of screening the RV storage from the perspective of the Trans Canada Highway;
 3. A draft covenant is received, which prohibits any signs from being posted along the southern boundary of the property along the Trans Canada Highway.
6. That Application No. 2-D-10RS (Michael and Deborah Butler) be tabled until after the Cowichan Bay Official Community Plan process is completed.
7. That Application No. 4-A-10RS (John and Mary Braybrooks) be denied and that a partial refund of application fees be given in accordance with CVRD Development Application Procedures and Fees Bylaw No. 3275.
8. That application No. 5-E-10DP be approved, and that a development permit be issued to Buckerfields Ltd. for Lot 3, Section 14, Range 6, Quamichan District, Plan 15507 to permit construction of a new greenhouse.
9. That Application No. 1-A-10ALR submitted by Father Sean Flynn, made pursuant to Section 20(3) of the *Agricultural Land Commission Act* to construct a welcoming centre be forwarded to the Agricultural Land Commission with a recommendation to approve, subject to:
 - the new building complementing the exterior (façade) of the old church
 - a legal survey confirming compliance with parcel line setbacks
10. That application No. 7-B-10DP be approved, and that a development permit be issued to Pat Lintaman Design Ltd. and Anchorage Projects Ltd. for a six lot subdivision subject to:
 1. Strict compliance with RAR report #1467;
 2. Registration of a restrictive covenant to protect SPEAs outside of dedicated park and to drainage works on proposed lots;
 3. Reforestation of the perimeter buffer as identified in the October 14, 2010 report from Michael Gye and Heidi Krogstad Urban Forestry Ltd. and registration of a restrictive covenant to protect the 5.0 metre wide buffer and to limit signage in the buffer area to a single multi-tenant sign;
 4. Completion of a storm water management plan in accordance with the scope of work described in the October 25 and November 19, 2010 letters from Worley Parsons;
 5. Installation of underground utilities.



C·V·R·D

CR2

**ELECTORAL AREA SERVICES
COMMITTEE REPORT**

OF SPECIAL MEETING HELD JANUARY 31, 2011

DATE: February 1, 2011

To: Chairperson and Directors of the Board

Your Electoral Area Services Committee reports and recommends as follows:

1. That appropriate amendment bylaws be prepared, in an expedient manner, regarding Application No. 4-A-06RS (Bamberton/Three Point Properties) with respect to the light industrial permitted uses proposed in the vicinity of the waterfront areas and also with respect to the proposed business park (lower northlands) to the west of the Bamberton interchange, and further, that the draft bylaws be referred to the Area A - Mill Bay/Malahat Advisory Planning Commission for review and comment



**ELECTORAL AREA SERVICES
COMMITTEE REPORT**

OF MEETING HELD FEBRUARY 1, 2011

DATE: February 3, 2011

To: Chairperson and Directors of the Board

Your Electoral Area Services Committee reports and recommends as follows:

1. That the proposed donation by the Honeymoon Bay Community Society of a 16 x 30 foot wood Gazebo for Central Park in Electoral Area F be approved, and that the building permit fee for the project by CVRD's Building Inspection Division be waived; and further, that a letter of support for the project, signed by the CVRD Board Chair, be provided to accompany grant funding applications.
2. That City of Duncan Public Health Smoking Protection Bylaw No. 2084, 2010, be forwarded to CVRD Electoral Area Parks Commissions and Recreation Centres for review, to request comment respecting implementing similar no-smoking regulations in area parks and recreation centres.
3. That a grant in aid, Electoral Area C- Cobble Hill, in the amount of \$250 be given to the Cowichan Food Connection Society, to help support their Bread Van initiative.
4. That the Purchasing Policy be waived to allow completion of Shawnigan Hills Athletic Field Phase 1 and elements of Phase 2 to proceed in the amount of \$160,000 prior to the adoption of the CVRD 2011 Five Year Financial Plan in order to ensure that critical project elements are completed prior to April 1st when league play on the ball field is scheduled to commence.
5. That any Electoral Area Director who is interested in attending the 2011 FCM conference in Halifax, be authorized to attend, including applicable expenses.
6. That the 2011-2013 Electoral Area H Community Parks Maintenance Service Contract be awarded to Grant Vizely in the amount of \$21,000 based on the Request for Proposals submission received December 17, 2010.

Electoral Area Directors only vote on the following recommendations under Part 26 or Section 791 of the *Local Government Act*:

7. That Application No. 3-E-10ALR, submitted by Shawn and Mathew Ellison, made pursuant to Section 20(3) of the *Agricultural Land Commission Act* to construct a single family dwelling and a small suite on the subject property be forwarded to the Agricultural Land Commission with a recommendation to approve the application.
8. That Application No. 5-E-10ALR, submitted by Robert and Carol Dent, made pursuant to Section 21(2) of the *Agricultural Land Commission Act* to subdivide Lot 6, Section 3, Quamichan District, Plan 1233 and pursuant to Section 946 of the *Local Government Act* be denied.
9. That the request by Elizabeth Biberger to allow a utility sink, in addition to two permitted plumbing fixtures, within an accessory building at 1373 Nelson Road (Lot 4, Section 2, Range 6, Cowichan District, Plan 25069 PID: 002-865-921), be approved subject to registration of a covenant prohibiting occupancy of the accessory building as a dwelling.
10.
 1. That the CVRD amend the North Oyster/Diamond Zoning Bylaw No. 1020, by adjusting the zone boundaries between A-2 and A-1, such that all of Parcel A, District Lot 11, Oyster District, Plan VIP63675 would be located in the A-2 Zone, subject to the owner agreeing that the entire property not be permitted to be subdivided into more than 14 total lots, and that a covenant to this effect be registered on title prior to consideration of adoption of the bylaw.
 2. That a public hearing be waived due to the proposed change being consistent with the Official Community Plan, and that public notice in lieu be given in accordance with the *Local Government Act*.
 3. That the draft bylaw be referred to the Area H APC for comment and review.



ENGINEERING & ENVIRONMENTAL SERVICES COMMITTEE REPORT
OF MEETING HELD JANUARY 26, 2011

DATE: January 28, 2011

To: Chair and Directors of the Cowichan Valley Regional District

Your Engineering & Environmental Services Committee reports and recommends as follows:

1. That "CVRD Bylaw No. 3382 – Douglas Hill Water System Service Establishment Bylaw, 2010", be amended to exclude "*PID 001-624-784, Part of Section 2, Range 5, Cowichan District, Except part of Plans 24340 & 24750 and 16041*", and that the amendment bylaw be forwarded to the CVRD Board for three readings and adoption.
2.
 - .1 That the Board authorize short-term borrowing of \$26,000.00 to buy-out the lease on the Water Management Division's 2008 Ford 4x4 F-350 truck, to be paid back within 5-years under the Liabilities Agreement, Section 175 of the Community Charter, and further that the Board waive the CVRD Purchasing Policy and approve this expenditure prior to approval of the 2011 budget.
 - .2 That the Board waive the CVRD Purchasing Policy and, prior to approval of the 2011 budget, authorize purchase of three generator sets and electrical components for the Arbutus Ridge Sewer System, in the amount of \$80,00.00.
 - .3 That the Board waive the CVRD Purchasing Policy and, prior to approval of the 2011 budget, authorize undertaking capital works for the Douglas Hill Water System in the amount of \$20,000.
3. That the Cowichan Valley Regional District extend Contract ES-011-05 for Local Garbage Transfer with Active Industrial Waste Management Ltd. for the period of January 1, 2011 to April 30, 2012; and that the Chair and Corporate Secretary be authorized to sign the extension agreement.
4. That the CVRD Toilet Replacement Rebate Program be amended to offer rebates for 4.8 litre per flush or "Dual Flush" toilets – 6/3 litres per flush or less, for homes connected to a CVRD water or sewer system.
5. That "CVRD Bylaw No. 3455 – Douglas Hill Water System Management Amendment Bylaw, 2011" be forwarded to the Board for three readings and adoption.

**C·V·R·D**

**PARKS COMMITTEE REPORT
OF SPECIAL MEETING HELD FEBRUARY 1, 2011**

DATE: February 1, 2011

To: Chairperson and Directors of the Board

Your Parks Committee reports and recommends as follows:

1. That participation of the Rotary Club of South Cowichan (Mill Bay) in the construction of an approximately 450 metre public pathway and viewing/rest areas on the north side of the Kinsol Trestle site be endorsed.
2. That the application from The Evert Cycling Club to hold a cross-country mountain bike race on designated trails within the Cobble Hill Mountain Regional Recreation Area on Saturday, March 27, 2011, be approved subject to the following conditions:
 - a. Proof of the \$5,000,000 liability insurance that the company has to cover the event which also identifies the CVRD and Province of BC as additional named insured.
 - b. A damage deposit of \$500 must be provided to the CVRD for confirmation that the company will clean up all garbage and fix any damaged trails on the race route upon completion of the event and that all racers will stay on designated trails identified on lands managed by the CVRD.
 - c. Confirmation that there will be notices of the event posted along the trail in advance of and during the day of the event that will advise other trail users of the race.
 - d. Alpine Stables is notified at least two weeks in advance of the event, by the event organizers, of the trails to be used, to allow sufficient time for equestrian riding routes to be modified for the day of the event.
 - e. That both portable toilets within Quarry Nature Park are pumped out and cleaned following the race at the cost of the race organizers, payment of which will be provided by cheque along with the damage deposit.
 - f. The Cobble Hill Parks Commission has endorsed the use of Quarry Nature Park as a staging area for the event.



**COWICHAN LAKE RECREATION COMMISSION REPORT
OF MEETING HELD JANUARY 27, 2011**

DATE: February 1, 2011

To: Chairperson and Directors of the Board of the Cowichan Valley Regional District

Your Cowichan Lake Recreation Commission reports and recommends as follows:

1. That approval be given for the CVRD Board to enter into a new agreement with Victoria Free-Net Association for funding and operation of the CAP Internet access site at the Youbou Community Hall and further, should this be approved, that the Chair and Corporate Secretary be authorized to enter into the funding agreement on behalf of the CVRD.



SR1

**STAFF REPORT
BOARD MEETING
OF FEBRUARY 9, 2011**

DATE: January 21, 2011 **FILE NO:**
FROM: Kate Miller, Manager, Regional Environmental Policy Division
SUBJECT: UBCM Gas Tax Contract

Recommendation:

That the Chair and Corporate Secretary be authorized to sign the "Regionally Significant Project Funding agreement under the Agreement on the Transfer of Federal Gas Tax Revenues" for the LiDAR acquisition project.

Purpose:

To obtain formal authorization to sign the Regionally Significant Project funding agreement

Financial Implications:

Interdepartmental/Agency Implications:

Sustainability Implications:

Background:

UBC requires that a Board resolution approving entrance into the agreement be attached to the signed contract documents. Currently we have a Board motion which supports that application to UBCM.

Submitted by,

Kate Miller, Manager
Regional Environmental Policy Division

General Manager Approval:

Signature



STAFF REPORT

**REGULAR BOARD MEETING
OF FEBRUARY 9, 2011**

DATE: January 30, 2011
FROM: Warren Jones, Chief Administrative Officer
SUBJECT: Construction Update

Recommendation/Action:

For information

Relation to the Corporate Strategic Plan:

n/a

Financial Impact:

n/a

Background:

There are currently a number of larger scale construction projects underway in the Regional District. The following status updates are current as of January 30, 2011.

1. Kinsol Trestle Rehabilitation

As of year-end 2010, the Kinsol Trestle rehabilitation project was sixty percent complete, with core rehabilitation work proceeding on-schedule. Substantial completion of the work is anticipated by April 1, 2011. Replacement of all seventeen new bents is complete, and installation of the steel trusses, has started from both ends of the trestle. Rehabilitation work on the remaining original south bank bents is complete, with the Howe Truss span section (the portion actually over the Koksilah River) in progress.

The fourth steel truss was delivered to the trestle site during the week of January 24, 2011. These four trusses range in length from 54 ft. to 86 ft. and are all 17 ft. in width. Once installed, they will form one continuous span across the 614 ft. length of the structure. The fifth and final (122 ft.) truss is planned for delivery and installation in mid February, and will be a significant milestone for the project. Installation of the walkway handrail posts from both ends is also in progress.

Finishing work in the coming months will include decking, handrails, water barrel lookouts, cross-bracing, and site remediation. Detailed design work is underway on new parking areas off of Glen Eagles Road (south side) and Riverside Road (north side), funding/donor recognition kiosk, heritage/site interpretation, fencing, viewing areas and platforms, public access trail to below and through the trestle and overall site landscaping. These works are timed to commence upon completion of the core rehabilitation work.

2. Cowichan Lake Sports Arena Upgrade

The CLSA project consists of an expansion and upgrade to the existing sports arena. This project includes a 1400 m² two storey addition housing four hockey changing rooms and adjoining wash rooms, new lobby entrance, two additional public washrooms, skate shop and administration offices on the first floor. The second floor addition includes a viewing gallery, shell floor space, child minding area, public washrooms and maintenance areas.

The project remains on its \$7.5 M budget, but has been delayed due to a number of factors. A partial occupancy permit allowed the opening of the new dressing rooms, warm room, and first floor washrooms in December 2010. Expected substantial completion and full occupancy is anticipated by mid February 2011. A highlight of the project was the community donation of 15 logging truck loads of wood coordinated by Commission member Rocky Wise. Wood will be featured throughout the addition with glulam beams, 12" x 12" support posts, a wood ceiling, and a maple sprung floor.

After the planned March 12, 2011 official opening ceremony, three remaining projects will need to be completed in summer 2011. Funds have been set aside out of the project budget for painting in the cold arena space, new sprinkler piping, partial parking lot upgrades, and installation of new energy efficient lighting in the arena.

3. Cowichan Valley Trail Northern Completion Initiative

The 2009/2010 CVT Northern Completion Initiative progress includes nearly 40 km of new and renovated trail, construction of five new bridges totaling 105 metres in span, installation of regulatory signage, and the establishment of a maintenance program under the Regional Parks program. The completed trail sections are already seeing significant use by walkers, joggers, and cyclists, with equestrian use noted on sections between the Town of Lake Cowichan and Duncan/North Cowichan.

Phase III of the Chemainus Rail with Trail was completed late fall 2010, including a 1.5 km long trail from Stocking Creek Park to North Watts Road with an additional trailhead at Finch Place. For the Ladysmith to RDN and Bush Creek Bridge improvements project, the Town of Ladysmith Public Works department has been hired to construct directional signage and perform trail improvements on the route through the Town. This work is underway and expected to be complete by mid February.

Proposed 2011 trail work includes improvements to the 20 km trail surface between the Town of Lake Cowichan and Duncan/North Cowichan; phase II and III of the Catalyst Waterline Route including the two km section of trail between Somenos Road and the Cowichan Exhibition grounds as well as between Bell McKinnon Road and Crofton Road on the Catalyst Waterline; and additional work on the Chemainus Rail with Trail project involving connecting phases II and III via the 5.5 km active rail corridor between Elm Street and Stocking Creek Park.

4. Lambourn Upgrade

The Lambourn Upgrade project includes the construction of a water treatment plant, a dedicated water supply line from the proposed water treatment plant to the existing reservoir and construction of a new sewage treatment plant on the same footprint as the former plant. The upgrades will improve and expand the existing Lambourn Estates water and sewers systems to accommodate the new 50 lot subdivision as proposed by the Royal Island and Hiles developers.

The wastewater treatment plant and dedicated water supply line projects have now both been completed, while the water treatment plant is currently under construction. The water treatment plant is being constructed by CVRD forces and has experienced some delays due to commitments for other projects, but is scheduled to be operational within the next several months. The new well provided as part of the upgrade requirements from the developer has been supplied with a pump and will soon be commissioned. This well will provide three times the quantity of water that the two existing wells currently provide, which will relieve water shortage problems that have occurred during the summer in previous years.

The estimated cost of the upgrade project is approximately \$1.58 million. The final construction costs for the sewage treatment plant have come in approximately \$215,000 over budget; the CVRD hopes to decrease the cost of the water treatment plant by completing the construction with CVRD staff thereby completing this project within budget.

5. Bings Creek Operations Building / Utilities Building Expansion

Conditional occupancy was recently secured for the new Bings Creek operations building based on the completion of the access road, parking area and septic system within the next few weeks. The operations building will provide space for both utility operations and Cowichan Valley Search and Rescue (SAR). The utilities portion of the building consisting of two bays will provide an assembly point for utility crews, material storage, and a service facility for light repairs. The SAR space will house rescue trucks, boats, trailers, and the command centre, as well as provide a facility for meeting space and training exercises.

The operations building construction budget has \$90,000 remaining, out of total budget of \$585,000 with an estimated \$45,000 in civil works yet to be completed.

Work commenced on the expansion of the existing utilities staff building in December 2010, and is targeted for completion in the middle of March 2011. The new portion of the building has a roof, walls, windows and concrete slab floor. Drywall installation is scheduled to start next week. Tender results for the staff building expansion came in approximately \$41,000 under the budget estimate of \$245,000.

Submitted by



Warren Jones
Chief Administrative Officer



PUBLIC HEARING REPORT
Bylaw No. 3404

Following is a summary of the proceedings of the Public Hearing for Zoning Amendment Bylaw No. 3404 (Fisher Road I-1C Industrial Area), applicable to Electoral Area C – Cobble Hill, held on Tuesday November 30, 2010, at Cobble Hill Community Hall, 3550 Watson Avenue, Cobble Hill, BC, at 7:00 p.m.

**HEARING
DELEGATES**

Director G. Giles, Electoral Area C – Cobble Hill, Chairperson
Director B Harrison, Electoral Area A – Mill Bay/Malahat
Director I. Morrison, Electoral Area F – Cowichan Lake South/Skutz Falls

**CVRD STAFF
PRESENT**

Mr. R. Conway, Manager, Planning and Development Department
Ms. A. Garnett, Planner II, Planning and Development Department
Bob McDonald, Manager, Recycling & Waste Management, Engineering & Environmental Services Department
Ms. J. Hughes, Recording Secretary, Planning and Development Department

Members of the Public:
There were approximately 75 members of the public present.

CALL TO ORDER

Director G. Giles chaired the Hearing and called the meeting to order. The Chairperson introduced the Hearing Delegates and CVRD Staff present. Director Giles further introduced in the audience Tom Anderson, General Manager, Planning and Development Department, Director Klaus Kuhn, Electoral Area I – Youbou/Meade Creek and Director Mary Marcotte, Electoral Area H – North Oyster/Diamond.

PROCEDURES

Ms. Garnett explained the requirements under Section 890 of the *Local Government Act*. She advised that notice of the Hearing was advertised in two consecutive issues of the *Citizen* (Friday, November 19, 2010 and Wednesday, November 24, 2010) and in the *Leader Pictorial* (Friday, November 19, 2010, and Wednesday, November 24, 2010) and letters had also been sent to adjacent owners and occupiers of the property as required by the *Local Government Act*.

Zoning Amendment Bylaw No. 3404 proposes to amend Cobble Hill Zoning Bylaw No. 1405 by changing the zoning category of two parcels of land in Cobble Hill along Fisher Road: Lot A, Section 13, Range 6, Shawnigan District, Plan VIP51903 (1345 Fisher Road) and Lot 1, Section 13, Range 6, Shawnigan District, Plan 29581 (1355 Fisher Road) from Light Industrial 1 (I-1) to Light Industrial – Limited I-1C.

The Light Industrial (Limited) I-1C Zone is different from these properties' present Light Industrial 1 zoning by the absence of the following uses in I-1C Zone:

1. Automotive wrecking, salvage and sales.
2. Recycling, sorting and storage of any type of substance or material, including in-vessel composting but excluding external storage of any type of septage, animal material or animal waste.

In other respects, the I-1 and I-1C Zones are very similar. The two subject properties are the last ones in Cobble Hill that still retain I-1 zoning.

The purpose of Zoning Amendment Bylaw No. 3404 is to reduce the array of permitted uses on the two subject properties.

Ms. Garnett stated that 78 letters of response to the proposed Bylaw had been received from the date the advertisement was placed within the local newspapers to the close of the CVRD office today, November 30, 2010, at 4:30 pm. She further advised the Information Binder along with copies of the proposed Amendment Bylaw, existing I-1 Zone and proposed I-1C Zone were located on the back table for review.

Ms. Garnett further advised:

- The two subject properties are currently zoned I-1 Light Industrial and the proposed zoning amendment would change the zoning to I-1C Light Industrial Limited.
- The two zones are different in that the I-1 C Limited Zone does not permit two uses: auto wrecking, salvage and sale and recycling, sorting and storage of any type of substance or material.
- Identification maps are posted to the walls in the Hall that displays the Fisher Road industrial park area. All other industrial land that is zoned I-1C Light Industrial Limited.
- If Bylaw No. 3404 is adopted, the existing use of the land would become "grandfathered", or in other words have an accepted non-conforming status. The *Local Government Act* establishes protection for this type of non conforming use. Section 911 of this *Act* says a lawful use of land that is established prior to the adoption of a bylaw can continue as a non conforming use. The relevant date here is the date that a Board adopts a bylaw.
- The *Local Government Act* also states that if a non conforming use is discontinued for a six-month period of time, then the non conforming status is lost, and subsequent use of the land will be subject to the bylaw.
- Also, a change of owners or tenants does not affect the status of a non-conforming use.
- Section 911 also states that a non conforming use cannot continue on a scale or to an extent or degree greater than that established at the time of the adoption of the Bylaw.
- Parts of the *Local Government Act* have been highlighted to explain the implications of proposed Bylaw No. 3404, but the entire Section of the *Act* must be consulted for complete information.

Correspondence

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

- 1) Email dated November 27, 2010, from Ruth & Jens Liebgott (EXHIBIT 1);
- 2) Email dated November 28, 2010, from Brenda Krug (EXHIBIT 2);
- 3) Fax dated November 20, 2010, from Marjorie & Ferd Kallstrom (EXHIBIT 3);
- 4) Fax dated November 29, 2010, from Michael Jansson, President, B.C. Strata #3546 (EXHIBIT 4);
- 5) Email dated November 28, 2010, from Jennifer Symons (EXHIBIT 7);
- 6) Email dated November 28, 2010, from George Beninger (EXHIBIT 8);
- 7) Email dated November 28, 2010, from Doug Lockhart (EXHIBIT 5);
- 8) Email dated November 29, 2010, from Walt & Lia Szabo (EXHIBIT 6);
- 9) Email dated November 28, 2010, from Herriott (EXHIBIT 9);

- 10) Email dated November 28, 2010, Ken Blatherwick & Veronica Maguire (EXHIBIT 10);
- 11) Email dated November 29, 2010, from Rob Reid (EXHIBIT 11);
- 12) Letter dated November 26, 2010, from Rob Reid, Chairman, Cobble Hill Improvement District (EXHIBIT 12);
- 13) Email dated November 29, 2010, from Carol Halls (EXHIBIT 13);
- 14) Email dated November 29, 2010, from Keith Laughland (EXHIBIT 14);
- 15) Email dated November 29, 2010, from Tracy Szabo (EXHIBIT 15);
- 16) Email dated November 29, 2010, from Morris Wadds (EXHIBIT 16);
- 17) Email dated November 29, 2010, from Shelley Brown (EXHIBIT 17);
- 18) Email dated November 29, 2010, from Laureen Van Der Meulen (EXHIBIT 18);
- 19) Email dated November 29, 2010, from Henry Van Der Meulen (EXHIBIT 19);
- 20) Email dated November 29, 2010, from Jennifer Anderson (EXHIBIT 20);
- 21) Email dated November 29, 2010, from Don Anderson (EXHIBIT 21);
- 22) Email dated November 29, 2010, from Lauren Robb (EXHIBIT 22);
- 23) Email dated November 29, 2010, from Laurene Klyne (EXHIBIT 23);
- 24) Email dated November 29, 2010, from Bev Herriott Robb (EXHIBIT 24);
- 25) Email dated November 29, 2010, from Brad Logan (EXHIBIT 25);
- 26) Email dated November 29, 2010, from Marina Plasman (EXHIBIT 26);
- 27) Email dated November 29, 2010, from Will Veretonik (EXHIBIT 27);
- 28) Email dated November 29, 2010, from Graeme de Lusignan (EXHIBIT 28);
- 29) Email dated November 29, 2010, from Stacey de Lusignan (EXHIBIT 29);
- 30) Email dated November 29, 2010, from Brett Pioch (EXHIBIT 30);
- 31) Email dated November 29, 2010, from David & Marion McPheators (EXHIBIT 31);
- 32) Email dated November 30, 2010, from Doug Herriott (EXHIBIT 32);
- 33) Email dated November 30, 2010, from Trisha Klus (EXHIBIT 33);
- 34) Email dated November 30, 2010, from David Klus (EXHIBIT 34);
- 35) Email dated November 30, 2010, from John Lewis-Schneider (EXHIBIT 35);
- 36) Email dated November 30, 2010, from Karen Herriot (EXHIBIT 36);
- 37) Email dated November 30, 2010, from Ian Evans (EXHIBIT 37);
- 38) Email dated November 30, 2010, from Nancy M. Dieckmann (EXHIBIT 38);
- 39) Fax dated November 29, 2010, from Darren & Sherry Zuk (EXHIBIT 39);
- 40) Fax dated November 29, 2010, from Mark Elliott (EXHIBIT 40);
- 41) Fax dated November 29, 2010, from Nelsy Elliott (EXHIBIT 41);
- 42) Fax dated November 28, 2010, from Jesse Elliott (EXHIBIT 42);
- 43) Email dated November 30, 2010, from Ida Herriott (EXHIBIT 43);
- 44) Email dated November 30, 2010, from Becky Canterbury (EXHIBIT 44);
- 45) Email dated November 29, 2010, from Betty (EXHIBIT 45);
- 46) Email response to Betty from Brian Dennison, General Manager, Engineering & Environmental Services Department (EXHIBIT 46);
- 47) Email response to Betty from Bob McDonald, Manager, Recycling & Waste Management, Engineering & Environmental Services Department (EXHIBIT 47);
- 48) Email dated November 29, 2010, from David Symons (EXHIBIT 48);
- 49) Email dated November 30, 2010, from Lorne Dunphy (EXHIBIT 49);
- 50) Email dated November 30, 2010, from Jean Dunphy (EXHIBIT 50);
- 51) Email dated November 30, 2010, from Ray Carfantan (EXHIBIT 51);
- 52) Email dated November 30, 2010, from Kendra Carfantan (EXHIBIT 52);
- 53) Email dated November 30, 2010, from Patti Carfantan (EXHIBIT 53);
- 54) Email dated November 30, 2010, from Robert Cantin (EXHIBIT 54);
- 55) Email dated November 30, 2010, from R. Daniel Deener (EXHIBIT 55);
- 56) Email dated November 30, 2010, from Joyce Evans (EXHIBIT 56);
- 57) Email dated November 30, 2010, from Mavis Slaby (EXHIBIT 57);

- 58) Email dated November 30, 2010, from Mark Slaby (EXHIBIT 58);
- 59) Email dated November 30, 2010, from Nick, President, South Cowichan Storage (EXHIBIT 59);
- 60) Email dated November 30, 2010, from Janice Strand (EXHIBIT 60);
- 61) Email dated November 30, 2010, from Melanie Reaveley (EXHIBIT 61);
- 62) Email dated November 30, 2010, from David J. Norris (EXHIBIT 62);
- 63) Email dated November 30, 2010, from Bill Motherwell (EXHIBIT 63);
- 64) Email dated November 30, 2010, from Mrs. Barbara Hartl (EXHIBIT 64);
- 65) Email dated November 30, 2010, from Robert Hartl (EXHIBIT 65);
- 66) Email dated November 30, 2010, from Debbie DesJarlais (EXHIBIT 66);
- 67) Email dated November 30, 2010, from Ken Pidwysocki (EXHIBIT 67);
- 68) Email dated November 30, 2010, from Janet Pidwysocki (EXHIBIT 68);
- 69) Email dated November 30, 2010, from Cheryl L. Keyes (EXHIBIT 69);
- 70) Email dated November 30, 2010, from Ray Keyes (EXHIBIT 70);
- 71) Fax dated November 28, 2010, from Brad McGaw (EXHIBIT 71);
- 72) Fax dated November 28, 2010, from Katherine McGaw (EXHIBIT 72);
- 73) Fax dated November 28, 2010, from Jaclyn McGaw (EXHIBIT 73);
- 74) Fax dated November 28, 2010, from Chelsea McGaw (EXHIBIT 74);
- 75) Email dated November 30, 2010, from Kathleen E. Pringle (EXHIBIT 75);
- 76) Email dated November 30, 2010, from Peter & Lynn Smith (EXHIBIT 76);
- 77) Email dated November 30, 2010, from Greg Perkins (EXHIBIT 77);
- 78) Email dated November 30, 2010, from Darrell Keeler (EXHIBIT 78);
- 79) Letter dated November 30, 2010, from John Krug (EXHIBIT 79);
- 80) Letter dated November 29, 2010, from Alan Seal (EXHIBIT 80);
- 81) Letter dated November 29, 2010, from Robin Brett (EXHIBIT 81);
- 82) Letter dated November 30, 2010, from Dara Quast (EXHIBIT 82);
- 83) Letter dated November 30, 2010, from K. Chong (EXHIBIT 83);
- 84) Letter from Lavonne Huneck (EXHIBIT 84);
- 85) Letter dated November 30, 2010, from Balu Tatachari, Chair, Friends Of Saanich Inlet (FOSI) (EXHIBIT 85);
- 86) Letter from Frank Lockerbie (EXHIBIT 86);
- 87) Letter dated November 30, 2010, from Heather Dickenson & Gordon Dickenson (EXHIBIT 87);
- 88) Email dated November 28, 2010, from Joe & Bonnie Walsh (EXHIBIT 89).

Location of File

Director Giles advised that the Information Binder was available for review on the back table, along with copies of the Amendment Bylaw, the existing I-1 Zone and proposed I-1C Zone, 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.

QUESTION PERIOD

Director Giles 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.

Director Giles

- Proposed Zoning Amendment Bylaw has been brought forward by the CVRD.
- In 2007 the CVRD amended all the Industrial Zones in Cobble Hill with the exception of Fisher Road Recycling and Central Landscaping properties. There were 13 properties that were rezoned from the I-1 Zone to the I-1C Zone.
- The proposed amendment came forward after the May 20, 2010 Public Meeting held in Cobble Hill with regard to concerns raised by the community about the two existing I-1 zoned parcels.

