



**REPORT TO JUAN DE FUCA WATER DISTRIBUTION COMMISSION
MEETING OF TUESDAY, SEPTEMBER 3, 2013**

SUBJECT BYLAW 3889 – WATER DISTRIBUTION LOCAL SERVICE CONDITIONS, FEES AND CHARGES

ISSUE

A comprehensive review and update of the Water Distribution Local Service Conditions, Fees and Charges bylaw is required in order to identify and resolve any legal / technical issues.

BACKGROUND

In addition to regular reviews and updates, periodically, the Capital Regional District (CRD) submits the Water Distribution Local Service Conditions, Fees and Charges bylaw to legal counsel for a comprehensive administrative review to identify any issues and required changes.

Based on Stewart McDannold Stuart's latest review conducted in early 2013, several changes are recommended:

1. Edits to clarify business processes and all parties' responsibilities therein;
2. Edits to improve wording and organization of the bylaw;
3. Addition of a schedule that itemizes the costs of a service connection or waterworks extension, as these costs (referred to as "actual", "additional", or "estimated") are unknown and are not considered "a fee or charge" under the *Local Government Act*;
4. Removal of Schedule D – Minimum Fines - and references thereto, as there is no mechanism for a customer or owner to dispute the fines.
5. Removal of references to tort liability; if a customer causes damage, the CRD has to make a claim for damages against the customer.

A draft of the bylaw with all the recommended changes listed above, with the exception of item 3 (which will be addressed in a future bylaw amendment pending analysis of the costs) is attached.

ALTERNATIVES

1. Endorse the changes to the Water Distribution Local Service Conditions, Fees and Charges bylaw as proposed in Bylaw No. 3889 cited as "Water Distribution Local Service Conditions, Fees and Charges, Bylaw No.1, 2013";
2. Recommend to the CRD Board that Bylaw No. 3889 cited as "Water Distribution Local Service Conditions, Fees and Charges, Bylaw No.1, 2013" be introduced, read a first and second time, read a third time, and adopted.
3. Submit Bylaw No. 3889 to staff for further review.

IMPLICATIONS

Administrative

The proposed corrections ensure technical and legal accuracy. Failure to update the bylaw exposes the CRD to the risk of inappropriately administering fees and fines.

CONCLUSION

The CRD submitted the Water Distribution Local Service Conditions, Fees and Charges bylaw to Stewart McDannold Stuart for a comprehensive review in early 2013. This review identified several technical corrections in addition to three major issues involving the use of fees or fines relating to unknown costs, fines for offenses, and tort liability. The attached draft of Bylaw No. 3889 incorporates all the changes recommended in this review, other than inclusion of a schedule of service connection and waterworks connection costs. This schedule will be added in a subsequent amendment.

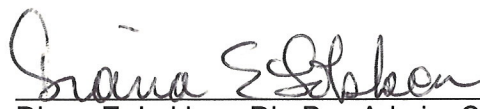
RECOMMENDATION

That the Juan de Fuca Water Distribution Commission:

1. Endorse the changes to the Water Distribution Local Service Conditions, Fees and Charges bylaw as proposed in Bylaw No. 3889 cited as “Water Distribution Local Service Conditions, Fees and Charges, Bylaw No. 1, 2013”; and
2. Recommend to the CRD Board that Bylaw No. 3889 cited as “Water Distribution Local Service Conditions, Fees and Charges, Bylaw No. 1, 2013” be introduced, read a first and second time, read a third time and adopted.



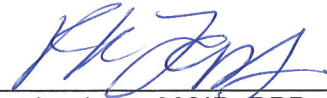
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Attachments: Bylaw 3889