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REPORT TO ELECTORAL AREAS COMMITTEE MEETING OF WEDNESDAY, JULY 8, 2020

Subject **Bylaw No. 1465 – Livestock Kill Compensation; Alternatives for Electoral Area Participation**

ISSUE

On March 13, 2019, the Electoral Areas Committee (EAC) directed staff to prepare proposed service establishment bylaw amendments to provide for livestock kill compensation within the Southern Gulf Islands (SGI) and Salt Spring Island (SSI) Electoral Areas.

BACKGROUND

In March 2019, staff were directed to examine options and prepare bylaw amendments for splitting the existing livestock kill compensation service into three separate services, such that residents of each electoral area would only be responsible for paying livestock kill compensation claims from their specific electoral area, rather than the current cost-share arrangement which requires all residents to share equally.

Due to its nature, being a regulatory service within a regulatory service created by Letters Patent, rather than an establishing bylaw, this conversion has been found to be more complicated than initially thought. Direction is required as to what the preferred method of service arrangement is in the electoral areas, prior to drafting of bylaw amendments.

Legal Framework

A regional board which charges dog licensing fees may pay compensation to the owner of livestock killed or injured by any dog more than four months in age, whose owner cannot be located, and where the owner of the livestock has taken all reasonable precautions against such attacks (*Local Government Act*, RSBC 2015, c 1, s. 319(4)).

The Capital Regional District (CRD) has a compensation program in its *Animal Impounding and Regulation Bylaw No. 1, 1986* (Bylaw No. 1465), ss. 19 to 23, contained in Appendix A. The CRD has paid compensation since the creation of its animal control service, starting with the *Dog Regulation and Impounding Bylaw No. 1, 1979* (Bylaw No. 551).

The per animal limit is presently \$750. No annual maximum limit is set out. The total compensation claims received for 2018 was \$8,681.25 and \$2,475 for 2019 (two claims for SGI and one for Metchosin), not including administrative and veterinarian costs. The CRD does not specifically budget for these claims, and this amount is borne by the operating budget for animal control which does not have adequate capacity to manage these additional unplanned costs to the program. Throughout the history of this program there have been loss claims in all electoral areas.

The typical process is for the CRD to send staff, along with a qualified veterinarian, to investigate and determine whether an animal kill was by a rogue dog. The cost of this process can be greater than \$1,000 when all staff, veterinary and administrative time is considered depending on the location and nature of the claim, not inclusive of the compensation claim itself. The CRD has processed approximately 16 such claims in the last 15 years. With claim amounts difficult to predict from year to year the existing budget has not included ongoing funding for claims.

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Prior Discussions

The evolution of the Bylaw No. 1465 discussions at EAC are as follows:

Sept. 5, 2018:

Staff were directed to bring forward bylaw amendments to eliminate future compensation claims following any claims that are currently in process.

Oct. 10, 2018:

That staff report item 5.2 and Bylaw No. 4264, Animal Regulation and Impounding Bylaw No. 1, 1986, Amendment Bylaw No. 12, 2018 be deferred pending consultation with the farming community and;

That staff be directed to provide alternative options to make the sheep kill program applicable to individual electoral areas or municipal jurisdictions.

Dec. 4, 2018 (Special EAC):

During the EAC strategic planning session, the EAC Directors requested that the amended bylaw be brought back to the January 9, 2019 meeting for reconsideration.

Jan. 9, 2019:

The staff report was referred back to staff to report back on alternative options to allow each Electoral Area to make its own decision on participation in the livestock kill compensation program.

Staff were told not to undertake consultation with farmers as the Electoral Areas Committee felt they had heard from the farming community on the issue.

Mar. 2019:

That staff be directed to prepare proposed service establishment bylaw amendments to provide for livestock kill compensation within the Southern Gulf Islands and Salt Spring Island Electoral Areas, as directed by the Committee.

