

**STAFF REPORT TO THE PLANNING & PROTECTIVE SERVICES COMMITTEE
MEETING OF WEDNESDAY, NOVEMBER 22, 2006**

SUBJECT:

PUBLIC CONSULTATION PROCESS - AMENDMENT TO CLEAN AIR BYLAW

PURPOSE:

To submit and obtain Board approval for the public consultation plan for the proposed amendment to the Clean Air Bylaw.

BACKGROUND:

In August, the CRD Board of Directors moved that “the proposed amendment to the Clean Air Bylaw that would define ‘outdoor area enclosure’ be abandoned and that staff be directed to proceed with a new public consultation process on proposed amendments to the Clean Air Bylaw that would require all patio space of businesses where food and beverages are served to be smoke-free.”

Staff has completed a preliminary consultation plan which is summarized in this report.

The hearings would be hearings of the Board. Subject to Committee’s endorsement of the consultation plan, the proposed bylaw amendment will not come back to Committee. The findings of the public hearing and the staff recommendation would go direct to the Board.

ALTERNATIVES:

The Board has already called for public hearings. The main options relate to the number and location of the hearings.

How many hearings and where would they occur? There are four main options:

TABLE 1. Options for Schedule of Public Hearings

OPTION	HEARINGS	DAYS	LOCATIONS
1	3 ¹	2 ²	3
2	2	2	1
3	2	1 ²	1
4	1	1	1

Notes:

¹Each of the three recognized sub-regional areas (urban core, Western Communities, Saanich Peninsula)

²Requires afternoon and evening hearing

When? The hearings are proposed for February 2007. The following dates, Thursday and Fridays have been checked to avoid conflicts with other regular District and member Council meetings:

- February 1 & 2
- February 8 & 9
- February 15 & 16
- February 22 & 23

PUBLIC HEARING IMPLICATIONS

Staff recommends Option 3 involving two hearings in one location on one day; Option 4, one hearing in one location on one day, is also acceptable. A location for the hearings was still under review at the time of report preparation with the City of Victoria Council Chambers favoured.

Options 3 and 4 are preferred over Option 2 which in turn, is preferred over Option 1. Option 1 requires considerably more time, is more complicated to arrange and conduct and more costly.

Options 3 and 4 offer the convenience of a one-day event with a mid-afternoon and evening hearing (Option 3) or a single evening hearing (Option 4). Option 3 is preferred over Option 4 because it allows presenters the flexibility of attending in the afternoon or evening.

Option 2 was the method for the original 1996 Clean Air Bylaw which pertained to the much wider and more controversial regulation for indoor public spaces. To avoid conflicts with the Directors other municipal and District commitments requires one of the hearings to be on a Friday.

Option 3 is recommended.

PUBLIC CONSULTATION IMPLICATIONS

The Public Hearings:

Following are the key features of the public hearings:

- Pre-registration of speakers (no walk-ons permitted, written submissions encouraged).
- Objective to provide equal opportunity for proponents and opponents (subject to pre-registrations being equal).
- Maximum 30 speakers at each hearing with 5-minute limit (if pre-registration exceeds expectations a third hearing may be necessary).
- External professional facilitator.

All of these aspects were included in the original Clean Air Bylaw public consultation process which was seen as both fair and efficient.

A more detailed format for the hearings is found in Attachment A.

Board Deliberations:

The Board will consider the submissions at the public hearings in combination with the written case to be submitted by the Chief Medical Health Officer of the Vancouver Island Health Authority (VIHA) and staff reports (the latter two submitted ahead of the public hearings) at the March 2007 Board meeting.

Activities Occurring Before the Public Hearings:

The proposed bylaw amendment and the public hearing process will be more fully explained through communications of both the District and VIHA. In these communications, the responsibilities of both parties will be explained.

A District website will be set up to explain the proposed legislation, why the CRD has responsibility for the legislation and the responsibility of the Chief Medical Health Officer (CMHO) of the Vancouver Island Health Authority (VIHA). The website will have links to the CMHO's website which will contain the explanation, background and evidence in support of the proposed bylaw amendment. Links to other organizations' websites are also a possibility.

The District website will also be used to explain and organize the public hearings. This will include notification of the public hearings, a description of the hearing process, pre-registration and ordering of speakers, and the receipt of written submissions. With the assistance of CRD Corporate Communications, a media plan will be devised (media kits, notices of public hearings, media coverage, etc.).

FINANCIAL IMPLICATIONS:

An amount of \$12,500 is set aside to cover the cost of the public consultations. The budget is currently under development.

RECOMMENDATION:

That the Planning & Protective Services Committee recommend to the Capital Regional District Board of Directors:

1. That the proposed public consultation plan with public hearings, one in the afternoon and one in the evening, to occur on February 15, 2007, be approved.

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Report Writer

Robert Lapham, General Manager Concurrence

Kelly Daniels, CAO Concurrence

COMMENTS: