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**REPORT TO CAPITAL REGIONAL DISTRICT BOARD  
MEETING OF WEDNESDAY, MAY 26, 2021**

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**SUBJECT**     **Repeal of Core Area Wastewater Treatment Project Delegation and Related Delegation Bylaw Amendments**

**ISSUE SUMMARY**

The Core Area Wastewater Treatment Project (the “Project”) is ending its construction phase and transitioning to an operation that will be overseen by CRD staff. As the Project Board and Project Team’s term of appointment has ended, the delegation of authority to the Project Board, Project Director and Deputy Project Director is no longer required. At the same time, the CRD’s Delegation Bylaw requires minor modifications to allow the CAO and staff to close out the balance of construction and to assume operational oversight.

**BACKGROUND**

As the Project’s construction phase is coming to an end, the Project Board and its delegated authority no longer serve a function and should be repealed. In 2016, under Bylaw No. 4109, the “Core Area Wastewater Treatment Project Board Bylaw No. 1, 2016”, the Board created the Core Area Wastewater Treatment Project Board (“Project Board”), and under Bylaw No. 4110, the “Core Area Wastewater Treatment Project Board Delegation Bylaw No. 1, 2016”, the Board delegated all the responsibilities and functions of the Regional Board relating to Project to the Project Board, subject to some limits. Transactional authority to the Project Director and Deputy Director was included in Bylaw No. 4186, “Capital Regional District Delegation Bylaw No. 1, 2017” (the “Delegation Bylaw”).

The Delegation Bylaw is the primary instrument delegating authority to staff and volunteers to perform or undertake certain purchases and agreements. The Delegation Bylaw acts in conjunction with Bylaw No. 3343, the “Officers’, General Managers’, and Management Staff’s Bylaw No. 1, 2006” (the “Officers’ Bylaw”), which sets out additional delegation to the office of the Chief Administrative Officer and other officer roles. Also recommended at this time are minor amendments to clarify certain delegation issues which have arisen since the last major revision of the bylaw in 2017.

**ALTERNATIVES**

*Alternative 1*

1. That Bylaw No. 4348, Capital Regional District Delegation Bylaw No. 1, 2017, Amendment Bylaw No. 3, 2021, be read a first, second, and third time;
2. That Bylaw No. 4348 be adopted.
3. That Bylaw No. 4429, Capital Regional District Delegation Bylaw No. 1, 2017, Amendment Bylaw No. 4, 2021, be read a first, second, and third time.
4. That Bylaw No. 4429 be adopted.
5. That Bylaw No. 4428, Officers’, General Managers’ and Management Staff’s Bylaw No. 2006, Amendment Bylaw No. 6, 2021”, be read a first, second, and third time;
6. That Bylaw No. 4428 be adopted.

*Alternative 2*

That this report be referred back to staff for additional information.

**IMPLICATIONS**

**Project Board:**

As the Project Board has fulfilled its mandate, the ongoing delegations to the Project Board and Project Staff are unnecessary. The infrastructure and service will be managed under CRD's existing operational structures and delegations. Repeal of Bylaws No. 4109 and 4110 are included at section 3 and 4 of Bylaw No. 4348, attached as Appendix A.

**Delegation Changes:**

The following delegation changes are recommended:

1. To retain the ability, where a project is within budget and in an approved annual financial plan, to approve any related amendment or change order;

The express ability of the Project Director and Deputy Director to accept an amendment or a change order to modify a contract or agreement was included in the Delegation Bylaw at the commencement of the Project. Having that explicit authority avoided any project delay that may have been incurred due to a return to the Project Board for additional change order authority, provided that the change order was within budget and included in an approved annual financial plan. While many CRD capital projects use resolutions which grant additional authority to the CAO to do all things necessary to effect a project, making this explicit in the Delegation Bylaw would ensure that the CAO could accept such changes for any ongoing work associated with the Project and in all cases of capital projects undertaken by CRD on an ongoing basis.