DISCUSSION

Bylaw No. 1465 is a Regulatory Bylaw established in 1986 in support of Letters Patent from 1979. The bylaw outlines the scope of the animal control service, including operation of a pound and payment of compensation for injury to livestock. The Letters Patent set out the method of service funding and requires each electoral area participant to share equally in animal control. There is no separate service establishment bylaw that articulates the funding mechanism for this livestock kill compensation program. Due to legal restrictions, changes cannot be made to the service authority absent a conversion of the Letters Patent into an establishing bylaw and separation of the livestock kill compensation service, as directed by the CRD Board.

Without significant delay, the current bylaw may be amended to limit the amount paid to a specific incident, per claimant per year, establish an annual cap, or increase the compensation amount. Taxation would still remain split amongst the three electoral area participants.

If the EAC chooses to remove the livestock kill compensation component from Bylaw 1465 to set up a new service(s), the establishing bylaws to create the new separate services would need Ministry approval. Because this is a regulatory bylaw, and the compensation services can be established without borrowing, each Electoral Area Director can consent on behalf of the electors to the conversion and the service separation (sections 349 and 339(b) of the *Local Government Act*).

Once in place, CRD would requisition the participating Electoral Areas under the new services separate from the ongoing requisition for animal control. Typical service establishment bylaw processes can take up to a year to put in place.

ALTERNATIVES

Alternative 1:

- a) That staff be directed to convert the Animal Control Service created by Letters Patent to a service operated by establishing bylaw;
- b) That staff be directed to separate-out the livestock kill compensation function into three separate services, one for each electoral area; and
- c) That the bylaw for each livestock kill compensation service set an annual maximum at the recommendation of the applicable Electoral Area Director.

Alternative 2:

- a) That staff refrain from converting the Animal Control Service, and retain the livestock kill compensation provisions in its current form; and
- b) That an annual maximum for compensation be set to a value of \$10,000.

IMPLICATIONS

Financial Implications

The financial implications of the changes to the livestock kill compensation component of Bylaw No. 1465 will depend solely on the option chosen.

In any event, it is recommended that a base reserve fund of \$5,000 be established and maintained to manage these claims going forward. It is also recommended that an annual maximum cap be established on the compensation program that would require a lesser amount of funding to sustain the program and any potential claims, balancing the interests of livestock owners with the administrative cost of operating the program.

Alternative 1: One animal control service, three compensation services

This option will retain enforcement, operations, and administration with shared costs among all electoral areas, but will split payment of compensation into each electoral area specifically.

Alternative 2: No change

This would leave the status quo in place, but set an annual maximum for claims in an amount that is fair to claimants but is possible to budget for in a manner that does not unnecessarily raise taxation. This would also free up CRD resources to be used on other projects relating to the electoral areas, as bylaw conversion and service establishment are time-intensive projects.

Intermunicipal Implications

CRD's Animal Control Service provides contract-for-service work to other municipalities. As a result of this service change and clarification of the compensation service, contractual amendments may be required to ensure that each municipality pays for its own animal injury compensation claims and sets its own annual maximum under its applicable bylaw.

CONCLUSION

Any change to alter the way Electoral Areas participate will require the conversion of the Letters Patent and one animal control service establishing bylaw with one or more livestock kill compensation services. Removal of or change in rates for the livestock kill compensation component can be achieved without new service establishment bylaws needing to be created as long as all Electoral Areas participate. As this program is currently not funded in the current Animal Control budget, 2020 claims will need to be funded from the Bylaw Services Operating Budget and budgeted for in 2021 should the program continue.

RECOMMENDATION

- a) That staff be directed to convert the Animal Control Service created by Letters Patent to a service operated by establishing bylaw;
- b) That staff be directed to separate-out the livestock kill compensation function into three separate services, one for each electoral area; and
- c) That the bylaw for each livestock kill compensation service set an annual maximum at the recommendation of the applicable Electoral Area Director.

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Attachment: Appendix A: Bylaw No. 1465 *Animal Regulation and Impounding* Bylaw No. 1, 1986