

Regional District of Okanagan-Similkameen

SCHEDULE OF MEETINGS

**THURSDAY, APRIL 2, 2015
RDOS BOARDROOM**

9:00 am	-	11:00 am	Community Services Committee
11:00 am	-	12:00 pm	Corporate Services Committee
12:00 pm	-	12:30 pm	Lunch
12:30 pm	-	1:30 pm	Corporate Services Committee (cont'd)
1:30 pm	-	2:00 pm	Environment & Infrastructure Committee
2:00 pm	-	4:00 pm	RDOS Regular Board Meeting

"Mark Pendergraft"

Mark Pendergraft
RDOS Board Chair

Advance Notice of Meetings:

April 16	RDOS/OSRHD Board/Committee Meetings
May 7	RDOS Board/Committee Meetings
May 21	RDOS/OSRHD Board/Committee Meetings
June 4	RDOS Board/Committee Meetings
June 18	RDOS/OSRHD Board/Committee Meetings
July 2	RDOS Board/Committee Meetings
July 16	RDOS/OSRHD Board/Committee Meetings
August 6	RDOS Board/Committee Meetings



REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

Community Services Committee

Thursday, April 2, 2015

9:00 am

REGULAR AGENDA

A. APPROVAL OF AGENDA

B. DELEGATION

1. Daniel Pizarro, Regional Transit Manager and Adriana McMullen, Transit Planner – BC Transit

Mr. Pizarro and Ms. McMullen will be addressing the Board to provide an overview, history and future process of BC Transit in the Okanagan and Similkameen Valleys.

C. ADJOURNMENT



REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

Corporate Services Committee

Thursday, April 2, 2015

11:00 AM

REGULAR AGENDA

A. APPROVAL OF AGENDA

B. DELEGATION

1. Municipal Insurance Association

Lindsay Nilsson, Director of Claims and Legal Services

Maryam Sherkat, Legal Counsel & Risk Officer

Ms. Nilsson and Ms. Sherkat will address the Committee to provide an overview of the coverage that MIA provides to the Regional District.

C. First Nations Taxation, Service Agreements, and Legislative Developments

1. UBCM Letter – FNTC Report

2. First Nation Property Taxation, Services and Economic Development in BC

3. Local Services Agreement, November 25, 2014 - Blacklined

RECOMMENDATION 1

That the Regional District of Okanagan Similkameen recommend to the UBCM a special session or a Resolution for debate on the subject of Dr. Bish's report at the next UBCM Conference; and,

That UBCM be requested to include Dr. Bish as a guest presenter; and,

That the Board of Directors send a letter response to UBCM within the prescribed timeline.

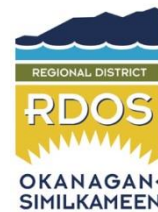
D. Closed Session

RECOMMENDATION 2

THAT in accordance with Section 90.(1)(c) of the *Community Charter*, the Committee close the meeting to the public on the basis of labour relations or other employee relations.

E. ADJOURNMENT

ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: Bill Newell, CAO

DATE: 2 April 2015

RE: First Nation taxation, Service Agreements, and Legislative Developments

RECOMMENDATION:

1. That the Regional District of Okanagan Similkameen recommend to the UBCM a special session or a Resolution for debate on the subject of Dr. Bish's report at the next UBCM Conference; and,
2. That UBCM be requested to include Dr. Bish as a guest presenter; and,
3. That the Board send a letter response to UBCM within the prescribed timeline.

REFERENCE:

- *First Nation Property Tax, Services and Economic Development in British Columbia*
- UBCM Letter – FNTR
- First Nation Local Service Agreement - PIB

HISTORY:

The Union of British Columbia Municipalities (UBCM) has requested local government feedback on a report prepared by Professor Robert Bish and Fiscal Realities Economists, and jointly released for discussion by the First Nations Tax Commission and UBCM. Comments are due by April 3rd.

This report, *First Nation Property Tax, Services and Economic Development in British Columbia*, provides information on the evolution of First Nation taxation, the development of local government service agreements, and related legislative developments. It includes five suggestions for future action presented by the authors, who hope to build on the positive relationships that currently exist between First Nations and local governments (including UBCM) in British Columbia.

Director Siddon, in his former role a Minister of Indian Affairs, is very familiar with the evolution of the Indian Taxation Act in 1988 and has summarized the report as follows:

"Professor Bish's report describes in detail the evolution of a long-denied natural right of First Nations to levy appropriate property taxes upon third parties who for generations had been taking unfair advantage of land uses within "Lands Reserved for Indians". Such uses included Provincial Highways, pipelines and power-line corridors, railways, forestry and mill operations, and a myriad of subdivisions, trailer parks and industrial parks, all of which had treated Indian band-lands as "tax free zones". At the same time, many local governments, with tacit consent by the Federal and Provincial governments had been permitted to levy property taxes upon third party land users within "lands reserved for Indians", presumably to compensate for "provision of services", but usually without consultation or any consideration of tax-sharing agreements with the affected First Nation.

ALTERNATIVES:

1. Provide comments on the Bish Report to UBCM.
2. Receive the Report for information

ANALYSIS:

Among other things, the Report examines many policy areas relevant to First Nations and local governments, including:

- First Nations' revenue options;
- Taxation for the provision of services;
- Tax rates and the implications on residential and commercial properties;
- Political representation; and,
- The relationship between First Nations and regional districts.

The Bish Paper makes the following suggestions to build on the recent positive history between First Nations and local governments in BC and to continue the strong working relationship between the UBCM and the FNTC:

1. Promote and support collaboration and cooperation between the Tulo Centre of Indigenous Economics and universities that support the local government officers association such as Capilano, Northwest and UVIC.

Tulo is an independent not-for-profit educational and research institution whose mission is to educate and train First Nations administrators, in cooperation with the University of Victoria, and to expand its efforts to include a broader range of activities to assist First Nations and their members to participate in the Canadian governance and market systems. It would make sense to work in conjunction with the Local Government Management Association to ensure courses are compatible and of equal rigour.

Administrative Response: We agree with the UBCM recommendation.

2. Develop processes to remove First Nations from municipal boundaries on the request of First Nations to clarify service and representation responsibilities.

This UBCM proposal would make absolutely clear that First Nations are responsible for their residents; both First Nation and non-First Nation, including arrangements for both services and taxes, and that municipalities are governed by their citizens who also receive services and pay taxes. With this clarification, the two governments can proceed to make joint service arrangements for the mutual benefit of their citizens. UBCM proposes that it should be the policy of the provincial government to respond favourably to requests from a municipal council/board that requests removal of a reserve from within its legal boundaries. This leaves this as a local option where the local council/board knows the relationship with the First Nation and makes the decision. Removing a population from a municipality will also require adjustments within regional districts, where the population may need to be assigned to an electoral area if the First Nation itself is not becoming a member of the regional district. Such new arrangements will need to be worked out between the regional district and the Ministry of Community, Sport and Cultural Development.

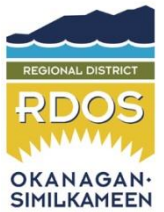
Administrative Response: We agree with the UBCM proposal.

3. Consider a pilot project coordinated by the FNTC and UBCM with a non-treaty First Nation to directly participate in regional district governance, planning, services and infrastructure.

It would be much cleaner if Reserves were removed from municipal jurisdiction and the Band became a Member of a Regional District, similar to the protocol for a municipality. They could then contribute to regional programs, like the hospital district, and choose which other services they wanted to participate in.

Administrative Response: We agree a pilot project would be interesting.

4. Consider other First Nation regional participation opportunities such as those associated with hospital districts.



Administrative Response: The participation of on-Reserve, non-native residents in Regional Programs should be mandatory.

5. UBCM and the First Nations Tax Commission (FNTC) should work together to encourage the provincial legislative changes necessary to ensure the First Nation Fiscal Management Act (FMA) applies to First Nations in post treaty environment so that they have access to institutional services and long term infrastructure capital.

Administrative Response: We agree with the UBCM proposal

Within the Regional District of Okanagan Similkameen the Penticton Indian Band and the Osoyoos Indian Band are Taxing Authorities. The Regional District has service agreements with both, and also has a general Taxation Service Agreement with the Penticton Indian Band, which is currently being revised.



March 12, 2015

UBCM Members

Attn: Elected Officials and Senior Staff

Re: Local Government Feedback on the Professor Robert Bish/Fiscal Realities Report, "First Nation Property Tax, Services and Economic Development in British Columbia"

On October 22, 2014, the Union of BC Municipalities (UBCM) and First Nations Tax Commission (FNTC) [jointly released the Professor Robert Bish/Fiscal Realities Report, First Nation Property Tax, Services and Economic Development in British Columbia](#), for discussion amongst UBCM's membership. Among other things, the Report examines many policy areas relevant to First Nations and local governments, including:

- First Nations' revenue options;
- Taxation for the provision of services;
- Tax rates and the implications on residential and commercial properties;
- Political representation; and,
- The relationship between First Nations and regional districts.

After the allotted 4 weeks for local governments to submit feedback, limited feedback was received. In January 2015, [UBCM and FNTC again released the Report](#), this time allowing 6 weeks for local governments to provide feedback. As of the final deadline (February 27, 2015), only a few local governments have provided comments on the Report.

The results, and subsequent feedback obtained from local governments, will not only inform UBCM's response to the Report, but also UBCM's level of engagement regarding the aforementioned policy issues, and the relationship with the First Nations Tax Commission. As such, UBCM is providing one last opportunity to comment on the Report. UBCM members have until **Friday, April 3, 2015** to submit their feedback to Bhar Sihota, UBCM Policy Analyst at bsihota@ubcm.ca.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Krause". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Councillor Murry Krause, Chair
UBCM First Nations Relations Committee

First Nation Property Tax, Services and Economic Development in British Columbia

**Presented to:
the First Nations Tax Commission and
the Union of BC Municipalities**

This paper reflects the views of the authors only and not necessarily those of the
First Nations Tax Commission or the Union of BC Municipalities.



**Prepared by:
Professor Robert
Bish and
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Economists**

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I. First Nation Property Tax, Services, and Economic Development in British Columbia

First Nations in British Columbia have made more progress toward becoming part of the Canadian federal system in the 26 years since the introduction of First Nation taxation in 1988 than they did in the more than one hundred previous years, dating back to the passage of the *Indian Act* in 1876. In this short policy analysis we will briefly review the problems that led to the 1988 *Indian Act* amendments, the progress since that time, and the kinds of policies that will contribute most toward continued benefits for First Nations, other governments, and all citizens of Canada.



II. First Nation Taxation and Service Issues before First Nation Property Tax (pre-1988)

Before 1988, forty five reserves were considered within the boundaries of municipalities and the remaining reserves within regional districts, school districts, and other kinds of local governments. These local governments all levied property taxes on leaseholds held by non-Aboriginals on reserves, as did the provincial government on reserves outside of municipal boundaries. None of these governments had any legal requirement to provide services to the lease-paying taxpayers.¹ The levying of taxes by the local and provincial government on reserve lands, a practice abandoned in other provinces, while generating significant revenues for a few local governments, also resulted in problems for both First Nations and local governments, especially municipalities.

Complaints about the levying of property taxes on reserves by non-Aboriginal governments had been voiced by First Nations since the 1970's. The complaints from First Nations included that such taxation lowered the market value of leaseholds because leaseholders had to pay taxes but did not receive service benefits in return. First Nations also objected to their lack of political control over taxation levied on their territories.

The findings of a study of taxation and service relationships in 1987 concluded²:

- Overall tax revenues from reserve lands for all governments in BC were \$7.6 million, less than 1% of all provincial property tax revenues.
- Some municipalities obtained significant revenues (Vancouver, West Vancouver, District of North Vancouver) and others derived a significant share of their property tax revenue (Burns Lake 28.9%, Duncan 15%) from reserve leaseholds.

¹ In a technical sense these BC governments were not levying a "property tax" on reserve lands, but rather were levying a tax on the non-Aboriginal leaseholder with the amount calculated as if it were a property tax.

² Robert L. Bish, Property Taxation and the Provision of Government Services on Indian Reserves in British Columbia. Center for Public Sector Studies, University of Victoria, March 1987. (53pp).



- On average, only 25% of the on-site services provided to other municipal tax payers were provided to leaseholders without additional contractual relationships and payment, but some municipalities provided full services while others provided none (on-site services include fire protection, water, sewers, roads, etc).

The most important problem for local governments was that there was no way to enforce the collection of delinquent taxes, but as collectors for the provincial government (school taxes), regional districts and other local governments, they had to pass on the amounts levied by those governments whether or not they actually collected the taxes from leaseholders. With no way to enforce collection, and the lack of cooperation from First Nations who objected to the taxation in the first place, delinquency rates were very high. While delinquency data for individual municipalities was not available, the Provincial Surveyor of Taxes reported that delinquencies on current and back taxes were 59.8% of the 1986 levy on reserve.

Complicating the tax-service-delinquency issues were several other issues in the relationship between First Nations and other governments. While provincial legislation required municipalities to tax leaseholders on reserves, there was no obligation to provide services, and municipal regulatory by-laws such as zoning, noise, and animal control were not applicable to reserve lands. Further complicating matters for both First Nations and municipalities was the uncertain status of legal contracts between First Nations and municipalities, and subsequently, regional districts. While the *BC Municipal Act* provided that municipalities had the authority to contract with First Nations and court decisions concluded that First Nations had the power to contract without Indian and Northern Affairs Canada (INAC) involvement, some British Columbia lawyers advised their clients that contracts with First Nations had to be signed by the Minister. Earlier research indicated that the Minister was historically involved in contracts for capital projects between First Nations and municipalities, but that INAC also was a very poor contract manager, a problem that was complicating First Nation-local government relationships in several communities. In spite of these difficulties there were many contracts for services between First Nations and municipalities that were working well and did not have the involvement of INAC.



Provincial government property taxes in rural areas are used to provide partial funding for policing and roads. Policing was always provided to reserves under the subsidized provincial contract with the RCMP, but because roads on First Nation reserves were not owned by the Provincial government, they provided no roads or road maintenance to the tax-paying leaseholders on reserve. Throughout the province, the provincial and municipal governments collected property taxes for schools. Because these taxes are submitted to the provincial government, which in turn provides financing to school districts on a formula basis, there is no relationship between school property taxes and school services. All children in the province are entitled to attend public schools and this included children residing on reserve leaseholds. The federal government also finances public schooling for Aboriginal children with transfer payments to the province.



III. Clarifying Property Taxation and Service Responsibility on Reserves: Bills C-115 and 64 (post-1988)

While the 1987 study of tax-services relationships was underway, Kamloops Indian Band Chief Manny Jules and INAC developed Bill C-115, the 1988 amendment to the *Indian Act*. The amendment clarified that conditionally surrendered reserve lands (land leased to non-Aboriginals and called “designated lands” in the legislation) remained under jurisdiction of the First Nation and that all First Nations were authorized to levy property taxation. The Bill did not exclude provincial and local government taxation of leasehold land on reserves, but legal opinions held that if a First Nation introduced property tax that was specifically for the benefit of the First Nation, courts would rule to exclude provincially sponsored taxation. A consequence of the legislation was the creation of the Indian Taxation Advisory Board (ITAB) to regulate First Nation property tax. Following the passage of the legislation, ITAB proceeded to sponsor information workshops, provide informative publications, conduct research, and provide training in implementing property tax to representatives of interested First Nations.

As part of INAC funded research, a very detailed analysis of the implications of Bill C-115 was published in 1991³. Because of its use of specific case studies, it revealed an additional problem in the relationship between local property taxes and service provision that was not revealed by the previous province-wide study. This study analyzed taxes, service arrangements, service costs, and the revenue-service cost balance for the Cowichan, Musqueam, Westbank, Burns Lake, and Lake Babine First Nations and all BC governments within whose tax jurisdiction they were located. The leaseholds on these reserves accounted for approximately 30% of all leasehold property taxes in the province and represented a variety of situations.

³ Robert L Bish, Eric G. Clemens, and Hector G. Topham. Study of the Tax and Service Implications of Bill C-115 (Taxation amendments to the Indian Act). Center for Public Sector Studies, University of Victoria, October 1991. (134pp).



The study concluded that where leaseholds were primarily commercial (Cowichan, Burns Lake) or very high-value residential (Musqueam), property tax revenues exceeded the average share of service costs funded by property taxes in the respective local governments. However, where leaseholds were primarily residential (Westbank), especially if low-valued, property tax revenues did not cover the average share of service costs financed from property tax revenues.⁴ It was also recognized that by selecting case studies where revenues were significant, most service delivery issues had been resolved by local agreements in the past. Such agreements were not as common for First Nations where lesser revenues were involved. The mismatch between property tax revenue and service costs continues to be a problem for some First Nations just as it is for small municipalities that lack a balanced tax base.

The initial provincial government response to Bill C-115 (the taxation amendments to the *Indian Act*), the *Indian Land Tax Co-operation Act* (Bill 77), authorized the British Columbia Assessment Authority, the Surveyor of Taxes and local governments to provide tax administration services to First Nations. It did not, however, end the main issues under dispute: the taxation of First Nation lands without the permission of the First Nation and without the provision of services.

Bill 77 was replaced in 1990 by Bill 64, the *Indian Self Government Enabling Act*. This act provided three options for First Nations:

1. **Concurrent property tax jurisdiction:** This would be an arrangement where both BC local governments and the First Nation would levy taxes on leasehold lands, with an agreement on tax sharing and service responsibility worked out between them.
2. **Independent property taxation:** First Nations could exclude all other taxing jurisdictions, levy their own property taxes, and make their own purchase of service agreements with other governments.

⁴ The most important reason for this result is that in BC it is common for property tax rates to be much higher on commercial and industrial property than on residential. Thus commercial and industrial property taxes tend to be much higher than the costs of services to those properties while residential property taxes do not cover the costs of servicing residential property.



- 3. Indian Districts:** If the federal government granted corporate status (similar to Sechelt) the First Nation could use either property tax option and participate in provincial programs for municipalities including provincial revenue sharing, the Municipal Finance Authority, and other grant programs.

With all of the options, the First Nation could contract with the BC Assessment Authority, other BC government agencies, or local governments, for tax administration and services. Bill 64 clearly recognized that First Nation governments had both tax and service responsibility for reserve lands. However, for any First Nation that did not implement property taxation, the provincial government and local governments would continue to tax the leaseholds on those lands. There are still some First Nation lands in BC (such as the Okanagan First Nation) where the provincial and regional district governments continue to collect taxes from First Nation lessees.



IV. The Implementation of First Nation Property Tax

There were four very important changes with the passage of Bills C-115 and 64. They were:

1. The legislation clarified jurisdiction on First Nation reserves. It was now clear that the First Nation government had regulatory control and exclusive jurisdiction for taxation of leasehold lands on reserves.
2. The legislation changed bargaining power between local governments and the First Nations. Local governments lost jurisdiction to impose taxes on leaseholders without providing services. Future relationships would be between equal parties who could make service arrangements for mutual benefit.
3. The legislation provided for First Nations to have an independent revenue base. Such a revenue base could be used to finance infrastructure to promote economic development on reserve lands.
4. The Indian Taxation Advisory Board was established in 1989 to regulate and make recommendations to the federal Minister of Indian and Northern Affairs Canada on the approval of property tax by-laws enacted pursuant to the Indian Act. The Board included both First Nation and non-First Nation members. All of the non-First Nation members were experts in property taxation and some of whom also represented taxpayers.

ITAB proceeded to develop an extensive body of policy and assisted First Nations with the development and implementation of their property tax systems. It also maintained a policy that First Nation property tax systems should be compatible with their respective provincial systems to ensure a smooth transition to First Nation jurisdiction. This policy meant that First Nations would use compatible assessment practices and classifications as those used by other property taxing governments in the province.