- CVRD is the applicant on the Amendment application.
- Cliff Evans,
3109 Filgate Road**
- Even if down-zoning happens is it true the expanding license that has been applied for by Fisher Road Holdings will be granted, as it was applied before the proposed down-zoning would come into effect?
- Director Giles**
- The application that is currently before the General Manager of the Engineering Services Department is in stream and is considered to be part of the grandfathered use of the property. Whatever the final determination is made by the General Manager, the existing use would be grandfathered.
- Cliff Evans**
- If approved would they be able to compost plus recycle?
- Director Giles**
- The License Amendment Application is for recycling.
- Betty Lording,
3605 Garland
Avenue
Alison Garnett**
- If the present owners sell their property does that mean a new owner would be permitted to carry on with the same use?
 - Change in ownership does not mean that grandfather status would be lost.
- Director Giles**
- Understood that composting would be allowed.
 - Asked Mr. McDonald if the Composting License went with the land or the operator?
- Bob McDonald**
- Believed that it would go with the operator.
- Bonnie Walsh,
3614 Watson Place**
- Noticed that her email (EXHIBIT 88) that she sent to the CVRD office ([cvrd@cvrd.bc.ca](mailto:cvrld@cvrd.bc.ca)) and to Director Giles was not within the Information Binder and asked as she did send it originally on November 28, 2010, if it could be re-submitted to the CVRD after the close of the Public Hearing.
- Director Giles**
- Yes, it will be accepted.
- Bonnie Walsh**
- Is the Bylaw Amendment tied to the License?
- Director Giles**
- No determination has been made on the License to date.
- Bonnie Walsh**
- Decision is not tied specifically to the proposed Amendment Bylaw?
- Director Giles**
- No.
- Evelyn Roberts,
3488 Todd Avenue**
- When all the other properties along Fisher Road were amended in 2007 why were the two subject parcels excluded?
- Director Giles**
- Decision was made, at that time, by the CVRD Regional Board not to amend the I-1 zoning on the two properties but all of the other I-1 zoned properties were rezoned.
- John Middleton,
4180 Telegraph
Road**
- Does the proposed Bylaw encompass the concept of non permeable pads being placed under any industry that has deleterious materials involved in the manufacturing process?
 - Wants to see that aquifer protected if there were to be any spills or leachate into the environment.
- Rob Conway**
- The Bylaw does not require that there be pads put under substances but it

does not preclude them either.

- John Middleton** ➤ Would be a good idea to have wording included within the Amendment Bylaw regarding the concept of non permeable pads for industries that could produce materials that are deleterious to the aquifer.
- Director Giles** ➤ New OCP process is underway and OCP will have development permit areas and those development permit areas will contain that.
- John Middleton** ➤ Agrees it should be in the development permit area but it should also be included within the proposed Zoning Amendment Bylaw as it would be forward thinking.
- Director Giles** ➤ He should make that statement within the public comment section of the Public Hearing.
- Balu Tatacheri,
1733 Arbutus
Terrace** ➤ Chair of Friends of Saanich Inlet.
➤ When did this rezoning come to the plate as the other properties on Fisher Road were rezoned in 2006 and why did this come about in 2010 and not 2006?
- Director Giles** ➤ A Public Meeting was held on May 20, 2010 which was attended by approximately 200 members of the community and extreme concerns were raised by the public with regard to groundwater protection and odour control and as a result the proposed Bylaw Amendment process was started.
➤ No decisions have been made at the present time with regard to the proposed Bylaw and the Directors in attendance at the Hearing were there to listen to the public comments.
- Balu Tatachari** ➤ Did the process start from the community, CVRD Staff or Regional Board?
- Director Giles** ➤ Public Meeting was held May 20, 2010 which approximately 200 people attended and as a result of that Public Meeting they went back to Planning Staff to initiate a Bylaw Amendment that could be brought forward to a Public Hearing where the public could comment on it.
- Monica Collins,
1370 Hutchinson
Road** ➤ Understands that the water in the well at the Fisher Road Recycling Plant is poisoned and the well is toxic and the reasons behind the concerns raised are the concerns of water and asked how does the proposed Amendment address that property?
- Director Giles** ➤ If the proposed Amendment is passed the current uses on the site would be grandfathered.
- Alison Garnett** ➤ Grandfathering means the uses that are taking place on a property as of the date that a Bylaw is adopted are allowed to continue and are provided protection under Section 911 of the *Local Government Act*.
➤ If approved the use cannot expand and there is a certain amount of limitations on the property.
- Monica Collins** ➤ If the well water is already toxic how will this help to address the present problem?
- Director Giles** ➤ Zoning is a land use issue and deals strictly with uses on the land.

- The water and odour questions are part of the Licensing Application which is separate from the land use issue.
- Speaker,
1120 Rolmar
Crescent**

➤ Currently there are 32 permitted uses and within the proposed new zone there are 28 uses permitted. What are the other two uses that are missing from the I-1C Zone?
- Alison Garnett**

➤ She also noticed that and did check into it and two of the uses have been reworded and only the two uses make the two zones distinct.
- John Kamphof,
3622 Holland
Avenue**

➤ There is an application for a recycling facility on this property which the General Manager will be dealing with and that application includes a number of those things that will be disallowed by the new bylaw and asked if the application is simply an end run by the owner of the property to get around the bylaw?
- Director Giles**

➤ If the General Manager does not approve then what he is talking about would not be permitted. The proposed Bylaw Amendment came forward after the application to amend the existing License.
- Speaker**

➤ When was the License applied for?
- Speaker**

➤ October, 2009.
- Director Giles**

➤ The Public Meeting with regard to amending that License was May 20, 2010, and after that meeting the proposed Bylaw Amendment was drafted.
- John Kamphof,
3622 Holland
Avenue**

➤ If the proposed Bylaw is passed and the General Manager approves the License, the bylaw will have no effect as the properties will be grandfathered?
- Director Giles**

➤ If the Bylaw is passed by the Regional Board the two properties would be grandfathered.
- Herb Roberts,
3488 Todd Avenue**

➤ Cannot see how it could be grandfathered as the uses are non existing at the present time.

➤ People have said no and what the property owner is trying to do is expand through the License but if the business is not being carried out at the present time why would it be grandfathered?

➤ Why does one person have the right to say yes or no to the License Application?
- Director Giles**

➤ CVRD Bylaw No. 2570 (Solid Waste Management) passed by the CVRD Regional Board in 2006 gives the General Manager the right to approve an application. The application to amend the existing License which is for composting was submitted in 2009 and it is considered to be in-stream. Concerns with regard to that should be made during the public comments section of the Public Hearing.
- David Symons,
1439 Fairfield Road**

➤ What if the current facility goes out of compliance for a period of one year would they lose the grandfathering?
- Bob McDonald**

➤ Within the Licensing Bylaw if the Licensee is out of compliance they would be given a chance to get back into compliance and if worse comes to worse the License could be suspended and if suspended that would cease

the operation.

- Rob Conway** ➤ Land use issue is different from the licensing issue. The property would be permitted to carry out a certain amount of activity under the License. Even if they were not in compliance with the License, they would still be grandfathered for the use authorized by the License.
- Director Giles** ➤ Asked for further questions from the public present with regard to Zoning Amendment Bylaw No. 3404 and reminded the public that the Information Binder and copies of the Amendment Bylaw were located on the back table and submissions must be received at the front table prior to the close of the Public Hearing.
- Ed Aiken,
3713 Holland
Avenue** ➤ If a business goes out and a new owner comes in they have 6 months to make another application?
- Rob Conway** ➤ The Legislation states if a use is discontinued for a continuous period of 6 months the grandfathering is essentially lost and the owner of the property would be subject to the new Bylaw.
- Ed Aiken** ➤ Current property owners could leave the property, change their name and come back within that 6 month period and start up their business again or would that be another application?
- Director Giles** ➤ That would be permitted.
- Ed Aiken** ➤ Is there a way to change from the 6 months to immediate upon dissolution of a business?
- Rob Conway** ➤ Legal lawful use within the Bylaw and the *Local Government Act* states that an owner is still entitled to continue that use at the level at the adoption date of the Bylaw. If the use is discontinued for a 6 month period they would lose that right.
➤ That is Provincial Legislation and the CVRD does not have the right to shorten that 6 month period.
- Ed Aiken** ➤ Why can they not make the Bylaw Amendment an immediate change and also make that request to the Provincial Government?
- Director Giles** ➤ The *Local Government Act* applies across the Province of BC and possibly that issue could be brought up at UBCM.
- Rob Conway** ➤ There is also common law and case law that protects non-conforming rights of landowners.
- Ed Aiken** ➤ There is also a Bylaw in place that states there will be no odours or damage to the aquifer and that Bylaw is not presently be adhered to.
- Don Herriott,
1335 Hutchinson
Road** ➤ What is the process after the close of the Public Hearing?
- Director Giles** ➤ Public Hearing Minutes will be prepared and the Minutes and Exhibits will be reviewed by Hearing Committee and then they are forwarded onto the

Regional Board for a decision on the Bylaw.

**Jason Slade,
Cobble Hill Road**

- Well underneath the property is contaminated and that may cause stillbirths and miscarriages and asked how many stillbirths and miscarriages does it have to take before somebody does their job and listens to the people of Cobble Hill?

Director Giles

- Does not think anybody could answer that question and asked that he make that comment again in the public comment section of the Public Hearing.

**Bruce Frederick,
Cameron Taggart
Road**

- Will the new proposed eco depot facility be looking after the same materials as what is permitted on these properties?

Director Giles

- Proposed Bylaw Amendment is specific to this particular issue and the land use issue on Fisher Road. The eco-depot property has not been decided on or if they will collect the same or different items.

Bruce Frederick

- Resents that it is turning neighbour against neighbour.

**Catherine Barwick,
Braithwaite Drive**

- Go back to 2007 when the CVRD Board chose to omit the two properties and asked where she could read the justification of that decision?

Director Giles

- Does not think there is reading material for that justification on that decision. The decision was made by the CVRD Board and the Board was very reluctant to include the two properties within that amendment.

Catherine Barwick

- Are there any public documents that she could read?

Director Giles

- Public Hearing Minutes are available to the public at the CVRD office.

**Al Garside,
1232 Fisher Road**

- Is the decision to approve or not approve the proposed Amendment either an administrative decision or a political decision?

Director Giles

- It is a political decision but noted that advice is also sought from staff.
- When an application comes before the CVRD Board the background information first appears in a Staff Report before the Electoral Area Services Committee (EASC) and the EASC makes a recommendation to the Regional Board to prepare a Bylaw for 1st and 2nd Readings. If the Bylaw receives 1st and 2nd Reading the next step is to hold a Public Hearing. Public Hearing Minutes are prepared and signed off by Directors who attended the Public Hearing and the Minutes and Exhibits are forwarded onto the Board for consideration of either 3rd Reading or denial of the Bylaw. If the Bylaw receives 3rd Reading it would also have to be forwarded onto the Ministry of Transportation for approval before it could go back to the Regional Board for adoption.

Heather Dickinson

- If the wells are toxic and it is caused by the company why has nothing been done to stop the pollution and the problem been cleared up?

Director Giles

- There are two issues being dealt with, one is the land use issue and the other the Licensing issue.
- Proposed Bylaw Amendment at the Public Hearing deals with the land use issue.

- Pete Maycheck,
3562 Verner Avenue**
- Asked when the building was first built did it pass its building inspections and was it compliant.
 - That piece of property has never been compliant.
- Director Giles**
- Cannot say whether it is compliant or not and the records will be checked.
 - Asked if Mr. Maycheck could make that comment in the public comment section of the Public Hearing.
- Bob McDonald**
- That will be checked into further but understands they have since received their necessary building inspection approvals.
- Pete Maycheck**
- Took 10 years to get the approvals and it has been non compliant from day one.
- Director Giles**
- Reminded the public that the Information Binder and proposed Bylaw Amendment were located on the back table and asked for further questions from the public.
- Henry Van Dermullin
3551 Verner Avenue**
- Can the CVRD further investigate where the buildings are in compliance as he understood one was located close to a property line and residence and can that information be made public knowledge?
- Director Giles**
- Mr. Conway will check into that for him.
- John Middleton**
- Zone permits nasty things that penetrate soil and he does not want to see anything going down into the aquifer.
 - Will there be containment provisions put in the Bylaw to protect against any spills into the aquifer from any industry that may utilize or process any chemicals or solvents?
- Rob Conway**
- Proposed Bylaw does not contain those provisions.
- John Middleton**
- The proposed Bylaw is a band-aid and there should be provisions with regard to containment issues and protecting the aquifer.
 - Why does the region not adopt, as a whole, a specific Bylaw that includes provisions for containments for industries that utilize materials that could impact an aquifer?
- Director Giles**
- Asked that Mr. Middleton make that comment in the public comment section of the Public Hearing.
 - For information the Regional District is comprised of nine Electoral Areas and four Municipalities and the CVRD has no jurisdiction over the Municipalities. Each of the nine Electoral Areas have their own different Zoning Bylaws and it sounded like he would like to see a cooperative and collaborative approach between all of the nine Electoral Areas. If that is what he would like considered she would like him to make that comment during the public comment section of the Public Hearing.
- John Middleton**
- Electoral Area C is not the only Area that has possible spillage issues and an aquifer.
- Director Giles**
- Asked for further questions from the public present with regard to Zoning Amendment Bylaw No. 3404.

- Bob Cantin,
1213 Hutchinson
Road**
- Will the Engineering Department have a yeah or nay on the proposed amendment.
- Director Giles**
- No, not on the proposed Bylaw Amendment they have a say on the Licensing to expand to include recycling at Fisher Road.
 - Proposed Zoning Amendment will be decided by the Regional Board's nine Electoral Area Directors.
- Bob Cantin**
- General Manager of the Engineering Department has to make the yeah or nay decision on the License and asked if that decision is binding on the Board or is that a political decision as well?
- Director Giles**
- Everybody has until December 6th to make their comment to the CVRD's Engineering Services Department on the License. The License is determined by the General Manager and according to the Bylaw if the License is denied the applicant can appear before the Regional Board, as the Board is the appeal authority. If the General Manager approves the License there is no appeal for the community.
- Bob Cantin**
- What criteria does the General Manager follow to either approve or disapprove the License?
- Director Giles**
- He should speak with Bob McDonald with regard to that question.
- Bob McDonald**
- The General Manager of the Engineering and Environment Department will be making the decision on the License Amendment.
 - The General Manager will follow CVRD Bylaw No. 2570 which contains all the criteria and that Bylaw is online for the public to view.
 - All documentation received will be reviewed and there are also different aspects that are reviewed.
 - Intent of the May 20th Public Meeting held between the CVRD and the applicant was for the public to review the application.
 - All comments and factors will be taken into consideration when the General Manager makes his decision to either approve or deny the application.
- Director Giles**
- Asked for further questions three times from the public present regarding Zoning Amendment Bylaw No. 3404.
- PUBLIC
COMMENTS**
- The Public Hearing was then opened to those members of the public present who deemed themselves affected by the proposed Amendment Bylaw. Chair Giles reminded the public that the Information Binder was available for review and is located on the back table, along with copies of the Amendment Bylaw, and that all submissions must be received at the head table prior to the close of the Public Hearing.
- Robin Brett,
1232 Fisher Road**
- In 2002 one well on the Fisher Road site was contaminated with 5 times the allowable level of nitrates and in 2010 a second well on an adjacent property also had high nitrates.
 - From the year 2000 on, the recycling property has been many times in non compliance by building without permits, processing non permitted materials and bio filters not being maintained.
 - Compost stored outside is permitted to have 1,000 fecal coliform but the compost coming out of the building and stored on ground is reactivating in

the rain and the EBA report on September 27th stated screened compost at 23,000 fecal coliform and unscreened 460,000 fecal coliform and what is allowed is 1,000.

- Proposed Bylaw is not about Fisher Road Recycling or about recycling or the eco-depot it is with regard to what should be allowed on a largely unprotected sand and gravel aquifer.
- Supports the proposed Bylaw.

**Don Harriott,
1335 Hutchinson
Road**

- Supports the proposed Bylaw.
- Has attended three of the public meetings over the last 6-7 months and people are concerned about water.
- There are undeniable facts with regard to the contaminated well and the aquifer concerns.
- Other issue other than water is the odours which are also ongoing.
- Reasons he supports the Bylaw is to limit the expansion of the facility with regard to the concerns raised over water and odours.

**Janet Pidwysocki,
1336 Bonner
Crescent**

- Supports the proposed Bylaw Amendment as it will prevent future expansions and contaminations.

**Jennifer Symons,
1439 Fairfield Road**

- Bylaw is about defining the Light Industrial Zone and real environmental concerns and it is time to clean up Fisher Road.

**Bonnie Walsh,
3614 Watson Place**

- Has lived there prior to either of two previous owners operating on that property.
- Supports the amendment to the Bylaw as she wants to see consistent zoning throughout that area, as it does not make sense to have zoning on one side of the area and not on the other side and it appears to be a detriment to the entire area.
- Wants to prevent any further expansion.

**John Middleton,
4180 Telegraph
Road**

- The Bylaw does not contain any measures for containing any kind of deleterious substance to the aquifer or to the rest of the environment.
- Instead of band aids put something into the Zoning Bylaws that would preclude spills of any sort from any kind of industrial process from getting into the environment and it should be carried out on a Region wide basis.
- There are other places in the Valley that have serious containments in place to protect aquifers and the environment.

**John Kampoff,
3622 Holland
Avenue**

- Supports the proposed Bylaw and any other Bylaw that would protect the groundwater that they drink on a daily basis.
- Wants to also see stronger groundwater protection and enforcement bylaws in the future.

**Pete Maycheck,
3562 Verner Avenue**

- Supports the proposed Bylaw but does not think it goes far enough.
- It isn't about the recycling plant as that recycling plant has been a pain in the side of the community since the concept came about and has never been compliant all the way through.
- His groundwater comes from a clean source but there are already two contaminated wells on that site and he fears what they are drinking.
- He has worked on a hazmat site and if an accident happens an accident has already happened and there are no cures for it, the only cure is to stop it.

- David McPheators,
3534 Twin Cedars
Drive**
- Approves of the proposed Bylaw.
 - Should stop the pollution of the water and feels that the Bylaw is also only a band aid.
- John Krug,
780 Red Oak Drive**
- Supports the proposed Bylaw.
- Rob Reid,
3607 Princess Avenue**
- Approves the proposed Bylaw.
- Michael Jansson,
1435 Fairfield Road**
- Representing Strata No. 3546 which consists of 16 homes on Watson Place and Fairfield Road and 11 of those homes are less than 300 metres from the subject property.
 - They fully support the proposed Bylaw.
 - Would like to see things done more urgently.
 - In a case of non compliance with the Solid Waste Bylaw and the excess of 60 days that shall constitute a cessation of activity for the purposes of the land use bylaw and shall be considered cessation of the grandfather uses under I-1.
- Bob Cantin,
1214 Hutchinson
Road**
- Supports the proposed Bylaw Amendment in the interest of clean fresh water now and in the future.
 - Area is expanding and does not want to see groundwater contaminated and the community suffer from that.
 - Wants to ensure there is pure, clean, drinkable, potable water from their wells.
- Christina Worthing
1319 Hutchinson
Road**
- New to the area and wants to have good drinking water and supports the proposed Bylaw.
- David Symons,
1439 Fairfield Road**
- Supports the proposed Bylaw it is a small step but it is a good direction.
 - Directors should be obliged to side with them as they are elected by the public not businesses.
- Lavonne Huneck,
1384 Duffield Drive**
- Read verbatim her submission (EXHIBIT 84) stating her reasons for not supporting the proposed Bylaw.
- John Alexander**
- Representing the owners of 1355 Fisher Road, one of the two subject properties that are subject to the proposed amendment.
 - His clients take the position that there is no valid planning purpose for the proposed amendment.
 - Staff have explained very well the concept of existing non conforming use or the grandfathering clause and people are well aware that the current operations on the two properties can continue, as long as the use of the land is not interrupted for more than six months. It should be clear that has nothing to do with permits or permitting or other approvals and the Courts have been clear on that.
 - The uses on the two properties do not change simply because of the proposed Bylaw.
 - In the Staff Report it notes the issue about the threat to groundwater being eliminated and stated the lists of permitted uses within the Zone also continues to allow other uses that are huge creators of wastewater.
 - No logical sense or valid planning approach to taking out two of the permitted uses. Does not say that something should not be done either.

- Below the permitted uses there is a category called Conditions of Use and stated under Sub 4 there could be a Sub 5 added that states it should be carried out on an impervious surface with collection of rainwater that is properly treated. Instead of changing the use, a condition of use could be added that not only picks up this property but every other industrial use in the zone.
- Not one engineer will tell you that putting this compost on an impermeable surface is not better than leaving it on the ground.
- Planning staff have said it will be legal non conforming to a certain extent and things cannot be expanded or changed and if going to an impermeable surface is a good idea and if down zoning freezes them in time so that they cannot expand the use or methodology, then the owner could not put in the impermeable surface. Property owner is in the process of doing that and has already committed to it and the Courts have said he is committed to the use on the day of the zoning. They may or may not have a Court case in the future if the Bylaw is passed.
- If the Bylaw is adopted property owner cannot fix up the property as he will be frozen in time. What rational businessman invests money into a property that faces that?
- There is no valid planning purpose in doing it.
- There is no valid scientific or environmental purpose behind this and the District has no evidence or advice from an expert indicating what is going on there now is an inappropriate threat or risk to the water quality.
- There were high nitrate levels starting in 2002 and it is his understanding those levels have been going down.
- Present owners have been making changes and spending money and they have built impermeable surfaces to capture the runoff and it would be going backwards to stop that process.
- The CVRD Board supported and encouraged the business in 2007 by stating that they would take away the uses on all the other properties except for this one and one other. CVRD Board felt investing capital and effort and continuing a recycling business was accepted and that was the message they received three years ago. As a result of that decision the current land owner has invested in excess of 1.3 million dollars into the land. Sending that signal that the business could be developed and then yanking it out from under them is not fair.
- Freezing the business status would be a negative effect for the neighbouring community and it would not be beneficial as they would not be able to address the problems.
- The permit allows the handling of municipal solid waste and 32 tonnes to be on site at any given time. Amendment or no amendment the recycling is not the water quality problem, it is the composting and with or without the bylaw change the composting is going to continue as that is permitted. There could even be some expansion in that area and the proposed Bylaw is going in the wrong direction.
- Objective is not a bunch of law suits but noted that his client has spent over 1.3 million since 2007 when they were given the indication that they should go ahead with their plans. In February, 2010 they came forward with their plan and then in May, 2010 the proposed Bylaw Amendment came forward and it all happened at exactly the same time as the CVRD embarked on opening its own eco-depot. Feels bad faith, improper and unlawful.
- If the District proceeds it should be obvious that it is highly likely litigation will ensue as the property owner will be trying to protect themselves and agreed that litigation is expensive and lengthy.

- He knows of a down zoning case in the City of Victoria that took nine years and it went to the Supreme Court of Canada twice and that is the kind of response you get when a down zoning directly impacts a person's economic interests in a serious way.
- Urged the Board members to look back to 2007 when they made the original decision to not change the zoning and noted that his clients are happy to address the Licensing issues with the Engineering Department.

**Dennis Edwards,
1471 Wheaton Place**

- Mr. Alexander is talking about being fair and he sat on a committee for the previous submission and asked the question if there would only be garden waste or garbage waste and he was advised no meat or garbage only garden waste.
- The property owners have invested 1.5 million dollars and now because they have spent that money they feel the people must follow their every wish. The neighbours have also spent a lot of money into their properties and they have something to protect too.
- There has been no compliance and no building permits previously and asked the Engineering Department to get them into compliance.

**Don Harriott,
1335 Hutchinson
Road**

- Lifestyle and drinking water is in the public's interest.
- In 2006 he originally supported the subject property and over the past four years he has completely changed his position. He did take some heat from his neighbours in 2006, at that time when he did support the application but he wanted to see what would come forward and he now has seen the results.
- The threats that have come forward if the zoning is approved that they will not continue making the improvements. There are several non compliance issues and it is not working to address those issues as it is not a sign of good business.
- How is it fair for a neighbour to not be able to live in their house, enjoy their backyard and a neighbouring well having high levels of nitrates in it?
- He supports private business and he has a lot of money invested in his property and he cannot enjoy it because of the smell.

**Betty Lording,
3605 Garland
Avenue**

- Supports the proposed Amendment Bylaw.
- Have not gotten anywhere with regard to the water issues.
- Her neighbour came from Squamish and gave her an example of a composting facility, not bio solids that operated for approximately three years. The community complained about the smells and Canadian Tire and a taxi stand moved in 100 metres from the composting business and they objected to the aroma and it was not long after that the composting facility was moved out of that location to another location because of the odours.
- At a previous CVRD meeting there was a representative who knew about composting and she heard a comment that odours could be controlled. Cited Metro Vancouver's search for a composting site and stated that their main stumbling block is the smell, as it is not only land that is required, space around the land is also required. A senior engineering with Metro Vancouver toured sites in BC and Ontario that have since been shut down due to odour issues.
- There have been big city attempts at composting and none succeeded in controlling odours and none were processing bio solids.
- Feels the Amendment should be passed.

Monica Collins,

- Supports the proposed Bylaw Amendment.

- 1370 Hutchinson Road**
- In fairness she does not know how many residential properties are in Area C and stated that they are not asking for anything unreasonable, they just want to be safe and have safe drinking water.
 - Does not want to lose their properties due to poisoned drinking water.
 - 1.2 million dollars is nothing compared to life and death and it is a very serious issue that needs to be addressed.
- David Symons,
1439 Fairfield Road**
- Despite the lawyer's threats he still supports the proposed Amendment.
 - Hood Canal Bridge showed up in Cowichan Bay last year and the reason it was brought here was because there was not enough laws in place to protect the people of Cowichan Bay.
 - There are some big holes in the Bylaws in place that need to be reviewed and addressed.
- Herb Roberts**
- Supports the proposed Bylaw.
 - If the owner is willing to go ahead and spend 1.3 million without a permit to expand it is time it is stopped.
 - Water and the aquifer is an issue along with the smell.
- Karen Davis,
1225 Royalta Road**
- Fully agrees with protecting the groundwater.
 - What she has heard is composting is causing a lot of trouble to the groundwater and the odour. The property owner has invested a great deal of money into his business and he now may be stopped, however, he would like to now recycle.
 - Also seems there is a division due to the proposed eco-depot.
 - A good solution to his problem is to build the eco-depot on industrial zoned land where it belongs away from residential lands and then the taxpayers will not have to spend their money building one on the agricultural land and he can have his business on legal industrial zoned land that will not contaminate the groundwater and then the CVRD does not have to put one in being a good solution for everyone.
- Frank Lockerbie,
2556 Kinnoull
Crescent, Mill Bay**
- Read verbatim his submission (EXHIBIT 86) stating his reasons for opposing the proposed rezoning.
- Director Giles**
- Asked the public for a moment as she would like to speak with Mr. Anderson in the side room.
 - Director Giles thanked the public for waiting and stated that she wanted to speak to Mr. Anderson about procedure.
 - Asked for further comments with regard to the proposed Zoning Amendment Bylaw.
- Bonnie Walsh,
3614 Watson Place**
- With regard to the proposed eco-depot she believes there is no money in recycling and that money is in the composting part of the business.
 - The people living in the area are not trying to voice their problems on the eco-depot they are two separate issues and she does not believe the two issues are related to one another.
 - Resents the implied threat of lawsuits and as a resident and taxpayer she would be happy to have her taxes pay for a lawsuit as the problem has been ongoing for 13 years.
 - Property owners have also invested a lot of money into their properties and are not getting to enjoy their properties either.
- Karen Harriott,**
- Supports the Amendment as it is a small step but it is a good step in the

- 1335 Hutchinson Road**
- right direction.
 - Takes exception to people who do not live near the facility saying they do not want it in their area but they want it in her area and the issue is about water.
- Al Garside,
1232 Fisher Road**
- Supports the proposed Amendment.
 - Thanked the political element for responding to the community concerns raised on May 20th.
 - Does not resolve water issues but it is his hope that it sends a message about good corporate citizens and he has not seen that, he has only seen threats.
 - Suggests the CVRD do everything they can to engage the company in meaningful communication in the hopes that some common ground can be reached and maybe then they can see a responsible corporate citizen.
- Dara Quast
3632 Vanland Road**
- Read verbatim her submission (EXHIBIT 82) stating her reasons that the zoning amendment should not be approved.
- Evelyn Roberts
3488 Todd Avenue**
- Asked the question earlier why the two properties were originally omitted from the original rezoning of the industrial lands and feels that the CVRD Board by leaving the two parcels to remain at the industrial zoning has given permission, by omission, for the land use to get out of hand.
 - Groundwater is their most precious commodity and it needs to be protected and asked the CVRD help them do that.
- Brent,
3570 Twin Cedars**
- Supports the Amendment as there has to be somewhere to start fixing the water problem and this is one good way to start it.
- Jennifer Symons,
1439 Fairfield Road**
- Supports the Amendment.
 - If nothing else with the grandfathering perhaps it can do something to contain potential growth.
 - Everyone is well aware the Hartland Landfill will no longer accept kitchen waste as of 2012 and the owners of Fisher Road Recycling also have the refuse recycle company in Victoria and they could have an interest in expansion and she fears that.
- Balu Tatacheri**
- Chair of Friends of Saanich Inlet.
 - Read verbatim his Submission (EXHIBIT 85) stating their reasons for not approving the Amendment.
- Tony Balding
3605 Holland Avenue**
- In favour of Bylaw as it is a step in the right direction.
- Director Giles**
- Asked for further comments from the public present with regard to Zoning Amendment Bylaw No. 3404.
- Bruce Fredericks,
2755 Cameron Taggart Road**
- Does not want to see people turning against one another.
 - Commends Bob McDonald for what he is trying to do with recycling in the Cowichan Valley.
 - Absolutely detests the idea of an eco depot as there is nothing eco about it and it will not be ecologically sound.
 - Recycling is a hard process and exporting it is also a problem.
 - Back in the 1960s McDonalds had styrofoam packing around their food and that was not stopped at that time.

- Thanked Director Morrison from coming to the Public Hearing from Cowichan Lake.
- When Director Giles wanted to take on directorship in 2008 he commended her statement with regard to a regional growth strategy and noted that has not yet occurred.
- It is a beautiful area to live in.
- Does not like the bylaw because of the bylaw itself but does not support the amendment if it will put people out of business for support of the eco-depot.
- People who move in next to a farm have to live next to the manure smells and other agricultural issues and stated that the larger issues need to be looked at.
- He is also worried about wells in the area.
- Everybody is affected by the proposed bylaw.
- Not fair he cannot speak on the proposed eco-depot as he is beyond 1 km range.
- Increase of population needs to be addressed.
- Two wrongs don't make a right as it will set up a possible legal confrontation and they should move toward a possible solution.
- Every area wants water protection and does not want to see chlorination.
- Asked the elected officials to move toward solutions and not against one another.
- Wants to know what the plan is for the eco-depot and that are better solutions out there.

