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JWDC 2013 - 03

**REPORT TO THE JUAN DE FUCA WATER DISTRIBUTION COMMISSION
MEETING OF TUESDAY, FEBRUARY 5, 2013**

SUBJECT ESTABLISHMENT OF NEW WATER RATE CLASS

ISSUE

To consider establishing a new rate class under the Juan de Fuca Water Distribution Service Fee and Charges Bylaw

BACKGROUND

At the meeting of the Juan de Fuca Water Distribution Commission (JWDC) on December 14, 2012, and further to the staff report of the same date on the subject of 'Water Rate Reduction for Specific User Classes in the Juan de Fuca Water Distribution Area', the JWDC directed staff to determine the risks associated with establishing specific user classes and water rates under the Juan de Fuca Water Distribution Fee and Charges Bylaw (the Bylaw). The Bylaw currently does define one user class and water rate other than the retail rate, and that is the *Community Allotment Garden* class, which is charged the agricultural water rate. Based on defining a new class, *Non-Profit Organization – Wild Animal Rehabilitation Facility*, staff have been advised to amend the Bylaw to include a clause to reduce the risk of having the entire bylaw invalidated, should a court find one section of the bylaw invalid. However, there would remain a 'small' risk that the entire Bylaw might be set aside as invalid if a section, sub-section, paragraph, fee or charge was challenged. It is recommended to set the water rate of the new class at the annual Regional Water Supply wholesale water rate, to ensure the costs of bulk water purchased by the Juan de Fuca Water Distribution Service are recovered.

ALTERNATIVES

1. That the Juan de Fuca Water Distribution Commission direct staff to:
 - a) Amend *Bylaw No. 3821, Capital Regional District Water Distribution Local Service Conditions, Fees and Charges Bylaw No. 1, 2012*, to include a clause stating, "If any section, sub-section, paragraph, fee or charge imposed by this bylaw is found to be invalid by a court of competent jurisdiction, then it may be severed from the bylaw without affecting the validity of the remainder of the bylaw."; and
 - b) Establish a new class and water rate under *Bylaw No. 3821, Capital Regional District Water Distribution Local Service Conditions, Fees and Charges Bylaw No. 1, 2012*, described as *Non-Profit Organization – Wild Animal Rehabilitation Facility*; the water rate for this class shall be the Regional Water Supply annual wholesale water rate.
2. That the Juan de Fuca Water Distribution Commission direct staff not to establish a new class and water rate.

IMPLICATIONS

Alternative 1: Based on the CRD customer information for the service area, the new rate class would apply to one customer. Based on consumption history for the customer, at the wholesale water rate, the revenue reduction would be approximately \$5,000 annually.

Alternative 2: With the exception of those customers eligible for the Community Allotment Garden class and water rate, all customers would pay the retail water rate outlined in the Bylaw.

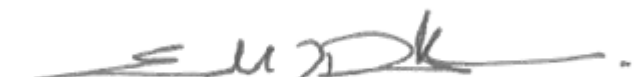
CONCLUSION

Establishing a new class and water rate under the Bylaw, described as *Non-Profit Organization – Wild Animal Rehabilitation Facility*, allows for facilities of this class to pay the Regional Water Supply wholesale water rate, rather than the retail water rate.

RECOMMENDATIONS

That the Juan de Fuca Water Distribution Commission direct staff to:

1. Amend *Bylaw No. 3821, Capital Regional District Water Distribution Local Service Conditions, Fees and Charges Bylaw No. 1, 2012*, to include a clause stating, "If any section, sub-section, paragraph, fee or charge imposed by this bylaw is found to be invalid by a court of competent jurisdiction, then it may be severed from the bylaw without affecting the validity of the remainder of the bylaw."; and
2. Establish a new class and water rate under *Bylaw No. 3821, Capital Regional District Water Distribution Local Service Conditions, Fees and Charges Bylaw No. 1, 2012*, described as *Non-Profit Organization – Wild Animal Rehabilitation Facility*; the water rate for this class shall be the Regional Water Supply annual wholesale water rate.



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