The implementation of First Nation property tax and renegotiation of existing contracts went reasonably well, although some local governments, who wanted a veto over First Nation property tax within their area until service revenue sharing contracts were in place, objected to the implementation of property tax by First Nations⁵. ITAB played a major role in providing research, consulting, training, and dispute resolution services. The provincial Ministries of Aboriginal Affairs, Finance, and Municipal Affairs all facilitated implementation of the Bill 64 legislation. The BC Assessment Authority provided the First Nations with initial assessment rolls at no cost and entered into contracts to continue the assessment function for most First Nations entering into taxation. The Ministry of Finance also agreed to withdraw from school taxation⁶ with no reduction in education services. This freed up tax revenues for First Nation use that were often in excess of the costs of providing other local government services. The Ministry also agreed that if a First Nation submitted school taxes to the province, it would rebate the funds for homeowner grants.

Because there was considerable variety in First Nation-municipal tax-service relationships, there was less uniformity in the response by local governments to a First Nation's implementation of taxation on a reserve within municipal boundaries where the municipality had previously received tax revenue—whether or not it provided services to leaseholders or the entire reserve. It was also becoming clear that some First Nations outside of municipal boundaries could potentially benefit from either contracting with the regional district or participating directly in regional district functions to obtain services in the most efficient manner.

⁵ See for example UBCM Resolutions 1993:B22, 1995:LR4, and 1995:A16. Online at <http://www.ubcm.ca/resolutions/default.aspx>

⁶ School taxes are collected under that designation by the provincial government and go into provincial general revenue. School district funding is through a formula by the provincial government and has no relationship to the "school taxes" collected. Provincial "school taxes" cover only one-third of school expenditures with the remainder coming from other provincial revenue sources. However, if the deduction of the Home owner Grants are taken into account school tax revenues are even less, perhaps no more than 10% of the cost of schools. School districts themselves do not levy property taxes.



Tzeachten and Chilliwack – A Model Service Agreement

In 1991, Tzeachten signed a service agreement with Chilliwack. The negotiations were acrimonious and neither party was particularly satisfied with the agreement because the First Nation felt they were paying too much for the services they received and the local government felt uncertainty about future development on Tzeachten lands. In 2006, the parties renegotiated their service agreement. It included a comprehensive land use planning process, an agreement about development cost charges and a new pricing approach for services provided on First Nation lands. As a second generation service agreement it not only represents a model that has been used by other First Nations in the Chilliwack area and Fraser Valley, but it demonstrates how both parties can realize mutual benefits when they focus on their common interest – regional economic growth.

Many of the early service contracts have been renegotiated and renewed. There were also mediations and some arbitrations where disputes arose. There are now many contracts between First Nations, municipalities and regional districts.⁷ In general, contracts provide for the provision of on-site services to reserve lands (in some cases just leaseholds; in others the entire reserve). The common services negotiated within these agreements are fire protection, water provision, sanitary sewage collection and disposal, and 911 emergency dispatch. In some cases, they can also include such services as building inspection, transit, storm water management, dog control, noxious weed control, parks and recreation, and libraries. Payment approaches vary with the two most common being a negotiated price for the service package or a payment equal to the municipal taxes that would have otherwise been collected from the leaseholders. Different approaches are taken because reserve lands vary

considerably both in their land use and in the relationship between taxes that would be raised at municipal rates and the costs of services. In general, reserves with commercial or high valued residential properties would raise more tax revenue than service costs while reserve lands that are residential, especially if occupied by low-valued mobile homes, do not generate sufficient taxes revenues to cover service costs. Some municipalities have entered into contracts to provide services at a tax-equivalent price to residential reserves because they recognize that the reserve leaseholders are part of their community and that everyone will benefit if reserves maintain higher service quality and have future economic development.

⁷ Appendices A and B contain examples of many of these agreements in British Columbia.



The creation of an independent revenue source has also provided First Nations with the resources and greater incentive to promote economic development. The development of property tax powers allowed several First Nations to either finance capital improvements necessary to attract further investment or to provide investors with the certainty that services would be available through the life of their investment. The former was more often the case where property tax room was assumed from a local government. In some cases, such as Osoyoos, the assumption of tax authority also provided an impetus for the courts to clarify the status of land over which the adjacent jurisdiction had claimed a right of way.

The Squiala First Nation is a more recent success story. The enactment of tax laws in this case allowed the First Nation to ensure services for Walmart. This resulted in an increase in annual tax revenues from roughly \$9,000 per annum to \$800,000. There are many other examples throughout the province where the implementation of taxation has led to revenues to finance infrastructure, which in turn led to additional economic development on the reserve. Other First Nations that have used tax revenues to finance major economic development on their reserve include the Tsawout, Squamish, Shuswap, Tk'emlups and Skeetchestn First Nations.

Education and Training

ITAB

When the amendments to the *Indian Act* permitting property taxation on reserve were passed, followed shortly by Bill 64 in BC, there was virtually no experience with property taxation in First Nation communities or within INAC. One of the first education and training priorities for ITAB was to provide the opportunity for First Nation administrators to become knowledgeable about the steps in property taxation, including assessment policies and practices, assessment appeals, budgeting and rate setting, collection systems and enforcement.



To achieve this end, ITAB contracted with experienced professionals to prepare and teach courses. These included a course in setting budget-based property tax rates, a course in establishing a financial management by-law, and a course in using ITAB's proprietary tax administration software at that time: CLASS. Over 60 students, representing 32 tax collecting First Nations, took these courses.

In addition to these courses, ITAB also developed spreadsheet applications to help First Nations and local governments establish pricing arrangements for service agreements and to help First Nations conduct a preliminary property tax revenue potential estimate. The service agreement application was used in 12 service agreement negotiations and the revenue potential application was used by 15 First Nations who eventually passed property tax by-laws.

All of the early ITAB software, spreadsheet applications and courses were updated or replaced and are still in use by the First Nations Tax Commission (FNTC), the successor to ITAB. For example, the CLASS software was replaced by the Tax Administrator's Software (TAS), the service agreement application was updated to include the latest formulas, and all of the early courses were updated and rewritten for use in the accredited First Nation Tax Administration Certificate offered by the Tulo Centre of Indigenous Economics (Tulo) and Thompson Rivers University (TRU).



University of Victoria

The School of Public Administration at the University of Victoria had the most developed courses for local government officials among the universities in the province. Courses in Local Government were offered as a Certificate Program, as part of a Diploma in Public Sector Management and as part of the MPA. The courses also met requirements for provincial government issued certificates in Local Government Administration. In 1994, the School received a grant from the Donner Canadian Foundation to begin a course in Property Tax Policy and Administration with a First Nation focus and to create the First Nations Tax Administrators Institute. The property tax course covered the components of property tax administration plus the issues of service delivery contracting from local governments. This course was offered in Victoria and Vancouver and enrolled both First Nation and non-First Nation students beginning in 1995. With Professor Bish's retirement in 1998, the course evolved into a course in local government finance and finally into a focus on local government financial management (its title was changed to Local Government Finance). The course continues to be offered as part of the Local Government Administration Certificate, Diploma in Public Sector Management, and is available as part of the MPA program. However, it no longer has either a property tax or First Nation emphasis. The University also offered a Certificate in the Administration of Aboriginal Governments for several years but, following Professor Frank Cassidy's death, Professor Robert Bish's retirement, and the administrator moving to Camosun College, it has been discontinued due to lack of interest among other faculty. More recently Capilano University and Northwest College have been enrolling First Nation students in their local government courses and representatives from the Tulo Centre of Indigenous Economics have been participating in discussions about local government education opportunities with the local government community.



The First Nations Tax Administrators Institute (FNTAI) began in 1994. The Institute was modeled on the Municipal Officers Association of British Columbia (now the Local Government Management Association) and its purpose was to bring together First Nation tax administrators annually to provide continuing education in taxation. Annual meetings included updates on assessment appeals, ITAB policies, and other issues related to First Nation taxation. The Institute also included sessions for new Tax Administrators. The FNTAI was run for its first 5 years by the Local Government Institute at the University of Victoria, and then its operation was turned over to a committee of First Nation tax administrators who incorporated it as the First Nations Tax Administrators Association (FNTAA). The FNTAA continues to hold annual conferences and provides advice to the FNTC on tax policy issues. Its 21st annual conference will be held in Songhees in September 2014.

The education and training provided during produced a large number of First Nation tax administrators who are knowledgeable in property taxation. By 2013, 183 First Nations across Canada collected over \$70 million in property taxes.



V. The Evolution of First Nation Institutions

The development of First Nation taxation after the passage of Bill C-115 created a need for an agency to support First Nations in implementing taxation. There was also a need to provide a regulatory framework that would ensure the integrity and fairness of the system and supported its evolution in a way that would eventually allow low administration costs and participation in regional systems. However, at the time that Bill C-115 passed there was virtually no familiarity with property taxes, limited experience with municipal type services and very limited experience with relationships between First Nations and local governments. To fill this gap, the Indian Taxation Advisory Board (ITAB) was created to advise the Minister of Indian Affairs and Northern Development Canada on the approval of by-laws passed pursuant to s.83 of the *Indian Act*.

The establishment of ITAB to support the implementation of First Nation property tax led to the development of a considerable body of expertise within ITAB and the establishment of a fully specified regulatory framework. It was successful beyond expectations in terms of the growth of revenues and the number of participating First Nations. However, taxation-supported developments on First Nation lands led to a new type of challenge: integrating First Nation economies more fully into the economic union of Canada. Related to this was the challenge of integrating First Nation governments into more fully specified fiscal and service relationships, particularly at the local and regional level.



Several new pieces of legislation were passed to address this new challenge, including, most importantly, the *First Nations Fiscal Management Act* (FMA) in 2005, which established the First Nations Tax Commission (FNTC), as well as the *First Nations Commercial and Industrial Development Act* (FNCIDA), the *First Nations Land Management Act* (FNLMA) and the proposed *First Nation Property Ownership Act* (FNPOA). These acts are designed to increase the capacity of First Nations to become part of the Canadian market economy. The FNTC has also created the Tulo Centre of Indigenous Economics to provide education and research to support the FNTC objectives, including greater coordination with other governments and creating the statutory and regulatory environment for First Nations to become full participants in the Canadian economy.

First Nations Fiscal Management Act (FMA)

The *First Nations Fiscal Management Act* (FMA) was enacted in 2005. The FMA transferred Ministerial authority over First Nation property taxation from the former ITAB to the First Nations Tax Commission (FNTC), a shared-governance institution with federal law-approval powers. The reassignment of law-approval powers was intended partly to improve the efficiency of the First Nations tax system. When Ministerial approval was required, laws would take two months to be approved. The same laws can now be approved in one to four weeks. First Nations are now much more responsive to opportunity as a result. In addition, the FMA also allowed First Nations to address the issues of economic development, services, and fiscal integration. It provided First Nations with important new revenue authorities and also created a regulatory regime which will better support First Nations accessing financing and attracting investment. It is also intended to serve as a better platform for developing partnerships with other governments. This legislation was designed to raise First Nations local revenue powers to the same level as local governments in Canada, improve First Nations access to capital markets for infrastructure financing, and enhance the First Nations investment climate. However, it should be noted that First Nations still have the option to collect property tax using the *Indian Act*.



The FMA established three institutions⁸ to support participating First Nations in the implementation of their local revenue, financial management, and long term financing powers. These three institutions create a regulatory framework for First Nations equivalent to the provincial regulatory framework for local governments.

First Nations Tax Commission (FNTC) – The FNTC creates the regulatory framework for First Nation local revenue and expenditure systems and provides supportive services to help First Nations implement their local revenue and expenditure powers, including debenture financing. The regulatory system includes ensuring First Nation laws comply with the FMA, FMA regulations, and FNTC standards. It includes resolving taxpayer or First Nation complaints about the local revenue system through an administrative tribunal process and establishing the criteria for First Nations local revenue borrowing laws. The regulatory system is intended to provide investor and taxpayer confidence and certainty. FNTC services include sample laws, law development, and review, university accredited education and training, tax administration software, the *First Nations Gazette*, service agreement negotiations support and dispute management. Nine members of the Commission are appointed by Canada and one by the Native Law Centre and include both First Nation and non-First Nation members. In sum, the FNTC provides many functions and services similar to provincial ministries responsible for regulating local governments. Through a memorandum of understanding with the Minister of Aboriginal Affairs and Northern Development Canada, the FNTC provides advice to the Minister on the approval of by-laws enacted pursuant to the *Indian Act*.

⁸ Originally, the FMA included a First Nations Statistical Institute as well as the other three institutions. However, FNSI never became operational. The sections of the FSMA, as it was then, pertaining to FNSI were removed and the legislation became the FMA.



First Nations Financial Management Board (FMB) – The FMB provides First Nations with a regulatory framework for financial management. This includes review and approval of financial administration laws, creating and certifying First Nation financial management standards, education and training, creating and reviewing First Nation local and other revenue auditing and financial reporting standards and, if required, providing intervention services to rectify issues related to improper application of local revenue laws or debenture non-payment. The FMB provides confidence in First Nation financial management systems to taxpayers, investors, and First Nation members. Six members of the FMB are appointed by Canada, three members by the Aboriginal Financial Officer Association, and include both First Nation and non-First Nation members. Together with the FNTC, the FMB provides regulatory functions that are similar to the inspector of municipalities within provincial governments.

First Nations Finance Authority (FNFA) – The FNFA is similar to the Municipal Finance Authority of BC except it is based on voluntary participation. It helps to create First Nation borrowing pools and then markets and issues debentures on behalf of that pool. It secures these debentures with local or other (non-local) revenues.

The legislation and institutions created by the FMA changed the fiscal framework within which First Nations entering into property taxation can operate. The most important features include:

- First, and most important, the FMA created a system of regulatory oversight and enforcement to support First Nations in improving accountability and transparency beyond that possible through the commitment of a Chief and Council alone. One important feature was the development of an enforcement regime that can impose 3rd party management (the FMB) in the event of non-compliance with regulation. The regulatory system is supported by training and templates that encourage more transparency in financial management and reporting. It is working to ensure that both expenditures and revenues made out of the local revenue account are consistent with local purposes. This allows First Nations to replicate, in many important respects, the system used by other governments.



- Second, the FMA expanded the range of revenue options available to First Nations. Some of the most important expansions were to allow for Development Cost Charges (DCCs) similar to those used by municipalities; hotel taxes to encourage the development of tourism on First Nation lands; taxation for the provision of services, business activity taxes and long term debentures. All of these new revenue options will help First Nations overcome the challenge of needing to finance initial infrastructure improvements in order to realize the potential of land development.
- Third, First Nations may now create laws that specify that, in the event of property tax non-payment or a violation of land-use rules, individual's property rights can revert or be appropriated back to the First Nation. This resolves one of the most difficult aspects of property taxation: clear enforcement powers.
- And finally, the FMA provides for a voice by taxpayers in tax decisions accompanied by provisions to reconcile conflicts of interests and provide measures for facilitating solutions, including mediation.

It is important to note that the initiative for the FMA came from First Nations and was passed by Parliament with all party support.

First Nations Commercial and Industrial Development Act (FNCIDA)

First Nations are increasingly advancing major on-reserve projects that are: (1) large in scale, (2) long term, (3) complex (i.e. involve First Nations, industry, provinces, and multiple federal departments), and/or (4) have revealed regulatory gaps.

Accordingly, FNCIDA was introduced in the House of Commons on November 2, 2005 and came into force on April 1, 2006. It came about as an initiative led by the Squamish Nation (British Columbia), Fort McKay First Nation (Alberta), Tsuu T'ina Nation (Alberta), Carry the Kettle First Nation (Saskatchewan) and Fort William First Nation (Ontario). FNCIDA was intended to develop First Nation economies, provide additional tools for management of reserves, increase quality of life and allow First Nations to become more self-sufficient.



This optional, First-Nation-led legislation also received all-party support in Parliament. It is an innovative piece of legislation designed to fill the regulatory gaps⁹ on First Nation lands. In particular, it enables the federal government to develop regulations that allow provincial legislation and regulations to apply on First Nation lands, with the concurrence of the relevant province. These regulations would also allow First Nations to contract with provincial regulatory bodies as required.¹⁰

It is important to note that the FNCIDA deals only with provincial regulatory legislation and not local government regulation. The UBCM has expressed concerns regarding regulatory and liability issues related to servicing reserve land and has requested federal and provincial assistance in resolving these issues.¹¹ There are likely to be cases where First Nations will want to contract with local governments to extend local government regulations to First Nation leasehold lands. Those kinds of agreements are already in some service agreements and are done through contracts with the respective parties.

⁹ A regulatory gap creates uncertainty with respect to the process, time and costs associated with a project, and can divert potential investors from First Nation reserve lands to off-reserve jurisdictions where an established and familiar regulatory framework exists. Off-reserve commercial and industrial activities are governed by comprehensive provincial statutes and regulations that the province updates periodically. However, the elements of provincial regulatory regimes that relate to land use do not apply to reserve lands. Source: Indian and Northern Affairs Canada, 2008, "Frequently Asked Questions - First Nations Commercial And Industrial Development Act," Online at <http://www.ainc-inac.gc.ca/ecd/cid/faq-eng.asp>.

¹⁰ Alcantara, C., Flanagan, T., & LeDressay, A., "Beyond The Indian Act: Restoring Aboriginal Property Rights," McGill-Queen's University Press, 2010.

¹¹ See UBCM Resolution 2012:SR1 "Service Agreements with First Nations and the Regulatory Gap" online at <http://www.ubcm.ca/resolutions/>



First Nations Land Management Act (FNLMA)

The *Framework Agreement on First Nation Land Management* was signed by the Minister of Indian Affairs and Northern Development and 13 First Nations in 1996, and was ratified and implemented by Canada in the *First Nations Land Management Act*, in 1999. A First Nation signatory to the Framework Agreement can exercise land management powers outside of the *Indian Act* by creating its own Land Code, approved through a community ratification process and entering into a further Individual Transfer Agreement with Canada. Participation is voluntary, and the Framework Agreement creates an indigenous institution, the Lands Advisory Board, to help implement the jurisdiction. 36 First Nations have operational land codes and a further 58 are in development ¹².

First Nations under the FNLMA can assume authority over many land management jurisdictions. This means First Nations using the FNLMA can provide certainty to investors with respect to a number of land management responsibilities including land use planning, zoning, development processes, leasing and rules associated with land usage. In particular, First Nations have the power to make laws in respect of the development, conservation, protection, management, use, and possession of their First Nation land.

The FNLMA also has the potential to significantly reduce the costs of doing business on First Nation lands. Well crafted and administered land laws can provide transparency and certainty to investors. The FNLMA can also allow First Nations to establish more secure and tradable land tenure. Local administrations can provide these services and reduce investor transaction costs.

The powers provided for in the FNLMA are common to all local governments in Canada and are essential for First Nation governments that want to cooperate with adjacent local governments and participate in regional district growth strategies.