**Balu Tatachari,
1733 Arbutus
Terrace, Mill Bay**

- We have to look for a long term strategic solution which is to move all businesses off the aquifer on Fisher Road to somewhere else which will not impact the aquifer.
- Bylaw is the wrong thing to approve let's do it right.

Robin Brett

- Chlorination of water does not help nitrates and boiling water just concentrates them, there is no way to get rid of them.
- Asked that people consider how much it will cost them to fix the aquifer?

Herb Roberts

- Farmers have been in the area for a very long time and recycling is new to the area and asked why that has to be added to it?
- Supports the Bylaw restrictions.

**Don Harriott,
1335 Hutchinson
Road**

- People do not want to spend any money on a lawsuit but if a company comes in to do whatever they want and the people did not do anything because they were afraid of a lawsuit that is dangerous path to follow.

**Deborah Laterno,
1364 Hutchinson
Road**

- Supports the proposed Amendment.
- Owners knew when they purchased the property there were previous problems that existed but they still went ahead and purchased it.
- A lot of people do not want the amendment and also do not want the eco-depot and asked where all those people were when they were fighting West Coast Waste. They seem to be concerned about their own interests and not the water issues in the subject area.

Director Giles

- Reminded the public that the Information Binder was located on the back table along with copies of the Amendment Bylaw and that submissions must be received at the front table prior to the close of the Public Hearing. Director Giles asked for comments on Zoning Amendment Bylaw No. 3404 a 1st and 2nd time. 54

**Bruce Fredrickson,
2755 Cameron
Taggart Road**

- Please consider Town Hall Meetings so they can speak in the open and not in such a formal process as the Public Hearing.

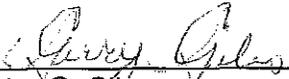
ADJOURNMENT

Chairperson Giles asked for comments or submissions three times from the public present regarding Zoning Amendment Bylaw No. 3404.

Chairperson Giles declared the Public Hearing closed at 9:28 p.m.

CERTIFICATION:

We attended the Public Hearing on Tuesday, November 30, 2010, and hereby certify that this is a fair and accurate report of the Public Hearing.



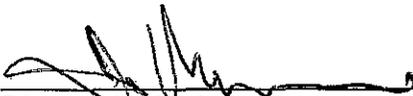
Director G. Giles

Date January 28, 2011



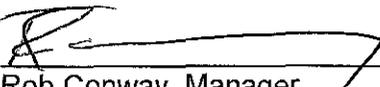
Director B. Harrison

Date Feb 1, 2011



Director F. Morrison

Date Feb. 01/2011



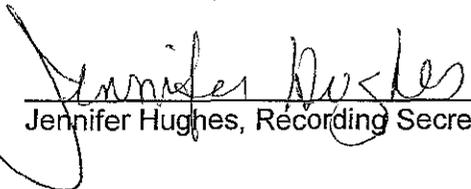
Rob Conway, Manager

Date Feb 1, 2011



Alison Garnett, Planner II

Date January 28, 2011



Jennifer Hughes, Recording Secretary

Date January 28, 2011



Pursuant to Freedom of Information and Protection of Privacy legislation, the exhibits relevant to Board Agenda Item PH1, (Pages 57 – 161) are available for in-person inspection at the main reception desk of the CVRD Offices located at 175 Ingram Street, Duncan, BC, during regular business hours, 8:00 am to 4:30 pm, Monday to Friday, excluding statutory holidays.



C·V·R·D

PUBLIC HEARING REPORT
Bylaws No. 3430 and 3431

Following is a summary of the proceedings of the Public Hearing for Official Community Plan Amendment Bylaw No. 3430 and Zoning Amendment Bylaw No. 3431 (Partridge), applicable to Electoral Area B – Shawnigan Lake, held on Monday, November 29, 2010, at the Shawnigan Lake Community Centre, 2804 Shawnigan Lake Road, Shawnigan Lake, BC, at 7:00 p.m.

HEARING DELEGATES

Director K. Cossey, Electoral Area B – Shawnigan Lake, Chairperson
Director K. Kuhn, Electoral Area I – Youbou/Meade Creek

Absent:

Director L. Duncan, Electoral Area E – Cowichan Station/Sahtlam/Glenora

CVRD STAFF PRESENT

Mr. R. Conway, Manager, Planning & Development Department
Ms. J. Hughes, Recording Secretary, Planning & Development Department

Members of the Public:

There were approximately 50 members of the public present.

CALL TO ORDER

Director K. Cossey chaired the Hearing and called the meeting to order. The Chairperson introduced the Hearing Delegates and CVRD Staff present.

PROCEDURES

Mr. Conway explained the requirements under Section 890 of the *Local Government Act*. He advised that notice of the Public Hearing was advertised in two consecutive issues of the *Citizen* (Friday, November 19, 2010 and Wednesday, November 24, 2010) and *Leader Pictorial* (Friday, November 19, 2010 and Wednesday, November 24, 2010) 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. 3430 proposes to amend Official Community Plan Bylaw No. 1010, applicable to Electoral Area B – Shawnigan Lake by adding a new policy in the Forestry section of the Plan that identifies the purpose of the F-3 (Forestry Resource) Zone and establishes criteria for evaluating applications to rezone from F-1 (Primary Forestry) to F-3 (Forestry Resource).

Zoning Amendment Bylaw No. 3431 proposes to amend CVRD Zoning Bylaw No. 985 by creating a new F-3 (Forest Resource) Zone with a 7.0 hectare minimum parcel size with up to two dwellings permitted per parcel. The Bylaw also rezones Lot 10, District Lot 15, Helmcken District, Plan 2210, Except Parts in Plan 47997 and VIP76565 from F-1 (Primary Forestry) to F-3 (Forestry Resource).

The purpose of Official Community Amendment Bylaw No. 3430 and Zoning Amendment Bylaw No. 3431 is to allow the subject property to be subdivided into 4 parcels.

Mr. Conway stated that 17 pieces of correspondence of response 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, November 29, 2010, at 4:30 p.m. He further advised that copies of the proposed Amendment Bylaws were located on the side table for review.

Mr. Conway further advised:

- The property in question is located on Renfrew Road, west of the West Shawnigan Lake Road turn-off and approximately opposite the Glen Eagles Road subdivision;
- Subject property is about 33.7 hectares in area (approximately 83 ac.) and presently has two dwellings on it. The property is designated Forestry in the Area B OCP and is zoned F-1 (Primary Forestry). The F-1 Zone has an 80 hectare minimum lot size so it is not possible to subdivide without rezoning the subject property;
- The applicant would like to subdivide the property into four lots, with each lot allowing up to two single family dwellings;
- The subdivision layout is not confirmed at this stage. If the zoning amendment is granted, the owner would have to apply to the Ministry of Transportation (MoT) for subdivision approval. The subdivision layout has not been confirmed at this stage, but it likely would involve four lots with access from a new road off Renfrew Road;
- The applicant would need to prove water and sewage disposal fields for the proposed lots at the time of subdivision;
- The applicant has agreed to provide approximately 1.7 ha. of the site as parkland which is a little over 5% of the total site area as park. The dedication would be a 10 metre strip along the Trans Canada Trail corridor boundary and a 7 metre dedication around the perimeter of the site for a future trail;
- As mentioned previously, there are two amendment bylaws under consideration and the first proposes to amend the OCP by adding a new policy to the Forestry section of the Plan. This Policy basically states that the F-3 Zone may be considered where the following criteria are met:
 - The lands are designated Forestry in the OCP;
 - The lands are located adjacent to residentially-designated land and are not considered suitable for commercial forestry;
 - Wildfire hazards have been assessed and potential risks has been reduced through mitigation measures;
 - A substantial dedication of public land for park, trail and/or community forest is provided in a location and of a character considered by the Board to be beneficial to the community and the Region.
- The second Bylaw under consideration proposes to amend the Area B Zoning Bylaw to create a new F-3 Zone and to rezone the subject property from F-1 to F-3.
- Currently there are only two Forestry Zones in the Bylaw – the F-1 Zone that has an 80 ha (200 ac.) minimum lot size and the F-2 Zone that has a 4 ha. (10 ac) minimum. The proposed zoning amendment would create a third Forestry Zone with a 7 ha (17.3 ac.) minimum parcel size. Although the lot size of the F-3 Zone is larger than the F-2, the residential density is comparable since it allows 2 dwellings per parcel. Like the F-2 Zone, the F-3 Zone is intended as a transitional zone between residential and primary forestry lands.

Correspondence

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

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- 1) Email dated November 14, 2010, and attached letter dated November 29,

- 2010, from Mary Desmond, Shawnigan Lake Watershed Watch (EXHIBIT 1);
- 2) Letter dated November 27, 2010, from Joan Givner (EXHIBIT 2);
 - 3) Email dated November 29, 2010, from Ezio Cusi (EXHIBIT 3);
 - 4) Fax dated November 28, 2010, from Alf Evans (EXHIBIT 4);
 - 5) Email dated November 26, 2010, from Aileen Eaton (EXHIBIT 5);
 - 6) Email dated November 27, 2010, from Ian and Brenda Hamilton (EXHIBIT 6);
 - 7) Email dated November 27, 2010, from Dr. David Givner (EXHIBIT 7);
 - 8) Email dated November 27, 2010, from Bill Savage (EXHIBIT 8);
 - 9) Email dated November 29, 2010, from Kevin Clancy (EXHIBIT 9);
 - 10) Email dated November 29, 2010, from Paul Hardman (EXHIBIT 10);
 - 11) Email dated November 29, 2010, from David Wooldridge (EXHIBIT 11);
 - 12) Fax dated November 29, 2010, from Beverly Ranson (EXHIBIT 12);
 - 13) Email and attached letter both dated November 28, 2010, from Lena Lee and Ronald Lee (EXHIBIT 13);
 - 14) Email dated November 29, 2010, from Gael Huntley (EXHIBIT 14);
 - 15) Email dated November 29, 2010, from Garry Horwood (EXHIBIT 15);
 - 16) Email dated November 29, 2010, from Janice Moseley (EXHIBIT 16);
 - 17) Email dated November 29, 2010, from Sara Middleton (EXHIBIT 17);
 - 18) Letter dated November 29, 2010, from Sheila Paul (EXHIBIT 18);
 - 19) Letter dated November 29, 2010, from Catherine Regehr (EXHIBIT 19);
 - 20) Letter dated November 29, 2010, from Duncan Regehr (EXHIBIT 20);
 - 21) Letter dated November 29, 2010, from Balu Tatachari, Chair, Friends Of Saanich Inlet (FOSI) (EXHIBIT 21);
 - 22) Letter dated November 29, 2010, from D.G. Ross-Smith (EXHIBIT 22);
 - 23) Letter dated November 29, 2010, from Bob Starkey (EXHIBIT 23);
 - 24) Letter dated November 29, 2010, from Larry Morris and Linda Morris (EXHIBIT 24);
 - 25) Letter dated November 29, 2010, from Catherine Beverly McCooey (EXHIBIT 25);
 - 26) Letter dated November 29, 2010, from Heather McCooey (EXHIBIT 26);
 - 27) Letter dated November 29, 2010, from Tim McCooey (EXHIBIT 27);
 - 28) Email dated November 29, 2010, from Catherine Regehr (EXHIBIT 28).

Location of the File

Director Cossey advised that the Information Binder was available for review on the side table, 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,
Craig Partridge**

Craig Partridge was present and stated the following with regard to Rezoning Application No. 1-B-09RS:

- He is a resident of Shawnigan Lake and his co-applicant in this project is Ron Sharpe and he is a resident of Cobble Hill;
- He is a land developer and has heard comments made about greed but noted he has lived in the Shawnigan Lake area for 20 years, he has seen the landscape change over those years but reminded everyone it is still a beautiful area;
- This is his 5th rezoning project and it is not always about money;
- They have two adjacent properties adjacent to the subject property that are rentals which they have tried to make affordable for younger families;
- Need to develop lands for younger generations;
- They employ 90-95 percent of their workers from the area;
- Proposing to subdivide the subject property into 4 lots and they will also have to install a private road into the site;

- Not required to dedicate parkland but because he lives in the area he wants to dedicate 4-5 acres to the Parks Department;
- In one of his past rezoning applications there was a swamp located on a piece of property and he was asked at that time by Mary Desmond what would happen to that swamp and he turned that 2 acre swamp over to the CVRD;
- Forestry and fishing industries declining and the tourism industry has been cut in half but building is still carrying on and they are hoping to continue to build and create affordable housing in the area.

- QUESTION PERIOD** Director Cossey opened the public question period of the Public Hearing. He 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.
- Brent Beach,
1656 Shawnigan
Lake Road** ➤ Asked for clarification between the hectares and acres of the proposed lots?
- Rob Conway** ➤ Proposed lot sizes are 4 hectares or 10 acres.
- Brent Beach** ➤ Sits on the OCP Steering Committee and has been following that process very carefully and wanted to make a further comment.
- Director Cossey** ➤ Advised that the meeting is still in the question section and noted he could make his comment during the official comment section of the Public Hearing.
- Brent Beach** ➤ He will make his comment during the official comment section.
- Roy Davies,
2812 Renfrew Road** ➤ What is the purpose of creating a new zone rather than using one of the existing zones within the Zoning Bylaw?
- Rob Conway** ➤ Applicant's proposal does not fit with any of the existing zones within the Zoning Bylaw for subdivision and the F-3 Zone has been created specifically for the subject property.
➤ Subject property is Forestry zoned and residential uses are discouraged within that zone but noted the newly created F-3 Zone permits residential uses.
- Tim McCooley** ➤ Does the proposal have Advisory Planning Commission (APC) support?
- Rob Conway** ➤ APC did review the application and read the recommendation of the APC to the public present which states they would like the application delayed until the OCP has been completed.
➤ There is an OCP review underway for Electoral Areas A – Mill Bay/Malahat, B – Shawnigan Lake and C – Cobble Hill and the Area B APC did recommend that the application be delayed until after that review has been carried out.
- Tim McCooley** ➤ What was the Staff recommendation on the application?
- Rob Conway** ➤ Staff recommended that the application be denied and a partial refund of application fees be given back to the applicant.

- Tim McCooley** ➤ Who proposed the F-3 Zone?
- Rob Conway** ➤ CVRD Board gave direction to Staff to draft Bylaws that would formalize the proposal in bylaw form.
- Tim McCooley** ➤ Will the proposed F-3 Zone apply to entire region as a whole?
- Rob Conway** ➤ No, not the entire region as a whole, the F-3 Zone would only be in the Electoral Area B – Shawnigan Lake Zoning Bylaw, if adopted.
- Tim McCooley** ➤ Will there be any restrictive covenants registered against the property?
- Director Cossey** ➤ It is possible that covenants could be registered against the property.
- Al Brunet,
1853 Norbury Road**
- By creating a new F-3 Zone does that open up the wedge for other forestry zoned lands to come forward and apply for rezoning?
 - How much of an effect on the area would there be by creating the new F-3 Zone?
 - Once the F-3 Zone has been created will that zone then apply to all the other forestry zoned lands in the area who want to apply for rezoning?
- Rob Conway** ➤ All rezoning applications are considered on a case by case basis and it is not an automatic that once it is in the Zoning Bylaw that it would be applied to other properties. Any person can apply for the new zone through an official rezoning process.
- Bill Savage,
1470 Mahon Road**
- Fish bearing creek feeds into the West Arm and asked if the runoff from this property feeds directly into that creek?
- Rob Conway** ➤ Not sure if the runoff runs into the creek.
- Speaker** ➤ Runoff does flow into that creek.
- Bob Starkey,
3277 Renfrew Road**
- How much of the perimeter of the lot is adjacent to R-2 or R-1 zoned lands, as he believes that the railway is 100 feet wide and that is not zoned R-2.
 - How much of the property is accessible by road?
- Rob Conway** ➤ Technically none of the perimeter touches R-2 zoned lands but noted that R-2 lands are on the other side of Renfrew Road. F-1 zoned lands surround the remainder of the subject property.
- Bob Starkey**
- Through his calculations 87% of the land is surrounded by F-1 zoned lands.
 - Where will the access to the property be?
- Rob Conway** ➤ Road access to the property will be determined by the Ministry of Transportation at the time of subdivision.
- Sheila Paul,
1857 Burnham Road**
- Will there be any impact on Shawnigan Creek and the Trans Canada Trail?
- Rob Conway** ➤ There has not been an impact analysis carried out yet on the subject property as the Riparian Areas Regulations assessment will happen during

- the subdivision process.
- A 10 m buffer along the trail boundary has been proposed, so provision has been made with regard to protecting that trail.
- Sheila Paul** ➤ Does the public have access to the Public Hearing Minutes?
- Director Cossey** ➤ Yes, when the Minutes are ready they will be placed on the Regional Board Agenda.
- Roy Davies,
2812 Renfrew Road** ➤ Are there two different issues being presented at the Public Hearing, one being the new zone and the other being the rezoning of the subject property to the new zone?
- Rob Conway** ➤ Yes, discretion was given to draft a zoning amendment bylaw that would create a new F-3 Zone and rezone the subject property to the F-3 Zone.
- Roy Davies** ➤ There is no residential property boundary that actually abuts the subject property?
- Rob Conway** ➤ Not directly, but there is on the opposite side of the road.
- Roy Davies** ➤ Staff report suggests there are residential lands adjacent but in fact there is not.
- Brent Beach,
1656 Shawnigan
Lake Road** ➤ What would the tax assessment for F-3 zoned lands be?
- Rob Conway** ➤ BC Assessment Authority would assess the land and make that determination.
- Director Cossey** ➤ If someone is living on lands that is what they will be assessing.
- Brent Beach** ➤ Even if it is zoned as Forest Resource lands?
- Director Cossey** ➤ BC Assessment does not care what the name of the zone is. They will come out and assess the land based on actual use.
- Balu Tatacheri,
1733 Arbutus
Terrace, Mill Bay** ➤ Chair of Friends of Saanich Inlet.
➤ Director Duncan was delegated to the Hearing and asked why he was not in attendance?
- Director Cossey** ➤ Questions should be for either staff or the applicant regarding the presentation and process could be discussed later.
- Balu Tatacheri** ➤ Is there anything in the Bylaw that can stop anyone else for applying for the new F-3 Zone?
- Rob Conway** ➤ Anyone can apply for rezoning.
- Director Cossey** ➤ Each rezoning application is dealt with on a case-by-case basis.
- Bob Starkey,
3277 Renfrew Road** ➤ On three sides of the subject property there are F-1 zoned lands and F-2 zoned lands on the other side and he cannot see any R-2 zoned lands bordering the subject property as noted in the staff report.

- Rob Conway** ➤ On the application received the applicants indicated that there are R-2 zoned lands bordering the subject property.
- Bob Starkey** ➤ Misleading statement as the property on the other side of the railway grade is F-1 zoned lands.
- Sheila Paul** ➤ When does the applicant plan to further apply for more subdivision of the lands as she understood there are further plans to subdivide down to 1 ha lots?
- Craig Partridge** ➤ They do not have a set date as they have to first deal with the subject rezoning.
- Bill Savage,
1470 Mahon Road** ➤ Are there further intentions to subdivide the subject property in the future into 1 ha lots?
- Craig Partridge** ➤ That is their intention, in the future, to further subdivide the subject property.
- Brent Beach** ➤ Is he correct in understanding that a zoning change that starts before the OCP process can continue being processed but any rezoning that begins after an OCP review has started it is considered to be contrary to the new OCP and is in fact invalidated by the new OCP?
- Rob Conway** ➤ Until a new OCP has been adopted they do not know what that document will actually say. Difficult to hold applications in abeyance until an OCP review has taken place. In Area B rezoning applications have come forward during the OCP review process.
- Director Cossey** ➤ Applicant is entitled to go through the rezoning process as the existing OCP and Zoning Bylaw are still in place.
➤ Ministry of Transportation's Approving Officer will either approve or not approve the proposed subdivision plan.
➤ There is no Regional Board policy in place that can override and rescind an OCP and Zoning Bylaw.
- Balu Tatachari** ➤ Where is the water source for servicing the proposed lots?
- Craig Partridge** ➤ Drilled wells.
➤ Presently there are two existing houses on the property and they share one well. If subdivision is approved they would be drilling other wells.
- Roy Davies** ➤ Why did the applicants apply for F-3 zoning and not apply for F-2 zoning if they plan on continuing to subdivide in the future?
- Craig Partridge** ➤ Did not want it to be a big shock to the community as they were trying to be reasonable and extend it over time, but at the same time they would like to see some revenue coming back to them.
- Sara Middleton,
2686 Culrain Road** ➤ Confused about the word "adjacent" as the criteria is opening up the entire Shawnigan Lake watershed and area.
- Rob Conway** ➤ Intention is to have forestry lands remain in the area.

- Sara Middleton** ➤ Are they suggesting that all adjacent lands will then apply for the F-3 zoning?
- Rob Conway** ➤ Not suggesting that at all but noted that any person can apply for rezoning.
- Al Brunet** ➤ Is the property viable as forestry land?
- Craig Partridge** ➤ It would take a long time as there are not many trees left on the 83 acre site.
➤ They do not take trees down unless it is for a pathway and if they have to take any down they would use some of the trees to build the houses.
- Roy Davies** ➤ If the subject zoning is approved then the F-3 zoning could apply to all pieces of property that are adjacent to residential land?
- Director Cossey** ➤ No, case-by-case situation and an applicant would have to apply for rezoning.
- Roy Davies** ➤ Whoever owns property adjacent or in the area could apply for the same zoning?
- Director Cossey** ➤ Correct, any person can apply for rezoning.
- Rob Conway** ➤ There is a very similar policy in the OCP for F-2 zoned lands.
- Roy Davies** ➤ It applies to everything in Area B.
- Director Cossey** ➤ Becomes a tool in the toolbox.
- Sheila Paul** ➤ Where is the policy written with regard to F-2 forestry zoned lands and subdivision?
- Rob Conway** ➤ Current F-2 Zone has a 4 ha minimum lot size and the proposed F-3 Zone is proposing a 7 ha minimum lot size.
- Sheila Paul** ➤ Where is there another F-3 Zone in the Province of British Columbia?
- Director Cossey** ➤ Don't focus on the name of the zone or the designation of the zone as it could be called anything, what should be focussed on is the use and the proposed designation associated with it.
➤ New Zone and designation has been proposed for the subject property.
- Sheila Paul** ➤ CVRD is the first of its kind to create an F-3 Forest Resource Zone?
- Director Cossey** ➤ Does not know.
- Rob Conway** ➤ Regional District's and other local governments in BC regularly create new zones and zones are commonly written for their communities.
- Sheila Paul** ➤ Asked the definition of the F-3 Zone?
- Rob Conway** ➤ It is within Zoning Amendment Bylaw No. 3431.
- Bob Starkey** ➤ Does this mean that the F-1 Zone will no longer be in effect in the area, as well as the surrounding parcels?

- Rob Conway** ➤ The subject property is the only one that has applied for the new F-3 Zone.
- Catherine Regehr, 2691 Sallachie Road** ➤ If the property is rezoned to F-3 that means all the other lands in the F-1 Zone could apply for the same zoning.
➤ Why did they not call it a residential rezoning instead of a forestry rezoning?
- Rob Conway** ➤ F-2 Zone has a smaller minimum lot size than the proposed F-3 Zone.
➤ Debatable whether to call it a forestry zone or a residential zone.
- Catherine Regehr** ➤ Does not understand why it has been called forestry.
- Director Cossey** ➤ Read the permitted uses within the proposed F-3 Zone.
- Catherine Regehr** ➤ The proposed F-3 Zone has a larger minimum lot size?
- Director Cossey** ➤ Correct, the F-3 Zone has a larger minimum lot size than the F-2 Zone.
- Bill Savage** ➤ The subject property is not located adjacent to residential lands and because the rezoning does not meet the required criteria it should not proceed. If it does not meet the required criteria should the rezoning continue?
- Rob Conway** ➤ Does meet the criteria as there are residentially zoned lands on the opposite side of Renfrew Road.
- Bill Savage** ➤ Are there any pieces of residentially zoned lands adjacent to the subject property?
- Rob Conway** ➤ In his opinion, yes, there are adjacent residentially zoned lands.
- Bill Savage** ➤ Which pieces of land is he speaking about?
- Rob Conway** ➤ The Glen Eagles Road subdivision on the opposite side.
- Bill Savage** ➤ Adjacent means next to it and beside it and stated he felt there were no residentially zoned lands adjacent to the subject property.
- Balu Tatachari** ➤ What is the pumping capacity of the wells?
- Craig Partridge** ➤ One well pumps 5 gallons per minute and the second well on the property pumps 25 gallons per minute.
➤ If the subdivision is approved each lot will have their own well.
- Roy Davies** ➤ How deep are the wells?
- Craig Partridge** ➤ 200 feet and 425 feet.
- Bob Starkey** ➤ He calculated that if the land was further subdivided in the future it could be subdivided into 28 lots and asked if there would be sufficient water for those proposed 28 lots?
- Director Cossey** ➤ Not part of the subject F-3 rezoning application. If the applicant applies for further subdivision in the future those questions could be raised at that

time.

- Larry Morris,
1991 Isherwood
Avenue** ➤ Was there a recommendation to partly deny the application due to the OCP review process?
- Rob Conway** ➤ Area B APC recommended that the application not be approved until such time as the OCP has been reviewed.
- Larry Morris** ➤ Did the Planning Staff recommend denial of the application until after the OCP review?
- Rob Conway** ➤ Planning Department recommendation was to deny the application.
- Director Cossey** ➤ Staff Report was prepared for the Electoral Area Services Committee (EASC) and the recommendation was to prepare Amendment Bylaws and that recommendation was forwarded onto the Regional Board.
- Brent Beach** ➤ Is it correct that the proposed Bylaw has a maximum house size that could be built on the property which states it is 10 percent of the area of the property and on a 7 ha lot that is 75,000 sq ft house. Do you really want a zone that permits a 75,000 sq ft house on a 7 ha property?
- Rob Conway** ➤ In theory that would permit a building that big and also noted that the F-1 and F-2 Zones permit 30 percent lot coverage.
- Bob Starkey** ➤ Applicant has stated they want to subdivide into 1 ha lots?
- Director Cossey** ➤ Not the rezoning application being dealt with at the present time, the subject property is being proposed to be rezoned to F-3.
- Craig Partridge** ➤ How many amendments have been made to the existing OCP?
- Rob Conway** ➤ Approximately 20-30 amendments and the OCP has been amended regularly since it was adopted in the 1980's.
- Craig Partridge** ➤ If their rezoning proposal is not approved can other parcels surrounding their parcel apply for rezoning?
- Rob Conway** ➤ Any person can come forward and apply for rezoning.
- Roy Davies** ➤ What is the reason the Planning Staff recommended denial of the application?
- Rob Conway** ➤ Primary reason the Staff Report recommended denial is that existing Policy 2.6 in the OCP discourages residential development along Renfrew Road.
- Director Cossey** ➤ Rezoning application in front of the public at tonight's public hearing is to rezone the subject property to F-3.
- Dave Archibald,
2250 West
Shawnigan** ➤ Large subdivisions are located up the road from their property and to build a house on a one hectare lot is not a big deal.

- Preston Partridge, 1665 Elford Road** ➤ What was the zoning for Shawnigan Station, as that is a far bigger parcel with more dense residential housing located in the middle of nowhere?
- Director Cossey** ➤ That subdivision was created in 1985 and sat dormant for a number of years.
- Director Cossey** ➤ Asked for further questions from the public present with regard to Official Community Plan Amendment Bylaw No. 3430 and zoning Amendment Bylaw No. 3431.
- Sheila Paul** ➤ Have any water studies been carried out and are there any concerns with regard to water supply?
- Craig Partridge** ➤ He has no concerns with water. He has lived in the area of 20 years and has had no problems with water.
- Director Cossey** ➤ Approving Officer will review the water servicing issues during the subdivision process.
- Bob Starkey** ➤ Is he correct in understanding that the F-2 Zone has quite a number of policies but none of those policies are in the new F-3 Zone?
- Rob Conway** ➤ The Forestry Policies in the OCP would also apply to the proposed F-3 Zone.
- Director Cossey** ➤ All the Forestry policies would apply to the new Zone.
- Balu Tatachari** ➤ Does staff know of any historical value on the subject property?
- Rob Conway** ➤ Not aware of any historical value.
- Balu Tatachari** ➤ Understands there are historical values with regard to the old Shawnigan Lake Railway Line which means there is history on the land.
- Director Cossey** ➤ Asked for further questions from the public with regard to the proposed Amendment Bylaws.
- Brent Beach** ➤ How many lots are currently available in Shawnigan Lake that are already zoned for residential homes?
- Director Cossey** ➤ Unfortunately an inventory has not been taken.
- Brent Beach** ➤ It is his understanding, as he sits on the OCP Committee, that there are over 400 lots available in Shawnigan Lake for residential construction and there is no shortage of land for residential development over the next 20 years.
- Sheila Paul** ➤ Stream on the property that flows into Shawnigan Lake means it is in the watershed area and asked has a study been carried out with regard to that stream?
- Rob Conway** ➤ The CVRD is not able to require a RAR Assessment during the rezoning stage, but it will be required at the subdivision stage.
- Director Cossey** ➤ CVRD does not have a Development Approval Information (DAI) process

in place to require an impact analysis but if it had been in place the CVRD could have requested all the impact analysis prior to the rezoning and redesignation process. Because that is not in place at the present time that process could only occur during the subdivision stage.

- Roy Davies** ➤ Actual stream does not run through the property. There are feed-off creeks that come off the property that run into the stream.
- Director Cossey** Asked for further questions from the public present three times regarding Official Community Plan Amendment Bylaw No. 3430 and Zoning Amendment Bylaw No. 3431.
- 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 Cossey reminded the public that the Information Binder was available for review located on the side table, along with copies of the proposed Amendment Bylaws, and that all submissions must be received at the head table prior to the close of the Public Hearing.
- Dan Gray,
2371 Grey Lane** ➤ If you stripped away 3 inches of asphalt and go underneath the road the adjacent residential properties would touch one another.
- Sharon Starkey** ➤ Read verbatim a submission (EXHIBIT 1), opposing the application, from Mary Desmond, Shawnigan Lake Watershed Watch, who was unable to attend the public hearing.
- Alice McKay** ➤ Has horses and finds it difficult to find acreage for horses. Many people would want to move to the area for their horses as the Trans Canada Trail is located next to it and it also supports younger families.
➤ Supports the proposed rezoning application.
- Director Cossey** ➤ Requested that the audience not applause after speakers comments.
- Tanya Bender,
2939 Laverock Road** ➤ Lives very close to the subject property and advised that the subdivision in the area is almost full.
➤ She is a single mom and would like a sense of community and wants to see more children living in the area, which leads to people in the area helping one another out.
- Graham Ross-Smith,
2410 Barton Place** ➤ If people wish to have horses they should be living outside of the watershed as large livestock like horses and cattle have serious impacts on water quality and Shawnigan Lake is a reservoir that services hundreds of people.
➤ Read his letter (EXHIBIT 22) verbatim that stated his concerns as to why the application should be declined.
- Larry Morris** ➤ Supports the rezoning application.
- Danny Neal,
1147 Kay Place,
Mill Bay** ➤ Moved to the area 14 years ago and he cut down trees on his property to build his house. People have to stop and look at who is doing the developing and he knows the proposed developers have a very good track record, take pride in their work and the public should pay attention to that.
- Roy Davies,
2812 Renfrew Road** ➤ There are two parts to the application, one being the rezoning to F-3 and the other Mr. Partidge's rezoning of the subject property. He understands

Mr. Partridge's application and he does not want to comment on his development as he feels he should not be targeted.

