



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

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Office of the Mayor

July 17, 2014

Board Chair Alastair Bryson
Capital Regional District
625 Fisgard Street
Victoria BC V8W 2S6

Dear Chair Bryson:

Re: McLoughlin Point Reconsideration and \$18.9M "Offer"

With respect to your letter of July 15, 2014 we are encouraged that the Board has taken the essential step of investigating alternate sites.

Your request of the Township to "initiate" a further development approval process for the same wastewater treatment plant at McLoughlin Point is denied. Bylaw 2805, rejected in April 2014, is defeated and the Township has no intention of reconsidering it or reviving it. The \$18.9M "offer" is misleading and without legal authority, and the Township objects to your continued misrepresentations in this regard, particularly given the CRD direction to "use communication tools to provide information directly to Esquimalt residents and solicit feedback from Esquimalt residents, regarding the above offer".

At its meeting of July 14, 2014, Township Council unanimously passed the following resolution in response to the Seaterra request to appear as a delegation at our August meeting, and it is also relevant to responding to your correspondence:

The Township of Esquimalt welcomes all delegation applications as per the Township's delegation application policy & process.

The Township of Esquimalt reiterates its April 7th, 2014 decision to reject the Capital Regional District's Bylaw 2805 rezoning application for a core area wastewater treatment plant at McLoughlin Point, and reminds the Capital Regional District that the extensive, legally correct public process that led to the Township's decision was completed on April 7th, 2014 and positively reinforced in an official statement by the provincial government on May 27th, 2014.

Correspondingly, the Township of Esquimalt has reached closure on the matter of Bylaw 2805 and will not be reconsidering the Bylaw 2805 application.

Furthermore, the Township of Esquimalt's resources are now shifting focus to our community's economic development and the Township welcomes consideration of alternative, appropriate uses for the McLoughlin Point property through the appropriate land use application process.

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The Township also states its full objection to any efforts by the Capital Regional District to use taxpayer-funded resources towards undermining the duly-made zoning decisions of the duly-elected Esquimalt Council. The Township views such actions by the Capital Regional District to be highly inappropriate and contrary to following due public process in addition to not respecting the legal autonomy of locally elected governments, of which the provincial government has reminded the Capital Regional District to respect as per the Province's May 27th, 2014, response to this matter.

Should the CRD nevertheless wish to submit a new rezoning application for a McLoughlin Point wastewater treatment plant, the Township will consider it with an open mind in accordance with its legal obligations under the *Local Government Act*. It is important to note that the Township would expect any new rezoning application to be accompanied by the CRD evidencing its legal authority to make the "offer" to offset Esquimalt's cost-sharing. In CRD Corporate Officer's (Ms. Santarossa) letter of July 8, 2013, the CRD's own legal advice set out that the establishing bylaw must be amended, "a process that requires the consent of 2/3 of the other municipal Councils and the approval of the Inspector of Municipalities." It is inappropriate to take that bylaw amendment and third party approval for granted, particularly given the vote on the CRD Resolution you referenced was not unanimous. Without advancing that amending bylaw, and at least canvassing the issue with the Inspector, the offer to offset Esquimalt's cost-sharing is merely a hypothetical proposition that wastes valuable time and resources.

As the Minister of Environment reminded you on July 3, 2014: "It is also the regional district's responsibility to ensure that all activities conducted ... are carried out with regard to the rights of third parties and comply with other applicable legislation that may be in force."

As Mayor I continue to work with other Mayors to advance alternatives, and we look forward to reporting in due course.

Respectfully,



Barbara Desjardins, Mayor

cc: The Honourable Coralee Oakes, Minister of Community, Sport and Cultural Development
The Honourable Mary Polak, Minister of Environment
CRD Board Members
CRD Chief Administrative Officer, Bob Lapham
Mayor and Councils - City of Victoria, District of Saanich, District of Oak Bay, Township of Esquimalt, Town of View Royal, City of Colwood, City of Langford
Chief Ron Sam, Songhees Nation
Chief Andy Thomas, Esquimalt Nation