

**REPORT TO SAANICH PENINSULA WASTEWATER COMMISSION
MEETING OF TUESDAY, NOVEMBER 10, 2020**

SUBJECT **CRD Bylaw No. 4391 - Establishment of a New Harbours Environmental Action Service for Saanich Peninsula**

ISSUE SUMMARY

The Saanich Peninsula local governments requested a new service to support environmental stewardship on the Peninsula in response to increasing stressors on the marine environment.

BACKGROUND

Local government staff approached Capital Regional District (CRD) staff in the summer of 2020 to explore the potential for a CRD service to address increasing challenges in harbours and marine waters on the Saanich Peninsula. Further conversation at the Chief Administrative Office level indicated an interest in the use of regulatory approaches (e.g., a licence of occupation model) to control the presence and behaviours of boat owners in the near shore waters. The local governments have now made a formal request for the CRD to consider a new service (see appendices A, B and C).

The CRD currently provides a “Harbours Environmental Action” service for the core area local governments and First Nations, with an emphasis on environmental stewardship through education and outreach efforts, as well as facilitation and coordination between local government staff and community groups. This service meets a commitment under the core area’s Liquid Waste Management Plan and the service was expanded slightly in 2010 to include broader environmental stressors on the watersheds beyond liquid waste management.

Given the different authorities responsible for harbours oversight, the appropriate focus for a new regional service would include education and outreach, and coordination of efforts by various stakeholders (Appendix D).

ALTERNATIVES

The Saanich Peninsula Wastewater Commission recommends to the Capital Regional District Board:

Alternative 1

1. That CRD Bylaw No. 4391 "Saanich Peninsula Waterways Environmental Action Service Establishment Bylaw No. 1, 2020" be introduced and read a first, second time and third time; and
2. That Bylaw No. 4391 be referred to the municipal councils of the participants for approval, and if two-thirds of approval is received, to the Inspector of Municipalities.

Alternative 2

That Bylaw No. 4391 be referred back to staff for further review.

IMPLICATIONS

Environmental Implications

There are multiple environmental risks associated with near shore waters, including contaminant runoff, bilge discharges, habitat alteration and illegal dumping. Local government actions to address these issues range from education and outreach, advocacy to senior levels of government for action, and the pursuit of new regulatory and enforcement options for local governments.

Intergovernmental Implications

Current jurisdiction for overseeing boat owners and their respective actions lies with senior levels of government. Issues relating to vessel pollution rest with the federal government, under environmental legislation (*Fisheries Act, Migratory Birds Protection Act, etc.*), navigation legislation (*Canada Shipping Act, Small Vessel Regulations, Collision Regulations*), and compensation legislation (e.g., the Ship Source Oil Pollution Fund). Enforcement is performed by the relevant federal enforcement office, the Coast Guard, and in quasi-criminal areas, by police. Issues associated with contaminant run-off (e.g., stormwater, septage, spills) from land may lie with the local governments, health authorities, the Province (through environment and public health powers), or on the federal government (such as where spills and discharges impact wildlife).

In general, local governments may not regulate vessel liquid waste discharges, engine size, noise (if related to navigation), or short-term moorage. Vessel pollution is enforced by Transport Canada and the Coast Guard, via the *Vessel Pollution and Dangerous Chemicals Regulation*, which requires all vessels to: have a marine sanitation device or discharge three nautical miles from shore; use a holding tank and a pump out station; or use temporary storage and dispose of safely elsewhere.

Regulation of navigation and shipping, which includes temporary moorage, is within the exclusive jurisdiction of the federal government. Local governments have only been successful at regulation of moorage where they utilize their zoning powers in an area within the “jaws of the land”, such as an inlet, bay, or inland waterway, that they also have a licence of occupation over.¹ While the CRD could be contracted by the participating local governments to enforce zoning bylaws and share costs (for example, vessel and enforcement proceeding costs), the CRD cannot restrict moorage.

Initially, a new service would be similar to the efforts in the core area that provide a forum to bring senior levels of government together with local government staff and First Nations, along with community groups to discuss the issue and coordinate roles and responsibilities for action. The service would not likely achieve any regulatory powers but could dedicate effort and attention through public outreach and engagement, advocacy, pursuit of specific projects and coordination of any local government actions.

¹ *City of Victoria v Zimmerman*, 2018 BCSC 321; *West Kelowna (District) v. Newcomb*, 2013 BCSC 1411, aff'd 2015 BCCA 5

Financial Implications

Staff have based potential service costs (staff time, overhead, operating budget) on the existing core area Harbours Environmental Action service (which provides a similar function for the core area municipalities). Under that service, the annual cost for the service is apportioned on the basis of the population (as determined annually by the Regional Planning Service of the CRD) of the participating areas.

Staff time is based on a proposal of starting with one day/week with some supervisory support. Staff labour costs are based on one seven-hour day per week and are approximately \$42,000. Estimated operating costs are based on support for potential campaigns, stakeholder engagement, advertising, in-kind support for grant applications, etc. A range of \$15,000-\$20,000 is consistent with efforts in the core area but would be refined as staff discuss service levels and tasks with the local governments. The proposed cost apportionment for the District of Central Saanich, District of North Saanich and Township of Sidney is presented in Appendix E.

CONCLUSION

The Saanich Peninsula local governments have asked the CRD to consider a new service to support ongoing issues with nearshore marine waters. Local and regional governments have limited jurisdiction and authority over the range of issues associated with these waters. The CRD could play a facilitating role that brings stakeholders together to coordinate actions and address environmental issues.

RECOMMENDATION

The Saanich Peninsula Wastewater Commission recommends to the Capital Regional District Board:

1. That CRD Bylaw No. 4391 "Saanich Peninsula Waterways Environmental Action Service Establishment Bylaw No. 1, 2020" be introduced and read a first, second time and third time; and
2. That Bylaw No. 4391 be referred to the municipal councils of the participants for approval, and if two-thirds of approval is received, to the Inspector of Municipalities.

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Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

ATTACHMENTS

- Appendix A: Saanich Peninsula Harbour Initiative – Letter from Central Saanich (August 6, 2020)
- Appendix B: Saanich Peninsula Harbour Initiative – Letter from the District of North Saanich (September 8, 2020)
- Appendix C: Saanich Peninsula Harbour Initiative – Letter from Town of Sidney (September 15, 2020)
- Appendix D: Bylaw No. 4391 "Saanich Peninsula Waterways Environmental Action Service Establishment Bylaw No. 1, 2020"
- Appendix E: Proposed Cost-Share for Participating Municipalities and Apportion of Expenditures for Proposed Saanich Peninsula Harbours Service