¹² Department of Aboriginal Affairs and Northern Development, First Nations Land Management - Operational and Developmental First Nations), on line at www.aadnc-aandc.gc.ca



First Nation Property Ownership Act (FNPOA)

FNPOA is a proposed piece of legislation for First Nations who want to opt out of the *Indian Act* reserve land system, and have greater jurisdiction and title to their lands:

- First Nations would have the option (requiring majority support of members) to hold the legal title to the land currently held by the Crown as "reserves" under the Indian Act;
- Individual First Nations would have the power to transfer title in fee simple (with any restrictions they would deem fit) to individuals without any loss of their jurisdiction over the land despite any possible change in ownership;
- First Nation jurisdiction over First Nation Land would be substantially expanded;
- A number of important safeguards should be included to preserve the First Nation character of the land; and
- The new First Nation Land would be registered in a "Torrens" style land registry

Recognizing the work and commitment of the proponent First Nations and the FNTC, in January 2014, the House of Commons Standing Committee on Finance recommended that the FNPO legislation be developed and passed in the near future. They recommended that the federal government should "*Move forward with a First Nations property ownership act in order to provide Aboriginal Canadians with the same property rights as other Canadians.*"

The FNTC is pleased that it has received support for this initiative from the Minister of Aboriginal Relations and Reconciliation. There are now twelve First Nations that have indicated their support for FNPOA and ten of them are from BC. The FNTC believes that this initiative, by providing First Nations with greater certainty over their own lands and jurisdictions, will create economic benefit for First Nations, increase their stake in the economic success of the province as a whole, and thus create better conditions for the conclusion of Treaties and the resolution of other outstanding issues.



Tulo Centre of Indigenous Economics

The Tulo Centre of Indigenous Economics (Tulo) was created by the First Nations Tax Commission to operate as an independent non-for-profit educational and research institution. It is governed by a three person board of Directors. The chair is Chief Mike Lebourdais of Whispering Pines First Nations, the Academic Chair is University of Victoria Professor Emeritus Robert Bish, and the Vice Chair is Bud Smith, the former Attorney General of BC.

Tulo's mission is to continue the education and training formerly provided by ITAB and the University of Victoria and to expand its efforts to include a broader range of activities to assist First Nations and their members to participate in the Canadian governance and market systems. One specific objective is to help interested First Nations build the legal, administrative and infrastructure frameworks to support markets on their lands. Tulo currently delivers two certificate programs in partnership with Thompson Rivers University and the First Nations Tax Commission – an eight course - 17 credit certificate in First Nation Tax Administration, and a six course - 18 credit certificate in First Nation Applied Economics. Each course in these certificate programs has the applied economics (APEC) designation within the Business School. Twelve of the courses involve original curriculum only offered by Tulo-TRU that focus on specific First Nation legal, administrative, infrastructure or communications requirements to reduce the high costs of doing business on First Nation lands.

Tulo Centre of Indigenous Economics Courses

First Nation Tax Administration

APEC 1610: Introduction to First Nation Taxation

APEC 1620: Establishing First Nations Tax Rates & Expenditures

APEC 1630: Assessment and Assessment Appeals

APEC 1640: Administration – Tax Notices, Collecting and Enforcement

APEC 1650: Communications and Taxpayer Relations

APEC 1660: Service Agreements and Joint Contracts

APEC 1670: Development Cost Charges

APEC 1680: Capital Infrastructure & Debenture

First Nation Applied Economics

ENGL 1810: Business, Professional, and Academic Composition

ECON 1220: Introduction to Basic Economics

ECON 2630: Issues in Aboriginal Economics

ECON 2640: Residential and Commercial Development on First Nation Lands

ECON 2650: Investment Facilitation on First Nation Lands

ECON 2700: Economic Feasibility and Impact Analysis on First Nation Lands



Courses are delivered in either an online or intensive format. Online courses are taught online in a paced, cohort, tutor-led model over the space of eight to twelve weeks. They are offered through Thompson Rivers University Open Learning. Intensive courses are delivered in a classroom format. This format condenses the content from the full 8-12 week course into an intensive one-week session. Students attend the classes on the Thompson Rivers University campus.¹³

The courses developed by Tulo and Thompson Rivers University offer a wide range of course work in tax administration and economic development for First Nations. They are the most comprehensive on these topics available and the most extensive in the province.

Other Colleges and Universities

While Tulo-TRU courses serve First Nation students directly, a variety of courses in local government administration and finance are also available to First Nation students, with Northwest College and Capilano University specifically including First Nation content in their local government courses. Other universities and colleges with courses directly focussed on local government administration and service delivery for entering students include Camosun College, College of the Rockies, and the University of Northern BC. Their courses meet the requirements for the beginning certificate for local government administrators from the provincial government Board of Examiners. Local government courses for the more advanced certificates are offered by the University of Victoria, School of Public Administration. Tulo is currently working with UVIC and possibly Capilano to ensure transferability of courses and programs and to encourage more students to register in these programs.

¹³ Tulo Centre of Indigenous Economics. (2011). Online at <http://www.tulo.ca/default.htm>.



VI. Emerging Policy Issues: Where do First Nations go from here?

Institutions necessary for First Nations to take their place among Canadian governments and participate in the market economy have been created over the past two decades. The task is not complete, however, and both opportunities and problems remain. Some of these are described below.

Implementing New Revenue Options

The FMA is providing First Nations with revenue raising options similar to other local governments. In 2013/14, the first FMA development cost charges law (Tk'emlups te Secwepemc), and the first FMA property transfer tax law (Tzeachten First Nation) were approved by the FNTC.

FMA Development Cost Charges (DCCs) are similar to municipal DCCs and charge a one-time tax on new developments to help finance infrastructure. The revenue is used for specific projects identified in the community's long term capital plan. Tk'emlups te Secwepemc's capital projects include a highway traffic interchange and a water reservoir, and the DCC law will play an important part in funding their capital infrastructure enhancements over the long term. Having the capacity to impose DCC's will also facilitate service contracts with adjacent local governments where similar treatment of new developments is desired.

Another revenue option for First Nations under the FMA is Business Activity Taxes which includes collecting hotel taxes on reserve. Some First Nations in BC are interested in developing a hotel tax that would duplicate the hotel tax collected elsewhere in the Province. This tax would provide First Nations with needed revenues and also give them a greater stake in the successful development of the recreational potential of British Columbia. It would provide them with improved opportunities to participate in resort development by ensuring that more of the resultant tax benefits are made available to them.



First Nations in BC are currently exploring other FMA revenue options including taxation for the provision of services, and other business activity taxes.

In 2013, the first FMA long term capital borrowing law (Tsawout First Nation) was approved. This law enabled the Tsawout First Nation to borrow \$2.15 million through the First Nations Finance Authority (FNFA)'s pooled debentures for the completion of much needed upgrades to Tsawout's sewage treatment plant. This means that Tsawout will be able to access capital at costs similar to those for BC municipalities, over a longer amortization period, and without requirements for collateral.

These new revenue options mean that First Nations have similar revenue raising powers to local governments in BC and will hopefully begin to close the substantial infrastructure gap that exists on First Nation lands compared to local governments.

Pricing Contracts for Services

An extensive range of service contracts between First Nations, municipalities and regional districts is listed in Appendix A and Appendix B. Because of the variable rate property tax system used in British Columbia those reserves with significant commercial property may generate property tax revenue in excess of service costs. Those First Nations with residential lands often do not generate sufficient revenue to cover service costs when the First Nation uses the same tax rates as adjacent jurisdictions, which most First Nations do.



One result of equivalent tax rates is that those First Nations with commercial property are reluctant to enter into service contracts based on tax revenues instead of actual costs. At the same time, municipalities are reluctant to sell services on a tax revenue equivalent basis when those revenues do not cover the costs of the services, as is the case for reserves that are substantially residential unless that residential is of very high value. The provincial government policy to exit the collection of school taxes on First Nation lands has left many First Nations with additional resources to improve infrastructure and obtain services beyond what could be provided with only the tax equivalent of municipal or regional district and provincial rural taxes. At the same time commercial reserves may generate large surpluses. The mismatch between property tax revenues and service costs caused by the use of variable tax rates the same as those used in adjacent jurisdictions is the root cause of these problems. They need to be understood during the service contract process.¹⁴

The alternative to First Nations using the same variable tax rates as adjacent jurisdictions is for First Nations to go to budget-based tax rate setting the same as is done by municipalities. This would result in property tax rates being either higher or lower than those in adjacent jurisdictions—the same as occurs between adjacent municipalities. Because municipalities must add provincially determined school tax rates to their municipal rates, this could mean that municipal rates may be higher than the rates on reserves and many would regard this tax competition as unfair. However, it must be recognized that for residences the Provincial Home Owner Grant (especially where the carbon tax abatement program applies) off-sets most of the “school tax” and for low-valued residences offsets part of their municipal taxes as well. There is no obvious reason to make a change in the existing situation, especially as earlier research also called into question whether the Federal government was paying the province too much per student for the education of First Nation students.

¹⁴ Not everyone understands that when equivalent tax rates are used by a First Nation, the First Nation residential taxpayers may actually pay higher property taxes than residents in the municipality because in some cases the First Nation may not implement the provincial Home Owner grant program or, more recently, the provincial carbon tax abatement program that uses the Home Owner grant program. Tax equivalency only results for non-residential properties unless the First Nation has implemented an equivalent Home Owner grant program that includes carbon tax abatement.



Political Representation

Prior to First Nation taxation municipalities taxed reserve lands without being required to provide services to those lands. At the same time the leaseholders occupying those lands, as well as First Nation members, were allowed to vote in municipal elections. Now that First Nations exercise jurisdiction over First Nation lands for both taxes and services the issue of political representation needs to be revisited.

Two problems exist. First, in the past, First Nation leaseholders have had no voice in First Nation policies on taxes and services on leasehold lands. However, it is in the direct financial interest of the First Nation to maximize the value of leasehold lands and that is done by providing the mix of services at reasonable tax prices to satisfy leaseholders. In addition, the FMA provides First Nations with the jurisdiction to provide a voice in decisions over leasehold lands. To fulfil this responsibility, the FNTC has worked with taxpayers and interested First Nations to develop the legal and administrative framework for greater participation of taxpayers in decisions that impact them. In particular, the FNTC has developed a sample taxpayer representation law that ensures that taxpayers have a forum for their input and a local mechanism to resolve any disputes that arise. This model system is comparable and perhaps more inclusive than the system developed to support treaties.

The second problem is that First Nation members and leaseholders on reserves within municipal boundaries are allowed to vote in municipal elections even though none of the municipality's services, regulations, or taxes are provided to the reserve unless it is through a contract with the First Nation government.¹⁵

¹⁵ This problem was the topic of a discussion paper by the Lower Mainland Treaty Advisory Committee entitled "*Voting in Local Government Elections and Referenda by Residents Living on Indian Reserves*" online at http://www.metrovancouver.org/region/aboriginal/LMTAC/LMTACDocs/VotingInLocalGovernmentElectionsAndReferendaByResidentsLivingOnIndianReserves%20_22-Sept-2011.pdf



One solution to the voting in municipal elections by voters who do not receive its services or pay its taxes would be to exclude these reserve lands from municipal boundaries. This would be accomplished using an Order in Council to redefine the municipality boundaries to exclude reserve lands. This would make absolutely clear that First Nations are responsible for their residents, both First Nation and non-First Nation, including arrangements for both services and taxes, and that municipalities are governed by their citizens who also receive services and pay taxes. With this clarification, the two governments can proceed to make joint service arrangements for the mutual benefit of their citizens. It should be the policy of the provincial government to respond favourably to requests from a municipal council that requests removal of a reserve from within its legal boundaries. This leaves this as a local option where the local council knows the relationship with the First Nation and makes the decision¹⁶.

While relations between First Nations and municipalities need the most clarification, especially in regard to voting and representation, there are other situations where First Nation members and leaseholders vote in general local government elections for an electoral area director of a regional district outside of municipal boundaries. While this issue has not been as prominent as the mismatch between representation and taxation in reserves within municipal boundaries, the uncertainty of the relationship between First Nations and regional districts poses some problems.

¹⁶ Removing a population from a municipality will also require adjustments within regional districts, where the population may need to be assigned to an electoral area if the First Nation itself is not becoming a member of the regional district. Such new arrangements will need to be worked out between the regional district and the Ministry of Community, Sport and Cultural Development—the current incarnation of Municipal Affairs.



Some Regional Districts provide services that are available to all residents within the area. These include recreation facilities and libraries that both First Nation members and leaseholders can make use of. One of the benefits of having First Nations as participating members within regional districts would be that First Nations could participate in the decisions and make financial contributions, including financial contributions based on the assessed value of all lands on the reserve instead of only on leasehold lands¹⁷.

One solution for service cooperation is for a First Nation representative to sit on the Regional District committee that supervises that particular service and makes payments for that service as if it were a member municipality. This provides for more flexibility in service decisions, especially when capital investments are involved, than simple service contracts. As most Regional District Committee decisions are simply ratified by the Board, this would provide a useful approach to integrating First Nations into the governmental system without going immediately to full Board membership (although this option should be considered). This approach is especially relevant because First Nations are unlikely to enter into full membership where regional growth strategies are involved because they were not part of the regional growth strategy planning process. However, the prospect of full regional district participation would be an incentive for both First Nation and non-First Nation consideration of First Nation lands in future growth strategy planning.

Other Tax-Service Relationships

In addition to matching representation to taxation, there are other tax-service relationships that would benefit from resolution. The relationship of First Nations to Hospital Districts is one example. Hospital Districts levy small property taxes to provide for hospital planning and capital construction. Their governing board is usually the same members as the directors of the regional district.

¹⁷ For First Nations to become full members of a regional district the aboriginal residents need to be included. This could include having a member on the regional district. Regional districts do not levy property taxes on individual properties; they send a requisition to the member municipality with the price based on their tax rate applied to the tax roll.



All First Nation members and leaseholders have access to hospitals across the province and it would appear appropriate that First Nations collect and submit equivalent hospital taxes to the hospital boards. First Nation members themselves are covered by transfers from the federal to provincial government on their behalf, although it is uncertain what is actually passed through to individual Hospital Boards.

One special issue in the lower mainland is TRANSLINK. Translink is essentially a provincial government body that levies significant property taxes to provide transportation throughout the Greater Vancouver Regional District and adjacent areas that wish to become members. All residents benefit from their services. We are unaware that any First Nations have been included in either the planning or governance of TRANSLINK. Our recommendation would be that, if TRANSLINK would like to obtain tax equivalent revenues from First Nations, their governing system would need to be revised to include First Nation participation in governance at the same time. At present, such participation is a decision to be made by each individual First Nation.

Planning and Mutual Boundary Coordination

Forty-five reserves are geographically within municipal boundaries - whether or not they are included in the legal definition of the municipality. Others are adjacent to municipalities. Physical proximity provides opportunities for cooperation for mutual benefit, rivalry to attract business and residents, and the potential for conflict over spillovers from developments within one government to the other. These situations are no different from those of adjacent municipalities with one major exception—the provincial government has created regional districts to deal with most of the boundary issues that arise and many regional districts have growth strategies that have not included First Nation participation.



Regional districts were specifically designed to provide a forum to promote cooperation on services and land use planning among local governments. While some regional planning functions have been abandoned, members still create growth strategies and have access to a provincially designated mediation-arbitration dispute resolution function. First Nations lack these institutions in dealing with municipalities or regional districts and although dispute resolution processes are included in many service contracts, they are specific to that contract.

One of the problems that face First Nations wanting to engage in major economic development is that they were never included in any planning or growth strategy processes at either the municipal or regional level. One approach to boundary problems is simple: First Nations will take impacts on adjacent governments into account to the same degree those governments took First Nation interests into account in their past decisions—a position that is certainly justified by past municipality and regional district decision-making. There would, however, be mutual benefits by having more regular processes for cooperation and dispute resolution. A problem is that no single senior government has the jurisdiction to impose such an institutional arrangement. This is because the provincial government creates the legal structure for municipalities, regional districts and other local governments and it is the federal government and FNTC which creates the legal structures for First Nations.



Because the provincial government has already created institutional arrangements specifically to facilitate cooperation among local governments—regional districts—the obvious solution is for the provincial government to enter into discussions with First Nations and local governments regarding First Nations membership on regional district boards. Presently this option is open only to Treaty First Nations, but many First Nations do not plan on entering into treaty arrangements. To exclude non-treaty First Nations from potential regional district membership is to exclude most First Nations from this option for the foreseeable future, including the largest and most economically developed First Nations, which would benefit most from better coordination with other local governments. The provincial government needs to revisit their policies on how First Nations participate in regional districts to enable First Nations to coordinate their activities with other governments at the local level for the mutual benefit of all parties¹⁸.

¹⁸ The inclusion of First Nations in regional districts will require some participation to be different from municipal members. Most important is that First Nations would use the First Nations Finance Authority for debt finance instead of the Municipal Finance Authority. The regulatory system for First Nations under the FMA is similar in many ways to that for municipalities under Municipal Affairs but there are other differences that result from the FMA applying nationally instead of provincially.



Treaties and FMA

The FMA represents a major step to provide the regulatory framework for First Nations to participate in the Canadian federal-provincial governance system and to promote the inclusion of First Nations and First Nation members in to the Canadian market economy. Without certainty and stability for taxpayers, lenders, and investors, economic development equivalent to that outside of reserves is simply not possible. These are the most likely paths for improving conditions found on many First Nations. These developments are also consistent with the objectives of all governments in treaty negotiations. Many policies the provincial or federal government have requested be included in treaties are also provided by the legislation, policies and regulations that have evolved within the institutions encompassed by the FMA. These institutions are also an appropriate option for First Nations within treaty agreements. It is much better policy to provide treaty First Nations with the option of the FMA regulatory framework, which mainly parallels provincial practices, than it is for each of them to operate their own independent taxation system without a regulatory framework, as seems to be the case after the treaty is signed.

The FNTC is currently working with interested First Nations, BC and Canada to develop a regulation under the authority of the FMA to ensure that the services and products of the FMA institutions remain available to First Nations with modern treaties.



VII. Conclusions and Suggestions

First Nations continue to be successful in implementing property tax jurisdiction on First Nation lands and providing services to their communities. There are now more than 150 taxing First Nations across Canada collecting a total of over \$70 million¹⁹ each year and 62 of those are located in BC. Generally, service agreements are working well for both First Nations and municipalities. Economic development is expanding, and assessment values continue to rise, and in some cases even surpass those in adjacent municipalities. Using local revenues as well as other revenue sources, First Nations are being able to build and finance the infrastructure needed to support continued economic expansion. Regulatory and educational gaps that have been hindering First Nation economic development are being addressed by progressive First Nations institutions. First Nations are increasingly participating in and benefiting from their regional economies. However, there is still more to do that will benefit all governments providing local services and their citizens.

This paper makes these suggestions to build on the recent positive history between First Nations and local governments in BC and to continue the strong working relationship between the UBCM and the FNTC:

1. Promote and support collaboration and cooperation between the Tulo Centre of Indigenous Economics and universities that support the local government officers association such as Capilano, Northwest and UVIC.
2. Develop processes to remove First Nations from municipal boundaries on the request of First Nations to clarify service and representation responsibilities.
3. Consider a pilot project coordinated by the FNTC and UBCM with a non-treaty First Nation to directly participate in regional district governance, planning, services and infrastructure.
4. Consider other First Nation regional participation opportunities such as those associated with hospital districts.

¹⁹ www.fntc.ca



5. The UBCM and the FNTC should work together to encourage the provincial legislative changes necessary to ensure the FMA applies to First Nations in post treaty environment so that they have access to institutional services and long term infrastructure capital.

None of the changes proposed on these issues entail radical change; they all simply continue the evolution of greater participation of First Nations in the British Columbia local government system and Canadian federalism and they provide a base for raising the productivity of First Nation lands and citizens within the Canadian market economy. No one expects these changes to occur quickly. Two suggestions, however, should help. First, the participation of First Nation and local government administrators in the same classrooms at our universities will contribute to greater understanding of how similar administration issues are for all small governments. Second, a renewed strong working relationship between the FNTC and UBCM will provide the institutional support and coordination necessary to implement these possible changes.