- He does believe the proposed F-3 zoning will open up another whole other can of worms for the entire area, not just Mr. Partridge's property.
- The subject property should be changed to something that is already within the current zoning possibilities.

**John Cardy,
3455 Verner Road**

- Supports the proposed application.
- This land was once owned by a large forest company and was clear-cut and sold off.

Speaker

- Asked if the previous speaker who read their letter verbatim had any credentials for the comments that was made in that letter.

Director Cossey

- Public Hearing cannot get into cross discussions and requested for further comments on the proposed Amendment Bylaws.

Bob Starkey

- His family owned the property at one time and his father and grandfather created the road and stated that road is 100 feet wide.
- Purpose of F-1 Zone is to discourage large tracts of residential density.
- If developers receive zoning approval that would set a precedent for all of Area B and open it up for others to apply for rezoning.
- Applicants also want to, in the future, further subdivide down to 1 acre lots.
- Objects to proposed rezoning application.

**Catherine Regehr,
2691 Sallachie Road**

- Subject property should stay as forestry zoned and be allowed to grow back into forestry.
- Taxes always go up and she knows if development goes through her taxes will go up.
- This year she had problems with their well and they were told there were far too many people accessing the aquifer.
- Understood people were thinking about putting a moratorium against further use of the aquifer.
- The proposed F-3 zoning will open up other lands to come forward.
- Thanked the applicant for being honest and stating that he wants to further subdivide in the future, but there are already available lots for sale in the area.

**John Modest,
2872 Renfrew Road**

- Supports the proposed Bylaws as they will be bringing jobs into the community and more people into the area which also helps the local businesses in the area.

**Kurt,
2065 Maple Grove**

- Subdivision has been happening for generations from the 1800's to now for family members and friends and he does not see any difference from then to now.

**Grant Anderson,
2932 Renfrew Road**

- Lives adjacent to the subject property and supports the rezoning application.

**Bev McCooley,
2639 Culrain Road**

- Concerned about the property being further subdivided in the future with regard to existing problems with roads, water quality and density.
- If the applicant had a chosen a smaller density to start she would not have had a problem as she does not support it being further subdivided into smaller lots as it would not fit into the community.
- Water quality of the Lake has changed drastically.

- People need more than an acre of land to have horses on them.
- Director Cossey**
- Asked for further comments from the public present with regard to Official Community Plan Amendment Bylaw No. 3430 and Zoning Amendment Bylaw No. 3431.
- Sheila Paul**
- Her husband has been in construction for 33 years.
 - She has read all 17 letters contained in information binder and they were all in opposition.
 - Her questions were not fully answered.
 - In the past she has attended APC meetings, CVRD Board meetings and EASC meetings and she is a secretary and likes to take notes of what is occurring within a meeting room.
 - The entire F-3 Zone will set a precedence that will be ugly as there are many things happening in the south end, for example Bamberton will be creating a mini city and she dreads it. Sorry for people who have to drive to Victoria on a daily basis.
 - She is adamantly opposed to the rezoning from F-1 Primary Forestry lands from 80 ha to 7 ha and then at some future time subdividing further down to 1 ha.
 - Started reading her letter (EXHIBIT 18).
- Director Cossey**
- Asked Ms. Paul for her comments, not questions, on the proposed Amendment Bylaws.
- Sheila Paul**
- Continued reading her letter (EXHIBIT 18).
- Director Kuhn**
- Stated that Ms. Paul needs to express her opinion on the subject Bylaws and the proposed application and not politicize.
- Sheila Paul**
- Continued and finished reading her letter (EXHIBIT 18).
- Craig Partridge 2048 W. Shawnigan Lake Road**
- Hard to understand why people want to keep the F-1 zoning with a minimum parcel size of 80 ha, as all surrounding acreages are smaller than 80 ha and he cannot find one 200 hundred acre parcel.
 - Subject property is 83 ha in size, and all adjacent parcels are much smaller in size.
- Dan,
2060 West
Shawnigan Lake
Road**
- Supports the proposed application.
 - Knows Mr. Partridge as a responsible builder and he will do a good job for the neighbourhood.
- Bill Savage,
1470 Mahon Road**
- He knows Mr. Partridge as well and respects him.
 - He is a member of the Parks Commission, a resident of Shawnigan Lake and is most concerned with regard to water and water quality in the area.
- Balu Tatachari**
- Chair, Friends of Sannich Inlet.
 - Read verbatim his submission (EXHIBIT 21).
- Director Cossey**
- Asked Mr. Tatachari for his comments on the proposed Bylaws.
- Balu Tatachari**
- Continued and finished reading his submission (EXHIBIT 21) also noting his concerns with regard to issues being "top secret".

- Director Cossey** ➤ Asked for comments on the Bylaws or he will be ruled "Out of Order".
- Balu Tatachari** ➤ Continued reading his submission (EXHIBIT 21).
- Director Cossey** ➤ Asked for further comments from the public with regard to the proposed Amendment Bylaws.
- Sara Middleton,
2686 Culrain Road** ➤ Concerned about the real estate people who are waiting for the forestry lands to be developed and sold off and for that reason she is opposed to the rezoning application.
- Dan** ➤ Supports the proposed rezoning application.
- Dean Watchal** ➤ Business owner and has lived in the Valley for 46 years and strongly supports the application, as he feels Mr. Partridge is a stand-up citizen.
➤ In his 46 years he has not seen much forestry activity on that parcel.
- Director Cossey** ➤ Asked for further comments or submissions from the public present.
- Preston Partridge,
Elford Road** ➤ Supports the proposed rezoning application.
- Director Cossey** ➤ Asked for further comments on the proposed Amendment Bylaws.
- Scott,
3560 Keeling Road,
Cobble Hill** ➤ Supports the proposed rezoning.
➤ Does not support what he has seen occur on Shawnigan Lake in the past.
➤ Would like to see some access to the Trans Canada Trail and six proposed homes is not that big of a deal.
- Balu Tatachari,
1733 Arbutus
Terrace, Mill Bay** ➤ No quorum at the Public Hearing as Director Duncan was supposed to be in attendance and he was not there.
- Director Cossey** ➤ CVRD board appoints Directors to a Public Hearing but if one or two Directors are absent leaving only one or two Directors at the Public Hearing it does not invalidate the process. A Public Hearing does not require a quorum to hold the Hearing.

ADJOURNMENT

Chairperson Cossey asked for public comments or submissions three times from the public present regarding Official Community Plan Amendment Bylaw No. 3430 and Zoning Amendment Bylaw No. 3431.

Chairperson Cossey declared the Public Hearing closed at 8:50 pm.

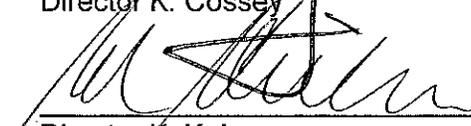
CERTIFICATION:

We attended the Public Hearing on Monday, November 29, 2010, and hereby certify that this is a fair and accurate report of the Public Hearing.



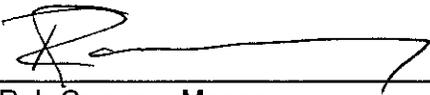
Director K. Cossey

Date Jan 31/2011



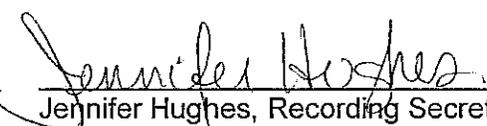
Director K. Kuhn

Date 1 Feb. 2011



Rob Conway, Manager

Date Jan 28, 2011



Jennifer Hughes, Recording Secretary

Date January 28, 2011



Pursuant to Freedom of Information and Protection of Privacy legislation, the exhibits relevant to Board Agenda Item PH2, (Pages 178 – 209) are available for in-person inspection at the main reception desk of the CVRD Offices located at 175 Ingram Street, Duncan, BC, during regular business hours, 8:00 am to 4:30 pm, Monday to Friday, excluding statutory holidays.



C·V·R·D

PH3

PUBLIC HEARING REPORT
Bylaw No. 3432

Following is a summary of the proceedings of the Public Hearing for Official Settlement Plan Amendment Bylaw No. 3432 (Marine Riparian DPA), applicable to Electoral Area D – Cowichan Bay, held on Thursday, December 2, 2010, at Bench Elementary School (Multi Purpose Room), 1501 Cowichan Bay Road, Cowichan Bay, BC, at 7:04 p.m.

**HEARING
DELEGATES**

Director L. Iannidinardo, Electoral Area D – Cowichan Bay, Chairperson
Director G. Giles, Electoral Area C – Cobble Hill
Director M. Dorey, Electoral Area G – Saltair/Gulf Islands

**CVRD STAFF
PRESENT**

Mr. M. Tippett, Manager, Planning and Development Department
Ms. J. Hughes, Recording Secretary, Planning and Development Department

Members of the Public:

There were approximately 45 members of the public present.

CALL TO ORDER

Director L. Iannidinardo chaired the Hearing and called the meeting to order. The Chairperson introduced the Hearing Delegates and CVRD Staff present.

PROCEDURES

Mr. Tippett explained the requirements under Section 890 of the *Local Government Act*. He advised that notice of the Hearing was advertised in two consecutive issues of the *Citizen* (Wednesday, November 24, 2010 and Friday, November 26, 2010) and in the *Leader Pictorial* (Wednesday, November 24, 2010, and Friday, November 26, 2010) as required by the *Local Government Act*.

Amendment Bylaw No. 3432 proposes to amend Cowichan Bay (Electoral Area D) Official Settlement Plan Bylaw No. 925, 1985 by introducing a new development permit area requirement for oceanfront lands. This **Marine Riparian Development Permit Area** would require any person with marine waterfront land to apply for permission (development permit), prior to subdividing marine waterfront land, constructing a structure or building within 30 metres of the high tide mark, or making any other alterations to land or plants within 30 metres of the high tide mark.

The purpose of the Marine Riparian Development Permit Area is to protect development from hazardous conditions, to protect sensitive marine riparian areas from development that could impair its productivity as part of the marine ecosystem and to preserve the integrity of marine drift processes (the erosion, transportation and deposition of shoreline sediments). Forage fish are a primary food source for larger fish such as salmon, as well as for other wildlife. Ocean shorelines that are not composed of bedrock are very dynamic areas of landscape change, and to protect the residents of these areas and other human infrastructure, careful measures need to be taken.

For example, an erodible bluff on the waterfront is potentially a dangerous place to construct a home, and engineering measures such as seawalls, riprap and bulkheads not only interfere with natural beach processes, but also

increase the likelihood of slope failure in the medium term, and therefore can offer a false sense of security. Alternative measures to protect development from the hazard of eroding bluffs would be promoted in the new Marine Riparian Development Permit Area (DPA), such as setting buildings and structures further back from the high tide mark, where possible, and where engineering measures are required to safely occupy a site, the guidelines of the DPA would recommend "softer" treatments of the interface between the land and the ocean, which would benefit both the safety of structures and their residents and enhance biological function. Marine beaches in this Region are considered vital habitat for "forage fish", which are small fish that spawn on the beach in the intertidal zone.

Mr. Tippett stated that seven (7) emails/letters of response to the proposed Bylaw had been received from the date the advertisement was placed within the local newspapers to the close of the CVRD office today, December 2, 2010, at 4:30 pm. He further advised that copies of the proposed Amendment Bylaw were located on the side table for review.

Correspondence

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

- 1) Email dated November 30, 2010, from Kim Johannsen (EXHIBIT 1);
- 2) Email dated December 1, 2010, from Brent & Michele Heath (EXHIBIT 2);
- 3) Email dated December 2, 2010, from Eric Marshall, President, Cowichan Valley Naturalists' Society (EXHIBIT 3);
- 4) Email dated December 2, 2010, from Dick/Dirk Nagtegaal, Relationship Coffee Co. (EXHIBIT 4);
- 5) Email dated December 2, 2010, from Greg Kothlow (EXHIBIT 5);
- 6) Email dated December 2, 2010, from Ray & Jeanne (EXHIBIT 6);
- 7) Letter dated December 2, 2010, from Leonard & Janice Orrico (EXHIBIT 7);
- 8) Email dated December 2, 2010, from Arthur & Jessica Vickers (EXHIBIT 8);

Location of File

Director Iannidinardo advised that the Information Binder was available for review on the side table, along with copies of the Amendment Bylaw, 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.

QUESTION PERIOD

Director Iannidinardo 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.

**Lorne Hall,
1217 Sutherland
Drive**

- What differentiates Cowichan Bay from Cherry Point and Mill Bay for the purpose of this Bylaw Amendment?

Director Iannidinardo

- Mill Bay and Cobble Hill have decided to do their proposed Marine Riparian DPA within their new Official Community Plans (OCP).
- Electoral Area G – Saltair/Gulf Islands already has it within their OCP.

Lorne Hall

- Is Cherry Point with Cobble Hill and is there no action at the moment in

Area C for the proposed amendment?

- Director Iannidinardo** ➤ Cherry Point is included in Electoral Area C – Cobble Hill.
- Director Giles** ➤ Electoral Area C – Cobble Hill is in the middle of an OCP review process and they are reviewing the marine riparian development permit area within that process.
- Dennis O'Neill,
1137 Joyce Road**
- The Province of BC has a Riparian Areas Regulation (RAR) Handbook and that opens up many issues that applies to ditches, streams and wetlands and does not refer to oceanfront.
 - Page 4 of the RAR Handbook states that it does not apply to the *Fisheries Act*.
 - Does the Federal Government not have powers to regulate as they have the regulations and are we trying to re-create regulations that do not have jurisdiction?
- Mike Tippett**
- CVRD has RAR Development Permit Areas throughout the Regional District and are well aware that they do not apply to marine areas.
 - Regional Board's concern reflects concerns of Senior Government Agencies, Fisheries & Oceans Canada, BC Environment that federal regulations are punitive in nature with regard to *Fisheries Act* violations, as the damage has to occur before they can do anything and they do not have jurisdiction over the upland area that is adjacent to the marine shoreline.
 - Marine Riparian does not fall under the Riparian Areas Regulations.
- Director Dorey**
- In Saltair their development permit area is called the Oceanside Development Permit Area not Marine Riparian Development Permit Area.
 - Fisheries do not seem to have the manpower to control anything and the proposed Bylaw is intending to prevent mistakes along the oceanfront, rather than them happening after the fact.
- Dennis O'Neill**
- Who has the authority as he believes the Department of Fisheries and Oceans looks after the *Fisheries Act* and the Ministry of Environment (MOE) regulates the RAR.
 - Is this not a regulation the Provincial Government and MOE should be taking care of?
- Mike Tippett**
- In theory yes, in reality no, as it is not followed through in the Provincial legislation to protect the environment. There are very few laws the MoE enforces and they have very little say on private land development. Under the *Local Government Act* there are powers delegated onto the local governments. Federal law is reactive and directly affects fish habitat and the ocean itself.
- Dennis O'Neill**
- Quite clear the local authority does not have the approvals.
- Mike Tippett**
- RAR applies to freshwater and the entire marine foreshore does not apply.
- Dennis O'Neill**
- The RAR Handbook is a 30 page document that does apply to marine foreshore.
 - Very draconian measures within the proposed Amendment with regard to obtaining an Arborist and the trimming trees and deadfalls, as under the proposed Bylaw they would not be permitted to touch them.

- There is no grandfather clause written into the Amendment and stated that he understood the grandfather clause specifically stated people living on the land should be permitted to have their rights and asked if that was done on purpose or was that an oversight?
- Mike Tippett** ➤ Section 911 under the *Local Government Act* states that anything in place may remain and stated whatever is there is there.
- Dennis O'Neill** ➤ Does the proposed Bylaw prevent subdivision from occurring?
- Mike Tippett** ➤ Cannot prevent subdivision from occurring but asks people going through the subdivision process to submit information about how the proposed development/subdivision might affect the foreshore area.
- Brett,
941 Cherry Point
Road** ➤ States very clearly that no person shall subdivide land.
- Mike Tippett** ➤ No, that is not what it the Bylaw states and read Section 13.8.5 verbatim.
➤ If a property owner wants to subdivide they must first get a development permit before subdivision can occur.
- Director Iannidinardo** ➤ Information Binder is located on the side table along with copies of the proposed Amendment Bylaw and asked for further questions from the public present with regard to Official Settlement Plan Amendment Bylaw No. 3432.
- Greg Hunt,
1116 Fairbanks
Road** ➤ What caused the amendment to take place?
- Director Iannidinardo** ➤ What has happened along the foreshore is the issues are not being addressed and they have been highlighted in the community. Protection of the forage fish and the foreshore is a concern, along with the changing habitat, retaining walls and rip-rap. There has been a lot of education brought to them by scientists and there have been public meetings held with regard to that.
- Greg Hunt** ➤ Concerned about eroding bluffs?
- Director Iannidinardo** ➤ About preserving the habitat.
- Greg Hunt** ➤ What about the eroding bluffs in Cowichan Bay on the west side of the road and why is more concern not given to human life and homes in that area rather than fish in the ocean?
- Director Iannidinardo** ➤ That road and bank is under the jurisdiction of the Ministry of Transportation (MoT) and she had them out on site this afternoon reviewing that bank.
- Greg Hunt** ➤ Taxes keep going up every year but feels his taxes should be lowered because he lives on the waterfront with eroding bluffs which could be a hazardous situation for his house and asked why is he paying the taxes that he pays?
➤ Winds do occur along the ocean and being a homeowner he is concerned

about bank slippage and asked if a tree is on a slant does he has to go through the development permit process to cut that tree down? If there is any tree on his property on a slant he will not lose his ground and he will cut it down.

- Director Iannidinardo** ➤ Stated that trees along Cowichan Bay Road will continue to slough as those roots have not yet died off.
- Greg Hunt** ➤ Has the proposed Bylaw Amendment been passed yet?
- Director Iannidinardo** ➤ No, the Regional Board has given the Bylaw Amendment 1st and 2nd Reading and is at the Public Hearing stage of the process.
- Greg Hunt** ➤ Asked if Director Iannidinardo personally knows the people on either side of the property in question regarding the retaining wall? Is there a retaining wall built along a foreshore?
- Director Iannidinardo** ➤ Not familiar with a retaining wall and there are lots of retaining walls on the foreshore.
- Greg Hunt** ➤ Asked if it is a vendetta against one person or to all the people in Area D?
- Director Iannidinardo** ➤ Not at all.
- Greg Hunt** ➤ Was an arborist called to help create the Bylaw in relation to the paper it is printed on?
- Mike Tippett** ➤ Rhetorical question no doubt and does not deserve an answer.
- Greg Hunt** ➤ An arborist should have been called as an arborist is qualified in their opinions rather than the CVRD.
➤ What arborist did the CVRD consult for this proposed Area D Amendment?
➤ What is a soft treatment to an eroding bank?
- Mike Tippett** ➤ No arborist was consulted.
➤ A good example is instead of putting a hard surface in, you also add some erodible material in front which means it softens the treatment for the wave action and has less damaging effects on neighbouring properties. It is also better for the stability of the engineering structure in place as it provides more safety for it.
- Greg Hunt** ➤ Who pays for it?
- Mike Tippett** ➤ Would cost the same as conventional engineering and whoever owns the waterfront property and stabilizes the shore would pay for it.
- Greg Hunt** ➤ Will cost him 2,000-3,000 dollars and asked if they think they are rich; this is a vendetta against them.
- Danica Rice** ➤ Sits on the OCP Committee and approximately three weeks ago a Marine Foreshore Development Open House held where the public learned about basic techniques that can be used to enhance and protect property. It was a shame that not everyone attended that Open House to receive that great information that had been offered.

- Director Iannidinardo** ➤ Asked for further questions from the public present with regard to the proposed Amendment Bylaw.
- Howard Barnes,
4594 Sparwood
Road** ➤ He has a simple footpath that already exists and they were thinking of putting some garden ties into the ground to help with slipping and sliding when walking and asked if the proposed Amendment is approved will that prevent them from putting those ties in?
- Mike Tippett** ➤ It probably does in its present form but it should be amended to accommodate situations like that.
➤ Also supports the trimming of trees being exempt from the process if the advice from an arborist has been received.
- Gloria Gregg,
4620 Lanes Road** ➤ There should be an educational component and more than one week's notice of the Public Hearing. If the goal is to educate the people perhaps an education model should come before them prior to the Amendment coming forward.
- Director Giles** ➤ This portion of the Public Hearing is about communication and no decisions have been made on the Bylaw.
➤ What happens in the process is that a Bylaw receives 1st and 2nd Readings and goes to Public Hearing where the public can ask questions and make formal comments but it does not mean the Bylaw will pass and it should be noted that does not mean the bylaw is written in stone as it could still be amended. Public Hearing Committee is listening to concerns raised and they are taken very seriously. If there are areas of the proposed Amendment the public does not agree with, make them known but please do not get angry as they are there to listen to what the public has to say.
- Director Dorey** ➤ The Bylaw in his OCP in Area G has been in place for 5 years and it has not stopped the development, it makes the developments better. If building a new house closer to the cliffside an applicant will have to go through a geotechnical review to approve the site but that makes it safer for the property owner and protects the CVRD. Agrees with tree trimming issues, as he feels if it is carried out in a sensible manner that would be fine and he did bring up that issue during the EASC discussion on the proposed Bylaw. The CVRD is concerned about new development and making it better.
- Jean,
1495 Kingscote
Road** ➤ With regard to the soft approach to Oceanside protection she had Roland Atkins, Geomorphologist, attend her property and he gave an estimate of beach replenishment. They were advised the rocks would have to come in by barge and the price she was given was \$75,000. For a Geomorphologist to come in and view the property would cost \$1,000., for a plan to be drafted cost \$10,000. and to have the work carried out \$75,000.
➤ Cherry Point beaches are different and are also shaded most of the time and that is where the forage fish stay.
- Kim Johannsen,
4369 Kingscote
Road** ➤ There are a lot of foreshore leases and licenses currently in place that affect the upland property and the licenses specifies that the works within a foreshore lease have to be maintained and that is a legal obligation to do so. Is there a conflict within the proposed Bylaw that could cause a potential issue in the future with regard to the licenses?

- Mike Tippett**
- Section 911 under the *Local Government Act* applies to it and would protect any works that are in that area and would grandfather them.
 - As far as a new foreshore lease there would be more uncertainty as to whether it would be permitted to be built and for works and surfaces that are already in place that would be covered under Section 911.
- Kim Johannsen**
- Would that also include any upland areas that are accessory?
- Mike Tippett**
- Yes, as the part that is on the foreshore is strictly regulated by the Province and the proposal does not affect the inter-tidal foreshore area directly only the private land.
- Kim Johannsen**
- The softening on the issue of tree trimming would go a long way to get more people on board.
- Jan,
4421 Kingscote
Road**
- When she bought her property it was a new subdivision and the developer had put in rock and landscape fabric along the front of the lots. The Approving Officer can also ask for covenants for no build zones when the subdivision is created, so why create it now?
 - When building they had to have engineering and everything else in place before they could start and it seems to be double work for them.
- Director Iannidinardo**
- Not making more work, just making sure the ongoing construction and the foreshore is being looked after.
- Mike Tippett**
- This process should not be confused with the 30 m no build strip, as that is not what is proposed. The proposed Amendment states if a property owner wants to do something within that 30 m they would have to go through a process to get approval.
- Jan**
- Covenants can be more restrictive and they are already in place within her subdivision.
- Ian Warhall,
Sutherland drive**
- Understands that Director Dorey has this Bylaw in place in his Area and he made the comment that he spoke against tree trimming and asked why is it within the proposed Bylaw?
- Director Iannidinardo**
- Different people have different versions of tree trimming.
- Ian Douglas,
1878 Wessex Road**
- There is a covenant registered in his subdivision that states trees cannot go above the ridgeline of a roof. They removed from their property a Giant Leaf Maple and they have dozens of them remaining on their property as they grow like weeds. According to the proposed Bylaw they would not be permitted to remove them without consulting an arborist and applying for a development permit which is felt to be too restricting.
- Director Iannidinardo**
- Part of the Public Hearing process is to hear those comments.
- Melissa Willis,
1114 Fairbanks
Road**
- Has owned their house for 35 years and there have been trees that have come down and they have called in an arborist and have spent a lot of money on finding out what they can plant along the bank. They are looking after their properties and they do not want them to go into the sea.
- Director Iannidinardo**
- Understands that, but what they also understand is the armouring that people think is a good idea to do sometimes that armouring also affects

other people and ruins the foreshore.

- Melissa Willis** ➤ If there was an education process why did they not know about it?
- Director Iannidinardo** ➤ The Open House, which is through the OCP process, was advertised in the local newspapers, the meeting was held at the Wooden Boat Society and speakers were invited to come to speak to the public about education of the environment, estuary and foreshore. There are also three billboards in Cowichan Bay that explain what the next event planned and the date, time and location.
- Bruce Muir** ➤ Owns waterfront in Area D and has concerns with regard to tree trimming and how that would affect enhancing view corridors and wants to see that further reviewed.
➤ When a person applies for a development permit is it dealt with at a staff level or at Board level?
- Mike Tippett** ➤ Not certain if the proposed Bylaw will pass, and if it does, it would be delegated to staff.
- Peggy Hunt,
1116 Fairbanks
Road** ➤ Does not have time to look at signs on the road as she is watching kids on the road and asked if Director Iannidinardo can contact her constituents another way?
- Director Iannidinardo** ➤ Emails are sent out to people who have supplied them through the OCP process and there have also been mail outs sent out directly to homes.
- Peggy Hunt** ➤ Not many people knew about this Public Hearing and that needs to be addressed.
- Director Giles** ➤ Communication is a difficult challenge and some people have that yellow/red dot in their mailboxes which the Federal Government considers bulk mail from the CVRD to be junk mail. CVRD does legally advertise within the local newspapers and they want to inform everyone of the meetings. Asked how they want to receive the information of the upcoming meetings?
- Peggy Hunt** ➤ Likes her letters delivered in her mailbox.
- Director Iannidinardo** ➤ Costs can be quite high in mailing letters and noted that they have also been trying to communicate by email.
- Jan** ➤ Received notice of the Public Hearing via email just yesterday.
- Director Iannidinardo** ➤ This meeting was legally advertised under the requirements of the *Local Government Act* but noted that notice of the Hearing was unfortunately emailed out late.
- Speaker** ➤ Received notice of the Hearing in his gate.
- Director Iannidinardo** ➤ Official notification of the Public Hearing was advertising the local newspapers as required by the *Local Government Act*. The OCP review process also has an email contact list consisting of approximately 200 people and they have been trying to inform people through that way too.

- Mike Tippett** ➤ Under the *Local Government Act* if there are 10 or more properties that are affected by a proposed amendment no letters are required, the only legal notification is within the local newspapers. If only one parcel is affected by an amendment people would be notified 60 m from that subject property and thanked the public for their comments on communication.
- Richard Cardhill
1106 Fairbanks
Road** ➤ He had to have three geo-technical surveys on his lot before he could build in 1993. He is familiar with RAR for rivers and 30 m does not sound like very much but once you look at slopes and top of bank that changes quickly and 30 m is only if it is flat land.
- Mike Tippett** ➤ 30 m RAR along a river is from top of bank.
➤ Proposed Bylaw is 30 m measured horizontally from the high tide mark and it does not matter if there is a top of bank or not. It is not as complicated as the freshwater RAR.
- Richard Cardhill** ➤ 30 m horizontally alongside a bank is a long way.
- Director Dorey** ➤ The Development Permit process has not stopped any development in his Area; it has only made it safer. Also, if there was no room to build a house there is the possibility to get a Development Variance Permit and they were not being completely blocked.
- Richard Cardhill** ➤ That would be adding more to the process.
- Director Dorey** ➤ Would require the Marine Riparian Development Permit, possibly a geo-tech and a building permit. If vegetation was being moved then an Arborist's approval would also be required.
- Danica Rice** ➤ She is a Professional Trail Builder and runs a business and stated the CVRD does have standards for trail building in place that do not go above a maximum steepness of 18 percent.
- Greg Hunt** ➤ Asked if it could be 10 m instead of 30 m?
- Mike Tippett** ➤ Could be anything between 0 and 30 m as it is not a prohibition zone.
- Greg Hunt** ➤ Possibly more people might be in favour if it was 10 m instead of 30 m.
- Jan** ➤ Isn't there already a no habitable build zone for height of 15 m in place?
- Mike Tippett** ➤ The Zoning Bylaw states 15 m of the high water mark of any other watercourse other than the Cowichan River, a lake or the sea.
- Speaker** ➤ What is the purpose of the proposed Bylaw?
- Mike Tippett** ➤ Purpose is within that 15 m that no house construction or other development is permitted but noted that 15 m setback can be varied.
- Helen O'Neill,
1137 Joyce Road** ➤ Draconian measures are being implemented within the proposed Bylaw and they have had less than one week's notice of the Hearing.
➤ Proposed Amendment can devalue their property if people cannot do what they wish to do on their property.
➤ She should have been notified personally of the Public Hearing as it directly affects her.