Changes that are not in an annual financial plan would need to return to Board for approval and amendment of the plan according to the terms of the *Local Government Act*.

2. To clarify that the CAO has settlement authority for legal claims up to \$2-million;

Under the Officers' Bylaw, the CAO is responsible for retaining and instructing legal counsel on behalf of the CRD, as well as organizing legal updates (currently provided to the Board quarterly). To date, the CAO's settlement authority has arguably been for any value as a defined limit has not been specified by bylaw. Establishing a set value in the Delegation Bylaw, at the limit of CRD's self-insured portion of any personal injury claim, is advisable. Draft changes are included in Bylaw No. 4429, attached as Appendix B.

Increasingly, on attending mediation, arbitration, or judicial settlement proceedings, CRD staff are required by the mediator or tribunal to have clear delegated authority to settle matters on the day. Where they do not, either because potential offers are over the authority level granted to staff or where clear direction on limits cannot be obtained at a Board meeting in advance of a dispute resolution hearing, offers must be left open until settlement authority is obtained. This may result in an offer expiring or otherwise being revoked. An express delegation would ensure that the CAO

could be reached to provide authority up to the appropriate limits.

3. To ensure there is clear authority that the CAO may authorize litigation, including administrative actions such as commencement of judicial review or commercial claims, on behalf of the regional district;

In practice, the CAO has authorized litigation, such as counter-claims and commercial recovery claims, where necessary to protect the interests of the regional district. The language in the Officers', General Managers' and Management Staff's Bylaw No. 1, 2006, should be better descriptive of these powers. Draft changes are included in Bylaw No. 4428, attached at Appendix C to this report.

Note this delegation to the CAO will not derogate from the requirement in section 274 of the *Community Charter* that the Board must approve by resolution any commencement of a civil action to enforce a bylaw or a provision of the *Local Government Act* or associated regulations. Those types of civil actions would continue to be authorized by the Board prior to commencement.

**CONCLUSION**

The CRD no longer requires specific Project-related delegations of authority. At the same time, the CRD's other delegation bylaws require minor modifications to clarify delegated authority issues that have arisen since 2017, and to ensure consistency with practice.

**RECOMMENDATION**

1. That Bylaw No. 4348, Capital Regional District Delegation Bylaw No. 1, 2017, Amendment Bylaw No. 3, 2021, be read a first, second, and third time;
2. That Bylaw No. 4348 be adopted.
3. That Bylaw No. 4429, Capital Regional District Delegation Bylaw No. 1, 2017, Amendment Bylaw No. 4, 2021, be read a first, second, and third time.
4. That Bylaw No. 4429 be adopted.
5. That Bylaw No. 4428, Officers', General Managers' and Management Staff's Bylaw No. 2006, Amendment Bylaw No. 6, 2021", be read a first, second, and third time;
6. That Bylaw No. 4428 be adopted.

Submitted by:	Kristen Morley, J.D., General Manager, Corporate Services & Corporate Officer
Concurrence:	Nelson Chan, MBA, FCPA, FCMA, Chief Financial Officer
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

/SNC

**ATTACHMENT(S)**

- Appendix A: Bylaw No. 4348, "Capital Regional District Delegation Bylaw No. 1, 2017, Amendment Bylaw No. 3, 2021"
- Appendix B: Bylaw No. 4429, "Capital Regional District Delegation Bylaw No. 1, 2017, Amendment Bylaw No. 4, 2021"

Appendix C: Bylaw No. 4428, “Officers’, General Managers’ and Management Staff’s Bylaw No. 1 2006, Amendment Bylaw No. 6, 2021”

Appendix D: Bylaw No. 4186, “Capital Regional District Delegation Bylaw No. 1, 2017” (Unofficial Consolidation with Changes Tracked)

Appendix E: Bylaw No. 3343, “Officers’, General Managers’ and Management Staff’s Bylaw No. 1, 2006” (Unofficial Consolidation with Changes Tracked)