VIII. Appendix A – Service Agreement Examples

CivicInfo #	Agreement	Participants	Year	Services	Cost
2	Agreement	RD East Kootenay and Akisqnuq First Nation	2007 2012	<ul style="list-style-type: none"> Building and plumbing inspection 	Actual wages of the building inspector plus 38.5% (for benefits, administration and vehicle costs).
3	Agreement	RD East Kootenay and Columbia Lake Indian Band	2002 2006	<ul style="list-style-type: none"> Fire Protection services 	<p>Annual fee of \$1,575.00 for the fire protection services provided by the Fairmont Hot Springs Volunteer Fire Department.</p> <p>Annual fee of \$2,625.00 for the fire protection services provided by the Windermere Volunteer Fire Department.</p>
4	Agreement	RD East Kootenay and Tobacco Plains Band	2009 2013	<ul style="list-style-type: none"> 911 Emergency Dispatch 	Annual Operating and capital costs for 911 plus total number of dwellings in RDEK. This is multiplied by the number of dwellings on Reserve including Leased Reserve Land.
20	General Servicing Agreement	Central Saanich and Tsawout First Nation	2007	<ul style="list-style-type: none"> General Government Services 911 Emergency Dispatch Fire Protection Public Works Parks and Recreation Contingency Wages Reserves and Contingency Funds 	\$80,251 per year (adjusted slightly every year based on tax levy - 5% max increase per year).
22	Leaseholder Service Agreement	Campbell River and Campbell River Indian Band	2005	<ul style="list-style-type: none"> "Municipal services that are ordinarily provided to the City's residents." Maintenance and Repair is taken care of by the city. 	<p>72.5% of the property taxes using the city's tax rates.</p> <p>Water and Sewer: User fee is charged by the city for water and sewer services.</p>



CivicInfo #	Agreement	Participants	Year	Services	Cost
70	Services Agreement	Campbell River and Homalco Indian Band	1992	<ul style="list-style-type: none"> Domestic Water (repair and maintenance also) Sanitary sewage collection and disposal (repair and maintenance also), Fire protection 	<p>Water and Sewer: User fee is charged by the city for water and sewer services.</p> <p>Fire Protection: \$90 per residential unit and \$360 for non-residential (CPI increase every year).</p>
71	Services Agreement	Central Okanagan RD and Westbank First Nation	2007	<ul style="list-style-type: none"> Mt. Boucherie Arena Johnson-Bentley Aquatic Centre Westside Seniors Activity Centre Westside Transit Services Handi-dart Transit Regional Parks Okanagan Basin Water Board Effluent/Water Disposal Regional Rescue Service 911 Emergency Number Crime Stoppers Victims/Witness Assistance Westside Sanitary Landfill 	<p>Net taxable values of lands and improvements in the First Nation multiplied by District service annual requisition.</p> <p>Landfill: Number of parcels in the First Nation multiplied by parcel tax (cost of district services divided by number of parcels in district electoral areas [Westside and Eastside]).</p>



CivicInfo #	Agreement	Participants	Year	Services	Cost
72	Service Agreement	Campbell River and Cape Mudge Indian Band	2004	<ul style="list-style-type: none"> Water Sanitary Waste Storm Water Management Fire Protection 	<p>Water: \$10 per year for each building on-reserve.</p> <p>Collection, Treatment and Disposal of Sanitary Waste: \$39 per year for each building on-reserve and \$1700/year for sewer system maintenance (CPI increase per year).</p> <p>Water and Sewer: User fee is charged by the city for water and sewer services.</p> <p>Storm Water Management: Parcel tax (according to local government bylaw).</p> <p>Fire Protection: \$80 per year for each residential building (CPI increase per year) and equivalent district property taxes multiplied by % of total district budget to fire services for every other development.</p>
73	Service Agreement	Pitt Meadows and Katzie Indian Band	2007	<ul style="list-style-type: none"> Water supply Sanitary sewage disposal Fire Response 	<p>Water: \$2057 per month.</p> <p>Disposal of Sanitary Sewage: Number of buildings on the Reserve Area multiplied by the rate per single-family residential building as the City charges.</p> <p>Fire Response: operating costs for previous year plus fire services capital costs from previous year divided by total population of Pitt Meadows plus Katzie Reserve multiplied by the total population of the Katzie reserve</p>



CivicInfo #	Agreement	Participants	Year	Services	Cost
74	Service Agreement	RD East Kootenay and Akisqnuq First Nation	2007 2011	<ul style="list-style-type: none"> ▪ Building and plumbing inspection ▪ Dog control ▪ Emergency 911 ▪ Eddie Mountain Memorial Arena ▪ Parks and Trails ▪ Emergency response and recovery program ▪ Fire protection ▪ Grants in aid ▪ Libraries ▪ Regional hospital district ▪ Regional parks ▪ Septage disposal ▪ Solid waste disposal ▪ Weed control 	Sum of the levies made by RDEK for the services for that calendar year multiplied by the assessment of all non-native interests on-Reserve as determined by the First Nation.
75	Service Agreement	RD East Kootenay and Shuswap Indian Band	2007 2011	<ul style="list-style-type: none"> ▪ Dog Control ▪ Emergency 911 ▪ Eddie Mountain Memorial Arena ▪ Parks and Trails ▪ Emergency response and recovery program ▪ Grants in aid ▪ Libraries ▪ Noxious weed control ▪ Regional Hospital District ▪ Regional Parks ▪ Septage Disposal ▪ Solid Waste Disposal 	Sum of the levies made by RDEK for the services for that calendar year multiplied by the assessment of all non-native interests on-Reserve as determined by the Band.



CivicInfo #	Agreement	Participants	Year	Services	Cost
76	Service Agreement & Bylaw	Tofino and Tlaouquiaht First Nation	2009	<ul style="list-style-type: none"> Water (maintenance and repair also) Sanitary Sewer Service (maintenance and repair also) Fire Protection 	<p>Water: Rates, rents or charges as set forth in the Tofino Water Utility Rates and Regulation by-laws.</p> <p>Sanitary Sewer: Rates, rents or charges as set forth in the Tofino Sanitary Sewer Utility Rates and Connection Regulation by-laws.</p> <p>Fire Protection: Annual sum based on the assessed value for land and improvements. The parties (re-calculated annually based on assessed value of lands and improvements and fire protection costs).</p>
77	Servicing Agreement	District of North Vancouver and Tsleil-Waututh Nation	2005	<ul style="list-style-type: none"> Discharge of storm water (maintenance and repair also) Discharge of Sanitary Sewage (maintenance and repair also) Provision of water (maintenance and repair also) Fire fighting protection 	\$484,852.15 per year and an increase or decrease in the Annual Service Charge equal to % change in total resident tax levy of the District on District ratepayers (single and multifamily residential properties) and a % increase or decrease in the Annual Service Charge equal to the number of additional completed units of any development as a % of the total number of units of any development existing the previous calendar year.
89	General Servicing Agreement	Central Saanich and Tsawout First Nation	2001	<ul style="list-style-type: none"> General Government Services (related to services) 911 Emergency dispatch Fire Protection Emergency Measures Public Works Parks and Recreation Contingency Wages Reserves and Contingency Funds 	Property tax (rate multiplied by assessment) of all property classes multiplied by (Gross expenditure minus non tax revenue) divided by (General and debt tax levy plus Tsawout First Nation's contribution).



IX. Appendix B – Specific Service Agreements

CivicInfo #	Agreement	Participants	Year	Cost
Fire Protection				
9	Fire Protection Agreement	Central Saanich and Tsawout First Nation	2007	(Number of band buildings/ [Number of band buildings + Total number of buildings within district and reserve]) x Cost
10	Fire Protection Agreement	Enderby and Splatshin First Nation	2009	\$11,457/year
11	Fire Protection Agreement	Kamloops and Kamloops Indian Band	2008	Property Tax fee x parcels (\$604,890 in 2009)
12	Fire Protection Agreement	Kitimat and Kitimaat Village	1990	Fee schedule not attached
13	Fire Protection Agreement	Kitimat Stikine RD Kitselas Band	2004	Not outlined clearly in agreement.
14	Fire Protection Agreement	North Cowichan and Chemainus Band	2009	Building fee (per month per building; set out in schedule A till 2014) x Number of buildings
15	Fire Protection Agreement	North Cowichan and Halalt Band	2009	Building fee (per month per building; set out in schedule A till 2014) x Number of buildings
16	Fire Protection Agreement	North Cowichan and Penelakut Band	2009	Building fee (per month per building; set out in schedule A till 2014) x Number of buildings
17	Fire Protection Agreement	Osoyoos Osoyoos Indian Band*	2002	<p>Native non-residential Structures: Assessed net taxable value of non-residential improvements for school and hospital purposes x 1000 x appropriate tax rate</p> <p>Non-native leased properties: Net taxable assessed value of land and improvements for school and hospital purposes * 1000 x appropriate tax rate</p> <p>Dwelling structures: Number of dwelling units x average Osoyoos residential dwelling assessment x appropriate tax rate</p>



CivicInfo #	Agreement	Participants	Year	Cost
19	Fire Services Agreement	Port Coquitlam and Coquitlam Indian Band	1996	Assessed value of land and improvements on-reserve / Assessed value of land and improvements in city (incl. reserve) x Fire Dept. budget for that year.
88	Fire Protection Agreement	Central Saanich and Tsawout First Nation	2001	(Number of band buildings/ [Number of band buildings + Total number of buildings within district and reserve]) x Cost
Sanitary Sewer				
69	Sanitary Sewer Agreement	Kamloops and Kamloops Indian Band	1996	Capital Development Fee (consists of a DCC and ACC) based on a schedule outlined in the agreement. Sanitary sewer user fee equal to a meter rate in the City Sanitary Sewer By-law. Services user fee of \$200 per year for each dwelling unit (amended each year by CPI).
79	Sewage Treatment Service Agreement	Penticton and Penticton Indian Band	2008	Operating Service Fee Includes all direct and indirect operating costs and relevant admin costs and overhead during period of connection with services plus 10% of the total (recalculated every year). Capital Costs Portion of the capital depreciation costs of the annual value of the Advanced Waste Water Treatment Plant over it's life allocated to the band based on contribution to the waste water stream during the period determined by the city (recalculated every year). This equals PIB Sewage Flows/(PIB Sewage Flows + City Sewage Flows) x capital depreciation (as set out in a schedule). Service Fee An amount not exceeding 10% of the total costs of the Capital and Operating fees.



CivicInfo #	Agreement	Participants	Year	Cost
80	Sewer Agreement	Enderby and Splatshin First Nation	2009	\$747.90/year
82	Sewer Service Agreement	Kitimat Stikine RD Kitselas Band	2003	Annual user fee based on number of Household Equivalent Units on the Reserve connected to the RDKS x annual sanitary sewer user fee prescribed by the board of the RDKS in the Sewer Regulation Bylaw. Connection fee based on charge described in the Sewer Regulation bylaw x number of Household Equivalents (paid on every additional connection of any premises).
Transit				
85	Transit Agreement	Campbell River and Homalco Indian Band	2004	Not included
86	Transit Agreement	Kitimat Stikine RD Gitksan Government Commission	2005	45% of the local share of costs incurred by RDKS for the Hazelton Regional Transit System (apportioned to the four band councils).
87	Transit System Partnership Agreement	Kitimat Stikine RD Kitimaat Kitselas Kitsumkalum Kitimat Terrace	2006	Actual local net share of costs incurred by the RD. It is apportioned as follows: <ul style="list-style-type: none"> ▪ Kitimaat Village Council (15%) ▪ District of Kitimat (26%) ▪ Kitselas Band Council (11%) ▪ Kitsumlakum Band Council (10%) ▪ City of Terrace (18%) ▪ Regional District of Kitimat-Stikine (20%)
Wastewater Treatment Project				
91	Wastewater Treatment Project Agreement	Capital Regional District and Beecher Bay Nation	2008	Not Included
92	Wastewater Treatment Project Agreement	Capital Regional District and Songhees Nation	2008	Not Included



CivicInfo #	Agreement	Participants	Year	Cost
Water				
90	Water Servicing Agreement	Central Saanich and Tsawout First Nation	2001	Charge calculated using the metered water rate, excluding any fixed charges set out in the Water Rates by-law.
93	Watershed Accord	Sechelt Indian Band and Sunshine Coast Regional District	2003	Not Included
94	Water Agreement Lassertie Subdivision	Enderby and Splat sin First Nation	2009	\$231.00/year for each unit connected to the system.
95	Water Agreement Mabel Lake Road	Enderby and Splat sin First Nation	2009	\$488.50/year for each unit connected to the system.
96	Water Metered Agreement	Enderby and Splat sin First Nation	2009	\$470.25/year for each unit connected to the system and \$2.15 per 4,500 litres that consumption exceeds 180,000 litres.
97	Water Servicing Agreement	Central Saanich and Tsawout First Nation	2007	Charge calculated using the metered water rate, excluding any fixed charges set out in the Water Rates By-law.
98	Water Sewer Services Agreement	Ucluelet Yuutluthaht Ucluelet First Nation	2008	One time capital payment of \$354,710.36 towards Ucluelet's sewer infrastructure. 50% of the monthly water rate charges to cover sewer treatment and disposal
N/A	Sewer and Water Agreement	City of Chilliwack and Tzeachten Indian Band	2006	Lessee must pay the city all costs incurred to design and construct the connections or an extension to the services system, operating fees (city engineer assesses based on previous year and adjustments), additional off-site costs, and other costs and expenses incurred by the city with respect to extensions. The city and the band agree that the tax sharing formula is 75% city and 25% band.



X. References

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Local Services Agreement

THIS Agreement made as of this _____ the 1st day of January, 2015.

BETWEEN:

REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

101 Martin Street
Penticton, B.C.
V2A 5J9

(hereinafter called the "District")

OF THE FIRST PART

AND:

PENTICTON INDIAN BAND

168 Westhill Crescent
RR #2, Site 80, Comp. 19
West Bench, Penticton, B.C.
V2A 6J7

(hereinafter called the "Band")

OF THE SECOND PART

WHEREAS the District has historically provided certain services to specified areas of the Band Lands;

AND WHEREAS Section 176 (b) of the Local Government Act empowers the District's Board to make agreements with a public authority respecting activities, works or services within the powers of a party to the agreement, including agreements respecting the undertaking, provision and operation of activities, works and services;

AND WHEREAS the District, at the request of the Band, has agreed to will provide to the Band certain local District Services (hereinafter defined) to specific Band Lands, subject to the terms and conditions of this Agreement;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants herein contained, the parties mutually covenant and agree as follows:

Definitions

2. 1. In this Agreement, the following words and phrases shall have the meanings set forth after each:

(a) "Band" means the Penticton Indian Band;

(b) "Band Lands" means lands administered by the Band under the provisions of the Indian Act (Canada) and includes designated lands occupied by persons who are not Band members;

(c) "District Services" means the specific services as described in Schedule "A" attached hereto provided by the District to Non-Native Interests;

(d) "Establishment Bylaw" means a bylaw enacted by the District's Board to establish a service, which bylaw describes the service, defines the boundaries of the service area, identifies the methods of cost recovery for the service, including the form of local service tax (property value tax and/or parcel tax) and the portion of the costs of the service that are to be recovered by the local service tax, and if applicable, identify the portion of the costs of the service that are to be recovered by a general property tax; and

(e) "Non-Native Interests" means all land and improvements located on Band Lands that are leased or occupied pursuant to a written agreement to non-Band members.

District Services

~~3.2. The District will provide District Services to Non-native-Native interests-Interests as described within applicable Established Bylaws, current amendment bylaws or Letters Patent on the Band Lands for the District services described in Schedule "A" attached to and forming part of this Agreement (the "District Services").~~

~~4.3. The District Services will be provided to Non-Native Interests will be on the same basis and to the same extent as those services are generally provided within the District services only to the non-native interest defined within applicable service area establishment bylaws or current amendment bylaw or letters patent (see Attachment "A").~~

~~5.4. The District shall consult with the Band regarding any significant changes or modifications to a District Service, including changes or modifications that would result in a significant increase in the cost of the District Service. The District shall as soon as is practicable and without delay give notice to the Band of any proposed change or modification of a District Service or increased cost of the District Service and the parties shall, if requested in writing by either party, meet to discuss the same.~~

~~6.5. Where, in the view of the Band, the change or modification to a District Service or increase in the cost of a District Service is unreasonable or too onerous to the Band, the Band, at its sole discretion, may withdraw from the District Service. The Band's withdrawal from the District Service shall become effective on the earlier of six months after the Band has given notice of its intention to withdraw from the District Service or~~

June 30 of the next year of the Term. Upon withdrawal of the Band from a District Service, the applicable schedule shall be deleted from this Agreement.

Collection of Arrears

Form

~~7.6.~~ For those District Services where the District will bill residents of the Band Lands directly, the District will provide a list of properties on the Band Lands in arrears for each applicable District Service by March 1st of each year of the Agreement and the Band shall collect and pay to the District all such arrears by August 1 of each year. Once the Band has paid the District, the District transfers its interest in all outstanding arrears to the Band.

Payment for District Services

Form

~~8.7.~~ Commencing in the year ~~2009~~ 2015 and each year thereafter, the Band shall make an annual payment to the District for the provision of the District Services under this Agreement in each of those years in the amount equal to the total cost of all District Services, (the "Fee").

Form

~~9.8.~~ For budgeting purposes, an estimate of the Fee for each upcoming year shall be calculated by the District and provided to the Band not later than March 1st of each year of the Term.

Form

~~40.9.~~ For the purposes of calculating the Fee, the cost for each District Service shall be determined in accordance with the method of calculation set out in the applicable Establishment Bylaw, or current amendment bylaw or Letters Patent as identified in Schedule A for each service.

~~44.10.~~ The Band shall prepare assessment rolls for District sServices to Non-Native Interests under this Agreement and the Non-Native Interests shall be assessed by the Band's assessors as if the same were located within the District RDOS, rather than but not on Band Lands.

~~42.11.~~ At all times it will be the responsibility of the Band to provide the District with a complete assessment roll in order for a District Service to be provided to a Non-Native Interest. If a service is not provided to all non native interests on Band Land, the Band is responsible for providing the RDOS with the appropriate assessment roll for that service

~~43.12.~~ For each year of the Term ~~The Band shall provide to the District in a timely manner a copy of the completed, revised and final assessment roll of the Non-Native Interests.:~~

a. ~~once available to the Band, a copy of its completed, revised and final assessment rolls.:~~

Form

Payment Due Dates

Form

~~44.13.~~ Commencing in ~~2009~~ 2015, the Fee shall be payable on August 1st in each year.

~~45.14.~~ For greater certainty, in the event that the actual expenditure by the District for a District Service in a given year is either greater or less than the amount estimated for the purposes of determining the ~~Fee under Clause 40~~, then any deficit or surplus shall be carried forward into the following year.

Exempt Property

Form

~~46.15.~~ In no event shall properties that are exempt from taxation by the Band be included or deemed to be included for calculation of any tax requisition for District Services.

Term

Form

~~47.16.~~ The term of this Agreement shall be for ~~fifteen-nine (159)~~ years from the 1st day of January ~~2009-2015~~ to the 31st day of December 2023 (the "Term"), unless terminated in accordance with this Agreement.

~~48.17.~~ Notwithstanding any other remedy available at law or equity, either party may terminate this Agreement for default or breach by the other party if written notice of the default is provided to the defaulting party and such default is not remedied within 60 days of the receipt of notice.

Discontinuance of Service

Form

~~49.18.~~ Upon termination or other determination of this Agreement, the District may, at its option, terminate the provision of any or all of the District Services.

~~20.19.~~ Within thirty (30) days of the termination or other determination of this Agreement, the District will provide the Band with a statement of the pro-rated amount of the Fee up to the date of termination. If there is an underpayment for the applicable year, the District shall invoice the Band for the amount owed and the Band will pay the invoice within thirty (30) days of its receipt. If there is an overpayment for the applicable year, the District will refund the Band the full amount of the overpayment within thirty (30) days of termination or other determination of this Agreement.