- Director Giles** ➤ The Directors in attendance at the Public Hearing were there to listen to the public comments with regard to the proposed Amendment and noted that it was counter productive to be angry at them.
- Helen O'Neill** ➤ Playing with people's lives, assets and livelihood and the 140 people being affected by the proposed Bylaw should have been notified by mail.
- Director Iannidinardo** ➤ Was a slip-up on CVRD's part and all comments received at the Public Hearing will be taken into consideration?
- Helen O'Neill** ➤ Community is very cross with the communication issue.
➤ Who is looking after the road bluff?
- Director Iannidinardo** ➤ Ministry of Transportation (MoT) is the responsible agency and today she met with the MoT representative in Cowichan Bay and discussed walking, cross walks and parking issues, along with looking at the bluff area.
- Helen O'Neill** ➤ Does that also affect Fenwick Road which is the road above?
➤ Worried about the house on the bank and the sliding of that bank and did the Ministry give that house a building permit?
- Director Iannidinardo** ➤ MoT is in charge of all the roads
➤ That has been geo-teched and re-built and the Building Inspector has also been involved in that process.
➤ She has also been very concerned about that bank and the Building Inspector demanded that the wall be re-built by a geo-tech.
- Mike Tippett** ➤ MoT also had a culvert that went under the road which had been crushed and was seeping into the ground. It was saturating and making the material move downhill slowly and that is another thing that had to be corrected when the proper geo-tech study was done.
- Helen O'Neill** ➤ What is Bylaw No. 925 and what are we amending?
- Mike Tippett** ➤ Bylaw No. 925 is the Official Settlement Plan (OSP) for Electoral Area D – Cowichan Bay and the proposed Bylaw is an amendment to the OSP. The OSP is on the CVRD Website or a hard copy is available at the CVRD office.
- Mitchell Fagen** ➤ What is the process if a person wanted to extend a septic field and it fell within the 30 m, would a person also have to go through the development permit process as well?
- Mike Tippett** ➤ Yes, that is the intention, as it would relate to ground or vegetation disturbance or construction within 30 m.
- Robert Fox,
2025 Cowichan Bay
Road** ➤ Sat on the APC in the early 1980's and he previously owned a marina in Cowichan Bay.
➤ Is the Estuary Management Plan still in place?
- Mike Tippett** ➤ Yes
- Robert Fox** ➤ There are commercial leases within that Estuary and if he wanted to put in a dock he would have to apply for a Development Permit and go

through a geo-tech process?

- How does this directly affect the business aspect of Cowichan Bay Village?
- Downtown on the waterfront in Cowichan Bay is truly unique and how will this impact the Village?

Mike Tippett

- There is already a Development Permit in place in the Village and if the Board was to proceed he would recommend that the Village area be removed as they are already protected under the Estuary Plan and the existing Development Permit Area for the Village. The proposed Development Permit should be targeted more to the areas that currently do not have any kind of process to offer them some kind of administrative protection.

**Brett Syme,
941 Cherry Point
Road**

- Is this process a duplication of the building permit process?

Mike Tippett

- Building permits deal with Building Codes and structures. The Building Inspector must look at bearing soils but they do not look at potential hazards and risks away from a house footing. Building permits do not look at all at vegetation issues and this proposed development permit moves a little bit further. This Development Permit would be an additional layer that one would have to go through to obtain a building permit and it would not be a duplication of the processes of the building permit.

Director Dorey

- Biologists have been telling them that the beaches are alive and they do need a certain amount of siltation but noted that it has to be a controlled feed. Proposed Bylaw will also help to educate the people in the area, the geo-tech's and the oceanfront owners who are good stewards of the foreshore.

**Richard Cardhill
Fairbanks Road**

- He had to get three geo-tech reports, one for his septic field, a driveway, and then the Building Inspector wanted a geo-tech for the bank.

Director Iannidinardo

- This is new scientific evidence of the foreshore coming forward that the geo-tech's may not be necessarily informed of right now.

**Robert Stitt,
1199 Sutherland
Drive**

- Everyone in the Area should receive the information package that was handed out at that Workshop.
- Everyone can be great stewards but it only takes one person to move in who does not care and everything could be lost if it is not done properly.

Dennis O'Neill

- Concerned about water and fish and one responsibility of the CVRD is to ensure that the drainage ditches are maintained, he lives on a street with two houses and asked the CVRD to look at it as the sand, gravel and salt on the roads as it goes directly down into the Ocean.
- Taxes they pay provide them with absolutely nothing as everyone has their own septic and water systems.
- Proposed setback will restrict property and the Bylaw is very draconian.

Director Iannidinardo

- Roads are under the jurisdiction of MoT not the CVRD.

Director Giles

- Taxes are collected through the Province and on their tax bill there is a rural tax levy which is to look after roads and policing in unorganized

- areas. CVRD cannot spend money on roads and ditches as that is a Provincial regulation.
- Dennis O'Neill**
- It is the CVRD's responsibility to prevent stormwater from going into the Ocean?
 - All salt and sand goes down his yard straight down into the Ocean.
- Darcia Doman,
Cherry Point Road**
- Only learned about Hearing this evening and from what little they have read, she and her family are against the proposed Bylaw.
- Mike Tansley**
- There is a Development Permit Area in the Village that says all new buildings, docks and live-aboards will be connected to Cowichan Bay sewer system and stated that recently one marina extended out 200 ft and it also has a live-aboards at the end of it. Why were they not made to go into the sewer as they do have the sewer units?
- Director Iannidinaro**
- Did not know that that property had sewer units and that will be further investigated.
- Mike Tansley**
- There have been very tight and strict restrictions in the Bay for the past 25 years with regard to the intertidal water. Read a portion of a letter he received from Scott Northrop, Habitat Manager for DFO.
 - Asked how massive pieces of equipment and backhoes have been permitted to dig great holes to bury huge concrete blocks for footings and who gave the permission for that work carried out? The whole atmosphere of the Bay has changed?
- Greg Hunt**
- Can an information brochure be sent out to all 140 homes in the area and ask the people if they agree with it or not?
- Director Giles**
- Asked Mr. Tansley to submit a copy of all the information he was speaking about.
- Mike Tansley**
- Responded to Director Giles that he will get her a copy of it.
- Director Giles**
- The process of notifying the public about the Public Hearing was not satisfactory and will be taken into consideration and offer some more information about what is being proposed.
 - 99.9 percent of the people who own waterfront property within Cobble Hill are excellent stewards but noted that every once in a while an owner comes into the area and cuts down every tree on their bank and then the bank slough down into the Ocean. Anyone who would like to see an example of that should walk along to Cherry Point Beach and they will see that the whole bank has sloughed down into the Ocean. It is unfortunate that bylaws have to be implemented to protect against that one individual coming in and what they are trying to do is prevent what could occur in the future. Understands that people are good stewards.
 - Maybe it is possible to have another learning opportunity for the people who did not have the opportunity to attend the past meeting.
 - There are difficulties with mailing out communication documents to every resident but noted that they could have mailed out the information to the 140 along the Cowichan Bay waterfront.
 - Want to receive the public's feedback as to what is reasonable or not.
- Greg Hunt**
- Making everyone²²¹ suffer for one situation that may or may not happen.

- Director Giles** ➤ That is true but the regulation has to come in for the whole area.
- Greg Hunt** ➤ Asked where that property is located?
- Director Giles** ➤ She will provide him and any other person the directions after the meeting.
- Jeannie Tye
4315 Kingscote** ➤ Attended that previous Open House but noted that she did not hear anything about the proposed 30 m setback.
- Dennis O'Neill** ➤ Asked for clarification in writing who has jurisdiction as he believes it is the Department of Fisheries & Oceans and has the Ministry of Environment been consulted?
- Mike Tippett** ➤ Ministry of Environment's comments are within the Information Binder.
➤ Please send him an email and he will send the specific information back to him.
- Dennis O'Neill** ➤ This is a duplication of government and the property owner will be paying for it in the end.
- Richard Cardhill,
Fairbanks Road** ➤ Who votes on the proposed Bylaw?
- Director Iannidinardo** ➤ The nine Electoral Area Directors who sit on the Regional Board vote on the proposed Bylaw.
➤ Has heard the communication issues and it is possible that this might not go forward until there has been further consultation with the public.
- Director Dorey** ➤ All questions and comments will be included within the Public Hearing Minutes and all Electoral Area Directors will receive the Minutes prior to making a decision on the proposed Bylaw.
➤ For information he attended a previous Public Hearing where there were 700 pages of notes and he reviewed all the information that was gathered pro and against those Bylaws prior to him making his vote.
- Richard Cardhill** ➤ Asked if a quick vote of hands could be taken as he felt that people at the hearing seem to unanimously oppose the Bylaw.
- Peggy Hunt** ➤ Read verbatim a portion of an email from Greg Kothlow, 1112 Fairbanks Road, who was unable to attend the Public Hearing.
- Speaker,
4594 Sparwood
Road** ➤ When the Bylaw comes before the Regional Board is there opportunity for re-write of the amendment so that it could be scaled back and will there be another opportunity to comment on it?
- Director Giles** ➤ She would like to speak to Directors Iannidinardo and Dorey and Mr. Tippett outside of the room very quickly as she has a couple of technical questions she would like answered with regard to a possible course of action on the Bylaw.
- Mike Tippett** ➤ When the Bylaw is forwarded onto the Regional Board there are a bunch of possibilities that could occur to move forward, deny, or amend the Bylaw and even come back to the public for further comments and noted that at this stage this Bylaw is not a done deal.

- Director Iannidinardo**
- The Directors and Mr. Tippet left the meeting room to discuss some technical issues at 8:45 p.m.
 - Director Iannidinardo reconvened the Public Hearing at 8:52 pm.
- Director Giles**
- The three Directors discussed the issues raised and stated there are nine Electoral Area Directors who will vote on the Bylaw and the three Directors will recommend to the other Directors that this process be abandoned. The three Directors also commit to come back to the public with further information/education in the mail and try to work with them to get something that is reasonable, that will allow everyone to protect the foreshore. Director Iannidinardo asked for that to happen even before the Public Hearing even started.
- Genie Tye,
4395 Kingscote
Road**
- Does that mean the Bylaw will be re-written before coming back to Public Hearing?
- Mike Tippet**
- Further discussions would likely be occurring on this subject during the new OCP process.
- Danica Rice**
- *Best Management Practice Guide* should also be made available for the waterfront owners for their reference.
 - Everyone should view the property in Mill Bay down from Bamberton Provincial Park, walk along the beach to a property where the landowner has clear-cut all the trees and they have all fallen down across the beach.
- Greg Hunt**
- If your next door neighbour does that, can he be sued?
- Director Giles**
- As a next door neighbour he can sue them. The property in Cobble Hill she was speaking previously about is located down Aros Road, left on LeFran, right turn and walk down the steps and 200 feet from the left look up and it is abysmal and the neighbours on both sides have been greatly impacted.
- Peggy Hunt**
- Could there be a focus group formed for this issue?
- Director Iannidinardo**
- Yes, could create a focus group.
- Director Giles**
- The Public Hearing is still in the question and answer period and the Hearing needs to be opened for public comments and then close it but noted that the public has their commitment that their recommendation to the Regional Board will be to abandon the Bylaw.
- Director Iannidinardo**
- Asked for further questions on the proposed Bylaw.
- Ian Douglas,
1878 Wessex Road**
- The red line on the map notes the two Reserves on it, Kil-pah-las does not have a red line but Duke Point does and asked if there was any difference in the two?
- Mike Tippet**
- Error in the Bylaw that would have had to be changed if the Bylaw was to proceed.
- Mike Tansley**
- What is the meaning²²³ of the map that states no motor boats outside the

Wescan Terminal?

- Director Iannidinardo** ➤ That is working with DFO, Tribes and Transport Canada and not a jurisdiction of CVRD. The CVRD is a partner in that and it is for the protection of the eelgrass and having a navigational corridor into the boat launch as there have been problems with people anchoring in the eelgrass?
- Mike Tansley** ➤ Has jurisdiction of the Village and water marina's been transferred over to the CVRD?
- Mike Tippett** ➤ CVRD has the right to zone the surface of water and the land uses on top of the leases and nothing has changed since he was a Director in terms of jurisdiction.
- Director Iannidinardo** Asked for further questions three times from the public present regarding Official Settlement Plan Amendment Bylaw No. 3432.
- PUBLIC COMMENTS** The Public Hearing was then opened to those members of the public present who deemed themselves affected by the proposed Amendment Bylaw. Chair Iannidinardo reminded the public that the Information Binder was available for review and is located on the side table, along with copies of the Amendment Bylaw, and that all submissions must be received at the head table prior to the close of the Public Hearing.
- Kim Johannsen, 4369 Kingscote Road** ➤ Has attended a couple of the OCP forums and encourages everyone to attend and participate and voice their concerns at those OCP meetings as the new OCP will impact all Area D landowners.
- Ian Douglas, 1878 Wessex Road** ➤ He has hydro lines on his property that are within 30 m and if Hydro wants to trim the trees they will run into the same issues. To make it more practical it would be better to consider changing the 30 m to either 15 m or 10 m.
- Gloria Gregg** ➤ Issue of communication is very serious and they want a guarantee that they will receive all information in their mailboxes.
- Director Iannidinardo** ➤ Asked for email addresses of the public at the Hearing as they will be invited out to a focus group meeting.
- Gloria Gregg** ➤ Focus group and information was excellent however she did not realize that the impact would be to follow up with a bylaw and that is where her caution is.
- Dennis O'Neill, 1137 Joyce Road** ➤ One concern he has with communication is a lot of people leave the area for an extended period of time and that all information should be mailed out to the homeowners.
- Director Iannidinardo** ➤ Mail and email is good communication that will be used.

ADJOURNMENT

Chairperson Iannidinardo asked for comments or submissions three times from the public present regarding Official Settlement Plan Amendment Bylaw No. 3432.

Chairperson Iannidinardo declared the Public Hearing closed at 9:08 p.m.

CERTIFICATION:

We attended the Public Hearing on Thursday, December 2, 2010, and hereby certify that this is a fair and accurate report of the Public Hearing.

Loi L. Iannidinardo Date Feb. 1, 2011
Director L. Iannidinardo

Gary Giles Date January 28, 2011
Director G. Giles

M. Dorey Date Feb 1, 2011
Director M. Dorey

Mike Tippett Date January 28 2011
Mike Tippett, Manager

Jennifer Hughes Date January 27, 2011
Jennifer Hughes, Recording Secretary



Pursuant to Freedom of Information and Protection of Privacy legislation, the exhibits relevant to Board Agenda Item PH3, (Pages 226 – 240) are available for in-person inspection at the main reception desk of the CVRD Offices located at 175 Ingram Street, Duncan, BC, during regular business hours, 8:00 am to 4:30 pm, Monday to Friday, excluding statutory holidays.



COWICHAN VALLEY REGIONAL DISTRICT

BYLAW NO. 3393

**A Bylaw to Establish a Service Within
Electoral Area B – Shawnigan Lake to Provide an
Annual Financial Contribution to the Cowichan Station Area Association**

WHEREAS pursuant to sections 796 and 800 of the *Local Government Act*, a regional district may, by bylaw, establish and operate any service that the Board considers necessary or desirable for all or part of a regional district;

AND WHEREAS the Board of the Cowichan Valley Regional District wishes to establish a service within Electoral Area B – Shawnigan Lake for the purpose of assisting the Cowichan Station Area Association with costs associated with the operation and maintenance of the Hub, a community space located at 2375 Koksilah Road (former Cowichan Station School) and the delivery of community based programs and services, heritage projects, and community events;

AND WHEREAS the Board of the Cowichan Valley Regional District has obtained the approval of the service area electors in accordance with Section 801.3 of the *Local Government Act* and Section 86 of the *Community Charter*;

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. 3393 – Cowichan Station Area Association Annual Financial Contribution (Area B – Shawnigan Lake) Service Establishment Bylaw, 2011**".

2. SERVICE BEING ESTABLISHED

The service being established under the authority of this bylaw is a service within Electoral Area B – Shawnigan Lake for the purpose of providing an annual financial contribution to assist the Cowichan Station Area Association with costs associated with the operation and maintenance of the Hub, a community space located at 2375 Koksilah Road (former Cowichan Station School) and the delivery of community based programs and services, heritage projects, and community events. The service shall be known as the "Cowichan Station Area Association Annual Financial Contribution (Area B – Shawnigan Lake) Service".

.../2

3. SERVICE AREA BOUNDARIES

The boundaries of the service area are the boundaries of Electoral Area B – Shawnigan Lake.

4. PARTICIPATING AREA

Electoral Area B – Shawnigan Lake is the only participating area for this service.

5. METHOD OF COST RECOVERY

The annual cost of providing this service shall be recovered by one or more of the following:

- a) property value taxes requisitioned and collected on the basis of the net taxable value of land and improvements within the service area, as per the *Local Government Act*;
- b) revenues raised by other means authorized by the *Local Government Act* or another Act.

6. MAXIMUM REQUISITION

The maximum amount of money that may be requisitioned annually in support of this service shall be the greater of \$5,000 or an amount equal to the amount that could be raised by a property value tax of \$0.00334 per \$1,000 of net taxable value of land and improvements within the service area.

READ A FIRST TIME this _____ day of _____, 2011.

READ A SECOND TIME this _____ day of _____, 2011.

READ A THIRD TIME this _____ day of _____, 2011.

I hereby certify this to be a true and correct copy of Bylaw No. 3393 as given Third Reading on the _____ day of _____, 2011.

Corporate Secretary

Date

APPROVED BY THE INSPECTOR OF MUNICIPALITIES this _____ day of _____, 2011.

ADOPTED this _____ day of _____, 2011.

Chairperson

Corporate Secretary



COWICHAN VALLEY REGIONAL DISTRICT

BYLAW NO. 3457

A Bylaw to Amend the Boundaries of the Douglas Hill Water System Service Area

WHEREAS the Board of the Cowichan Valley Regional District established the *Douglas Hill Water System Service Area* under the provisions of Bylaw No. 3382, cited as "CVRD Bylaw No. 3382 – Douglas Hill Water System Service Establishment Bylaw, 2010";

AND WHEREAS the Board of the Cowichan Valley Regional District wishes to extend the boundaries of the service area to include the following four properties:

- PID 004-065-549, Lot 1, Section 2, Range 6, Cowichan Land District, Plan 16800;
- PID 002-657-121, Lot 3, Sections 18 &19, Range 6, Cowichan Land District, Plan 25720;
- PID 002-249-839, Lot 1, Sections 18 &19, Range 6, Cowichan Land District, Plan 25720; and
- PID 000-044-156, Lot 1, Section 20, Range 6, Cowichan Land District, Plan 39846;

AND WHEREAS the owners of the above noted properties have petitioned the Regional District to have their property included in the service area;

AND WHEREAS the Directors of Electoral Areas C - Cobble Hill and D - Cowichan Bay have consented, in writing, to the adoption of this bylaw;

NOW THEREFORE the Board 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. 3457 – Douglas Hill Water System Service Amendment Bylaw, 2011".

2. **AMENDMENT**

That Bylaw No. 3382 be amended by deleting Schedule A and replacing it with the Schedule A attached to this bylaw.

READ A FIRST TIME this 12th day of January, 2011.

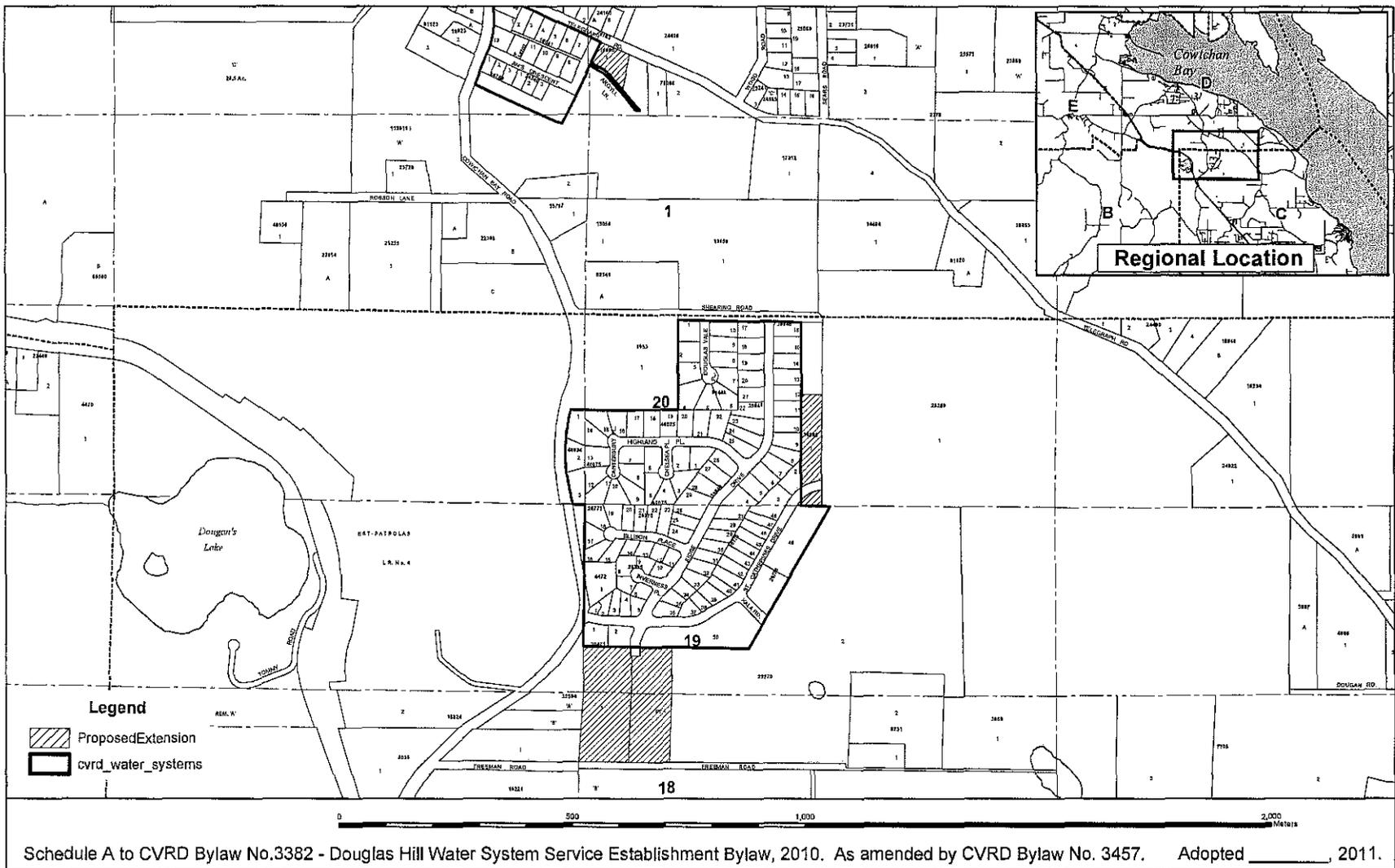
READ A SECOND TIME this 12th day of January, 2011.

READ A THIRD TIME this 12th day of January, 2011.

ADOPTED this _____ day of _____, 2011.

Chairperson

Corporate Secretary



Schedule A to CVRD Bylaw No. 3382 - Douglas Hill Water System Service Establishment Bylaw, 2010. As amended by CVRD Bylaw No. 3457. Adopted _____, 2011.



COWICHAN VALLEY REGIONAL DISTRICT

BYLAW No. 3458

**A Bylaw to Authorize the Entering into an Agreement Respecting Financing
Between the Cowichan Valley Regional District and the
Municipal Finance Authority of British Columbia**

WHEREAS the Municipal Finance Authority of British Columbia (the "Authority") may provide financing of capital requirements for regional districts or for their member municipalities by the issue of debentures or other evidence of indebtedness of the Authority and lending the proceeds therefrom to the Regional District on whose request the financing is undertaken;

AND WHEREAS under the provisions of Section 825 of the *Local Government Act*, the amount of borrowing authorized by the following Loan Authorization Bylaw, the amount already borrowed under the authority thereof, the amount of authorization to borrow remaining thereunder and the amount being issued under the authority thereof by this bylaw is as follows:

L/A Bylaw Number	Purpose	Amount of Borrowing Authorized	Amount Already Borrowed	Borrowing Authority Remaining	Term of Issue	Amount of Issue
3383	Upgrade the Douglas Hill Water System	\$150,000	Nil	\$150,000	20 Years	\$150,000
TOTAL		\$150,000	Nil	\$150,000		\$150,000

TOTAL Financing under Section 825 \$150,000

AND WHEREAS the Regional Board, by this bylaw, hereby requests such financing shall be undertaken through the Authority;

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

1. **CITATION**

This bylaw may be cited for all purposes as "**Cowichan Valley Regional District Bylaw No. 3458 - Security Issuing (Loan Authorization Bylaw No. 3383) Bylaw, 2011**".

2. The Authority is hereby requested and authorized to finance from time to time the aforesaid undertakings at the sole cost and on behalf of the Cowichan Valley Regional District up to, but not exceeding One Hundred and Fifty Thousand Dollars, (\$150,000.) in lawful money of Canada (provided that the Regional District may borrow all or part of such amount in such currency as the Trustees of the Authority shall determine but the aggregate amount in lawful money of Canada and in Canadian Dollar equivalents so borrowed shall not exceed \$150,000. in Canadian dollars) at such interest and with such discounts or premiums and expenses as the Authority may deem appropriate in consideration of the market and economic conditions pertaining.
3. Upon completion by the Authority of financing undertaken pursuant hereto, the Chairperson and Treasurer of the Regional District, on behalf of the Regional District and under its seal shall, at such time or times as the Trustees of the Authority may request, enter into and deliver to the Authority one or more agreements which said agreement or agreements shall be substantially in the form annexed hereto as Schedule A and made part of the bylaw (such agreement or agreements as may be entered into, delivered or substituted hereinafter referred to as the "Agreement") providing for payment by the Regional District to the Authority of the amounts required to meet the obligations of the Authority with respect to its borrowings undertaken pursuant hereto, which Agreement shall rank as debenture debt of the Regional District.
4. The Agreement in the form of Schedule A shall be dated and payable in the principal amount or amounts of monies and in Canadian dollars or as the Authority shall determine and subject to the *Local Government Act*, in such currency or currencies as shall be borrowed by the Authority under Section 2 of this bylaw and shall set out the schedule of repayment of the principal amount together with interest on unpaid amounts as shall be determined by the Treasurer of the Authority.
5. The obligation incurred under the said Agreement shall bear interest from a date specified therein, which date shall be determined by the Treasurer of the Authority, and shall bear interest at a rate to be determined by the Treasurer of the Authority.
6. The Agreement shall be sealed with the seal of the Regional District and shall bear the signatures of the Chairperson and Treasurer.
7. The obligations incurred under the said Agreement as to both principal and interest shall be payable at the Head Office of the Authority in Victoria and at such time or times as shall be determined by the Treasurer of the Authority.
8. During the currency of the obligations incurred under the said Agreement to secure borrowings in respect of "CVRD Bylaw No. 3383 – Douglas Hill Water System Service Loan Authorization Bylaw, 2010", the anticipated revenues accruing to the Regional District from the operation of the Douglas Hill Water System are at any time insufficient to meet the annual payment of interest and the repayment of principal in any year, there shall be requisitioned an amount sufficient to meet such insufficiency.
9. The Regional District shall provide and pay over to the Authority such sums as are required to discharge its obligations in accordance with the terms of the Agreement, provided however, that if the sum provided for in the Agreement is not sufficient to meet the obligations of the Authority, any deficiency in meeting such obligations shall be a liability of the Regional District to the Authority and the Regional District shall make provision to discharge such liability.

10. At the request of the Treasurer of the Authority and pursuant to Section 15 of the *Municipal Finance Authority Act*, the Regional District shall pay over to the Authority such sums and execute and deliver such promissory notes as are required pursuant to said Section 15 of the *Municipal Finance Authority Act*, to form part of the Debt Reserve Fund established by the Authority in connection with the financing undertaken by the Authority on behalf of the Regional District pursuant to the Agreement.

READ A FIRST TIME this _____ day of _____, 2011.

READ A SECOND TIME this _____ day of _____, 2011.

READ A THIRD TIME this _____ day of _____, 2011.

ADOPTED this _____ day of _____, 2011.

Chairperson

Corporate Secretary



C·V·R·D

SCHEDULE "A"

to CVRD Bylaw No. 3458

CANADA

PROVINCE OF BRITISH COLUMBIA

Dollars

AGREEMENT

COWICHAN VALLEY REGIONAL DISTRICT

The Cowichan Valley Regional District hereby promises to pay to the Municipal Finance Authority of British Columbia (the "Authority") at its Head Office in Victoria, British Columbia, the sum of _____ (\$_____) in lawful money of Canada, together with interest thereon from the _____ day of _____ at varying rates of interest calculated semi-annually in each and every year during the currency of this Agreement; and payments shall be as specified in the table appearing on the reverse hereof commencing on the _____ day of _____ provided that in the event of payments of principal and interest hereunder are insufficient to satisfy the obligations of the Authority undertaken on behalf of the Regional District, the Regional District shall pay over to the Authority such further sums as are sufficient to discharge the obligations of the Regional District to the Authority.

DATED at _____, British Columbia, this _____ day of _____, 20____.

IN TESTIMONY WHEREOF and under the authority of Bylaw No. 3458 cited as "Cowichan Valley Regional District Bylaw No. 3458 - Security Issuing (Loan Authorization Bylaw 3383) Bylaw, 2011." This Agreement is sealed with the Corporate Seal of the Cowichan Valley Regional District and signed by the Chairperson and Treasurer thereof.

Chairperson

Treasurer



B4

COWICHAN VALLEY REGIONAL DISTRICT

BYLAW NO. 3404

A Bylaw for the Purpose of Amending Zoning Bylaw No. 1405 Applicable to Electoral Area C – Cobble Hill

WHEREAS the *Local Government Act*, hereafter referred to as the "*Act*", as amended, empowers the Regional Board to adopt and amend zoning bylaws;

AND WHEREAS the Regional District has adopted a zoning bylaw for Electoral Area C – Cobble Hill, that being Zoning Bylaw No. 1405;

AND WHEREAS the Regional Board voted on and received the required majority vote of those present and eligible to vote at the meeting at which the vote is taken, as required by the *Act*;

AND WHEREAS after the close of the public hearing and with due regard to the reports received, the Regional Board considers it advisable to amend Zoning Bylaw No. 1405;

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

1. CITATION

This bylaw shall be cited for all purposes as "**Cowichan Valley Regional District Bylaw No. 3404 – Electoral Area C – Cobble Hill Zoning Amendment Bylaw (Fisher Road I-1C Industrial Area), 2010**".

2. AMENDMENTS

Cowichan Valley Regional District Zoning Bylaw No. 1405, as amended from time to time, is hereby amended in the following manner:

- a) Schedule B (Zoning Map) to Zoning Bylaw No. 1405 is amended by rezoning Lot A, Section 13, Range 6, Shawnigan District, Plan VIP5190, and Lot 1, Section 13, Range 6, Shawnigan District, Plan 29581 – both as shown outlined in a thick black line on Schedule Z-3404 attached hereto and forming part of this bylaw, from Light Industrial 1 (I-1) to Light Industrial – Limited I-1C.

.../2

3. FORCE AND EFFECT

This bylaw shall take effect upon its adoption by the Regional Board.

READ A FIRST TIME this 23rd day of June, 2010.

READ A SECOND TIME this 23rd day of June, 2010.

READ A THIRD TIME this _____ day of _____, 2010.

