

ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: J. Zaffino, Chief Administrative Officer

DATE: July 3, 2025

RE: Regulating the creation of new private utilities (X2023.011-ZONE)

Administrative Recommendation:

THAT the Official Community Plan Amendment Bylaw No. 3045, 202, and Development Procedures Amendment Bylaw No. 2500.34, 2025, be read a third time;

AND THAT the Zoning Amendment Bylaw No. 3046, 2025, and Subdivision Servicing and Development Bylaw No. 2900.01, 2025, be read a third time, as amended.

Purpose:

The purpose of the proposed land use bylaw amendments is to introduce regulations in relation to private water and sewer utilities.

Background:

On February 6, 2025, the Planning and Development Committee considered proposed amendment bylaws to the Electoral Area Official Community Plan (OCP) Bylaws, Zoning Bylaws, Subdivision and Development Servicing (SDS) Bylaw and Development Procedures Bylaw and resolved that "staff be directed to bring this item to the next Board meeting with a recommendation".

At its regular meeting of March 6, 2025, the Regional District Board resolved to approve first and second reading of the various amendment bylaws and scheduled a public hearing ahead of its meeting of March 20, 2025.

A Public Hearing was subsequently held on March 20, 2025, where approximately ten (10) members of the public attended, followed by Board consideration of third reading of the various amendment bylaws.

The Board subsequently resolved that the various "amendment bylaws to regulate the creation of new private utilities be postponed to a future meeting allow staff to gather further information."

At its meeting of June 19, 2025, the Planning and Development (P&D) Committee of the Board resolved:

THAT the land use bylaw amendments related to the regulation of private utilities be amended to provide an exemption for community water or community sewer systems in Electoral Areas "C", "E", "G" and "H" in order to not exclude a system owned and operated by a strata corporation, private water utility or business corporation.

In response, Amendment Bylaw Nos. 3046 and 2900.01 have been amended to incorporate this exemption for Electoral Areas "C", "E", "G" & "H" and the Board is being asked to consider third

reading “as amended” for these bylaws. Importantly, no further public hearings are required in relation to the proposed changes.

All comments received to date in relation to this application are included with this report.

Approval from the Ministry of Transportation and Transit (MoTT) is required prior to adoption as the proposed amendments involve lands within 800 metres of a controlled access highway (i.e. Highway 97 & 3).

Analysis:

It has been the Regional District’s experience that “system owners often find that they no longer have the financial ability or technical expertise required to meet current regulations” and there have been prominent examples (e.g. Vintage Views Development Sewer System) where the Regional District has been requested to acquire these systems.

Further, it has been a long-standing policy direction of the Regional District Board that “essential services are best provided by government, where citizens can elect representatives interested in their well-being and will operate the service in the most effective and efficient manner possible.”

For this reason, Administration considers there to be a strong argument for the Board to regulate, going forward, in favour of publicly operated utility systems versus those operated by business or strata corporations or other private water or sewer utilities.

With regard to a concern that was raised at Committee regarding potential liability to the Regional District when approving a development variance permit (DVP) to allow a private utility to proceed, it is Administrations understanding, from *British Columbia Planning Law and Practice*, that:

... the granting of a variance is a quasi-judicial act in which the council or board of variance owes no duty of care to either the applicant or to others who may subsequently have an interest in the property.

It is further understood that avenues for liability claims against a local government exercising its land use regulation authority are generally limited to a small subset of tort claims (e.g., “gross negligence”).

Alternative

The status quo remains an option for Board consideration.

Financial Implications:

Financial implications have been considered and none were found.

Communication Strategy:

The proposed bylaw amendments have been notified in accordance with the requirements of the *Local Government Act* as well as the Regional District’s Development Procedures Bylaw No. 2500, 2011.

Alternative:

1. THAT first and second reading of the Electoral Area Official Community Plan Amendment Bylaw No. 3045, 2025, the Zoning Amendment Bylaw No. 3046, 2025, the Subdivision Servicing and

Development Amendment Bylaw No. 2900.01, 2025, and the Development Procedures
Amendment Bylaw No. 2500.34, 2025, be rescinded and the bylaws abandoned.

PowerPoint Presentation: No.

Respectfully submitted:



C. Garrish

Senior Manager of Planning

Endorsed By:



A. Fillion

Managing Director, Dev. & Infrastructure