~~24.20.~~ Any dispute between the Band and the District in respect of the determination of the amount owed by the Band or refundable to the Band will be resolved in accordance with the Dispute Resolution process set out in this Agreement notwithstanding the prior termination or other determination of this Agreement.

Notice

Form

~~22.21.~~ Wherever in this Agreement it is required or permitted that notice, demand or other communications be given or served by either party to the other, such notice or demand shall be given and served in writing and forwarded by registered mail, prepaid courier or confirmed facsimile, addressed as follows:

a) in case of communication to the District:

101 Martin Street
Penticton, B.C.
V2A 5J9
Attn: Chief Administrative Officer

Form

Form

b) in the case of communication to the Band:

168 Westhill Crescent
RR #2, Site 80, Comp. 19
West Bench, Penticton, B.C.
V2A 6J7

Form

Assignment

Form

~~23.22.~~ This Agreement shall not be assigned by either party hereto, except with the prior written consent of the other.

~~24.23.~~ Without limiting Clause- ~~223~~, the District shall obtain from any proposed assignee of the whole or any part of this Agreement a written agreement, in a form approved by the Band, whereby the assignee covenants and agrees to perform all of the covenants and agreements to be observed or performed by the District under the Agreement.

Dispute Resolution

Form

Form

~~25.24.~~ Unless this Agreement provides otherwise, any disagreement between the Band and the District that arises out of this Agreement or in regard to the interpretation of this Agreement shall be resolved pursuant to this Clause and where such a disagreement arises either party may give written notice to the other that it wishes to resolve the disagreement through the process set out in this Clause (the "Dispute Resolution Notice") which notice shall be set out:

- (a) The matter which the issuer wishes to have resolved pursuant to this Clause; and
- (b) The position of the issuer in respect of the matter which is the subject of the dispute.

Form

Form

~~26.25.~~ Upon receipt of a Dispute Resolution Notice by either the Band or the District, the Director of Operations of the Band, the Chief Administrative Officer ~~or~~ of the District, ~~the Chairperson of the District~~ and the Chief of the Band, or an appointee of the Band Council, shall meet together in an attempt to settle the disagreement through negotiation and if the disagreement cannot be so settled and ratified by the Council of the Band and the Board of the District within thirty (30) working days of receipt of the Dispute Resolution Notice by the party to whom it was issued, then the same shall be submitted to an Arbitrator agreed upon between the Band and the District whose decision shall be handed down within twenty (20) working days of appointment.

~~27-26.~~ Should the Band and the District fail to resolve the dispute through negotiations held pursuant to Clause ~~256~~ and fail to agree on an Arbitrator within fifteen (15) working days of receipt of the Dispute Resolution Notice by the party to whom it was issued, a sole Arbitrator may be appointed by a Judge of the Supreme Court of British Columbia upon application by either the Band or the District, provided that the applicant shall give to the other party five (5) working days notice of its application for such an appointment.

~~28-27.~~ The decision of an Arbitrator appointed pursuant to this Agreement will be considered final and binding upon the parties.

~~29-28.~~ The cost of any arbitration shall be borne equally by the District and the Band unless otherwise ordered by the Arbitrator.

~~30-29.~~ If upon a reference to it, an Arbitrator refuses jurisdiction or otherwise fails to determine the question, then the question may be referred by either party to any court of competent jurisdiction, and the parties may exercise any other right or remedy they may have under this Agreement or otherwise.

Indemnity

~~34-30.~~ The District shall indemnify and save harmless the Band from and against all claims, demands, losses, costs, damages, actions, suits, proceedings, fines or assessments by whoever made, brought or prosecuted and in any manner based upon, arising out of, related to, occasioned by, or attributed to the breach of any provision of this Agreement to be performed by the District, its officials, servants, employees, agents and contractors. This condition shall survive the termination of this Agreement.

~~32-31.~~ Except with respect to the District Services to be provided by the District under this Agreement for which the District shall remain responsible, the Band shall indemnify and save harmless the District from and against all claims, demands, losses, costs, damages, actions, suits, proceedings or fines or assessments by whoever made, brought or prosecuted and in any manner based upon, arising out of, occasioned by, or attributed to, the breach of any provision of this Agreement to be performed by the Band and the officials, servants, employees, members, agents and contractors of the Band. This condition shall survive the termination of this Agreement.

~~33-32.~~ The District shall, during the Term of this Agreement, at its sole cost and expense, maintain comprehensive general liability insurance against claims for personal injury, death, or property damage occurring on, off, in or about the Band Lands, arising out of or resulting from negligence of the District and the officials, servants, employees, members, agents and contractors of the District in the provision of services to be provided by the District pursuant to this Agreement; such insurance to afford protection to the minimum limit of FIVE MILLION (\$5,000,000.00) DOLLARS or to such limit as may be agreed upon by the parties in writing.

Form

Form

~~34.33.~~ The Band Council, officers, officials, servants, employees, agents and contractors shall be added by the District to its comprehensive general liability insurance policy required to be maintained under Clause ~~32-32~~ as Additional Insured's with respect to the liability of the Band arising out of the provision of the District Services by the District.

Review

~~35.34.~~ In addition to the review of District Services in Clause ~~5~~, the parties shall review this Agreement not less than once within the first five years of the Term, ~~and then again not less than once in the second five years of the Term.~~

Amendment

~~36.35.~~ No change or modification of this Agreement is valid unless it is in writing and signed by the Band and the District.

Interpretation

~~37.36.~~ Nothing contained or implied herein shall fetter, prejudice or affect the rights and powers of the District or the Band in the exercise of their functions under any public or private statutes, bylaws, orders, ordinances, rules and regulations of every federal, provincial, municipal or Band authority and agency by law constituted and the parties shall not commit nor suffer any breach thereof to be committed.

~~38.37.~~ This Agreement shall not be construed so as to create any greater standard of care or liability on the part of the District in respect of the supplying of District Services to the Band Lands than that which applies to the supply of such services generally within the District.

~~39.38.~~ Nothing in this Agreement shall be interpreted as creating an agency, partnership or joint ventureship between the District and the Band.

~~40.39.~~ Time shall be of the essence of this Agreement.

~~41.40.~~ In the event that any provision of this Agreement or any part thereof is invalid, illegal, or unenforceable, the remainder shall be construed as if the invalid provisions or part thereof had been deleted from this Agreement.

~~42.41.~~ Headings are inserted in this Agreement for convenience only and shall not be construed as affecting the meaning of the Agreement.

~~43.42.~~ No waiver of any term or condition of this Agreement by any party hereto shall be effective unless it is in writing and no waiver of breach even if in writing shall be construed as a waiver of any future breach.

44.43. Wherever the singular or masculine is used herein the same shall be construed as meaning the plural or feminine or body politic or corporate where the context or the parties hereto so require.

Each party warrants and represents that it has full legal capacity and authority to enter into this Agreement and that this Agreement has been executed by the proper signing authorities for the party after all acts legally required to authorize the party to enter into this Agreement have been completed.

This Agreement shall supersede all communications, negotiations and agreements, either written or verbal, made between the parties in respect of matters pertaining to this Agreement prior to its execution and delivery.

This Agreement shall enure to the benefit of and be binding upon the parties hereto and upon their respective successors, heirs, administrators and assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

THE PENTICTON INDIAN BAND

by it authorized signatories

Chief

Councillor

THE REGIONAL DISTRICT OF

OKANAGAN-SIMILKAMEEN

by its authorized signatories

Chairman

Manager of Administration Chief Administrative Officer

Schedule A

Contribution Calculation for each Service:

Calculation of each District Service shall be defined as within the applicable RDOS Establishment Bylaw, current Amendment Bylaw or Letters Patent based on as if the Non-Native Interest was within District boundaries.

DISTRICT SERVICES	CURRENT ALLOCATION BASED ON ASSESSED VALUES OF:	CURRENT TAX LIMIT	ATTACHMENT A	
			BYLAW # OR LETTER PATENT (LP)	DEFINED SERVICE AREA
911 Emergency Call System	Improvements	N/A	1095	No
Emergency Planning	Land & Improvements	N/A	2375	No
Solid Waste Management	Land & Improvements	Greater of \$0.01386 per \$1,000 or \$200,000	1899, 1899.01 1899.02	No
Electoral Area Planning	Land & Improvements	N/A	LP	No
Mosquito Control	3 previous years average of time spent on site		1149 2055 2602 2658	No
Okanagan Basin Water Board	Land & Improvements	\$0.21 per \$1,000	LP	No
Area F Transit -SERVICE CURRENTLY INACTIVE	Land & Improvements	\$13,000	1440	Yes -see map Bylaw 1440
Area F Community Centre	Land & Improvements	\$20,000	1800	Yes - see map Bylaw 1800 - needs to be amended to include PIB lands
Campbell Mountain Sanitary Landfill	Bylaw allows for User fees and/or on Improvements - currently just User fees	\$600,000	1104 1104.01 1912	Yes - see map 1104.01 needs to be amended to include PIB Lands before requisition option could be used

	Bylaw allows for User fees and/or on land & Improvements - currently just User fees			
Residential Garbage and Recycling Collection		\$1,250,000	2190 - 2190.07	Yes - see Maps
General Government	Land & Improvements	N/A	LP	No



REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

Environment and Infrastructure Committee

Thursday, April 2, 2015

1:30 PM

REGULAR AGENDA

A. APPROVAL OF AGENDA

B. Extension of Keremeos Landfill Hours

C. ADJOURNMENT

ADMINISTRATIVE REPORT



TO: Environment and Infrastructure Committee

FROM: B. Newell, Chief Administrative Officer

DATE: April 2, 2015

RE: Extension of Keremeos Landfill Hours

Administrative Recommendation:

THAT the Keremeos Landfill's operating hours be extended to include Wednesdays from 12pm to 4pm, April 8th, 2015 to September 30th, 2015.

Reference:

2015 Budget

Business Plan Objective:

Directors for the Village of Keremeos, Areas B and G have requested an increase in operating hours at the Keremeos Landfill site to better service the Constituents. The funds for the added opening hours have been included in the approved 2015 Budget.

History:

The Keremeos Landfill's current operating hours are Sunday 10am to 4pm.

Alternatives:

Continue with the Sunday opening with no additional hours.

Analysis:

The Area Directors request this change in operation during budget deliberations; therefore, funds for this added service have been included in the 2015 approved budget.

Communication Strategy:

Advertisements of the proposed change will be placed in the local newspapers and posted on-site.

Respectfully submitted:

"Doug French"

D. French, Public Works Manager



REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

BOARD of DIRECTORS MEETING

Thursday, April 2, 2015

2:00 PM

REGULAR AGENDA

A. APPROVAL OF AGENDA

RECOMMENDATION 1 (Unweighted Corporate Vote – Simple Majority)

That the Agenda for the RDOS Board Meeting of April 2, 2015 be adopted.

1. Consent Agenda – Corporate Issues

a. Environment and Infrastructure Committee – March 19, 2015

THAT the Minutes of the March 19, 2015 Environment and Infrastructure Committee be received.

b. Planning and Development Committee – March 19, 2015

THAT the Minutes of the March 19, 2015 Planning and Development Committee be received.

THAT the proposed amendment to Bylaw No. 2500 regarding Health and Safety Inspection be supported.

THAT the proposed amendment to Bylaw No. 2500 regarding TUP referrals to the APC be supported.

c. Protective Services Committee – March 19, 2015

THAT the Minutes of the March 19, 2015 Protective Services Committee be received.

THAT the Regional District petition the Attorney General to conduct a study of the impact of the BC Corrections Facility under construction in Gallagher Lake on rural policing requirements in the South Okanagan.

d. RDOS Regular Board Meeting – March 19, 2015

THAT the minutes of the March 19, 2015 RDOS Regular Board meeting be adopted.

RECOMMENDATION 2 (Unweighted Corporate Vote – Simple Majority)

That the Consent Agenda – Corporate Issues be adopted.

2. Consent Agenda – Development Services

- a. Development Permit (DP) Application - Electoral Area “D” – Ronning,
1016 Highway 97**

THAT the Regional Board approve Development Permit No. D2015.019-DP.

B. DEVELOPMENT SERVICES – Rural Land Use Matters

- 1. Development Variance Permit Application – Electoral Area D, J. White and J. Liu,
172 Pine Avenue, Kaleden.**

- i. Responses**

To allow for the development of an accessory structure within the front setback

RECOMMENDATION 3 (Unweighted Participant Vote – Simple Majority)

THAT the Regional Board deny Development Variance Permit No. D2014.121-DVP.

- 2. Amendment Bylaw - Development Procedures Bylaw**

- i. Bylaw No. 2500.04**

The purpose of these amendments are to introduce an application requirement that vacation rental Temporary Use Permit (TUPs) proposals be accompanied by a Health and Safety Inspection and that Temporary Use Permit (TUP) applications be referred to Advisory Planning Commissions (APCs) prior to Board consideration in order to facilitate the convening of Public Information Meetings.

RECOMMENDATION 4 (Unweighted Corporate Vote – Simple Majority)

THAT the Board of Directors Bylaw No. 2500.04, 2015, Regional District of Okanagan-Similkameen Development Procedures Amendment Bylaw, be read a first, second and third time and be adopted.

C. PUBLIC WORKS

- 3. Gallagher Lake Sewer and Water Service Amendment Bylaw No. 2360.02, 2015.**

- i. Bylaw No. 2630.02**

RECOMMENDATION 5 (Unweighted Corporate Vote – Simple Majority)

THAT Bylaw No. 2630.02, 2015 Gallagher Lake Sewer and Water Service Amendment Bylaw be read a first, second and third time.

D. COMMUNITY SERVICES – Protective Services**1. Award E911 Fire Radio Maintenance Contract**

RECOMMENDATION 6 (Weighted Corporate Vote – Majority)

THAT the Board of Directors award the “E911 Radio System Maintenance Service” to Omega Communications Ltd in the amount of \$37,520.00 plus applicable taxes per year; and,

THAT the Board of Directors authorize the Chair and Chief Administrative Officer to execute the maintenance service agreement.

2. Licence of Occupation Renewal – Willowbrook Fire Department

RECOMMENDATION 7 (Unweighted Corporate Vote – Simple Majority)

THAT the RDOS Board of Directors authorizes the Chair and Chief Administrative Officer to execute a renewal agreement for the License of Occupation for the term of 30 years at the Southeast ¼ Section 25, Township 54, Similkameen Division Yale District to be used by the Willowbrook Fire Department for a water storage tank for fire protection purposes.

E. COMMUNITY SERVICES – Rural Projects**1. License of Occupation – KVR Area C****i. Application Area Map**

RECOMMENDATION 8 (Unweighted Corporate Vote – Simple Majority)

THAT the Board of Directors make application to the Province of British Columbia for a License of Occupation over 4 sections of the former Kettle Valley Right of way legally described as:

Plan KAP423A DL 648S SDYD Portion PCL B3 D E F, Except Plan EPP23666, C/REF 03554.015 FOR GAS PIPELINE R/W SEE R/W 337997 FOR POWERLINE.

Plan KAP429A DL 28S SDYD SEE 714-01133.901 FOR LEASE PORTION.

Lot 1A Plan KAP1729 DL 2450S SDYD

Lot 1B Plan KAP1729 DL 2450S SDYD Except Plan KAP74281, LICENSE NO 339180 FOR AGRICULTURAL PURPOSES.

AND THAT the Board of Directors make application to the Ministry of Transportation and Infrastructure (MoTI) for a Permit to Construct within a section of MoTI Right-of-Way;

AND THAT the Board of Directors authorize staff to enter into discussions with Osoyoos Indian Band (OIB) to negotiate an agreement to use that section of rail trail that crosses OIB Lands;

AND THAT the Chair and Chief Administrative Officer be authorized to execute the License of Occupation with the Province of British Columbia if successful.

F. OFFICE OF THE CAO

1. Advisory Planning Commission (APC) Appointments

RECOMMENDATION 9 (Unweighted Corporate Vote – Simple Majority)
THAT the Board of Directors appoint the following as members of the Electoral Area “F” Advisory Planning Commission until October 31, 2018:

Natalie Minunzie	Stewart Patterson	Bob Nicholson
Philip Lawton	Sandy Berry	Don Barron

2. Kaleden Parks and Recreation Commission Appointments 2015

RECOMMENDATION 10 (Unweighted Corporate Vote – Simple Majority)
THAT the Board of Directors appoint the following people as members of the Kaleden Parks & Recreation Commission for the periods indicated:

Name	Term	Expires
Kim Dennis	1 year	March 31, 2016
Doug King	1 Year	March 31, 2016
Gail Jeffrey	1 Year	March 31, 2016

G. CAO REPORTS

1. Verbal Update

H. OTHER BUSINESS

1. Chair's Report

2. Directors Motions

3. Board Members Verbal Update

I. ADJOURNMENT



**Minutes are in DRAFT form and are subject
to change pending approval by Regional District Board**

REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

Environment and Infrastructure Committee

Thursday, March 19, 2015

10:58 am

Minutes

MEMBERS PRESENT:

Vice Chair K. Kozakevich, Electoral Area "E"
Director T. Styffe, Alt Electoral Area "D"
Director F. Armitage, Town of Princeton
Director M. Bauer, Village of Keremeos
Director T. Boot, District of Summerland
Director M. Brydon, Electoral Area "F"
Director G. Bush, Electoral Area "B"
Director E. Christensen, Electoral Area "G"
Director B. Coyne, Electoral Area "H"

Director R. Hovanes, Town of Oliver
Director A. Jakubeit, City of Penticton
Director H. Konanz, City of Penticton
Director A. Martin, City of Penticton
Director S. McKortoff, Town of Osoyoos
Director T. Schafer, Electoral Area "C"
Director J. Sentes, City of Penticton
Director P. Waterman, District of Summerland

MEMBERS ABSENT:

Chair T. Siddon, Electoral Area "D"
Director M. Pendergraft, Electoral Area "A"

STAFF PRESENT:

B. Newell, Chief Administrative Officer
G. Cramm, Administrative Assistant

D. French, Manager of Public Works
C. Baughen, Solid Waste Mgmt Coordinator

A. APPROVAL OF AGENDA

It was MOVED and SECONDED

THAT the agenda of the Environment and Infrastructure Committee meeting of March 19, 2015 be adopted. – **CARRIED**

B. DELEGATIONS

1. Scott Fraser, President and CEO, Encorp Pacific (Canada)

Mr. Fraser addressed the Board regarding recent developments in the Encorp system and the Stewardship Agencies of BC.

i. Presentation

C. ADJOURNMENT

By consensus, the Environment and Infrastructure Committee meeting of March 19, 2015 adjourned at 11:34 a.m.