ADOPTED this _____ day of _____, 2010.

Chairperson

Corporate Secretary

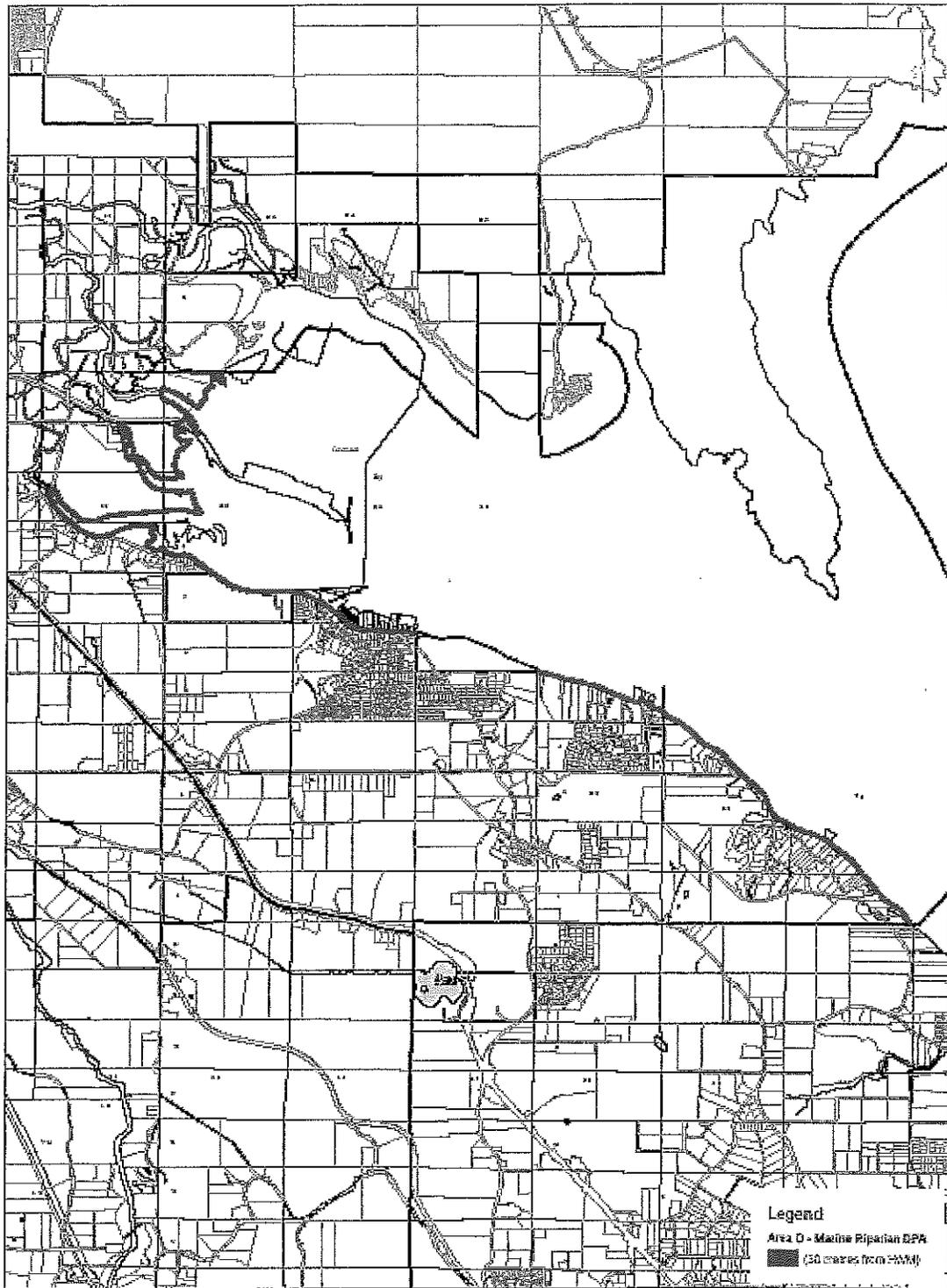


Figure 9

FIGURE 9

Marine Riparian Development Permit Area



COWICHAN VALLEY REGIONAL DISTRICT

BYLAW NO. 3430

**A Bylaw for the Purpose of Amending Official Community Plan Bylaw No. 1010,
Applicable to Electoral Area B – Shawnigan Lake**

WHEREAS the *Local Government Act*, hereafter referred to as the "*Act*", as amended, empowers the Regional Board to adopt and amend official community plan bylaws;

AND WHEREAS the Regional District has adopted an official community plan bylaw for Electoral Area B – Shawnigan Lake, that being Official Community Plan Bylaw No. 1010;

AND WHEREAS the Regional Board voted on and received the required majority vote of those present and eligible to vote at the meeting at which the vote is taken, as required by the *Act*;

AND WHEREAS after the close of the public hearing and with due regard to the reports received, the Regional Board considers it advisable to amend Community Plan Bylaw No. 1010;

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

1. **CITATION**

This bylaw shall be cited for all purposes as "**CVRD Bylaw No. 3430 - Area B – Shawnigan Lake Official Community Plan Amendment Bylaw (Partridge), 2010**".

2. **AMENDMENTS**

Cowichan Valley Regional District Official Community Plan Bylaw No.1010, as amended from time to time, is hereby amended as outlined on the attached Schedule A.

3. **CAPITAL EXPENDITURE PROGRAM**

This bylaw has been examined in light of the most recent Capital Expenditure Program and Solid Waste Management Plan of the Cowichan Valley Regional District and is consistent therewith.

READ A FIRST TIME this 13th day of October, 2010.

READ A SECOND TIME this 13th day of October, 2010.

READ A THIRD TIME this _____ day of _____, 2010.

ADOPTED this _____ day of _____, 2010.

Chairperson

Corporate Secretary



C·V·R·D

SCHEDULE "A"

To CVRD Bylaw No. 3430

Schedule A to Official Community Plan Bylaw No. 1010 is hereby amended by adding the following policy after Policy 2.10:

POLICY 2.11

The F-3 (Forestry Conservation) Zone will be considered within the Forestry designation as a transition between Primary Forestry and Residential zones, with a minimum lot size of 7 hectares. The zone is intended to maintain rural character, encourage conservation of wildlife habitat and forest ecosystems and accommodate rural residential use. In considering applications for the rezoning of F-1 (Primary Forestry) to F-3 (Forestry Conservation), the Regional Board will give preference to proposals that meet the following criteria:

- a) the subject lands are designated Forestry in the Official Community Plan;
- b) the lands are located adjacent to residentially-designated land and are not considered suitable for commercial forestry;
- c) Wildfire hazards have been assessed and potential risk has been reduced through mitigation measures;
- d) A substantial dedication of public land for park, trail, and/or community forest is provided in a location and of a character considered by the Board to be beneficial to the community and the Region.



COWICHAN VALLEY REGIONAL DISTRICT

BYLAW NO. 3431

**A Bylaw for the Purpose of Amending Zoning Bylaw No. 985
Applicable to Electoral Area B – Shawnigan Lake**

WHEREAS the *Local Government Act*, hereafter referred to as the "*Act*", as amended, empowers the Regional Board to adopt and amend zoning bylaws;

AND WHEREAS the Regional District has adopted a zoning bylaw for Electoral Area B – Shawnigan Lake, that being Zoning Bylaw No. 985;

AND WHEREAS the Regional Board voted on and received the required majority vote of those present and eligible to vote at the meeting at which the vote is taken, as required by the *Act*;

AND WHEREAS after the close of the public hearing and with due regard to the reports received, the Regional Board considers it advisable to amend Zoning Bylaw No. 985;

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

1. **CITATION**

This bylaw shall be cited for all purposes as "**CVRD Bylaw No. 3431 - Area B – Shawnigan Lake Zoning Amendment Bylaw (Partridge), 2010**".

2. **AMENDMENTS**

Cowichan Valley Regional District Zoning Bylaw No. 985, as amended from time to time, is hereby amended in the following manner:

- a) The Table of Contents are amended by adding "Section 7.7 F-3 Zone – Forestry Resource"
- b) Section 6.1 is amended by adding "F-3, Forestry Resource Zone"
- c) The following is added after Section 7.6:

.../2

7.7 F-3 ZONE – FORESTRY RESOURCE ZONE

(a) Permitted Uses

The following uses and no others are permitted in an F-3 Zone:

- (1) management and harvesting of primary forest products excluding sawmilling and all manufacturing and dry land log sorting operations;
- (2) silviculture;
- (3) agriculture;
- (4) horticulture;
- (5) single family residential dwelling or mobile home;
- (6) two single family dwellings on parcels 7.0 ha. or larger.
- (7) secondary suite or small suite.
- (8) home occupation – domestic industry;

(b) Number of Dwellings

No more than two dwellings per parcel are permitted, including secondary suite or small suite.

Prior to issuance of a building permit for a second dwelling, the applicant will be required to register a restrictive covenant in favour of the Regional District prohibiting fee simple or strata subdivision of the second dwelling.

(c) Conditions of Use:

For any parcel in the F-3 zone:

- (1) the parcel coverage shall not exceed 10 percent for all buildings and structures;
- (2) the height of all buildings and structures shall not exceed 10 metres;
- (3) setbacks for buildings and structures shall comply with the following:

COLUMN I Type of Parcel Line	COLUMN II Non-Agricultural and Accessory Uses	COLUMN III Agricultural Uses
Front	7.5 metres	30 metres
Side (Interior)	3.0 metres	15 metres
Side (Exterior)	4.5 metres	30 metres
Rear	7.5 metres	15 metres

- d) Section 13.1 is amended by adding “F-3, Forestry Resource Zone” to the list of zoning classifications and identifying a minimum parcel size for the zone of 7.0 ha.
- e) Schedule B (Zoning Map) to Electoral Area B – Shawnigan Lake Zoning Bylaw No. 985 is amended by rezoning Lot 10, District Lot 15, Helmcken District, Plan 2210, Except Parts in Plan 47997 and VIP76565, as shown outlined in a solid black line on Schedule A attached hereto and forming part of this bylaw, numbered Z-3431 from F-1 (Primary Forestry) to F-3 (Forestry Resource)

3. FORCE AND EFFECT

This bylaw shall take effect upon its adoption by the Regional Board.

READ A FIRST TIME this 13th day of October , 2010.

READ A SECOND TIME this 13th day of October , 2010.

READ A THIRD TIME this _____ day of _____ , 2010.

ADOPTED this _____ day of _____ , 2010.

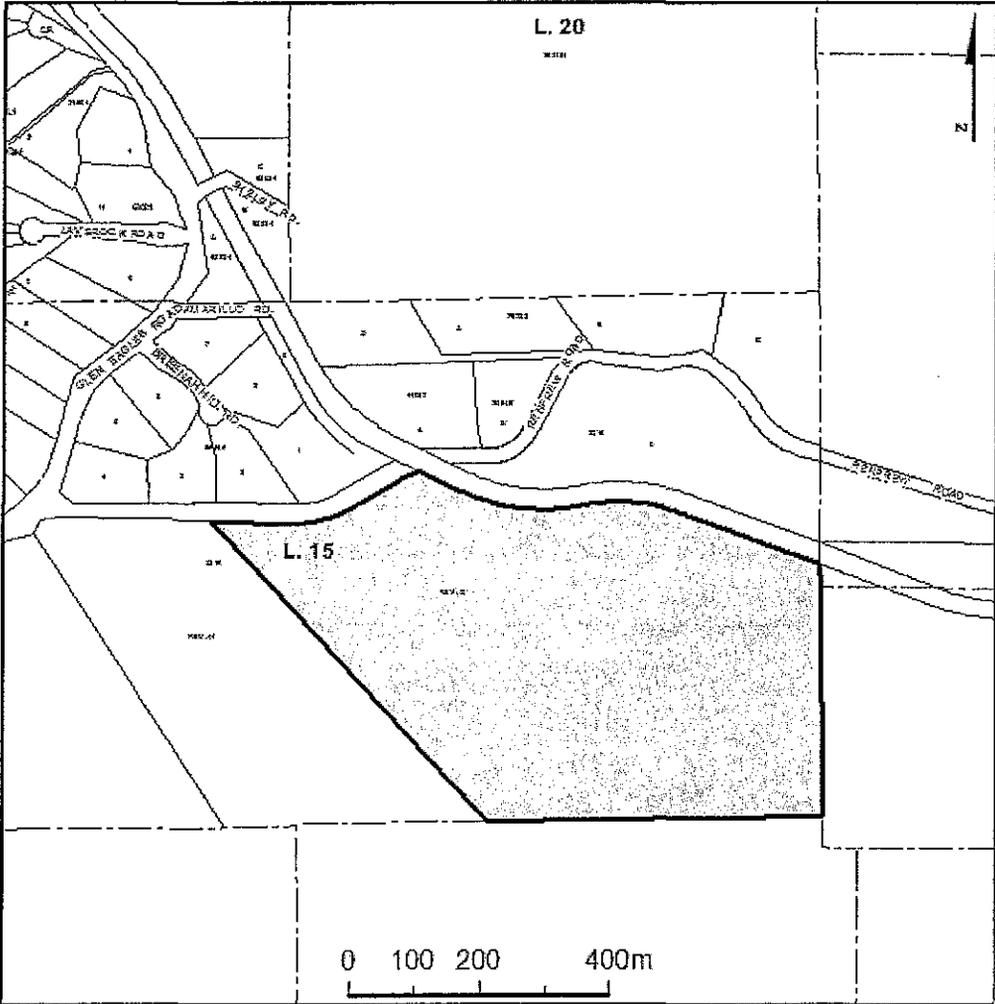
Chairperson

Corporate Secretary

PLAN NO. Z-3431

**SCHEDULE "A" TO ZONING AMENDMENT BYLAW NO.
OF THE COWICHAN VALLEY REGIONAL DISTRICT**

3431



THE AREA OUTLINED IN A SOLID BLACK LINE IS REZONED FROM

F-1 (Primary Forestry) **TO**
F-3 (Forestry Resource) **APPLICABLE**
TO ELECTORAL AREA B



COWICHAN VALLEY REGIONAL DISTRICT

BYLAW No. 3432

**A Bylaw for the Purpose of Amending Official Settlement Plan Bylaw No. 925,
Applicable to Electoral Area D – Cowichan Bay**

WHEREAS the *Local Government Act*, hereafter referred to as the "*Act*", as amended, empowers the Regional Board to adopt and amend official community plan bylaws;

AND WHEREAS the Regional District has adopted an official settlement plan bylaw for Electoral Area D – Cowichan Bay, that being Official Settlement Plan Bylaw No. 925;

AND WHEREAS the Regional Board voted on and received the required majority vote of those present and eligible to vote at the meeting at which the vote is taken, as required by the *Act*;

AND WHEREAS after the close of the public hearing and with due regard to the reports received, the Regional Board considers it advisable to amend Settlement Plan Bylaw No. 925;

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

1. **CITATION**

This bylaw shall be cited for all purposes as "**CVRD Official Settlement Plan Amendment Bylaw No. 3432, 2010, Area D – Cowichan Bay (Marine Riparian DPA), Amendment to CVRD Bylaw No. 925**".

2. **AMENDMENTS**

Cowichan Valley Regional District Official Settlement Plan Bylaw No. 925, as amended from time to time, is hereby amended as outlined on the attached Schedule A.

3. **CAPITAL EXPENDITURE PROGRAM**

This bylaw has been examined in light of the most recent Capital Expenditure Program and Solid Waste Management Plan of the Cowichan Valley Regional District and is consistent therewith.

READ A FIRST TIME this 13th day of October, 2010.

READ A SECOND TIME this 13th day of October, 2010.

READ A THIRD TIME this _____ day of _____, 2010.

I hereby certify this to be a true and correct copy of Bylaw No. 3432 as given Third Reading on the _____ day of _____, 2010.

Corporate Secretary

Date

APPROVED BY THE MINISTER OF RURAL AND COMMUNITY DEVELOPMENT
UNDER SECTION 913(1) OF THE *LOCAL GOVERNMENT ACT*

this _____ day of _____, 2010.

ADOPTED this _____ day of _____, 2010.

Chairperson

Corporate Secretary



C·V·R·D

SCHEDULE "A"

To CVRD Bylaw No. 3432

Schedule A to Official Settlement Plan Bylaw No. 925, is hereby amended as follows:

1. That Section 13.8: "MARINE RIPARIAN DEVELOPMENT PERMIT AREA" be added after Section 13.7.6, as follows:

13.8 MARINE RIPARIAN DEVELOPMENT PERMIT AREA

13.8.1 CATEGORY

The **Marine Riparian Development Permit Area** is designated pursuant to Section 919.1(1)(a) and (b) of the *Local Government Act*, to protect the natural environment, its ecosystems and biological diversity, and for the protection of development from hazardous conditions.

13.8.2 AREA OF APPLICATION

The **Marine Riparian Development Permit Area** applies to all lands within 30 metres of the high tide mark of the ocean within Electoral Area D (Cowichan Bay), for parcels of land shown on **Figure 9: Marine Riparian Development Permit Area**.

13.8.3 JUSTIFICATION

Pursuant to Section 919 of the *Local Government Act*, the **Marine Riparian Development Permit Area** is established to address the following:

- (a) Cowichan Bay has several kilometres of marine shoreline along the estuary and Satellite Channel, ranging from high escarpments to beaches. The marine shoreline and adjacent coastal waters represent an important highly productive marine environment for forage fish and other species, which should not be negatively impacted by development. The cumulative impact of careless development on waterfront parcels will have a detrimental impact on habitat within the sensitive marine riparian zone, and interrupt natural beach processes of longshore drift, displacing erosional and depositional patterns, which will then affect other properties and marine habitat.
- (b) The marine foreshore is a valuable public (common property) resource, and the CVRD wishes to enhance the physical, recreational, aesthetic and natural values of this area for use by the public as well as marine life.

.../2

- (c) An area consisting of natural vegetation, rocks, trees, and fallen trees can help protect land by dissipating wave energy, thereby protecting the bank from slumping or being washed away. Roots of plants and trees act to reinforce soil and sand and help hold them together, while the leaves of plants reduce the energy of wind and the force of falling rain, increase the evaporation rate and slow water runoff.
- (d) Research into watershed hydrology and environmental resilience has demonstrated that once certain thresholds of impervious surfaces (total area of roofs, paving, concrete slabs, accessory buildings and other hard surfaces) are exceeded, irretrievable harm may be done to aquatic life. This threshold is around 12% across a typical watershed in this region. The objective of this guideline is to maintain or improve water quality in the marine and estuarine environments.
- (e) Hard surfaces and reduced vegetation can cause surface water to be quickly and directly affected by pollution from sources such as poorly placed and maintained septic systems, fertilizer (nitrates, phosphates), oil leaks from motor vehicles and household or garden chemicals. A vegetated buffer can filter pollutants out of runoff from roads, yards, and septic systems before they reach the ocean.
- (f) Placing buildings and structures in areas that are directly or indirectly subject to natural erosion and mass movement is not responsible, because it can threaten the safety of those using the buildings and structures and result in economic loss. Once established in a precarious location, the owners of such buildings and structures will understandably want to protect them from destructive mass movements, which in turn could lead to major engineering works in the marine riparian area, irrevocably harming this important habitat. Therefore the objective of this guideline is to strongly support and accommodate sensitive residential and commercial development.

13.8.4 DEFINITIONS

For the purposes of this Development Permit Area, the following definitions apply:

“high tide mark” means the upper boundary of distinctive marine or estuarine vegetation as determined by a qualified environmental professional, or where this cannot be determined, it means the natural boundary as determined by a BC Land Surveyor.

“qualified environmental professional” has the same meaning as under the *Provincial Riparian Areas Regulation*.

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13.8.5 GUIDELINES

Subject to Section 13.8.7 below, within the **Marine Riparian Development Permit Area**, no person shall:

- subdivide land;
- alter land, including the removal or pruning/trimming of trees or vegetation;
- removal/deposit of soil, rocks, boulders, rip rap, gabions, prefabricated concrete elements or other materials;
- construct a road, bridge, driveway, parking area, patio, swimming pool, hot tub, spa, water feature, septic tank or sewage effluent drainfield;
- construct a seawall, retaining wall, dock abutment, patio, concrete stairway or similar structure;
- construct a dock, install a piling in the foreshore, construct a hydrothermal heating/cooling loop in the foreshore or beyond;
- remove logs from the shoreline; or
- construct any other type of building or structure

prior to the owner of land applying for and receiving a development permit from the CVRD, the application for which shall sufficiently address the following guidelines:

- (a) Where a report by a qualified environmental professional is required under the "Application Requirements" section, the report will consider the effects the development proposal will have on the subject property, all parcels with marine shorelines in the general area and the general marine ecology. Often a measure that may stabilize one site can lead to instability on other sites in the area, as wave and tidal actions combined with longshore drift energy are redirected in response to human interventions. The objective of this guideline is to minimize the degree to which this may happen, and preferentially employ natural measures to manage marine shores wherever possible. *On the Living Edge, Your Handbook to Waterfront Living (ISBN 0-9691633-4-7)* by Sarah Kipp and Clive Calloway is a suitable guide to using natural measures, which may be proposed in a development permit application.
- (b) Roads and driveways should be located as far as possible from the edge of a slope or from the marine riparian area, to keep turbidity of runoff low and generally prevent sediment, sand, gravel, oils, fuel and road salt from entering watercourses or the sea. Temporary sediment controls during construction may be specified in a development permit, and reclamation of disturbed areas will occur immediately following construction. Driveways, if proposed within the development permit area, should be angled across any slope's gradient, where possible, and be composed of porous materials such as gravel, road mulch or grasscrete, to keep runoff to a minimum. For driveways that are already paved, a portion of the runoff can be diverted by the use of transverse channels or small berms at regular intervals;

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- (c) Recommendations in the Ministry of Environment's Best Management Practices (*Storm Water Planning – A Guidebook for British Columbia*) should be applied, to reduce areas of impervious surfaces and increase natural groundwater infiltration. On-site rainwater management techniques that do not impact surrounding lands should be used, rather than the culverting or ditching of water runoff. Increased soil depth is one proven method for achieving reduced rainwater runoff; rain gardens are another.
- (d) Footpaths or trails to the shoreline should be planned to avoid erosion, using slope contours rather than a straight downhill line, and be narrow to minimize impacts on drainage patterns. Impacts to a slope can be minimized by elevating stairways above the natural vegetation;
- (e) Tree and native brush retention is a priority within this development permit area; however, should there be a desire for pruning and thinning trees and shrubs in the marine riparian area to provide or enhance views, a report prepared by a certified arborist will be required. The author(s) of that report will take responsibility for ensuring that the pruning and thinning proposed in the report will not impair slope stability, lead to erosion or impair ecological function of the foreshore;
- (f) Site preparation and development should be carried out in a manner that minimizes the need for vegetation clearing. In order to control erosion and to protect the environment, the development permit may specify the amount and location of new tree and vegetative cover to be planted or retained;
- (g) Figures for total imperviousness on sites within this development permit area will be calculated by the proponent and submitted at the time of development permit application. The Board may specify maximum site imperviousness or effective imperviousness in a development permit;
- (h) Public access along the marine waterfront is important to Electoral Area D - Cowichan Bay residents and visitors and will not be prevented or impeded in the event that shoreline alterations are authorized in a development permit;
- (i) Retaining walls or any other structures that may be proposed along the marine shoreline or in the marine riparian area to protect buildings or prevent erosion will be designed by an Engineer or professional Geoscientist. Such structures shall be limited to areas above the high tide mark, and to areas of slope failure, rather than along the entire shoreline frontage. The height of any tier of such a structure will be kept to not more than 2 metres in any one section, and should a greater height be required, the strong preference is for another tiered wall to be built upslope, separated from the first wall by at least 2 vertical and 4 horizontal metres of vegetated area. This guideline is intended to avoid the appearance of massive barrier-like walls. Backfilling behind a wall, to extend the existing edge of the slope, is not permitted unless it can be clearly demonstrated by an engineer that the fill is necessary to prevent further erosion or sloughing of the bank that would potentially endanger existing buildings;

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- (j) Retaining walls proposed near the marine shoreline will be faced with natural materials such as wood and irregular stone, intended to dissipate wave energy during storms, preferably in dark colours that blend in with the natural shoreline and are less obtrusive when seen from the water. Large, fortress like, uniform walls will not be permitted;
- (k) Retaining walls, sea walls or any other structures, if approved in a development permit, will not be composed of unsightly construction debris like broken concrete, blocks or bricks;
- (l) Deep-rooted vegetation should be planted along any retaining wall on the terraces or along the top, to help filter runoff before it enters the beach;
- (m) The construction of hydrothermal and geothermal heating/cooling loops that would be located on seafront parcels of land and within the foreshore area is discouraged because of the degree to which this technology can impact the local marine life, the inconvenience to public users of the foreshore including First Nation shellfish harvesting, walkers, swimmers and boaters. If such a system is proposed, a report by a qualified environmental professional such as a marine ecologist or biologist will be required, in which the probable impacts and effective mitigation strategies are proposed;
- (n) Any marine riparian areas that are affected by development will be subject to a vegetation restoration plan prepared according to BCSLA/BCNTA standards, by a landscape architect or qualified environmental professional, in which appropriate native species are proposed to stabilize the area following construction or alteration of land. Security in the form of an irrevocable letter of credit will be required to ensure that the landscape rehabilitation occurs in a timely fashion and the plantings survive and thrive;
- (o) Discharge from swimming pools, spas, water features and hot tubs shall only be made to an approved and properly functioning sewage treatment system;
- (p) The Ministry of Environment's *Environmental Best Management Practices for Urban and Rural Land Development in British Columbia (2004)* will be respected.

13.8.6 VARIANCES

The standard setback from the marine shoreline in the zoning bylaw may not, in some cases, be sufficient to protect development from hazardous conditions or to protect the marine riparian environment from alteration and harm. In such cases, a development permit may prescribe a marine shoreline setback in excess of that within the zoning bylaw.

Conversely, where a proposed development plan is consistent with all applicable guidelines of the Marine Riparian Development Permit Area, a development permit may vary the regulations of the implementing bylaws, where such variances are believed to either have no impact upon the marine riparian area or adjacent parcels, or would be required in order to reduce the impact upon the marine riparian area or adjacent parcels of land.

13.8.7 EXEMPTIONS

The following will be exempted from the requirement of obtaining a development permit in the **Marine Riparian Development Permit Area**:

- (a) Boundary adjustments to parcel lines of adjacent lots which do not alter overall lot depth measured from the marine shore.
- (b) Development located more than 30 metres from the high tide mark of the ocean or 15 metres back from the top of bank, whichever is further.
- (c) Interior renovations and minor exterior renovations of buildings that do not increase the parcel coverage, within 30 metres of the high tide mark (an example being re-roofing).
- (d) Construction, repair and maintenance of works, stream restoration and fish and habitat restoration or enhancement by agents or contractors or with the approval of Fisheries and Oceans Canada, the Ministry of Environment, or the CVRD.
- (e) A trail, provided that:
 1. No motorized vehicles are permitted;
 2. The trail is a maximum of 1.5 metres in width;
 3. No structures or earthworks are required to construct the trail; and
 4. No trees are removed.
- (f) The planting of native trees, shrubs or other native species of groundcover for the purpose of enhancing habitat values and /or soil stability, provided that the planting is carried out in accordance with the guidelines provided in the *Environmental Best Management Practices for Urban and Rural Land Development in British Columbia (2004)* or subsequent publications of the federal Department of Fisheries and Oceans and/or the provincial Ministry of Environment.
- (g) The mechanical removal (no herbicides) of invasive plants or noxious weeds, including but not limited to English Ivy, Scotch Broom, Gorse, Himalayan Blackberry, Morning Glory and Purple Loosestrife, provided that erosion protection measures are taken, where necessary, to avoid sediment or debris being discharged into the watercourse, and the plants are replaced with native vegetation.
- (h) Parks and public works undertaken by a government agency, under the supervision of a qualified environmental professional.
- (i) Emergency works to prevent, control or reduce flooding, erosion, or other immediate threats to life and property, provided that emergency actions are reported to the Regional District and applicable provincial and federal Ministries to secure exemptions. Such emergency procedures include:

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1. Clearing of an obstruction from a bridge, culvert or drainage flow;
 2. Repairs to bridges and safety fences;
 3. The removal of hazardous trees that present an immediate danger to the safety of persons or are likely to damage public or private property; and
 4. Emergency flood or erosion protection works.
- (j) Within the Agricultural Land Reserve, activities designated as farm use in the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* and those which fall under the definition of Farm Operation under the *Farm Practices Protection (Right to Farm) Act*.

13.8.8 VIOLATION

(a) Every person who:

1. violates any provision of this Development Permit Area;
2. causes or permits any act or thing to be done in contravention or violation of any provision of this Development Permit Area;
3. neglects to do or refrains from doing any act or thing required under this Development Permit Area;
4. carries out, causes or permits to be carried out any development in a manner prohibited by or contrary to this Development Permit Area;
5. fails to comply with an order, direction or notice given under this Development Permit Area; or
6. prevents or obstructs or attempts to prevent or obstruct the authorised entry of the Administrator, or person designated to act in the place of the Administrator;

commits an offence under this Bylaw.

(b) Each day's continuance of an offence under Section 13.8.8(a) constitutes a new and distinct offence.

13.8.9 PENALTY

A person who commits an offence against this Bylaw is liable, upon conviction in a prosecution under the *Offence Act*, to the maximum penalties prescribed under the *Community Charter* for each offence committed by that person.

13.8.10 SEVERABILITY

If any section, sentence, clause, phrase, word or schedule of this Development Permit Area is for any reason held to be invalid by the decision of any Court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this Development Permit Area.

