



**REPORT TO CORE AREA LIQUID WASTE MANAGEMENT COMMITTEE
MEETING OF WEDNESDAY, JANUARY 9, 2013**

SUBJECT **COMMISSION BYLAW NO. 3851**

ISSUE

The function of the Capital Regional District (CRD) Board to 'review' or 'approve' the terms of the Request for Qualifications and/or Request for Proposals (RFQ/RFP).

BACKGROUND

At the continuation of the November 14 meeting on November 27, the Core Area Liquid Waste Management Committee (CALWMC) approved the following resolution:

That Bylaw No. 3851 be amended to replace the word 'review' in Section 10.1 (a)(i) with 'approve' and that Committee Chair and Vice Chair meet with the Provincial Minister directly.

With the amendment the section reads as follows:

- (a) it shall be the function of the Regional board to:
 - (i) **approve** the terms of the RFQ/RFP

The Province had previously expressed concerns with the Regional Board having final approval of the RFQ/RFP, given that an expert Commission was being established to take responsibility for administration and delivery of the program.

ALTERNATIVES

1. That the Core Area Liquid Waste Management Committee recommend to the Capital Regional District Board:
 - i. That third reading of Bylaw No. 3851, Core Area Wastewater Treatment Commission Bylaw No.1, 2012, be rescinded.
 - ii. That Bylaw No. 3851 be amended by changing the word "approve" to "review" in section 10.1(a)(i).
 - iii. That Bylaw No. 3851 be read a third time, as amended.
 - iv. That Bylaw No. 3851 be adopted, as amended.
2. That the Core Area Liquid Waste management Committee take no action on the Minister's letter.

IMPLICATIONS

Alternative 1

On December 5, 2012 the Committee Chair, the Chief Administrative Officer and the Interim Program Director had a telephone conversation with Minister Bennett (Ministry of Community, Sport

and Cultural Development) and the Deputy Minister to discuss this issue. As a result of the conversation, the attached letter was received from the Minister (Attachment 1). The Minister believes that the CRD should have and will have the authority to set the scope of the project, the budget, the principles for evaluation the RFQ and RFP and design guidelines for above ground structures. These authorities are included the Bylaw No. 3851. In the Minister's view, there needs to be a clear line between setting policy (elected officials) and allowing professionals (the Commission) to use their technical acumen to deliver this large complex project as provided by the wording of the original bylaw.

Alternative 2

Not acceding to the minister's position may have implication for funding as the provincial Contribution Agreement requires that the CRD '...establish, by a bylaw **acceptable to the Province** and prior to any procurement awards for construction of the Project, a Commission ...' (emphasis added). As currently worded, the bylaw does not reflect the view for the Province.

By not delegating the authority for the approval of the RFQ/RFP documents, the Commission is limited in its ability to carry out its obligations as defined in Section 2 of the bylaw.

CONCLUSION

As a result of the telephone conversation, Minister Bennett has expressed the view that everyone is best served by the balance reflected in the original bylaw, specifically that Section 10.1 (a)(i) include 'review' rather than 'approve'.

RECOMMENDATION

That the Core Area Liquid Waste Management Committee recommend to the Capital Regional District Board:

- i. That third reading of Bylaw No. 3851, Core Area Wastewater Treatment Commission Bylaw No.1, 2012, be rescinded.
- ii. That Bylaw No. 3851 be amended by changing the word "approve" to "review" in section 10.1(a)(i).
- iii. That Bylaw No. 3851 be read a third time, as amended.
- iv. That Bylaw No. 3851 be adopted, as amended.

J.A. (Jack) Hull, P.Eng., MBA
Interim Program Director
Core Area Wastewater Treatment Program

Kelly Daniels
Chief Administrative Officer
Concurrence

JH:hr

Attachment: 1



December 14th 2012

Ref: 152087

Ms. Denise Blackwell
 Chair
 Core Area Liquid Waste Management Committee
 Capital Regional District
 625 Fisgard Street
 Victoria, BC V8W 2S6

Dear Ms. Blackwell:

I am following up on our telephone conversation of December 5, 2012. Thank you for your forthright honesty and directness. Your advocacy for the Capital Regional District (CRD) is laudable.

I want to confirm what I said during our conversation, that the CRD should have and will have authority to set the scope of the project, to establish the budget, to establish principles for evaluating the Request for Qualifications and the Request for Proposal, and to approve design guidelines for all above-ground structures. In my view, this provides the CRD with the control over the project that the taxpayers of the CRD expect.

I know that CRD elected officials are committed to a sound and proven delivery model for the wastewater program in the capital region, as are we, your colleagues in the BC Cabinet. I hope that your Board can agree that delivering large, complex projects in the most cost-effective way depends on all elected officials recognizing the line between setting policy and allowing professionals to use their technical acumen. Experience shows that the more that line is blurred, the more potential there is for cost increases, delays and unhappy taxpayers; and the more that line is blurred, the less attractive the project is to bidders who want certainty and timeliness.

The CRD Chief Administrative Officer and the Core Area Liquid Waste Management Committee (CALWMC) Chair (or designate) are able to attend all meetings of the independent Commission of experts and will have a fulsome opportunity to fulfill an important advisory role between the Commission, the CALWMC and the Regional Board.

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Ministry of Community, Sport
 and Cultural Development

Office of the Minister

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Ms. Denise Blackwell
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It is my view that everyone is best-served by the balance reflected in the original bylaw. Again, thank you for your constructive approach to working with me. It was a pleasure talking with you and thank you for seeking the government's position on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Bennett", with a long horizontal flourish extending to the right.

Bill Bennett
Minister

pc: Mr. Don Fast
Deputy Minister
Ministry of Community, Sport and Cultural Development

Mr. Geoff Young
Chair
Capital Regional District

Mr. Kelly Daniels
Chief Administrative Officer
Capital Regional District