APPROVED:

CERTIFIED CORRECT:

K. Kozakevich
Environment and Infrastructure Committee
Vice Chair

B. Newell
Chief Administrative Officer



**Minutes are in DRAFT form and are subject
to change pending approval by Regional District Board**

REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

Planning and Development Committee

Thursday, March 19, 2015

11:34 am

Minutes

MEMBERS PRESENT:

Chair M. Brydon, Electoral Area "F"
Vice Chair G. Bush, Electoral Area "B"
Director F. Armitage, Town of Princeton
Director M. Bauer, Village of Keremeos
Director T. Boot, District of Summerland
Director E. Christensen, Electoral Area "G"
Director B. Coyne, Electoral Area "H"
Director R. Hovanes, Town of Oliver
Director A. Jakubeit, City of Penticton

Director K. Kozakevich, Electoral Area "E"
Director H. Konanz, City of Penticton
Director A. Martin, City of Penticton
Director S. McKortoff, Town of Osoyoos
Director T. Schafer, Electoral Area "C"
Director J. Sentes, City of Penticton
Director T. Styffe, Alt. Electoral Area "D"
Director P. Waterman, District of Summerland

MEMBERS ABSENT:

Director M. Pendergraft, Electoral Area "A"
Director T. Siddon, Electoral Area "D"

STAFF PRESENT:

B. Newell, Chief Administrative Officer
G. Cramm, Administrative Assistant

D. Butler, Manager of Development Services

A. APPROVAL OF AGENDA

It was MOVED and SECONDED

THAT the agenda of the Planning and Development Committee meeting of March 19, 2015 be adopted. - **CARRIED**

B. Development Procedures Bylaw – Temporary Use Permits (TUPs), Advisory Planning Commissions (APCs) and Public Information Meetings

1. Bylaw No. 2500.04

To provide an overview of proposed amendments to the Regional District's Development Procedures Bylaw regarding Temporary Use Permit (TUP) applications, public consultation and Health and Safety Inspections.

RECOMMENDATION 1

It was MOVED and SECONDED

THAT the Board of Directors resolves to initiate Amendment Bylaw No. 2500.04, 2015, to the Regional District of Okanagan-Similkameen Development Procedures Bylaw No. 2500, 2011.

By consensus, the Committee split the discussion regarding the proposed amendment bylaw and the ensuing voting into two parts: Health and Safety Inspection; and, Referral of TUPs to applicable Advisory Planning Commission.

Director Konanz declared a conflict of interest because she owns a vacation rental. She vacated the Boardroom.

It was MOVED and SECONDED

THAT the proposed amendment to Bylaw No. 2500 regarding Health and Safety Inspection be supported. - **CARRIED**

Opposed: Directors Boot and Brydon

It was MOVED and SECONDED

THAT the proposed amendment to Bylaw No. 2500 regarding TUP referrals to the APC be supported. – **CARRIED**

Opposed: Director Coyne

C. ADJOURNMENT

By consensus, the Planning and Development Committee meeting of March 19, 2015 adjourned at 11:53 a.m.

APPROVED:

CERTIFIED CORRECT:

M. Brydon
Planning and Development Committee Chair

B. Newell
Corporate Officer



**Minutes are in DRAFT form and are subject
to change pending approval by Regional District Board**

REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

Protective Services Committee

Thursday, March 19, 2015

9:02 am

Minutes

MEMBERS PRESENT:

Chair A. Jakubeit, City of Penticton
Vice Chair T. Schafer, Electoral Area "C"
Director F. Armitage, Town of Princeton
Director M. Bauer, Village of Keremeos
Director T. Boot, District of Summerland
Director M. Brydon, Electoral Area "F"
Director G. Bush, Electoral Area "B"
Director E. Christensen, Electoral Area "G"
Director B. Coyne, Electoral Area "H"

Director R. Hovanes, Town of Oliver
Director H. Konanz, City of Penticton
Director K. Kozakevich, Electoral Area "E"
Director A. Martin, City of Penticton
Director S. McKortoff, Town of Osoyoos
Director J. Sentes, City of Penticton
Director T. Styffe, Alt. Electoral Area "D"
Director P. Waterman, District of Summerland

MEMBERS ABSENT:

Director M. Pendergraft, Electoral Area "A"
Director T. Siddon, Electoral Area "D"

STAFF PRESENT:

B. Newell, Chief Administrative Officer
G. Cramm, Administrative Assistant

A. APPROVAL OF AGENDA

It was MOVED and SECONDED

THAT the agenda of the Protective Services Committee meeting of March 19, 2015 be amended by moving Item C Policing Requirements before Item B Delegations. - **CARRIED**

C. POLICING REQUIREMENTS (Rural Policing/Gallagher Lake Corrections Facility)

RECOMMENDATION 1

It was MOVED and SECONDED

THAT the Regional District petition the Attorney General to conduct a study of the impact of the BC Corrections Facility under construction in Gallagher Lake on rural policing requirements in the South Okanagan. - **CARRIED**

B. DELEGATIONS

1. Richard Rosenthal, Chief Civilian Director, Independent Investigations Office (IIO)
Mr. Rosenthal addressed the Committee regarding the IIO's mandate, operations, and investigative structure.
 - i. Independent Investigations Office-Background
 - ii. Richard Rosenthal's Biography
 - iii. Presentation
-

C. URBAN DEER RECOMMENDATIONS (Provincial Report)

The Committee was advised that in January, UBCM and the Ministry of Forests, Lands and Natural Resource Operations held a two-day workshop on Urban Deer in response to local government concerns on the issue. CAO Newell outlined each of the recommendations arising from the workshop.

D. ADJOURNMENT

By consensus, the Protective Services Committee meeting of March 19, 2015 adjourned at 10:43 a.m.

APPROVED:

CERTIFIED CORRECT:

A. Jakubeit
Protective Services Committee Chair

B. Newell
Chief Administrative Officer



REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

BOARD of DIRECTORS MEETING

Minutes of the Board Meeting of the Regional District of Okanagan-Similkameen (RDOS) Board of Directors held at 12:20 pm Thursday, March 19, 2015 in the Boardroom, 101 Martin Street, Penticton, British Columbia.

MEMBERS PRESENT:

Vice Chair A. Jakubeit, City of Penticton
Director F. Armitage, Town of Princeton
Director M. Bauer, Village of Keremeos
Director T. Boot, District of Summerland
Director M. Brydon, Electoral Area "F"
Director G. Bush, Electoral Area "B"
Director E. Christensen, Electoral Area "G"
Director B. Coyne, Electoral Area "H"

Director R. Hovanes, Town of Oliver
Director H. Konanz, City of Penticton
Director K. Kozakevich, Electoral Area "E"
Director A. Martin, City of Penticton
Director S. McKortoff, Town of Osoyoos
Director T. Schafer, Electoral Area "C"
Director J. Sentes, City of Penticton
Director T. Styffe, Electoral Area "D"
Director P. Waterman, District of Summerland

MEMBERS ABSENT:

Chair M. Pendergraft, Electoral Area "A"
Director T. Siddon, Electoral Area "D"

STAFF PRESENT:

B. Newell, Chief Administrative Officer
G. Cramm, Administration Services
D. Butler, Manager of Development Services

A. APPROVAL OF AGENDA

RECOMMENDATION 1 (Unweighted Corporate Vote – Simple Majority)

It was MOVED and SECONDED

THAT the Agenda for the RDOS Board Meeting of March 19, 2015 be amended by adding Item E1 Keremeos Crossing. - **CARRIED**

1. Consent Agenda – Corporate Issues

a. Corporate Services Committee – March 5, 2015

THAT the Minutes of the March 5, 2015 Corporate Services Committee be received.

THAT the Board adopt the amendments to the Harassment and Discrimination Policy, and

THAT the policy be renamed to Harassment, Bullying and Discrimination Policy.

b. Community Services Committee – March 5, 2015

THAT the Minutes of the March 5, 2015 Community Services Committee be received.

THAT staff move forward in developing a service establishment bylaw for an economic development service within the regional district, and

THAT staff develop a regional grant in aid policy.

- c. RDOS Regular Board Meeting – March 5, 2015

THAT the minutes of the March 5, 2015 RDOS Regular Board meeting be adopted.

RECOMMENDATION 2 (Unweighted Corporate Vote – Simple Majority)

It was MOVED and SECONDED

THAT the Consent Agenda – Corporate Issues be adopted. - **CARRIED**

2. Consent Agenda – Development Services

- a. Development Variance Permit (DVP) Application - Electoral Area “A” – Schou, 3910 Highway 3

THAT the Board of Directors approve Development Variance Permit No. A2015.017-DVP.

- b. Development Variance Permit (DVP) Application - Electoral Area “C” – Blonde, 350 Jones Way, Willowbrook
i. Responses

THAT the Board of Directors approve Development Variance Permit No. C2015.016-DVP

- c. Development Variance Permit (DVP) Application - Electoral Area “C” – Fortis BC Energy Inc., 8702/8604/8606 Highway 97
i. Responses

THAT the Board of Directors approve Development Variance Permit No. C2015.011-DVP

RECOMMENDATION 3 (Unweighted Participants Vote – Simple Majority)

It was MOVED and SECONDED

THAT the Consent Agenda – Development Services be adopted. - **CARRIED**

B. DEVELOPMENT SERVICES – Building Inspection**1. 4326 – 16th Avenue, Osoyoos (expired permit)**

The Chair asked if anyone was present to speak to the application. No one was present to speak.

RECOMMENDATION 4 (Unweighted Corporate Vote – Simple Majority)**It was MOVED and SECONDED**

THAT a Section 695 Notice on Title, pursuant to Section 695 of the Local Government Act and Section 57 of the Community Charter (made applicable to Regional Districts by Section 695 of the LGA), be filed against the title of lands described as Lot 1, District Lot 42, Plan KAP54472, SDYD, that certain works have been undertaken on the lands contrary to the Regional District Okanagan-Similkameen Building Bylaw No. 2333. – **CARRIED**

2. 499 Grand Oro Road (build without permit for accessory building)

The Chair asked if anyone was present to speak to the application. No one was present to speak.

RECOMMENDATION 5 (Unweighted Corporate Vote – Simple Majority)**It was MOVED and SECONDED**

THAT a Section 695 Notice on Title, pursuant to Section 695 of the Local Government Act and Section 57 of the Community Charter (made applicable to Regional Districts by Section 695 of the LGA), be filed against the title of lands described as Lot 8, District Lot 2834 SDYD, Plan 33523, that certain works have been undertaken on the lands contrary to the Regional District Okanagan-Similkameen Building Bylaw No. 2333; and

THAT injunctive action be commenced. – **CARRIED**

3. 499 Grand Oro Road (expired permit)

The Chair asked if anyone was present to speak to the application. No one was present to speak.

RECOMMENDATION 6 (Unweighted Corporate Vote – Simple Majority)

It was MOVED and SECONDED

THAT a Section 695 Notice on Title, pursuant to Section 695 of the Local Government Act and Section 57 of the Community Charter (made applicable to Regional Districts by Section 695 of the LGA), be filed against the title of lands described as Lot 8, District Lot 2834 SDYD, Plan 33523, that certain works have been undertaken on the lands contrary to the Regional District Okanagan-Similkameen Building Bylaw No. 2333. – **CARRIED**

C. DEVELOPMENT SERVICES – Rural Land Use Matters

1. Agricultural Land Commission Referral (Exclusion) – Electoral Area “C”
Antypowich and Granton Investments Corporation Inc., 730 & 974 Bulrush Road & 7234 Tul-el-Nuit Drive

To facilitate the exclusion of approximately 11.3 ha so that it may subsequently subdivided into approximately 29 low density residential parcels and approximately 30 rural residential parcels.

The Chair asked if anyone was present to speak to the application. Brad Elenko, agent for the applicant, spoke to the application.

RECOMMENDATION 7 (Unweighted Participant Vote – Simple Majority)

It was MOVED and SECONDED

THAT the RDOS Board “authorise” the application to exclude approximately 11.3 ha of land comprised within Lot A, Plan KAP19778, District Lot 2450S, SDYD, and part of Lot 683, Plan KAP2115, District Lot 2450S, SDYD, in Electoral Area “C” to proceed to the Agricultural Land Commission. – **CARRIED**

2. Agricultural Land Commission Referral (Subdivision) – Electoral Area “A”
Noble-Hearle, Hearle, Hearle, 5037-45 Avenue.

To facilitate the subdivision of the subject property into two parcels.

RECOMMENDATION 8 (Unweighted Participant Vote – Simple Majority)

It was MOVED and SECONDED

THAT the RDOS Board “authorise” the application to undertake a subdivision at Lot 1, Plan 36420, District Lots 43 & 100, SDYD (5037 45th Avenue) Electoral Area “A” to proceed to the Agricultural Land Commission. – **CARRIED**

3. OCP & Zoning Bylaw Amendment – Electoral Area “D-2”,
 - a. Bylaw No. 2603.01, 2015
 - b. Bylaw No. 2455.16, 2015

To address a number of new policy directions stemming from the OCP as well as a typographical errors and other corrections identified by staff through the day-to-day use of the zoning bylaw.

RECOMMENDATION 9 (Unweighted Participant Vote – Simple Majority)

It was MOVED and SECONDED

THAT Bylaw No. 2603.01, 2015, Electoral Area “D-2” Official Community Plan Amendment Bylaw and Bylaw No. 2455.16, 2015, Electoral Area “D-2” Zoning Amendment Bylaw be adopted. – **CARRIED**

4. OCP & Zoning Bylaw Amendment Application – Electoral Area “D-2”, McCall, 2170 Highway 97, Okanagan Falls
 - a. Bylaw No. 2603.03, 2014
 - b. Bylaw No. 2455.17, 2014

To rezone in order to facilitate a three lot subdivision.

RECOMMENDATION 10 (Unweighted Participant Vote – Simple Majority)

It was MOVED and SECONDED

THAT Bylaw No. 2603.03, 2014, Electoral Area “D-2” Official Community Plan Amendment Bylaw and Bylaw No. 2455.17, 2014, Electoral Area “D-2” Zoning Amendment Bylaw be adopted. – **CARRIED**

5. Zoning Bylaw Amendment – Electoral Area “E”
 - a. Bylaw No. 2459.16, 2015
 - b. Public Hearing Report – March 4, 2015
 - c. Responses Received

To resolve to initiate an amendment bylaw in order to address a potential issue with the zoning of the property at 126 Robinson Avenue (being Lot 6, Plan KAS540, District Lot 210, SDYD).

RECOMMENDATION 11 (Unweighted Corporate Vote – Simple Majority)

It was MOVED and SECONDED

THAT the public hearing report be received. – **CARRIED**

RECOMMENDATION 12 (Unweighted Participant Vote – 2/3 Majority)

It was MOVED and SECONDED

THAT Bylaw No. 2459.16, 2015, Electoral Area “E” Zoning Amendment Bylaw be read a third time and adopted. – **CARRIED**

D. ENGINEERING SERVICES

1. Okanagan Falls Development Cost Charge Bylaw Amendment
 - a. Bylaw No. 2486.01, 2015

RECOMMENDATION 13 (Unweighted Corporate Vote – Simple Majority)

It was MOVED and SECONDED

THAT Bylaw No. 2486.01, “Okanagan Falls Sanitary Sewer Development Cost Charge Amendment” be read a First, Second and Third time. – **CARRIED**

E. OFFICE OF THE CAO

1. Addendum Item: Keremeos Crossing

It was MOVED and SECONDED

That the Regional District write a letter to Minister Lake, Minister of Health, in support of the reopening of the Keremeos Crossing as a facility for youth with substance abuse issues. – **CARRIED**

2. Electoral Area “B” Parks and Recreation Commission Appointments

RECOMMENDATION 14 (Unweighted Corporate Vote – Simple Majority)

It was MOVED and SECONDED

THAT the Board of Directors appoint the following people as members of the Electoral Area “B” Parks and Recreation Commission for the periods indicated:

Name	Term	Expires
Sonjia Vanden Hoek	2 years	December 31, 2017
Doug McLeod	2 years	December 31, 2017
Marc Lepage	2 years	December 31, 2017

The following members continue to serve the Electoral Area “B” Parks and Recreation Commission.

Name	Expires
Deanna Gibbs	December 31, 2016
Bob McAtamney	December 31, 2016
Marie Marven	December 31, 2016
Tammy Vesper	December 31, 2015

CARRIED

3. Appointment to Lower Similkameen Community Forest Corporation

RECOMMENDATION 15 (Unweighted Corporate Vote – Simple Majority)

It was MOVED and SECONDED

THAT the Board of Directors support the RDOS Electoral Area “G” Director’s appointment of Donald Vincent Armstrong to the Lower Similkameen Community Forest Corporation. - **CARRIED**

Opposed: Directors Brydon, Boot, Martin, Waterman, Konanz

4. Okanagan Falls & District Parkland Acquisition Loan Authorization-Assent Vote.

For information purposes only.

F. CAO REPORTS

1. Verbal Update

G. OTHER BUSINESS**1. Chair's Report**

2. Board Representation

- a. Chair's Report
 - b. Municipal Finance Authority (MFA)
 - c. Okanagan Basin Water Board (OBWB)
 - d. Okanagan-Kootenay Sterile Insect Release Board (SIR)
 - e. Okanagan Regional Library (ORL)
 - f. Okanagan Film Commission (OFC)
 - g. Southern Interior Beetle Action Coalition (SIBAC)
 - h. Southern Interior Municipal Employers Association (SIMEA)
 - i. Southern Interior Local Government Association (SILGA)
 - j. Starling Control
 - k. UBCO Water Chair Advisory Committee: Director Konanz was appointed as alternate to Director Bauer for this committee.
-

3. Directors Motions

4. Board Members Verbal Update

H. ADJOURNMENT

By consensus, the meeting adjourned at 1:35 p.m.

APPROVED:

CERTIFIED CORRECT:

M. Pendergraft
RDOS Board Chair

B. Newell
Corporate Officer

ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: B. Newell, Chief Administrative Officer

DATE: April 2, 2015

RE: Multiple Family Development Permit (DP) — Electoral Area “D”

Administrative Recommendation:

THAT the Regional Board approve Development Permit No. D2015.019-DP

Purpose: To rebuild a multi-dwelling unit after a fire.

Owners: Ralph & Lorraine Ronning Agent: Grant Beauclair Folio: D2015.019-DP

Civic: 1016 Highway 97 Legal: Parcel A, Plan KAP1280, District Lot 374, SDYD

OCP: Commercial (C) Zone: Highway Commercial (C4)

Proposed Development:

This application is for a Form and Character Development Permit (DP) that applies to the Okanagan Falls Multiple Family Development Permit Area outlined in Section 24.5 of the Electoral Area “D” East Skaha, Vaseaux Official Community Plan (OCP) Bylaw No. 2603, 2013. This property is also situated in the Okanagan Falls Commercial DPA, but no alteration to the commercial building is proposed.

Specifically the applicant is seeking to rebuild a multi-dwelling unit after a fire destroyed it. The new building will consist of two identical suites with separate ground entrances to each at the rear of the commercial building.

Site Context:

Approximately 696 m² in area, the subject parcel is situated at 1016 Highway 97 in Okanagan Falls. The property comprises an existing commercial structure with two multi-dwelling units on the second story.

Background:

A building permit was issued in April of 1990 to move an existing duplex (dwelling unit) onto the property and construct three rental mercantile occupancy suites. The dwelling unit and commercial building were attached by a covered walkway. In April of 1991, a building permit was issued to complete interior of second floor commercial building with two more dwelling units. The building was destroyed by a fire in November of 2014.

Under the Electoral Area “D” Zoning Bylaw No. 2455, 2008, the property is zoned as Highway Commercial (C4), which permits “indoor retail trade,” and “multi-dwelling units” as principal uses.

Section 13.2.8 of the Zoning Bylaw requires that multi-dwelling units “must be located above the first floor or in the rear of the same building containing the area intended for a commercial use.”

Public Process:

The Regional District does not notify Development Permit applications unless a variance is being requested.

Alternatives:

- .1 THAT the Regional Board deny Development Permit No. D2015.019-DP; or
- .2 THAT the Regional Board defers making a decision and directs that the proposal be considered by the Electoral Area "D" Advisory Planning Commission (APC).

Analysis:

The objective of the Multiple Family DP Area is to "ensure that multiple family residential development is attractive and compatible with existing neighbourhoods and the rural character of the surrounding area." The proposed development sets out to satisfy the criteria for form and character in the DP area:

Buildings and Structures:


The units face a lane on the west side with proper pedestrian access and a raised front porch with an aluminum railing. The variety of finishes; stucco, hardie board, and white trim will add character to the plain building.