13.8.11 APPLICATION REQUIREMENTS

(a) Before the CVRD authorizes the issuance of a development permit for a parcel of land in the **Marine Riparian Development Permit Area**, the applicant must submit a development permit application, which, at a minimum, includes:

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1. A written description of the proposed project;
 2. Reports or information addressing each of the Development Permit Guidelines;
 3. Information in the form of one or more maps, as follows:
 - location/extent of proposed work;
 - location of ocean high tide mark;
 - location of other watercourses;
 - topographical contours;
 - location of slopes exceeding 25 percent grade;
 - location of lands subject to periodic flooding;
 - location and percentage of existing and proposed impervious surfaces;
 - existing tree cover and proposed areas to be cleared;
 - areas of known sensitive or rare native plant communities;
 - existing and proposed buildings;
 - existing and proposed property parcel lines;
 - location of roads, vehicular access points, driveways, and parking areas;
 - location of trails;
 - location of stormwater management works, including retention areas and drainage pipes or ditches and curtain drains around septic fields;
 - proposed erosion mitigation and bank alterations;
 - location of septic tanks, treatment systems and fields;
 - location of proposed erosion control structures and bank alterations;
 - location of water lines and well sites.
- (b) In addition to the requirements listed above, where any building or structure of any sort, including a retaining wall, stairway or seawall, is proposed within the development permit area, the applicant shall be required to furnish, at the applicant's expense, a report certified by a professional engineer or geoscientist with experience in geotechnical engineering, which includes an assessment of the suitability and stability of the soil for the proposed project, including information on soil depths, textures, and composition, and an assessment on the safety of the proposed use and structures on-site and off-site, indicating that the land may be used safely for the intended purposes. Where possible, slope erosion mitigation will be achieved using soft landscaping and planting of natural vegetation as opposed to the use of retaining walls or other hard armoring of the shoreline;

- (c) Should any thinning, removal or alteration of vegetation in the marine riparian area be proposed in a development permit application, the report of a qualified arborist or qualified environmental professional or member of BC Society of Landscape Architects or BC Nursery Trades Association shall be submitted, detailing a procedure for thinning and pruning in a fashion that will not compromise the ecological function of the marine riparian area or the health of pruned vegetation, and further, describing the methods whereby landscape restoration to restore marine riparian function will be achieved;
- (d) In addition to the requirements listed above, the applicant may also be required to furnish, at the applicant's expense, an environmental impact assessment, certified by a registered professional biologist or other qualified environmental professional, assessing any potential environmental impacts of the project upon the marine riparian area, and the means by which any such impacts may be mitigated;.

NOTE: Where more than one report under Section 13.8.11 (b), (c) or (d) is to be submitted with a development permit application, the professionals preparing the reports will be required to incorporate into their own work, the work of the other professionals, in order to ensure that a coherent interdisciplinary approach to the marine riparian development application is submitted.

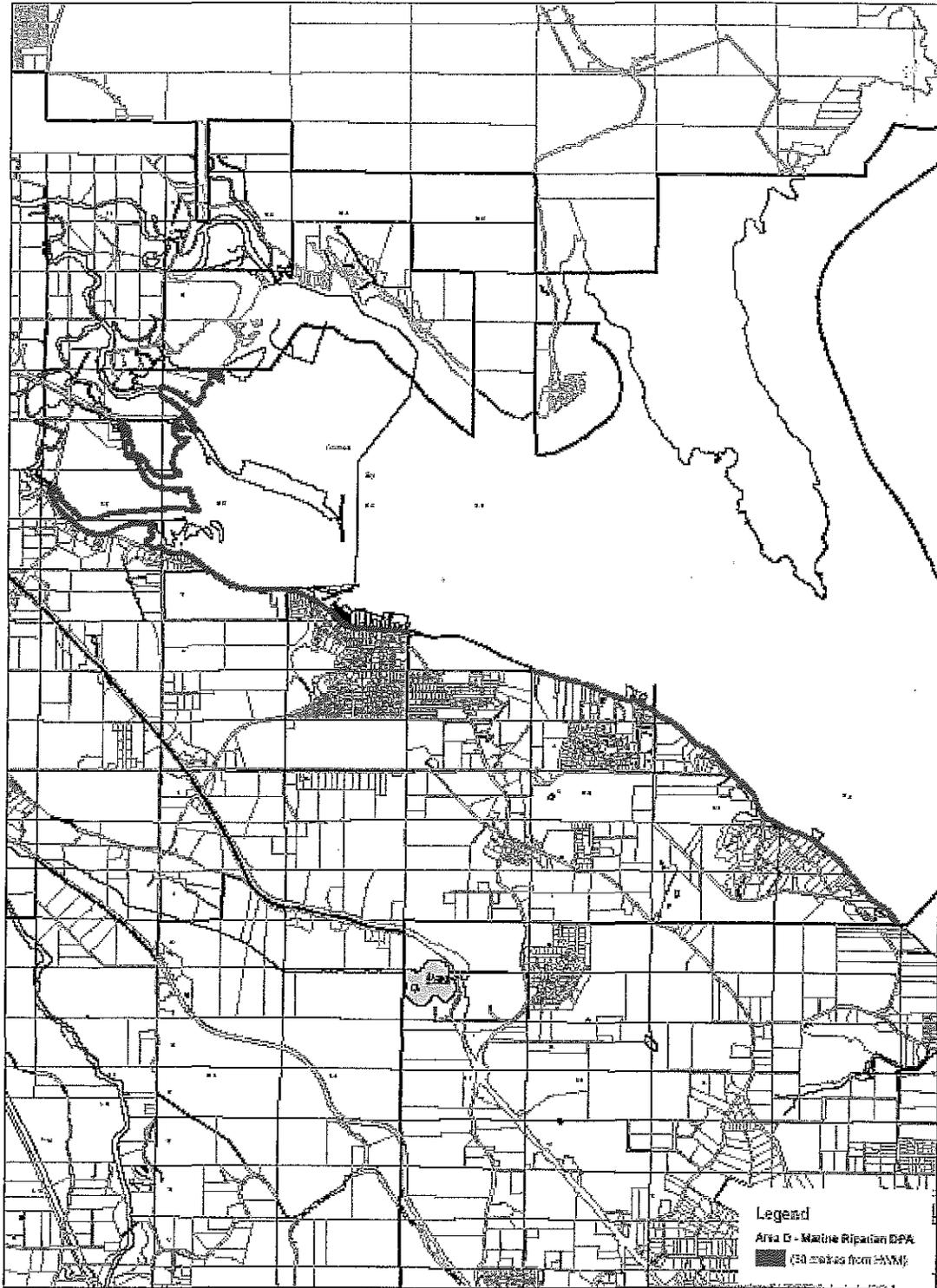


Figure 9

FIGURE 9

Marine Riparian Development Permit Area



CVRD

COWICHAN VALLEY REGIONAL DISTRICT

BYLAW No. 3461

A Bylaw to Authorize a Phased Development Agreement

WHEREAS the *Local Government Act*, hereafter referred to as the "*Act*", as amended, empowers the Regional Board to enter into Agreements;

AND WHEREAS the Regional Board voted on and received the required majority vote of those present and eligible to vote at the meeting at which the vote is taken, as required by the *Act*;

AND WHEREAS after the close of the public hearing and with due regard to the reports received, the Regional Board considers it advisable to enter into the Agreement;

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

1. **CITATION**

This bylaw shall be cited for all purposes as "**Cowichan Valley Regional District Bylaw No. 3461, Phased Development Agreement Authorization Bylaw (Cowichan Bay Estates), 2011**".

2. **AUTHORIZATION**

The Cowichan Valley Regional District may enter into and the Chair and Corporate Secretary may execute and deliver an agreement with Cowichan Bay Estates Ltd. (CBE) in the form attached as Schedule A to this bylaw.

3. **FORCE AND EFFECT**

This bylaw shall take effect upon its adoption by the Regional Board.

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READ A FIRST TIME this _____ day of _____, 2011.

READ A SECOND TIME this _____ day of _____, 2011.

READ A THIRD TIME this _____ day of _____, 2011.

ADOPTED this _____ day of _____, 2011.

Chairperson.

Corporate Secretary

SCHEDULE "A"

To CVRD Bylaw No. 3461

PHASED DEVELOPMENT AGREEMENT

This Agreement dated for reference the ____ day of _____, 2011 is

AMONG:

COWICHAN VALLEY REGIONAL DISTRICT, a regional district incorporated under the *Local Government Act* having an office at 175 Ingram Street, Duncan, BC, V9L 1N8.

(the "District")

AND:

COWICHAN BAY ESTATES LTD. (CBE) (Inc. No. BC0717850), a company having an office at 200-2640 Beverly Street, Duncan, BC V9L 3X1.

(the "Owner")

WHEREAS:

- A. The Owner is the registered owner of land legally described in Schedule A (the "Land");
- B. The Owner wishes to provide certain amenities and features in the development of the Land, and the parties wish to ensure that certain provisions of the District's Zoning Bylaw continue to apply to the Land for the period more particularly set out in the Agreement; and
- C. The District's Board has authorized this Agreement by bylaw adopted pursuant to section 905.1 of the *Local Government Act*.

NOW THEREFORE in consideration of the mutual promises set out in the Agreement, the parties agree pursuant to section 905.1 of the *Local Government Act* as follows:

1.0 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement:

"Agreement" means this agreement and any amendments that are made to this agreement.

"amenities" and "amenities and features" means the amenities and features to be provided by the Owner in relation to the Development, as described in Schedule B.

"Board" means the Board of the Cowichan Valley Regional District.

"Cowichan Bay Specified Service Area" means the service area established under CVRD Bylaw No. 2128 – Cowichan Bay Sewer Service Establishment Bylaw, 2000.

"Development" means the subdivision and development of the Lands that are described in sections 2 and 3 of Schedule A, as shown on Schedule B1.

"Eagle Heights Sewer Specified Area" means the service area established under CVRD Bylaw No. 2136 – Eagle Heights Sewer Service Establishment Bylaw, 2000.

"final subdivision approval" means the Approving Officer's approval of a subdivision plan pursuant to Part 7 of the *Land Title Act*, and for certainty does not mean preliminary or conditional approval.

"Joint Utilities Board" means the representatives of the Cowichan Valley Regional District, District of North Cowichan, City of Duncan and the Cowichan Tribes, duly appointed to operate the WasteWater Treatment Plant.

"MOTI" means the Ministry of Transportation and Infrastructure (British Columbia).

"Phase" means a phase of the Development as shown on Schedule B1, and a reference to a Phase followed by a number (for example "Phase 1") means the Phase of the Development that is assigned that number in Schedule B1.

"sewer capacity unit" means a unit of capacity in the Waste Water Treatment Plant that is necessary for treating the sewage discharged by one dwelling.

"Specified Zoning Bylaw Provisions" means sections 8.2(a) and 13 of the Zoning Bylaw.

"Waste Water Treatment Plant" means the waste water treatment plant that is operated by the Joint Utilities Board.

"Zoning Bylaw" means the Cowichan Valley Regional District Electoral Area D Zoning Bylaw No. 1015 as amended or replaced from time to time.

1.2 The headings and captions are for convenience only and do not form a part of this Agreement and will not be used to interpret, define or limit the scope, extent or intent of this Agreement or any of its provisions.

1.3 The word "including" when following any general term or statement is not to be construed as limiting the general term or statement to the specific items or matters set forth or to similar terms or matters but rather as permitting it to refer to other items or matters that could reasonably fall within its scope.

1.4 A reference to currency means Canadian currency.

1.5 A reference to a statute includes every regulation made pursuant thereto, all amendments to the statute or to any such regulation in force from time to time, and any statute or regulation that supplements or supersedes such statute or any such regulation.

- 1.6 This Agreement shall be governed by and construed in accordance with and governed by the laws applicable in the Province of British Columbia.
- 1.7 A reference to time or date is to the local time or date in Duncan, British Columbia.
- 1.8 A word importing the masculine gender includes the feminine or neuter, and a word importing the singular includes the plural and vice versa.
- 1.9 A reference to approval, authorization, consent, designation, waiver or notice means written approval, authorization, consent, designation, waiver or notice.
- 1.10 For the purposes of this Agreement, except as otherwise expressly provided herein all references in this Agreement to an article, section, subsection, paragraph, or other subdivision, or to a schedule, is to the article, section, subsection, paragraph or other subdivision of or schedule to this Agreement.

2.0 SCHEDULES

2.1 The following Schedules are attached to and form part of this Agreement:

- (a) Schedule A - Description of the Lands;
- (b) Schedule A-1 - Map Showing General Location and Boundaries of the Lands;
- (c) Schedule B - Amenities;
- (d) Schedule B1 - Phasing Map; and
- (e) Schedule C - Section 219 Covenant.

3.0 APPLICATION OF AGREEMENT

3.1 This Agreement applies to the Land, including any parcels of land into which the Land may be subdivided. This Agreement applies to the Land and to no other land.

4.0 BYLAW AMENDMENTS NOT TO APPLY

4.1 For this term of this Agreement, any amendment or repeal of the Specified Zoning Bylaw Provisions that would limit the use or density of development that is permitted on the Land as of the date of execution of the Agreement shall not apply to the Land, except:

- (a) as provided in section 905.1(6) of the *Local Government Act*; or
- (b) to the extent that the Owner of any parcel comprising the Land agrees in writing that the amendment or repeal shall apply to that Land.

5.0 TERM OF AGREEMENT AND TERMINATION

- 5.1 The term of the Agreement is five years from the date of execution of this Agreement.
- 5.2 The parties may terminate this Agreement at any time by written agreement.
- 5.3 If the amenities and features of the Development are not provided to the standards and at the times set out in Schedule B, on which question the opinion of the District shall be determinative, provided that the District may not act unreasonably, the District may at its option terminate this Agreement by providing notice in writing to the Owner, provided that the District has at least two (2) months prior to giving such notice advised the Owner in writing of an alleged failure (the "Default Notice") to provide such amenities and features in accordance with the Agreement and the Owner has not corrected the deficiency to the reasonable satisfaction of the District, or if such default reasonably requires longer than two (2) months to remedy, the Owner has failed to substantially commence remedying such default within two (2) months after receipt of the Default Notice to the reasonable satisfaction of the District, or has failed to substantially complete remedying the default within six (6) months after receipt of the Default Notice to the reasonable satisfaction of the District.

6.0 CONDITIONS FOR DEVELOPMENT OF LAND

- 6.1 The Owner covenants and agrees that it shall not develop the Lands, disturb the surface of the Lands, cut or damage vegetation or trees on the Lands or subdivide the Lands except in accordance with the terms of this Agreement.
- 6.2 The Owner covenants and agrees that it shall not subdivide the Lands or develop the Lands or any part of the Lands, and that it shall not construct any buildings or structures upon the Lands or any part of the Lands, unless and until:
- (a) the Board has adopted a bylaw to include the Lands described in sections 2 and 3 of Schedule A within the Cowichan Bay Specified Service Area;
 - (b) the Owner has provided to the District's satisfaction evidence that the District of North Cowichan has entered into a binding agreement with the Owner to transfer to the benefit of the Cowichan Bay Specified Service Area, 36 of the sewer capacity units currently held by the District of North Cowichan in the Waste Water Treatment Plant;
 - (c) the Owner has paid to the District \$11,200 for each sewer capacity unit that is to be allocated to the Development of the Lands in accordance with section 11.2 of this Agreement;

- (d) with respect to the Phase of the Development for which the Owner is seeking subdivision or development approval, the Owner has provided to the District's satisfaction all of the amenities and features required to be provided prior to the subdivision or development of that Phase, as described in Schedule B.

6.3 Except as expressly provided in this Agreement, nothing in this Agreement shall relieve the Owner from any obligation or requirement arising under any applicable statute, bylaw or regulation in respect of the subdivision and development of the Lands, and without limiting the generality of the forgoing, the Owner shall remain fully responsible to ensure that the subdivision and development of the Lands is in full compliance with all requirements of the bylaws of the District respecting land development, zoning, subdivision and building construction.

6.4 Without limiting the generality of section 6.3, in connection with any application for approval of subdivision or development of the Lands or any part of the Lands, the Owner must:

- (a) obtain a development permit if required under the applicable Official Community Plan Bylaw, as amended from time to time;
- (b) be responsible for the design and construction of a sewer collection system for the Phase for which subdivision or development approval is sought, in accordance with the District's engineering standards;
- (c) in respect of any subdivision, obtain the approval of the approving officer for the Ministry of Transportation and Infrastructure, and must comply with all applicable enactments and bylaws in connection with that subdivision; and
- (d) pay all applicable connection fees for the connection of any building or structure to the Cowichan Bay Specified Service Area.

7.0 AMENITIES AND FEATURES OF THE DEVELOPMENT

7.1 The Owner shall provide at its sole cost the amenities and features listed in Schedule B at the times specified in Schedule B, and in accordance with the other requirements stated in Schedule B.

7.2 The Owner acknowledges that the amenities and features described in Schedule B are not "excess or extended services" as defined in section 939 of the *Local Government Act*, and are not works or services included in the calculations used to determine the amount of any development cost charge.

- 7.3 The Owner shall at its sole cost prepare all plans, transfer forms and other documents necessary to give effect to the transfers of those parts of the Lands required to be made under Schedule B, and shall forward all such plans, transfer forms and other documents, duly executed by the Owner, and (where necessary) by registered chargeholders, to the District at least seven days before the date the transfer is to be registered, on trust conditions that are satisfactory to the Developer's solicitor and the District's solicitors. Unless the District agrees otherwise in writing, in the case of the transfer of part of an existing parcel, such transfer shall be effected by the Owner through the registration of one or more reference plans pursuant to Section 99(1)(h) of the *Land Title Act*, creating each parcel that is to be transferred to the District as a separate legal parcel, together with the filing of the necessary Form A Transfer in favour of the District.
- 7.4 The Owner shall satisfy all legal requirements and conditions necessary to effect the transfer of the portions of the Lands required under Schedule B, and shall obtain all necessary approvals required for any subdivision of the Lands necessary to effect those transfers, all at the Owner's sole cost.
- 7.5 The Owner and the District both confirm and agree that the transfer of parts of the Lands as required under Schedule B is not intended as a dedication of park land pursuant to section 941 of the *Local Government Act*, notwithstanding that certain parts of the Lands may be used for public purposes, but rather is intended as an additional amenity provided for the benefit of the public as contemplated under section 905.1(4) of the *Local Government Act*, and to which section 941(4.1) of the *Local Government Act* does not apply.
- 7.6 Unless otherwise specified in Schedule B, all amenities and features required under Schedule B, shall be designed and constructed by the Owner to existing District standards and specifications for similar services ("District Standards and Specifications"), or where such standards or specifications currently do not exist, to a design standard acceptable and approved by the District in its sole discretion.
- 7.7 The Owner shall apply for and obtain any permit or approval required under the authority of any public authority (including but not limited to the District) or under any statute, regulation or bylaw, for the construction or provision of the amenities and features. Further, all amenities and features shall be provided and constructed in compliance with the conditions of any permit or approval issued by such public authority or under such statute, regulation or bylaw. Where the terms of approval require the Owner to provide a warranty or security in relation to the construction or completion of any of the amenities, the Owner shall submit to the District evidence of compliance with the terms and conditions of all such approvals, and completion of the amenities and features in accordance with such approvals, including copies of any warranties or security required under the terms of such approvals, all to the satisfaction of the District.

- 7.8 The Owner shall prepare and submit to the District for approval in advance of any construction, detailed construction drawings and specifications for each amenity or feature required under this Agreement. The drawings and specifications must be in such detail as is reasonably necessary to demonstrate that the amenities and features will comply with this Agreement, and where applicable with District Standards and Specifications, and must be submitted to and approved by the District before the construction of any required amenity or feature is commenced.

8.0 PUBLIC LAND USE DESIGNATIONS

- 8.1 The Owner acknowledges that this Agreement designates certain portions of the Lands for public use only, in contemplation of those portions of the Lands being transferred to the District or to other parties pursuant to this Agreement, and agrees that such designations do not, considered together with the provisions of the Zoning Amendment Bylaw in effect, in respect of other portions of the Lands, effect any reduction in the value of the Owner's interest in the Lands. The Owner agrees that such designations accordingly do not entitle the Owner to compensation under s. 312 of the *Local Government Act* or otherwise, and irrevocably waives any entitlement to such compensation.

9.0 DENSITY OF DEVELOPMENT

- 9.1 The Owner covenants and agrees that it shall subdivide and develop the Lands in accordance with the plan of Development attached as Schedule B1 to this Agreement, and that notwithstanding that the Zoning Bylaw and the Specified Zoning Provisions permit a greater density of development or a greater variety of permitted uses, that the Owner shall only subdivide the Lands into a maximum of 102 lots, and shall construct only one single family home on each lot.

10. PHASING OF DEVELOPMENT

- 10.1 The Owner covenants and agrees to subdivide and develop the Lands in Phases of the Development shown on Schedule B1, in numerical order, commencing with Phase 1, except that with the written consent of the District each Phase may be amended to a series of sub-phases, unless the District determines, in its sole discretion, that such sub-phasing is not required or advisable.

11.0 EXPANSION OF SEWER SERVICE AND ALLOCATION OF SEWER CAPACITY UNITS

- 11.1 The Owner acknowledges that the Lands described in sections 2 and 3 of Schedule A are not presently situated within the Cowichan Bay Specified Service Area and that the District does not, and is not legally obliged to, provide sanitary sewer (collection and treatment) services to those parts of the Lands, and that unless and until the conditions

referred to in this Article are fulfilled, the District shall have no obligation to provide sanitary sewer service for the purpose of the Development.

11.2 The Owner agrees that it shall not develop or subdivide the Lands unless and until the following conditions are fulfilled:

- (a) the Board has adopted a bylaw to include the Lands described in sections 2 and 3 of Schedule A within the Cowichan Bay Specified Service Area;
- (b) the District of North Cowichan and the Board has agreed to transfer to the benefit of the Cowichan Bay Specified Service Area a total of 96 sewer capacity units currently held by the District of North Cowichan and the District (for the benefit of Eagle Heights Sewer Specified Area) in the Waste Water Treatment Plant, as follows:
 - (i) 36 sewer capacity units from the District of North Cowichan; and
 - (ii) 60 sewer capacity units from the District (Eagle Heights Sewer Specified Area);
- (c) the Board must agree to allocate the sewer capacity units referred to in subsection (b) for the purpose of the Development and as well must allocate to the Lands described in section 2 of Schedule A, 6 sewer capacity units presently allocated to the Lands described in section 1 of Schedule A; and
- (d) the Owner must pay to the District the sum of \$11,200 for each sewer capacity unit that is allocated to the Development, under section 11.2(b), and the District shall allocate from the funds collected \$11,200.00 x 60 sewer capacity units to the Eagle Heights Sewer Specified Area, and \$11,200.00 x 36 sewer capacity units to the District of North Cowichan.

11.3 The Owner acknowledges that the adoption of a bylaw to include the Lands described in sections 2 and 3 of Schedule A within the Cowichan Bay Specified Service Area is a legislative decision of the Board and that nothing contained in or implied under this Agreement shall fetter the discretion of the Board in the exercise of its legislative powers in respect of the adoption of such bylaw.

12.0 ASSIGNMENT OF AGREEMENT

12.1 Any Owner may assign this Agreement in whole or in relation to any parcel into which the Land of the Owner may be subdivided, if the District, acting reasonably, consents in writing to the assignment and the assignee has executed and delivered to the District a notice of assumption and has entered into an assignment agreement with the Owner assigning the Agreement. In consenting to such assignment, the District may require the Owner and the assignee to enter into further agreements with the District concerning their performance of the obligations contained in this Agreement in relation to the parcel of which the assignee is or will become the owner.

13.0 AMENDMENT OF AGREEMENT

- 13.1 The parties may in writing agree to minor amendments to the Agreement, and for that purpose a "minor amendment" is an amendment to Schedule B or to Schedule B1 except that areas of land to be transferred or dedicated to the District for public use as park, trail, walkway, or stormwater management, or for conservation or environmental protection purposes may not vary in area from the areas specified in Schedule B by more than 10% and such amendments may not reduce the total area of such areas to less than 5.27 ha.
- 13.2 The District may, prior to agreeing to such an amendment, convene a public hearing or other proceeding for the purpose of determining the opinion of members of the public to such amendment, notwithstanding that such a hearing or other proceeding is not required by the *Local Government Act*, and the Owner agrees to participate in such proceeding for the purpose of providing information to the public on the proposed amendment.

14.0 SPECIFIC PERFORMANCE

- 14.1 The Owner agrees that the riparian and heron habitat areas, ravine park expansion, and other park areas described in Schedule B are uniquely located properties and if the Owner fails to dedicate such lands to the District, as described in Schedule B, the Owner agrees that the District shall be entitled to an order of specific performance for the dedication, but the District is not precluded from claiming and award of damage for the Owner's breach.

15.0 NO RECOVERY OF AMENITIES

- 15.1 The Owner covenants and agrees that the expiry of the Agreement, and any termination in accordance with section 5.2 or 5.3 of this Agreement, or otherwise, shall not entitle the Owner to recover any portion of the amenities and features provided prior to termination, or to seek restitution in relation thereto or in relation to any other obligation of the Owner as performed prior to such termination (and the Owner specifically agrees that the District's agreement to the Specified Zoning Bylaw Provisions of this Agreement for the period prior to expiry or termination provides sufficient consideration for the amenities and features) or to seek recovery of any payment made in relation to the allocation of any sewer capacity units to the Development, and the release and indemnity provisions under section 17.6 apply in this regard.
- 15.2 The Owner covenants and agrees that it will not commence or advance a legal proceeding of any kind to seek to quash, set aside, hold invalid this Agreement, or to recover any portion of the amenities and features provided under this Agreement, or seek restitution in relation to any of the amenities and features provided under this Agreement, or to recover any payment made in relation to the allocation of any sewer

capacity units to the Development, in priority to any charges or encumbrances of a financial nature, and if the Owner does any of the foregoing, the District may provide this Agreement to the Court as a full and complete defence to such claim.

16.0 SECTION 219 COVENANT

16.1 Prior to any subdivision or development of the Land, the Owner shall grant to the District the section 219 (*Land Title Act*) covenant in the form attached as Schedule C and shall register that covenant against title to the Lands, in priority to any charges of a financial nature, in order to better secure the Owner's obligations under this Agreement.

17.0 GENERAL TERMS AND CONDITIONS

17.1 Any notice permitted or required by this Agreement to be given to either party must be given to that party at the address set out above, or to any other address of which the party has given the other party notice in writing expressly for the purpose of the Agreement.

17.2 Except as expressly set out in this Agreement, nothing in this Agreement shall prejudice or affect the rights and powers of the District in the exercise of its functions under the *Community Charter* or the *Local Government Act* or any of its bylaws, or those of any approving officer of the Ministry of Transportation and Infrastructure or the District, as the case may be, under the *Land Title Act*, *Strata Property Act* or Bare Land Strata Regulations.

17.3 Any opinion, decision, act or expression of satisfaction or acceptance provided for in this Agreement may be taken or made by the District's General Manager of Planning and Development, unless expressly provided to be taken or made by another official of the District.

17.4 No provision of the Agreement is to be considered to have been waived by the District unless the waiver is expressed in writing by the District. The waiver by the District of any breach by any of the other parties of any provision is not to be construed as or constitute a waiver of any further or other breach.

17.5 Whenever in this Agreement the District is required or entitled to exercise any discretion in the granting of consent or approval, or is entitled to make any determination, take any action or exercise any contractual right or remedy, the District may do so in accordance with the contractual provisions of the Agreement and no public law duty, whether arising from the principles of procedural fairness or the rules of natural justice or otherwise, shall have any application in the interpretation or implementation of the Agreement except to the extent that such duty arises as a matter of public law.

- 17.6 The Owner shall indemnify and save harmless the District, its officers, employees, Council members, agents and others (the "District Representatives") from and against any and all actions, causes of action, liabilities, demands, losses (but not loss of profits), damages, costs, expenses (including actual fees of professional advisors), remediation of contamination costs, fines, penalties and other harm of any kind whatsoever, whether related to death, bodily injury, property loss, property damage, property contamination or consequential loss or damage, suffered or incurred by any person, including the Owner, the District or any of the District Representatives, or any third party, directly or indirectly, arising from, resulting from, connected with or related to:
- (a) death, bodily injury, damage to or loss of any property or other incident or occurrence during the construction or provision of the amenities and features and other development contemplated by the Agreement;
 - (b) any default or breach of the Agreement by the Owner;
 - (c) any wrongful act, omission or negligence of the Owner or its directors, officers, employees, agents, contractors, subcontractors, licensees, or others for whom they are responsible in law with respect to the covenants and obligations of the Owner pursuant to this Agreement; and
 - (d) any of the matters or claims referred to in Article 15 of this Agreement.
- 17.7 This indemnity shall survive any conclusion or other termination of the Agreement, in relation to any matter arising prior to it.
- 17.8 If any Owner is delayed or prevented from the performance of any covenant or agreement required hereunder by reason of any unavoidable cause, then performance of such covenant or agreement shall be excused for the period during which such performance is delayed or prevented and the time for the performance thereof shall be extended accordingly. For the purposes of this section, "unavoidable cause" means any event or contingency beyond the reasonable control of the Owner, including without limitation a delay caused by weather conditions, power failure, fire or other casualty, governmental laws, regulations or controls, civil commotion, insurrection, sabotage, invasion, rebellion, military or usurped power, war or war-like operations and acts of God, but excluding a delay caused by lack of funds.
- 17.9 Time is of the essence of the Agreement and will remain of the essence notwithstanding the extension of any dates.
- 17.10 The Owner acknowledges and agrees that the District, acting reasonably, may, despite any public law limitations on the withholding of development permits, building permits and occupancy permits, withhold such permits for the purpose of ensuring compliance with and administering the terms of the Agreement.

17.11 The District may, during the construction of any amenity or feature required by this Agreement, appoint from time to time an employee or official to represent the interests of the District under this Agreement and advise the Owner in writing of such appointment, and the Owner shall for that purpose provide to the District's representative reasonable access to all document related to the construction including but not limited to plans, permits, specifications, Building Code analyses, receipts, waybills, shipping documents and contracts, and reasonable access to the site of construction and all construction facilities. The Owner agrees that the viewing of this documentation by the District's representative does not create any legal obligation, in tort or otherwise, on the part of the District or its representative whether or not comments are given to the Owner and whether or not the Owner chooses to act on comments that are given.

17.12 The Agreement may be executed in counterparts.

COWICHAN VALLEY REGIONAL DISTRICT

By its authorized signatories:

Dated this ____ day of _____, 2011.

COWICHAN BAY ESTATES LTD.

