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REPORT TO CAPITAL REGIONAL DISTRICT BOARD MEETING OF WEDNESDAY, AUGUST 10, 2022

SUBJECT **Bylaw No. 4507: Salt Spring Island Local Community Commission – Revision**

ISSUE SUMMARY

To revise Bylaw No. 4507 to clarify the process for by-elections during a mid-term vacancy.

BACKGROUND

On July 13, 2022, Bylaw No. 4507, “Salt Spring Island Local Community Commission Establishment Bylaw No. 1, 2022”, was read three times. A Local Community Commission (LCC) bylaw may establish a different manner of holding elections than that set out in the *Local Government Act (LGA)*. Section 9 of the Bylaw permits Board selection of the by-election method, including voting by mail only, appointment after a nomination period, or by standard *LGA* election provisions. The intention of including these provisions was to avoid a costly by-election by allowing other options to fill short-term vacancies.

As part of the legislative process, the bylaw was sent to the Inspector of Municipalities for review. CRD staff raised concerns of a public delegate on the ability to appoint during by-elections and engaged on whether the voting by mail provision would be acceptable.

Given the lack of clarity on a mid-term appointment versus election of commissioners, the Province recommended a bylaw revision to avoid any issue. For voting by mail, Provincial staff recommended CRD make a risk assessment whether to revise, as the Inspector may require clarifying language and reference to specific Part 3 *LGA* sections. If the Inspector were to require an amendment, the bylaw would not be approved in time to proceed to referendum at the time of the General Local Election.

Given the primary focus of the upcoming referendum is a governance change, not alternative by-election provisions, staff recommend removing section 9 to avoid any potential delays in Inspector approval. If desired in future, the Regional Board may pass an amending bylaw for elector consideration.

ALTERNATIVES

Alternative 1

1. That third reading of Bylaw No. 4507, “Salt Spring Island Local Community Commission Establishment Bylaw No. 1, 2022”, be rescinded;
2. That Bylaw No. 4507 be amended as follows:
 - a. That section 8 be amended to read “The local community shall elect commissioners at the end of each four year term in accordance with the manner provided in Part 3 [*Electors and Elections*] of the *Local Government Act*.”
 - b. That section 9 be deleted in its entirety and that all subsequent sections be renumbered in numerical order;
 - c. That the renumbered section 23 be amended to replace the reference words “section 23” after the words “by the methods set out in” with the words “section 22”.
3. That Bylaw No. 4507 be read a third time as amended;
4. That Bylaw No. 4507 as amended be referred to the Inspector of Municipalities; and

5. That the July 13, 2022 resolutions approving proceeding by elector assent by referendum, appointing the Chief Election Officer, setting the referendum question, and setting the dates of general voting, and approving the synopsis of Bylaw No. 4507, be affirmed as applying to Bylaw No. 4507, as amended.

Alternative 2

The Capital Regional District Board direct staff to request Inspector of Municipalities review of Bylaw No. 4507 without amendment.

IMPLICATIONS

While election method may be altered, given the Inspector’s discretion to approve or deny and a lack of judicial or legislative guidance, it is unknown the extent to which this may be done. Default election provisions are suitable and by-election expenses only occur if a by-election is necessary.

Should CRD proceed as-is, Bylaw No. 4507 may be rejected by the Inspector. If it is approved by the Inspector and electors, defending a legal challenge would be a financial burden on the SSI EA and defeat the cost-saving purpose of the provisions, even if CRD were successful.

CONCLUSION

Removing section 9 and continuing to referendum is recommended.

RECOMMENDATION

1. That third reading of Bylaw No. 4507, “Salt Spring Island Local Community Commission Establishment Bylaw No. 1, 2022”, be rescinded;
2. That Bylaw No. 4507 be amended as follows:
 - a. That section 8 be amended to read “The local community shall elect commissioners at the end of each four year term in accordance with the manner provided in Part 3 [*Electors and Elections*] of the *Local Government Act*.”
 - b. That section 9 be deleted in its entirety and that all subsequent sections be renumbered in numerical order;
 - c. That the renumbered section 23 be amended to replace the reference words “section 23” after the words “by the methods set out in” with the words “section 22”.
3. That Bylaw No. 4507 be read a third time as amended;
4. That revised Bylaw No. 4507 as amended be referred to the Inspector of Municipalities; and
5. That the July 13, 2022 resolutions approving proceeding by elector assent by referendum, appointing the Chief Election Officer, setting the referendum question, and setting the dates of general voting, and approving the synopsis of Bylaw No. 4507, be affirmed as applying to Bylaw No. 4507, as amended.

Submitted by:	Kristen Morley, JD, General Manager, Corporate Services
Concurrence:	Karla Campbell, MBA, BPA, Senior Manager, Salt Spring Island Electoral Area
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

ATTACHMENTS

Appendix A: Bylaw No. 4507, “Salt Spring Island Local Community Commission Establishment Bylaw No. 1, 2022” (as amended)

Appendix B: Bylaw No. 4507 (Redlined)