Access and Parking:

The proposed building has adequate parking with safe and efficient vehicle entrances and exits.

Screening and Landscaping:

A landscape plan has been prepared to compliment the multi-dwelling unit. A landscape security has been received to ensure the landscaping is completed. Decorative rock with shrubs, yucca plants and a concrete sidewalk is proposed along the north and south ends of the building. A landscape bed is also provided between the building and the parking and provides a screen. A 1.2 metre fence is currently in place along the north side of the property with a 1.8m cedar fence to be constructed in the future.

Respectfully submitted:
R. Houle, Planning Technician**Endorsed by:**
C. Garrish, Planning Supervisor**Endorsed by:**
D. Butler, Development Services Manager**Attachments:**

Attachment No. 1 – Site Photographs

Attachment No. 1 – Site Photographs



ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: B. Newell, Chief Administrative Officer

DATE: April 2, 2015

RE: Development Variance Permit Application — Electoral Area “D”

Administrative Recommendation:

THAT the Regional Board deny Development Variance Permit No. D2014.121-DVP.

Purpose: To allow for the development of an accessory structure within the front setback.

Owners: Jeffrey White; Jiaman Liu Agent: Benoit Cadieux Folio: D-01515.040

Civic: 172 Pine Avenue, Kaleden Legal: Lot 5, Plan 30317, District Lot 105s, SDYD

OCP: Low Density Residential (LR) Zone: Residential Single Family Two (RS2)

Requested Variance: To vary the front parcel line setback from 7.5 metres to 3.6 metres.

Proposed Development:

This application is seeking to reduce the minimum front parcel line setback for an accessory building (garage) from 7.5 metres to 3.6 metres, measured to the outermost projection.

The proposed two-storey structure contains an upper level garage and a lower level storage area. The highest point of the garage is approximately 4.0 metres above street level.

The applicant has indicated that “because this property backs onto a ravine, options are limited for creating an entrance for the proposed garage. In order to create enough square footage, we are asking to extend the road setback by 3.9 m to 3.6 m The site of the proposed garage is already a driveway and patio.”

Site Context:

The subject property is approximately 3,396 m² in area and is situated in a cul-de-sac on the west side of Pine Avenue in Kaleden. The property contains a single detached dwelling and is serviced by the Kaleden Irrigation District and a private septic system, which is located to east of the dwelling.

Surrounding land uses are predominantly low density residential.

Background:

Under the Electoral Area “D-1” Zoning Bylaw No. 2457, 2008, the subject property is zoned Residential Single Family Two (RS2), wherein accessory buildings and structures are permitted.

On February 8, 2001, with respect to the construction of a single detached dwelling the Board of Variance (BoV) approved requests to reduce the minimum front and side parcel line setbacks from 7.5 metres and 4.5 metres to 1.0 metres, respectively. A request was also made to increase maximum height, but was denied.

A single detached dwelling was subsequently built in 2001; however, the structure did not make use of the variances, as its design was changed in order to comply with setback and height requirements.

At its meeting of January 8, 2015, the Regional Board of Directors recommended that the application be referred to the Electoral Area “D” Advisory Planning Commission (APC).

At its meeting of March 10, 2015, the APC recommended that the Regional Board of Directors deny the application.

Public Process:

Adjacent property owners have received notification of this application. Written comments regarding the proposal were accepted until 12:00 noon on Monday December 29, 2014.

Alternative:

1. THAT the Regional Board approve Development Variance Permit No. D2014.121-DVP.

Analysis:

The intent behind the Zoning Bylaw’s use of setbacks is varied, however, in the context of a residential front setback it is generally to provide a physical separation between the road and residential dwellings; to improve traffic and pedestrian safety; to maintain an attractive streetscape by ensuring a uniform building line and discouraging encroachments (which could adversely affect overshadowing and privacy on adjacent parcels) and providing opportunities for openness and landscaping.

Accordingly, and when assessing a variance request to a setback, a number of factors are generally taken into account and these include the intent of the zoning; the presence of any potential limiting physical features on the subject property; established streetscape characteristics; and whether the proposed development will have a detrimental impact upon the amenity of the area and/or adjoining uses.

In considering this proposal, Administration recognises that the proposed garage is seen to be related to the principal residential use of the property; that the presence of a steep slope and the location of the septic field potentially limit development; that the design of the garage will generally complement that of the existing dwelling; and that the structure is unlikely to result in a loss of amenity at adjacent properties.

Conversely, allowing for the development of accessory structures within a front setback is considered to represent poor streetscape design and is *generally* not representative of other development found on Pine Avenue; that other options are available to the property owner (i.e. a smaller structure incorporated into the dwelling); and that reducing the front setback could create an expectation and/or perception that the Board will support other accessory structures being developed within the front setback on this street.

While Administration recognises that the BoV previously reduced the front setback in relation to a separate dwelling proposal in 2001, this was done without input from planning staff and, for the reasons outlined above, planning staff do not support the proposed garage design.

Respectfully submitted:

Timothy Donegan

T. Donegan, Planning Technician

Endorsed by:

CG

C. Garrish, Planning Supervisor

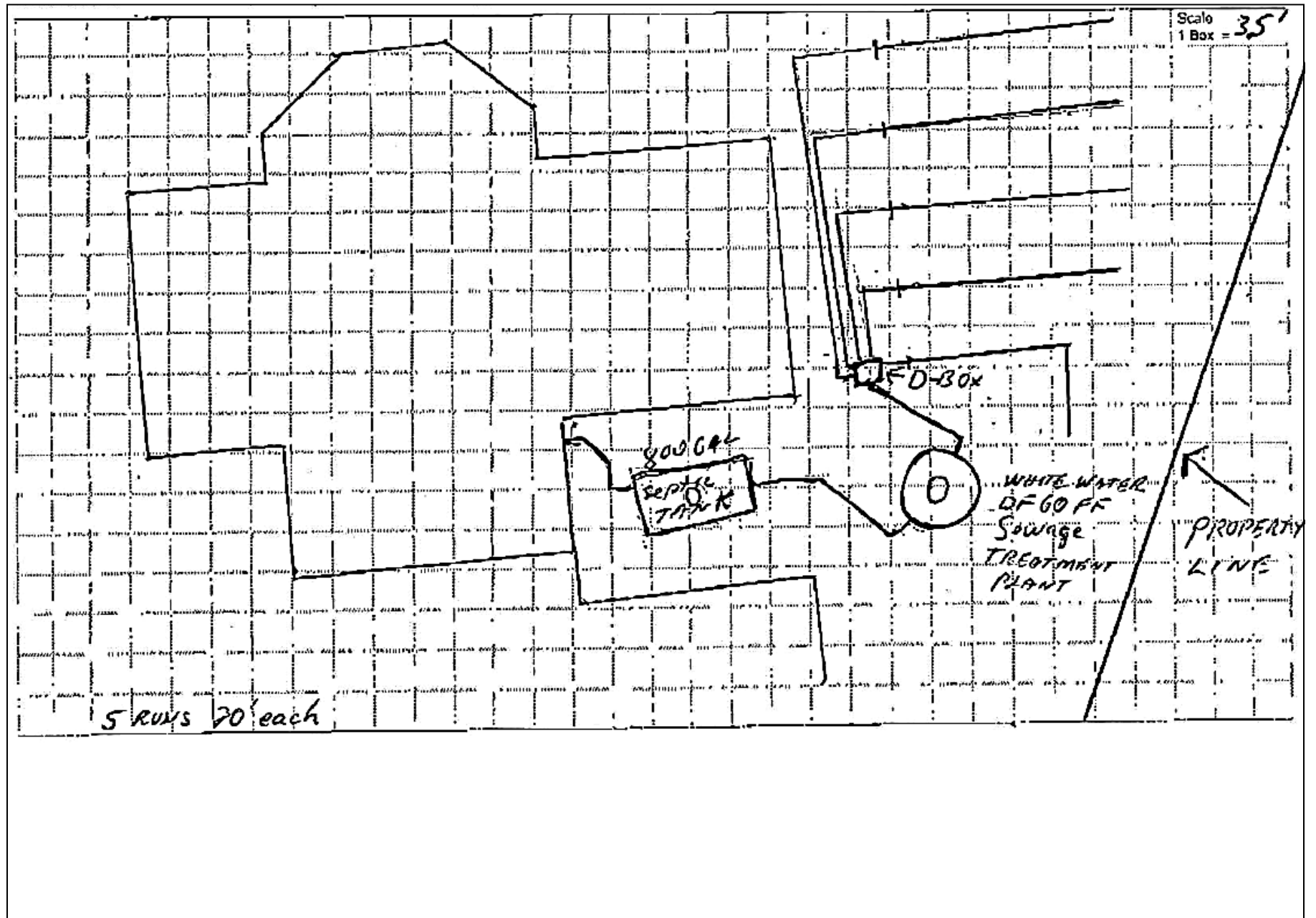
Endorsed by:

Donna Butler

D. Butler, Development Services Manager

Attachments: No. 1 – Applicant's Septic Plan
 No. 2 – Street View

Attachment No. 1 – Applicant's Septic Plan



Attachment No. 2 – Street View (Google Earth)



December 18, 2014

RECEIVED
Regional District

DEC 18 2014

101 Martin Street
Penticton BC V2A 5J9

Regional District Board c/o RDOS

To whom it may concern:

Regarding: Development Variance Permit Application - 172 Pine Ave. Kaleden.

RDOS File: 2014.121-DVP.

We have the following strong concerns about this variance application:

- 1) The proposed structure is too close to the street and will irrevocably change the ambiance of the neighbourhood, which is currently rural and open, without the unsightly garage doors that blight so many urban streets.
- 2) The proposed sight is in a view corridor and the building would block existing views of trees and Skaha Lake from the street.
- 3) More importantly, it would block views from the existing property at 173 Pine Ave. replacing what is now a pastoral setting with a cluttered look dominated by a huge garage door.

Michael & Tracy Maloney

[REDACTED]

[REDACTED]

December 15, 2014

To: Regional District Board, Regional District of Okanagan Similkameen

RE: Development Variance Permit application - 172 Pine Avenue, Kaleden
Legal: Lot 5, Plan 30317, District Lot 105s, SDYD

RDOS FILE: 2014.121-DVP

In response to this variance application, we must oppose it. Based upon the information as presented in the application, we have the following concerns:

- A) The distance of the finished building from the lot line, using the drawings provided, will result in a crowding effect on the adjacent property to the south (166 Pine Avenue). The footprint plan, as drawn, does not show the included external stairway which will run down the south side of the garage. Such a stairway would be approximately ninety-two centimeters (three feet) in width and would create an unseemly aspect to the south side of the structure, along with an increased visual imposition, with respect to its proximity to the lot line.
- B) The proposed building would present a wall with a vertical measure, on the south side (left elevation) totalling *twenty-two feet (6.7M)*. Particular attention needs to be drawn to the Left Elevation drawing, which depicts soil/fill covering the lower floor of the structure. This drawing is somewhat misleading in that *this grade does not currently exist*. Essentially, the lower floor of the proposed garage will sit on the existing grade. Creating a covering grade for the lower level would be within such a small distance (at a guess, 2M) from the lot line as to require a retaining wall or other stabilizing bulwark to be constructed. This total presentation of such a large imposing wall would seriously encroach on the adjacent property to the south as well as diminishing the aesthetics of the street.
- C) The paving-bricked parking area, (currently in use for vehicle parking) on the west side of the 172 Pine avenue house, is adequate to accommodate a garage of the size depicted in the submitted drawings. As pointed out by RDOS, a variance would also be required for this area to be used for construction of a garage. Still, given that requirement, using the existing parking area, or an area to the north of the dwelling, would be *far less of an intrusion to the street and neighbourhood* than would the above proposed plan. Unfortunately, due to its extreme slope, Lot 5 does not allow for many building site opportunities. This fact should not skew the decision model to such an extent as to allow us to arrive at poor quality solutions.
- D) The proximity of the structure to the roadway would be imposing. The current cul de sac is open, yet provides only limited parking areas. The proposed structure would present a dominant wall that would detract from the appeal of the street, creating a barrier effect, and potentially interrupting the turnaround space of the cul de sac.



- E) All current structures on Pine avenue are situated using standard bylaw setbacks. The one exception is the dwelling at 172. Other than this exception, the street enjoys an uncluttered, open, and welcoming aspect. Adding a further structure to the already cramped positioning at 172 will detract further from this appeal by creating a jumble of structures close to the road and each other, damaging not only the effect on 172 itself, but wounding the surrounding properties' appeal and feeling of space.
- F) The residents of 172 Pine will not have to view this structure every time they look out their window. All other residents of the avenue will. Further, the 172 Pine Avenue dwelling is not the principal residence of the owner(s), but rather an occasional holiday property. The impact of construction of the proposed garage in the proposed location will have a disproportionately negative impact on the lifestyle quality of surrounding properties, while impacting only minimally on the the residents of 172 Pine Avenue. i.e., the consequences of construction will not be a fair weighting to all involved. The builders may gain marginal benefit from the garage construction, while all other residents of Pine Avenue will pay for its intrusion.
- G) The structure, as drawn, appears to sit over the septic field. The access to the field pump, and the field itself, cannot be built upon. If this is truly the case, this alone is enough to deny this application.

Thank you for the opportunity for us to respond to this variance application. If you may have any discussion or questions further to this letter, please contact us at 250 809 8385 or 250 497 5263.

Sincerely,

Fraser W Barton

Kaleden, BC
V0H 1K0

Elizabeth L Barton

RECEIVED
Regional District

DEC 17 2014

101 Martin Street
Penticton BC V2A 5J8

Dec 15/14

RDOS
101 Martin Street,
Penticton, BC
V2A 5J9

RE: DEVELOPMENT VARIANCE PERMIT APPLICATION
RDOS FILE: D2014.121-DVP

Attention: Timothy Donegan

We have owned our property at [REDACTED] and like all existing owners, have enjoyed the openness and spaciousness of our area. By allowing yet another variance to this property, to allow for a large 2 story garage to be built on the property will surely take away from the appearance of the street, and making it nonconforming to the rest of the neighboring properties.

I understand that the drawings provided are solely to apply for this variance, and not the actual building plans. These plans are backwards and do not fit the property the way they are drawn. If the garage is built as shown it will be right over top, or at least encroach on the existing septic system.

I do think that the RDOS should take a closer look into these issues as to not create problems down the road, which has happened in two other instances here in Kaleden, that I know of.

Thank you for allowing us the opportunity to submit our comments and concerns regarding this variance request.

Yours truly,

[REDACTED]
Jim & Marni Sikler

RECEIVED
Regional District

DEC 17 2014

101 Martin Street
Penticton BC V2A 5J9



ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: B. Newell, Chief Administrative Officer

DATE: April 2, 2015

RE: Amendment Bylaw — Development Procedures Bylaw

Administrative Recommendation:

THAT the Board of Directors Bylaw No. 2500.04, 2015, Regional District of Okanagan-Similkameen Development Procedures Amendment Bylaw, be read a first, second and third time and be adopted.

Purpose:

The purpose of these amendments are to introduce an application requirement that vacation rental TUP proposals be accompanied by a Health and Safety Inspection and that TUP applications be referred to Advisory Planning Commissions (APCs) prior to Board consideration in order to facilitate the convening of Public Information Meetings.

Background:

At its meeting of March 20, 2014, the Regional District Board adopted Amendment Bylaw No. 2595, 2013, which introduced a number of new policy statements into the Okanagan Electoral Area Official Community Plan (OCP) Bylaws relating to vacation rental uses. This included:

- a preference for vacation rentals to be dealt with through TUPs;
- the criteria against which vacation rental permit applications would be assessed (i.e. the need to meet a minimum standard for health and safety); and
- potential permit conditions for vacation rentals (i.e. contact details for the property owner or manager).

In addition, and as a result of community feedback received on Amendment Bylaw No. 2595, it was understood that new applications and renewal requests for a vacation rental TUP would be expected to undertake Public Information Meetings prior to consideration by the Board.

This proposal was considered by the Planning and Development (P&D) Committee of the Board at its meeting of March 19, 2015, where it was resolved to support amendments related to health and safety inspection requirements and the referral of TUPs to Electoral Area Advisory Planning Commissions (APCs).

Alternative:

THAT the Board of Directors not deny first reading of Amendment Bylaw No. 2500.04, 2015.

Analysis:

In order to give effect to the requirement for a health and safety inspection to ensure that a dwelling unit being proposed for use as a vacation rental complies with all relevant Building Code requirements, Administration is proposing to include this as an application requirement for a TUP.

This is a service that can be provided by the Regional District's Building Inspectors and a fee of \$100 has already been incorporated into the Fees and Charges Bylaw.

With regard to Public Information Meetings, Administration notes that there have been challenges for applicant's unfamiliar with land use planning processes and the requirements for organizing such meetings (i.e. booking a venue, notifying neighbours and presenting proposal).

In considering how this may be improved upon, it is thought that there may be merit in scheduling such meetings immediately prior to an APC meeting at which the TUP application is to be reviewed.

This would allow for joint use of a facility and ensure that the Public Information Meeting is convened in a neutral venue, as opposed to the applicant's own premises.

It would also allow for a Regional District presence at such Meetings in the form of the Area Director, APC members and/or staff who may be attending the later APC meeting (NOTE: it would still be expected that the applicant would run the Public Information Meeting).

Administration considers that there is merit in amending this so that TUPs are dealt with similar to rezoning proposals (which also generally contemplate a change of use at a property) and to have these considered by the APCs prior to Board consideration.

It is not thought that this change would add significantly to the processing times associated with a TUP application as these are generally referred to external agencies for comment (with a 4 week deadline) and that APC meetings will generally occur while this comment period is on-going.

This amendment would not bind an applicant to having a Public Information Meeting for one-hour prior to an APC, it merely provides for this an option.

Respectfully submitted:

A handwritten signature in blue ink, appearing to read 'C. Garrish', is written over a horizontal line.

C. Garrish, Planning Supervisor

Endorsed by:

D. Butler, Development Services Manager

REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

BYLAW NO. 2500.04, 2015

**A Bylaw to amend the Regional District of Okanagan-Similkameen
Development Procedures Bylaw 2500, 2011**

The REGIONAL BOARD of the Regional District of Okanagan-Similkameen in open meeting assembled, ENACTS as follows:

1. This Bylaw may be cited for all purposes as the "Regional District of Okanagan-Similkameen Development Procedures Amendment Bylaw No. 2500.04, 2015."
2. The "Regional District of Okanagan-Similkameen Development Procedures Bylaw No. 2500, 2011" is amended by:
 - (i) adding a new sub-Section 1.7 (Application Requirements) under Schedule 5.0 (Application for a Temporary Use Permit) to read as follows:

.7 Health and Safety Inspection

(a) confirmation from a Building Inspector, or other qualified individual that the proposed use of a building or structure meets minimum standards for health and safety.
 - (ii) amending sub-Section 2.5 (Processing Procedures) under Schedule 5.0 (Application for a Temporary Use Permit) to read as follows:

.5 Development Services staff will refer the application to all applicable Regional District departments, government ministries and agencies and the appropriate Advisory Planning Commission (APC). The proposal will also be referred to a Municipality if the application could affect that municipality.
 - (iii) amending sub-Section 2.10 (Processing Procedures) under Schedule 5.0 (Application for a Temporary Use Permit) to read as follows:

.10 The Board will consider the technical report and may grant the requested permit, or may refer, table or deny the application.

READ A FIRST TIME on the __ day of ____, 2015.

READ A SECOND TIME on the __ day of ____, 2015.

READ A THIRD TIME on the __ day of ____, 2015.

ADOPTED on the __ day of ____, 2015.