By its authorized signatories:

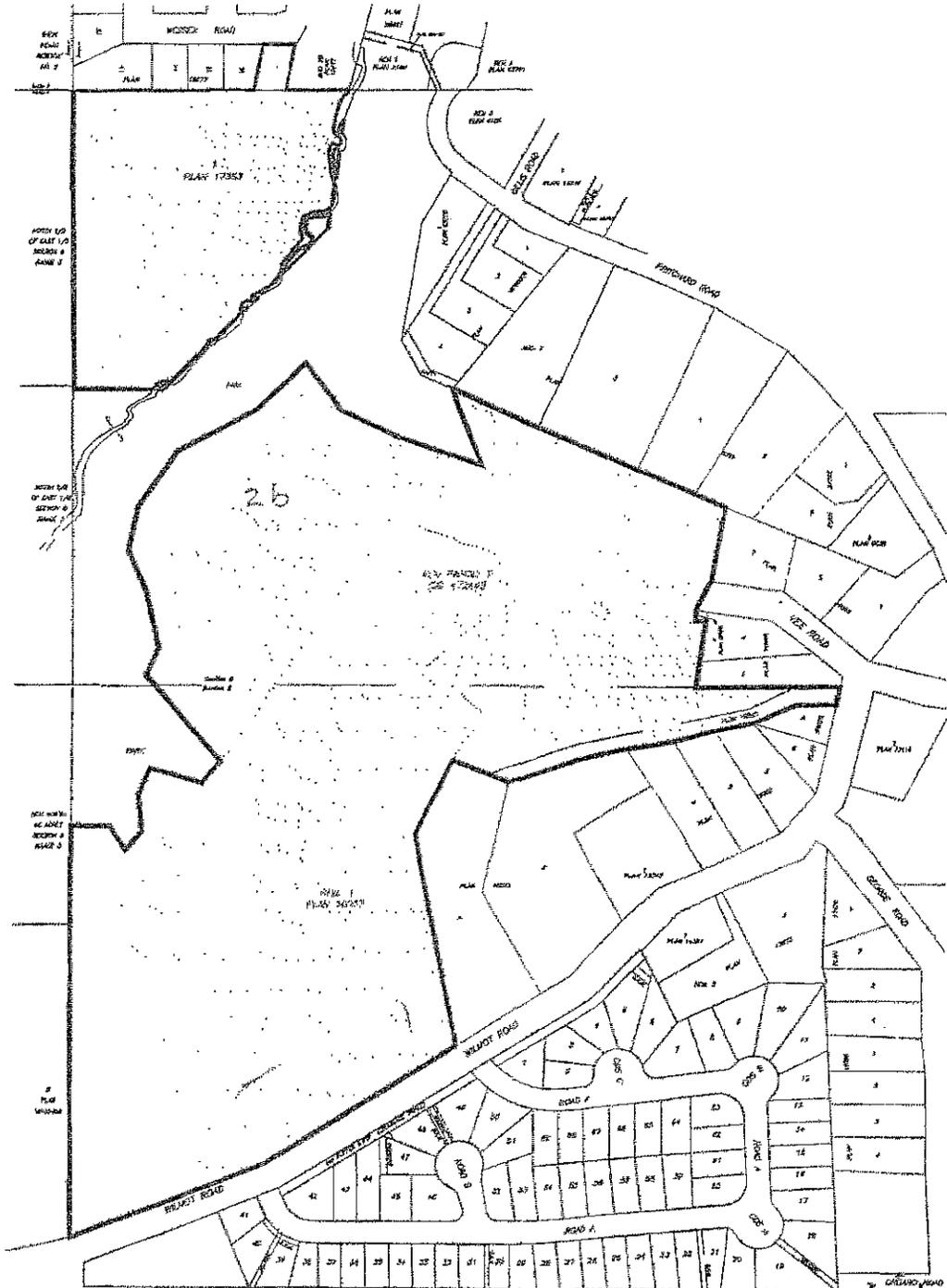
Date this ____ day of _____, 2011.

SCHEDULE A

1. LOT 1, SECTION 6 and 7, RANGE 4, COWICHAN DISTRICT, PLAN 17353.
(PID Number 003-905-730)
2. LOT 1, SECTION 5, RANGE 4, COWICHAN DISTRICT, PLAN 10957, EXCEPT THAT PART OF SAID LOT SHOWN OUTLINED IN RED ON PLAN 1659-R and EXCEPT PARTS IN PLANS 15342, 16358, 18893 and VIP81664.
(PID Number 005-167-841)
3. PARCEL B (DD47244I) of SECTION 6, RANGE 4, COWICHAN DISTRICT, EXCEPT PARTS IN PLAN 4159, 4307, 8219, 9529, 17353, 19696 and VIP81664.
(PID Number 009-032-649)

SCHEDULE A1

SCHEDULE A1
MAP OF PORTIONS OF
COWICHAN BAY ESTATES LANDS



SCALE = 1:4000

SCHEDULE B

Transfer of Lot 1, Plan 17353

1. The Owner must transfer the fee simple title to Lot 1, Sections 6 and 7, Range 4, Cowichan District, Plan 17353 to the District free of any charges or encumbrances of a financial nature, including mortgages, assignments of rents, options to purchase and rights of first refusal, and all other encumbrances including any statutory building scheme not specifically approved in writing by the District, but with the following covenants and conditions:
 - a) That the land be used for Heron Habitat Conservation purposes and complimentary passive park purposes.
2. The transfer referred to in section 1 of this Schedule B shall be completed no later than three months following the execution of this Agreement by the parties.

Wilmot Road Walkway

3. The Owner must construct a 1.8 metre wide multi use pathway along Wilmot Road across the frontage of the Land. The pathway shall be constructed consistent with the District Trail Type 5 – roadside pathway standard with a cart path gravel surface. The trail shall be located within Ministry of Transportation and Infrastructure (“MOTI”) right of way.
4. The pathway must be constructed prior to final subdivision approval of Phase I.
5. The construction of the trail contemplated by this section is subject to the approval of both the MOTI and the District.

Wilmot Road Boundary Fence

6. The Owner must construct a 1.5m high solid panel wooden fence along the Wilmot Road frontage at the proposed Phase I and Phase IV lot boundaries prior to final subdivision approval of Phase I. The fence must be constructed on private lands.
7. The fence shall be premium manufacture either prefabricated or site constructed using cedar as the primary material. The fence shall be finished with a neutral colour protective stain on all surfaces.

Interior Road Sidewalk

8. The Owner shall incorporate and construct a 1.5 metre wide interior road walkway prior to final subdivision approval of each Phase as described below, all subject to the District and MOTI permits and approval.

Phase 1

- Entire length of interior road along the east and south side from Wilmot Road to the end of the phase.

Phase 2

- Along the north side of the extension of Vee Road to the phase boundary, and
- Along the perimeter of any interior block.

Phase 3

- Along the north side of the extension of Vee Road between phase boundaries and
- Any one public road ending at Parkland.

Phase 4

- Along the north side of any street in the east-west orientation and east side of any north-south oriented streets. Where possible the walkway shall be along the entire frontage of developed parkland.

9. The walkway must be hard gravel surface (cart path material) or concrete sidewalk. The path shall be separated by a minimum 600mm from concrete curb or 300mm from the backside of any open drainage channel and must not interfere with surface features such as trees, hydro transformers, and utility junction boxes. The walkway must be located within the MOTI right of way.

Expansion of Ravine Park

10. The Owner must, prior to the deposit of the subdivision plan creating the 7th new parcel from the Lands, transfer to the District an area of land having a minimum area of 2.9 hectares to the south east of Ravine Park, shown as Phase 2b on Schedule B1, for park expansion, Heron Protection and District Energy purposes.
11. The Owner must, prior to the deposit of the subdivision plan creating the 62nd new parcel from the lands, transfer to the District and area of land having a minimum area of 0.65 hectares to the east of the parcel boundary and south of Ravine Park, shown as Phase 4b on Schedule B1.

Off Street Multi Use Path

12. The Owner must dedicate minimum 7.0 metre wide leave strips to the District and construct 2.0 metre wide gravel multi use pathways within the leave strips prior to final subdivision approval of each Phase according to the following schedule:

Phase 1

- None required.

Phase 2 (Phase 2b on Schedule B1)

- Multi use path to connect interior road walkway to Heron Conservation Parkland.
- Multi use path to connect Wilmot Road to the main interior road and any minor roads within Phase 2. The path shall generally be within the area originally defined by Plan 1659R.

Phase 3 (Phase 3c on Schedule B1)

- Multi use path to connect the main road to the tot lot dedicated with Phase 3.
- Multi use path to follow the boundary of Lot A, Plan 46073 from the Wilmot Road storm water management area then to loop onto the main road in two locations.

Phase 4 (Phase 4b on Schedule B1)

- Multi use path to follow the west boundary of the project site and the ravine park boundary from Wilmot Road to the tot lot created in Phase 3.

Neighbourhood Park

13. The Owner must transfer to the District one local neighbourhood park having a minimum area of 0.20 hectares at the time of the deposit of the subdivision plan for Phase 3a. The approximate location for the park is shown as Phase 3b on Schedule B1.
14. Prior to transferring the lands referred to in section 13, the Owner must undertake site preparation work including providing a sanitary sewer connection (excluded from sewer capacity unit allocations), power and communication ducting, storm drain connection, 38mm unmetered water connection, site grading, basic irrigation and landscaping, and must construct on the park such improvements as may be approved in writing by the District.
15. The Owner is not obliged to expend more than \$50,000.00 on park improvements under Section 13 apart from basic site preparation work and subject to general provision Section 22 and 23.

Transfer of Fee Simple Lots

16. The Owner must, prior to the deposit of the subdivision plan creating respectively, the 21st and 76th new parcel from the Lands, transfer one of the new parcels to the District (a total of two parcels) in fee simple for nominal consideration, free and clear of all encumbrances of a financial nature, including mortgages, assignments of rents, options to purchase and rights of first refusal, and all other encumbrances including any statutory building scheme not specifically approved in writing by the District, to be used for the purpose set out in Section 19, and the cost of transfer including the District's actual, reasonable legal costs must be paid by the Owner.
17. Each parcel transferred to the District shall be selected by the Owner on the basis of the final subdivision plan, being not less than the average lot size, excluding multiple dwelling lots.
18. Each parcel transferred to the District must be fully provided with water service, sanitary sewer connections, storm drain connections, hydro, cable duct and telephone service (duct) and highway frontage improvement to the standard provided in the rest of the subdivision, all as determined by an inspection of the parcel by the District prior to transfer. No parcel transferred to the District may be a strata lot or lot zoned for more than one principal dwelling.

19. The parcel transferred to the District under Section 16 must be used for community park purposes, provided that upon the sale of one or more of the parcels the proceeds of sale must be deposited into an Electoral Area D community parks statutory fund.

Street Trees

20. Prior to final approval of any subdivision creating more than 2 lots, the Owner must plant street trees in the boulevard area or in the lot frontages at a minimum ratio of 1 for every 2 lots created. Street trees shall be minimum 63mm caliper ornamental deciduous of species agreeable to the General Manager of the Planning and Development Department. Trees must be suited to the climate and prevalent soil conditions are not acceptable.
21. The Owner shall be responsible for obtaining MOTI approval as to location and if necessary, locate trees within the lot frontages. The Owner must maintain the trees for at least one year following completion of the works, replacing trees that do not survive transplant during that period. The Owner will not be required to replace trees damaged by acts of vandalism.

Energy Conservation – Heat Pumps

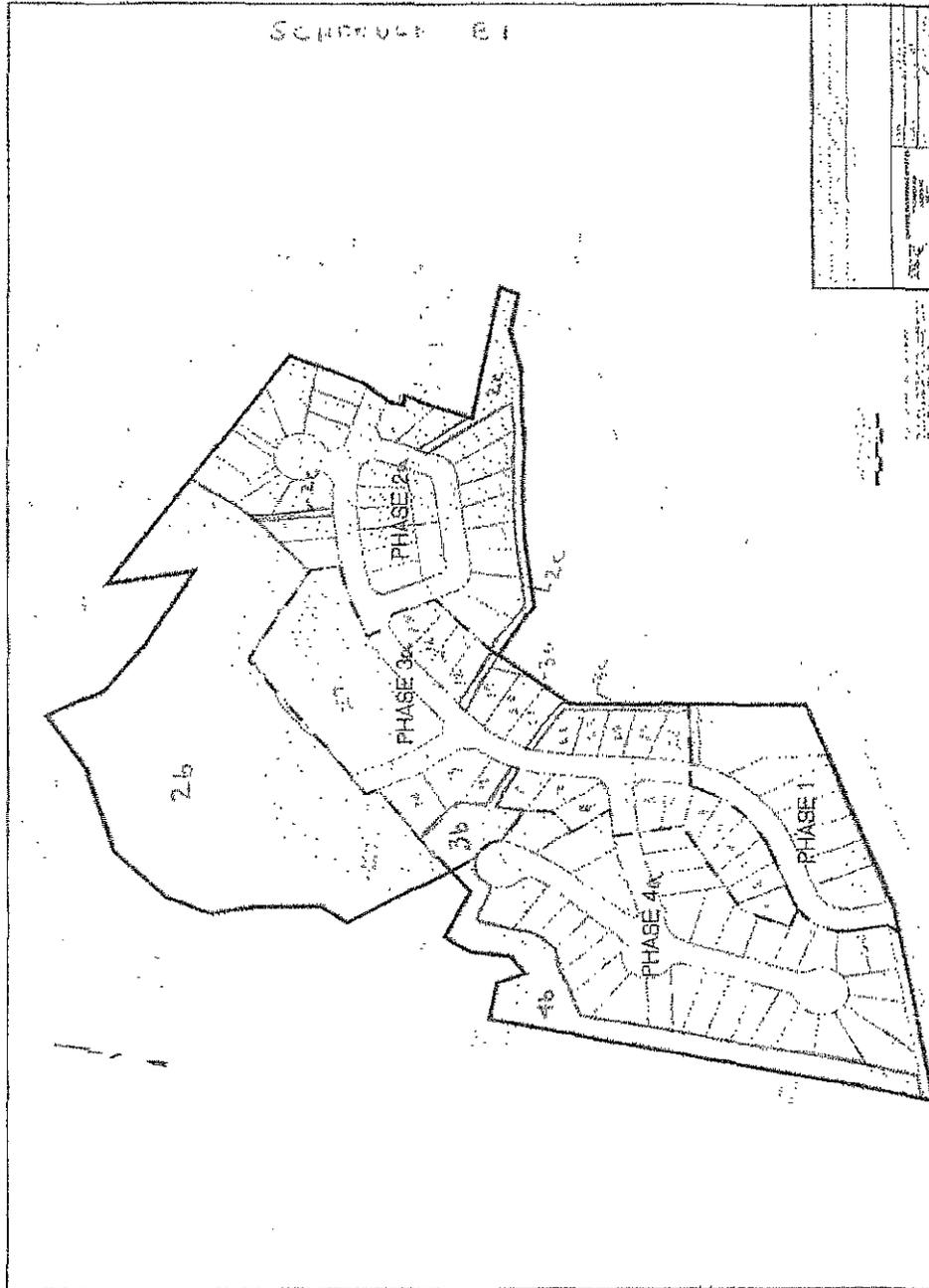
22. As an energy conservation feature, the owner must ensure that each single family dwelling that is constructed on the Lands is equipped with a heat pump as part of the heating/cooling system for that dwelling and the Owner agrees to register a section 219 Covenant in favour of the District against the title to the Lands to secure this obligation, such covenant to be registered prior to any subdivision or development of the Land.

General Provisions

23. Where this Agreement provides for the transfer of land to the District for park, environmental conservation, riparian area protection, or trail corridor purposes, the following shall apply:
 - a) the Owner must, prior to the transfer and the undertaking of any work required by this Agreement, submit to the District for review and approval plans and drawings of the proposed areas and improvements prepared by a member of the BC Society of Landscape Architects (the "BCSLA");
 - b) the plans and drawings shall be in sufficient detail to demonstrate compliance of the areas and any proposed alterations and improvements with this Agreement, the standards and guidelines of the BCSLA and the District, and where the planning or design of proposed alterations or improvements require, in the District's opinion, the services of an engineer or other professional, the Owner must engage such person at the Owner's cost to provide such services;
 - c) all park improvements must be constructed at the Owner's cost in accordance with the approved plans and any alterations that are approved in writing by the District during the construction process, as well as any applicable federal, provincial or local government regulations; and
 - d) the Owner must notify the District on completion of construction, and must not transfer the land to the District until the District has inspected the works and accepted them in writing.

24. Where this Agreement requires the Owner to undertake works for the benefit of or to be transferred to the District, the parties may enter into further agreements obliging the Owner to provide the works by a specified date, which agreement the District may require to be registered in the form of a covenant under s.219 of the *Land Title Act*, if the Owner provides security in a form and amount acceptable to the District to secure the Owner's performance of such obligations in accordance with the agreement. Such further agreements must enable the District to draw on the security to undertake the works if the Owner fails to do so by the date specified in the agreement.
25. Prior to the deposit of any subdivision plans of the Lands, the Owner shall prepare and provide for review and approval by the District an overall plan identifying the location and areas of all land to be transferred or dedicated to the District under this Agreement for public use as park, trail, walkway corridors, storm management or conservation or environmental protection purposes, the total area of such areas to be not less than 5.23 hectares (12.92 acres), and the District shall approve the plan provided that it complies in all respects with this Agreement. Thereafter, upon the deposit in the Land Title Office of any subdivision plan or other instrument transferring or dedicating land to the District under this Agreement, the Owner shall provide a further copy of the approved plan indicating the amount of land that has been, is being, and remains under the Agreement to be, transferred or dedicated to the District.

SCHEDULE B1



SCHEDULE "C"

TERMS OF INSTRUMENT - PART 2

WHEREAS:

- A. The Transferor is the registered owner in fee-simple of those lands and premises located within the Cowichan Valley Regional District, in the Province of British Columbia, more particularly described as:
1. PID 003-905-730
LOT 1, SECTION 6 and 7, RANGE 4, COWICHAN DISTRICT, PLAN 17353.
 2. PID 005-167-841
LOT 1, SECTION 5, RANGE 4, COWICHAN DISTRICT, PLAN 10957, EXCEPT THAT PART OF SAID LOT SHOWN OUTLINED IN RED ON PLAN 1659-R and EXCEPT PARTS IN PLANS 15342, 16358, 18893 and VIP81664.
 3. PID 009-032-649
PARCEL B (DD47244I) of SECTION 6, RANGE 4, COWICHAN DISTRICT, EXCEPT PARTS IN PLAN 4159, 4307, 8219, 9529, 17353, 19696 and VIP81664.
(hereinafter referred to as the "Land")
- B. The Transferee is the Cowichan Valley Regional District;
- C. The Transferee and the Transferor are parties to a Phased Development Agreement in respect of the Land, pursuant to section 905.1 of the Local Government Act, and as authorized under the Transferee's Cowichan Valley Regional District Bylaw No. [insert title and number of authorizing bylaw] (the "Phased Development Agreement");
- D. Pursuant to section 16.1 of the Phased Development Agreement the Transferor has agreed to grant this covenant to the Transferee to better secure the Transferor's obligations under the Phased Development Agreement, a copy of which is attached as Schedule "A";
- E. The Transferor acknowledges that it is in the public interest that the development and use of the Land be limited and wishes to grant this covenant to the Transferee;
- F. Section 219 of the *Land Title Act* provides that a covenant, whether of negative or positive nature, in respect of the use of land or the use of a building on or to be erected on land, and;
- that land is to be built on in accordance with the covenant;
 - that land is not to be built on or subdivided except in accordance with the covenant;

- that land is not to be used, built on or subdivided;
- that land or specified amenities be protected, preserved, conserved, maintained, enhanced, restored or kept in its natural or existing state;

may be granted in favour of Transferee and may be registered as a charge against the title to that land.

NOW THEREFORE THIS AGREEMENT WITNESSES that under Section 219 of the *Land Title Act*, and in consideration of the premises and the mutual covenants and agreements contained herein, and the sum of ONE (\$1.00) DOLLAR of lawful money of Canada now paid to the Transferor by the Transferee (the receipt and sufficiency of which is hereby acknowledged), and for other good and valuable consideration the parties covenant and agree each with the other as follows:

1. The Transferor covenants and agrees with the Transferee that it shall not use or permit the use of the Land or any building on the Land for any purpose, construct any building on the Land or subdivide the Lands except in strict accordance with the Transferor's covenants and agreements within the Phased Development Agreement, including but not limited to:
 - (a) Article 6.0 – Conditions for Development of Land;
 - (b) Article 7.0 – Amenities and Features of the Development;
 - (c) Article 9.0 – Density of Development;
 - (d) Article 10.0 – Phasing of Development;
 - (e) Article 11.0 – Expansion of Sewer Service and allocation of Sewer Capacity Units.
2. The Transferor shall indemnify and save harmless the Transferee from any and all claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees whatsoever which anyone has or may have against the Transferee or which the Transferee incurs as a result of any loss or damage or injury, including economic loss, arising out of or connected with:
 - (a) the breach of any covenant in this Agreement;
 - (b) the use of the Land contemplated under this Agreement; and
 - (c) restrictions or requirements under this Agreement.
3. The Transferor hereby releases and forever discharges the Transferee of and from any claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees whatsoever which the Transferor can or may have against the Transferee for any loss or damage or injury, including economic loss, that the Transferor may sustain or suffer arising out of or connected with:

- (a) the breach of any covenant in this Agreement;
 - (b) the use of the Land contemplated under this Agreement; and
 - (c) restrictions or requirements under this Agreement.
4. At the Transferor's expense, the Transferor must do everything necessary to secure priority of registration and interest for this Agreement and the Section 219 Covenant it creates over all registered and pending charges and encumbrances of a financial nature against the Land.
 5. Nothing contained or implied in this Agreement shall prejudice or affect the rights and powers of the Transferee in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Land as if the Agreement had not been executed and delivered by the Transferor.
 6. Time is of the essence of this Agreement.
 7. The Transferor covenants and agrees for itself, its heirs, executors, successors and assigns, that it will at all times perform and observe the requirements and restrictions set out in this Agreement and they shall be binding upon the Transferor as personal covenants only during the period of its respective ownership of any interest in the Land.
 8. It is mutually understood, acknowledged and agreed by the parties hereto that the Transferee has made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the Transferor other than those contained in this Agreement.
 9. The waiver by a party of any breach of this Agreement or failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar, and no waiver shall be effective unless it is in writing signed by both parties.
 10. Wherever the singular, masculine and neuter are used throughout this Agreement, the same is to be construed as meaning the plural or the feminine or the body corporate or politic as the context so requires.
 11. No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity.
 12. The restrictions and covenants herein contained shall be covenants running with the Lands and shall be perpetual, and shall continue to bind all of the Lands when subdivided, and shall be registered in the Victoria Land Title Office pursuant to section 219 of the *Land Title Act* as covenants in favour of the Transferee as a first charge against the Land.
 13. The Transferor agrees to execute all other documents and provide all other assurances necessary to give effect to the covenants contained in this Agreement.

14. If any part of this Agreement is found to be illegal or unenforceable, that part will be considered separate and severable and the remaining parts will not be affected thereby and will be enforceable to the fullest extent permitted by law.
15. This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.
16. *, the registered holder of a charge by way of * against the Lands and registered under No. _____ (the "Charge") in the Land Title Office at Victoria, British Columbia, under number *, for and in consideration of the sum of One (\$1.00) Dollar paid by the Transferee to the said Chargeholder (the receipt whereof is hereby acknowledged), agrees with the Transferee, its successors and assigns, that the within section 219 Covenant shall be an encumbrance upon the Lands in priority to the Charge in the same manner and to the same effect as if it had been dated and registered prior to the Charge.

The Transferor and Transferee acknowledge that this Agreement has been duly executed and delivered by the parties executing Forms C and D (pages 1 and 2) attached hereto.



RES1

APPOINTMENTS

**BOARD MEETING
OF February 9, 2011**

DATE: January 28, 2011
FROM: Director Kuhn
SUBJECT: **Electoral Area I – Youbou/Meade Creek Advisory Planning
Commission**

Recommendation:

**That the following appointments to the Electoral Area I – Youbou/Meade Creek
Advisory Planning Commission be approved:**

Appointed for a Term to Expire November 30, 2011:

**Jeff Abbott
Shawn Carlow
Bill Gibson
George DeLure
Mike Marrs
Gerald Thom
Patricia Weaver**



RES2

APPOINTMENTS

**BOARD MEETING
OF February 9, 2011**

DATE: January 28, 2011
FROM: Director Duncan
SUBJECT: **Electoral Area E – Cowichan Station/Sahtlam/Glenora Parks and Recreation Commission**

Recommendation:

That the following appointments to the Electoral Area E – Cowichan Station/Sahtlam/Glenora Parks and Recreation Commission be approved:

Elected:

Howard Heyd
Frank McCorkell
John Ramsey
Ron Smith
Paul Slade

Appointed:

Irene Evans
Patty John
Mike Lees
Larry Whetstone

All Terms to Expire November 30, 2011



RES3

APPOINTMENTS

**BOARD MEETING
OF February 9, 2011**

DATE: January 28, 2011
FROM: Director Kuhn
SUBJECT: Electoral Area I – Youbou/Meade Creek Parks Commission

Recommendation:

That the following appointment to the Electoral Area I – Youbou/Meade Creek Parks Commission be approved:

Appointed for a Term to Expire December 31, 2012:

**Daniel Nickel
Marcia Stewart
Ken Wilde**



RES4

APPOINTMENTS

**BOARD MEETING
OF February 9, 2011**

DATE: January 28, 2011
FROM: Director Giles
SUBJECT: **Electoral Area C – Cobble Hill Parks and Recreation Commission**

Recommendation:

That the following appointment to the Electoral Area C – cobble Hill Parks and Recreation Commission be approved:

**Appointed for a Term to Expire December 31, 2011:
Dennis Cage**



RES5

APPOINTMENTS

Board Meeting of February 9, 2011

DATE: February 1, 2011
FROM: Kim Liddle, Manager, South Cowichan Recreation
SUBJECT: Kerry Park Recreation Centre Commission

Recommendation:

That the following appointments to the Kerry Park Recreation Centre Commission be approved:

Appointed for a Term to Expire December 31, 2011:

**Doug Higginson
Heather Broughton
Michael Croft
Leslie Heinio**



RES6

APPOINTMENTS

Board Meeting of February 9, 2011

DATE: February 4, 2011
FROM: Director Morrison
SUBJECT: Electoral Area F – Cowichan Lake South/Skutz Falls Parks and Recreation Commission

Recommendation:
That the following appointments to the Electoral Area F – Cowichan Lake South/Skutz Falls Parks and Recreation Commission be approved:

Appointed:

**Brian Peters
Bill Bakkan
Bob Burden
Carolyn LeBlanc**

Term to Expire December 31, 2011

Elected:

**Raymond Wear
Dave Darling**

Term to Expire December 31, 2012



NEW BUSINESS SUMMARY

BOARD MEETING – FEBRUARY 9, 2011

- NB1** "Cowichan Valley Regional District Bylaw No. 3455 – Douglas Hill Water System Management Amendment Bylaw, 2011", 1st, 2nd, and 3rd reading.
- NB1** "Cowichan Valley Regional District Bylaw No. 3455 – Douglas Hill Water System Management Amendment Bylaw, 2011", adoption.
- NB2** Staff Report from Project Engineer, Capital Projects, Engineering and Environmental Services
Re: Lambourn Estates Sewer System Outfall
- NB3** Appointment to the Electoral Area H – North Oyster/Diamond Parks and Recreation Commission

Closed Session

CSNB1 Receipt of Advice that is Subject to Solicitor-Client Privilege {Sub (1)(i)}



NB1

COWICHAN VALLEY REGIONAL DISTRICT

BYLAW NO. 3455

**A Bylaw to Amend the Douglas Hill Water System
Management Bylaw No. 3406**

WHEREAS the Board of the Cowichan Valley Regional District established the management of the *Douglas Hill Water System* pursuant to Bylaw No. 3406, cited as "CVRD Bylaw No. 3406 – Douglas Hill Water System Management Bylaw, 2010";

AND WHEREAS the Board of the Cowichan Valley Regional District deems it desirable to amend Schedule H;

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 "**Cowichan Valley Regional District Bylaw No. 3455 – Douglas Hill Water System Management Amendment Bylaw, 2011**".

2. AMENDMENTS

- a) That Schedule H of Bylaw No. 3406 be deleted in its entirety and replaced with Schedule H attached to and forming part of this Bylaw.

READ A FIRST TIME this _____ day of _____, 2011.

READ A SECOND TIME this _____ day of _____, 2011.

READ A THIRD TIME this _____ day of _____, 2011.

ADOPTED this _____ day of _____, 2011.

Chairperson

Secretary



SCHEDULE H

TO CVRD BYLAW NO. 3406

2011 INITIAL USER FEE CHARGE

An initial user flat fee charge in the amount of \$125.00 will be invoiced in **2011** to each of the properties within the service area boundary of the Douglas Hill Water System, for the period December 1, 2010 to March 31, 2011. The initial user flat fee charge supersedes Schedule B of this Bylaw on a "one-time" basis only.



NB2

STAFF REPORT

**CVRD BOARD MEETING
OF FEBRUARY 9, 2011**

DATE: February 7, 2011 **FILE NO:** 5330-30-LAM
FROM: Jeralyn Jackson, AScT., PMP, Project Engineer, Capital Projects
SUBJECT: Lambourn Estates Sewer System Outfall

Recommendation/Action:

That the Board endorse extension of the Lambourn Estates Sewer System existing statutory right-of-way by 410 metres in order to accommodate extending the outfall.

Relation to the Corporate Strategic Plan: Reliable essential services – upgrade of sewer utilities to meet local and provincial standards.

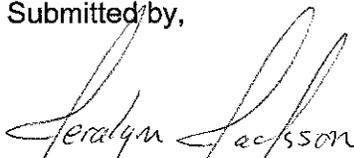
Financial Impact: No financial impacts.

Background:

On October 21, 2010, the CVRD Board passed a resolution approving the allocation of funding under the 2010-2014 Community Works Fund Program for the Extension of the Lambourn Outfall Extension (\$328,116). The outfall extension is required as part of the Lambourn Estates Sewer system upgrade project in which the Ministry of Environment determined that all proposed and existing sewage treatment works must conform to the conditions set out in the current Municipal Sewage Regulations (MSR). The existing outfall does not meet siting requirements under the MSR and must be extended by 410 metres to provide adequate setback to the shellfish harvesting area.

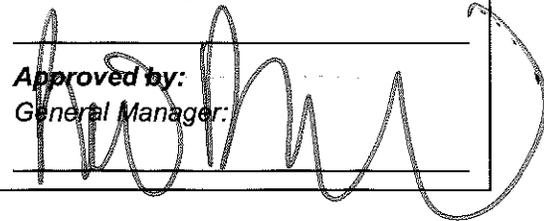
The CVRD submitted an application to the Ministry of Natural Resource Operations (MNRO) on December 22, 2010, for an Interim License to SRW Crown Land Tenure. The Ministry now requires a CVRD Board resolution endorsing the extension of the SRW.

Submitted by,


Jeralyn Jackson, AScT., PMP,
Project Engineer, Capital Projects

JHJ:jlb

Reviewed by:
Division Manager:


Approved by:
General Manager:



NB3

APPOINTMENTS

Board Meeting of February 9, 2011

DATE: February 9, 2011

FROM: Director Marcotte

SUBJECT: **Electoral Area H – North Oyster/Diamond Parks and Recreation Commission**

Recommendation:

That the following appointment to the Electoral Area H – North Oyster/Diamond Parks and Recreation Commission be approved:

Appointed for a Term to Expire March 31, 2013:

Don Pigott