Board Chair

Corporate Officer

ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: B. Newell, Chief Administrative Officer

DATE: April 2, 2015

RE: Gallagher Lake Sewer and Water Service Amendment Bylaw No. 2360.02, 2015

Administrative Recommendation:

THAT Bylaw No. 2630.02, 2015 Gallagher Lake Sewer and Water Service Amendment Bylaw be read a first, second and third time.

Reference:

Bylaw 2630, 2013
Bylaw 2630.01, 2014

History:

The Gallagher Lake Sewer and Water Service was established at the December 19, 2013 Board meeting. The present service area is the existing Deer Park bare land strata development at Gallagher Lake.

Alternatives:

THAT Bylaw No. 2630.02, 2014 Gallagher Lake Sewer and Water Service Amendment Bylaw not be read.

Analysis:

At this time the existing residents of Deer Park are within the Service Area. An adjacent development to the south Lot A , Plan KAP68598, District Lot 25S, Land District Similkameen Div. of Yale has petitioned RDOS to enter the Service Area. There are also opportunities for other property owners along the Gallagher Lake Frontage Road to connect to the water and sanitary infrastructure.

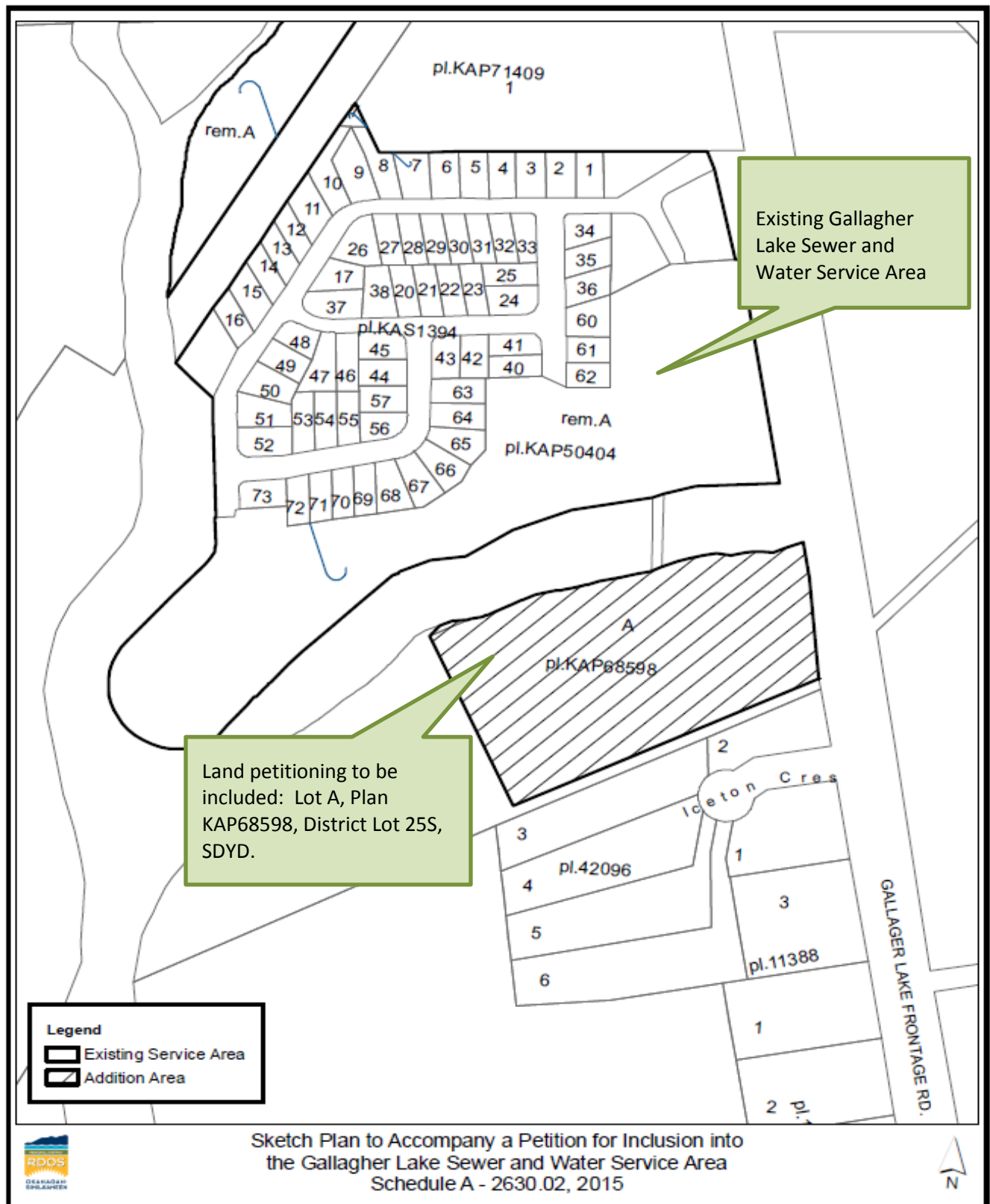
Respectfully submitted:

"Doug French"

D. French, Public Works Manager

Attachment: Attachment No. 1 - Context Map

Attachment No. 1 - Context Map



REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

BYLAW NO. 2630.02, 2015

A bylaw to amend the Gallagher Lake Sewer and Water Service Establishment Bylaw.

WHEREAS the owners of the property described in this bylaw have petitioned the Board of the Regional District to extend the boundaries of the Gallagher Lake Sewer and Water Service Area to include the property;

AND WHEREAS the Regional District has, pursuant to that request, extended the boundaries of the Gallagher Lake Sewer and Water Service Area to include the property;

NOW THEREFORE, the Board of the Regional District of Okanagan Similkameen, in open meeting assembled, ENACTS AS FOLLOWS:

TITLE

1. This bylaw may be cited as the “Gallagher Lake Sewer and Water Service Amendment Bylaw No. 2630.02, 2015.”

AMENDMENTS

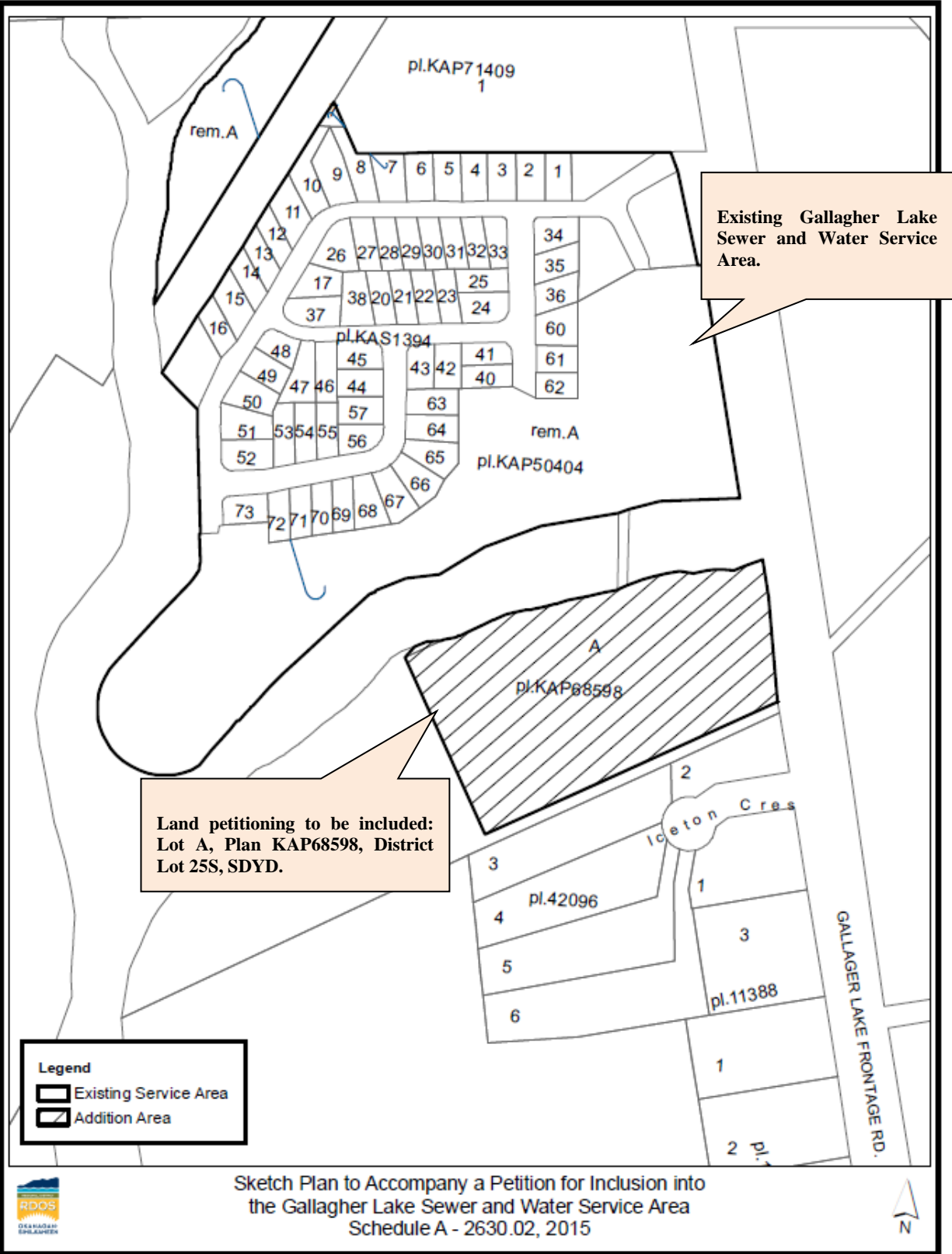
2. The Gallagher Lake Sewer and Water Service Establishment Bylaw No. 2630, 2013, is amended by including the property legally described as:
 - a. Lot A, Plan KAP68598, District Lot 25S, Land District Similkameen Div. of Yale
3. The Gallagher Lake Sewer and Water Service Establishment Bylaw No. 2630, 2013, is further amended by altering Schedule ‘A’ to that bylaw to include within the area shown as that portion of the lands legally described as:
 - a. Lot A, Plan KAP68598, District Lot 25S, Land District Similkameen Div. of Yaleoutlined in heavy black on the plan entitled “Sketch Plan to Accompany a Petition for Inclusion into the Gallagher Lake Sewer and Water Service Area:”, a reduced copy of which is attached as Schedule ‘A’ to this bylaw.

READ A FIRST, SECOND AND THIRD TIME this ____th day of _____, 2015.

ADOPTED this ____th day of _____, 2015.

RDOS Board Chair

Corporate Officer



ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: B. Newell, Chief Administrative Officer

DATE: April 2, 2015

RE: Award E911 Fire Radio Maintenance Contract

Administrative Recommendation:

THAT the Board of Directors award the “E911 Radio System Maintenance Service” to Omega Communications Ltd in the amount of \$37,520.00 plus applicable taxes per year; and,

THAT the Board of Directors authorize the Chair and Chief Administrative Officer to execute the maintenance service agreement.

Reference:

- E911RadioSystem-RFP
- E911RadioSystemMaintenace-RFP-Response-Omega
- E911RadioSystemMaintenanceContract-Omega

Business Plan Objective:

In order to maintain a reliable public safety radio communication system and meet National Fire Protection Association (NFPA) Standards for Public Safety, regular maintenance is required. By conducting regular maintenance of the electronic communications equipment, this should realize a potential longer operations life cycle. Currently our planned (and budgeted) life expectancy of the updated communications system is 10 years.

History:

The original fire dispatch and communications system was maintained on what appeared to be a reactive type system. There was no focus on preventive maintenance. Previously a retainer type fee was paid to a service provider to assist in quick response in the event of an emergency. A Request for Proposal (RFP) was issued on October 29, 2014 and closed on Jan 28, 2015 looking for a service provider to provide preventive maintenance and emergency response to the 26 to 30 communications sites within the RDOS E911 Fire Communications System.

Alternatives:

Not to approve the maintenance contract agreement.

Analysis:

We were expecting three responses to our RFP. We received only one response, that being the one from Omega Communications Ltd.

Omega Communications Ltd:

- was one of the expected respondents;
- is a current component provider familiar with existing sites;
- was a maintenance provider prior to the last award to TAC Mobility;
- their cost fell within our expected/projected cost estimate within the budget.

Respectfully submitted:

"Dale Kronebusch"

D. Kronebusch, Emergency Services Supervisor

ADMINISTRATIVE REPORT



TO: Board of Directors
FROM: B. Newell, Chief Administrative Officer
DATE: April 2, 2015
RE: Licence of Occupation renewal

Administrative Recommendation:

THAT the RDOS Board of Directors authorizes the Chair and Chief Administrative Officer to execute a renewal agreement for the License of Occupation for the term of 30 years at the Southeast ¼ Section 25, Township 54, Similkameen Division Yale District to be used by the Willowbrook Fire Department for a water storage tank for fire protection purposes.

Reference:

License of Occupation File No. 3410805

History:

The Willowbrook Fire Department utilizes water from strategically located water storage tanks for fire suppression purposes within their response area. The location of one of these storage tanks is located on crown land at approx. 1539 Willowbrook Road. The last agreement for this site expired on March 1, 2015 and this renewal agreement is now for 30 years. The cost of this agreement is \$1.00 plus \$200.00 (plus GST) application fee, for a total cost of \$211.05

Respectfully submitted:

Dale Kronebusch

D. Kronebusch, Emergency Services Supervisor

ADMINISTRATIVE REPORT



TO: Board of Directors
FROM: B. Newell, Chief Administrative Officer
DATE: April 2, 2015
RE: License of Occupation – KVR Area C

Administrative Recommendation:

THAT the Board of Directors make application to the Province of British Columbia for a License of Occupation over 4 sections of the former Kettle Valley Right of way legally described as:

Plan KAP423A DL 648S SDYD Portion PCL B3 D E F, Except Plan EPP23666, C/REF 03554.015 FOR GAS PIPELINE R/W SEE R/W 337997 FOR POWERLINE.

Plan KAP429A DL 28S SDYD SEE 714-01133.901 FOR LEASE PORTION.

Lot 1A Plan KAP1729 DL 2450S SDYD

Lot 1B Plan KAP1729 DL 2450S SDYD Except Plan KAP74281, LICENSE NO 339180 FOR AGRICULTURAL PURPOSES.

AND THAT the Board of Directors make application to the Ministry of Transportation and Infrastructure (MoTI) for a Permit to Construct within a section of MoTI Right-of-Way;

AND THAT the Board of Directors authorize staff to enter into discussions with Osoyoos Indian Band (OIB) to negotiate an agreement to use that section of rail trail that crosses OIB Lands;

AND THAT the Chair and Chief Administrative Officer be authorized to execute the License of Occupation with the Province of British Columbia if successful.

Reference:

Application Area Map

History:

The 2011 Regional Trails Master Plan (RTMP) identified acquiring tenure over the former Kettle Valley Railway as a priority to establish a regional trail network within the RDOS. As indicated in the Master Plan, trails offer invaluable opportunities for tourism, social, health and natural benefits. The Kettle Valley Trail in particular is of vital importance to the people of Canada, in particular the residents of the RDOS, who wish to see continued free and open access of our public corridors.

Alternatives:

That the Board not make application to the Province for a License of Occupation at this time.

Analysis:

The KVR right-of-way is not a continuous corridor along this section of the KVR in Area C and a number of jurisdictional negotiations and infrastructure requirements are needed to connect the corridor. Negotiations with the Ministry of Transportation and Infrastructure will be required to construct within the right-of-way of the newly twined section of Highway 97 in addition to discussions with Osoyoos Indian Band for the approximately 550m portion that crosses OIB lands.

A number of infrastructure requirements will also be required make the KVR a continuous rail trail:

- An opportunity exists with existing infrastructure within the Okanagan River for potential retrofitting for a pedestrian bridge.
- Following our trail standards, staff would pursue resurfacing as local funds or grants become available. Based on comparable re-surfacing projects, staff estimates the cost to resurface at approximately \$25,000/km of trail.
- The southern point of the proposed application area will connect with the Oliver River Channel.

Should the board decide to pursue tenure for the proposed application area, RDOS staff will undergo a public consultation process for community/institutional stakeholders during the application period. Once tenure is acquired, RDOS Regional Trails program will continue to work with residents as well as provide operational improvements and maintenance of this section of trail.

Respectfully submitted:

Lindsay Bourque

L. Bourque, Rural Projects Coordinator

White Lake Grasslands
Protected Area

McIntyre Canyon
Regional Park

HWY 97

Osoyoos Indian Band
Reserve

Connection to Okanagan
River Channel

- Okanagan River Channel Trail
- Negotiation Areas
- Proposed Trailhead
- Existing Parking
- Proposed Crosswalk

Legend

TrailPath

Parcels of Interest

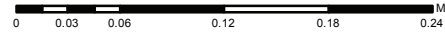
Parcels

IR



1:7,000

Crown Parcels KVR
KVR License of Occupation - Area C



ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: B. Newell, Chief Administrative Officer

DATE: April 2, 2015

RE: Advisory Planning Commission (APC) Appointments

Administrative Recommendation:

THAT the Board of Directors appoint the following as members of the Electoral Area "F" Advisory Planning Commission until October 31, 2018:

Natalie Minunzie	Stewart Patterson	Bob Nicholson
Philip Lawton	Sandy Berry	Don Barron

Analysis:

Bylaw 2339, being a bylaw of the Regional District of Okanagan Similkameen, provides for the creation of Advisory Planning Commissions for each of our electoral areas.

Section 3 of the Bylaw establishes that the role of the Commission is to provide recommendations to the Regional District on all matters referred to it by the Regional District or by its Electoral Area Director respecting land use, the preparation and adoption of an official community plan or a proposed bylaw and permits under Divisions 2, 7, 9 and 11 of Part 26 of the *Local Government Act*.

Section 4 of the Bylaw provides for the appointment of members, requiring the Board, by resolution, to appoint members to each Commission on the recommendation of the respective Electoral Area Director.

At least two-thirds of the members of a Commission for an Electoral Area shall be residents of that electoral area and the members should represent a cross-section of the people and geographic zones in its jurisdiction.

Commission appointments shall be made by the Board for terms which run concurrent with the Board term, and no term of appointment shall extend beyond term of the Electoral Area Director unless re-appointed by the Board.

An Electoral Area Director, Alternate Director, Regional District employee or officer are not eligible to be members of the Commission but may attend a meeting of the Commission in a resource capacity.

Director Brydon has requested that the above names be appointed as members of the Electoral Area "F" Advisory Planning Commission.

Respectfully submitted:

Gillian Cramm

G. Cramm, Administrative Assistant

ADMINISTRATIVE REPORT



TO: Board of Directors
FROM: B. Newell, Chief Administrative Officer
DATE: April 2, 2015
RE: Kaleden Parks & Recreation Commission Appointments 2015

Administrative Recommendation:

THAT the Board of Directors appoint the following people as members of the Kaleden Parks & Recreation Commission for the periods indicated:

Name	Term	Expires
Kim Dennis	2 years	March 31, 2017
Doug King	2 years	March 31, 2017
Gail Jeffrey	2 years	March 31, 2017

Reference:

Bylaw 1555,1997 Kaleden Parks & Recreation Commission Establishment Bylaw.

History:

At the March 17, 2014, AGM of the Kaleden Parks and Recreation Commission it was recommended that Kim Dennis, Doug King, Gail Jeffrey be appointed for 2 year terms.

Tracy Maloney and Brian Baldwin have not renewed their positions with Kaleden Parks and Recreation Commission.

THAT the Board of Directors forward a letter to Ms. Maloney and Mr. Baldwin thanking them for their contribution to the Kaleden Parks & Recreation Commission.

Respectfully submitted:

J. Shuttleworth
Park/Facilities Coordinator
