



The Corporation of the District of Central Saanich

MEMORANDUM

To: Mayor and Councillors **File:** 5600-06
From: Gary C. Nason, Administrator
Date: May 14, 2008
Re: **Mt. Newton / Senanus Waterline Extension Project**

BACKGROUND:

At the Regular Council Meeting held on April 21, 2008, Council received a letter from the Central Saanich West Voters Association (the "Association") requesting that the design and tender documents for the Mt. Newton Waterline Extension project include two potential additional options over and above the proposed supply of domestic potable water only. The two options requested by the Association, for the purposes of obtaining separate price quotations for the two options, were the addition of fire hydrants and the addition of a pumping station. The correspondence was received by Council and referred to Staff to meet with appropriate representatives from the Association, along with the District's engineering consultant to discuss the various issues and requests contained in the letter.

By way of additional background information, at the Regular Council Meeting held on April 4, 2008, Council received a Staff Memorandum confirming the sufficiency of the petition for the waterline project, and instructed Staff to proceed with the preparation of the necessary Local Service Area (LSA) and Loan Authorization Bylaws to further advance this project.

Generally concurrent with the receipt of the Association's letter requesting further investigation of the fire hydrant and pumping station options, the District began receiving calls and correspondence from residents located within the proposed LSA expressing various concerns with respect to the petitioning process and the petition documentation. In fact, three letters of this nature were included on the agenda of the April 21, 2008 Regular Council Meeting. At the April 21, 2008 meeting Council expressed the desire that these letter writers, and any other residents within the petitioned area who may have expressed similar concerns, be invited to attend the meeting between the Association and Staff.

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DISCUSSION:

Pursuant to the Council motion of April 21, 2008, a meeting was held on May 1, 2008 which was attended by representatives from the Association, along with approximately fifteen residents from the proposed LSA. Representing the District were the Directors of Finance and Engineering and Public Works, the Senior Engineering Technician and the District's engineering consultant for this particular project. The meeting was chaired by the writer.

At the meeting Staff provided an overview of the current status of this particular file, and clarified details with respect to past technical reports, the District's infrastructure grant application, the provisions of the *Community Charter* respecting LSA's, the District's role in the petitioning process (petition vs. initiative), the rationale for the boundaries of the proposed LSA, the method proposed for apportioning costs (parcel charge), the sufficiency of the petition, and the proposed next steps in the process.

A significant portion of the meeting was then dedicated to raising and discussing the various issues of concern with respect to the petitioning process and the petition documentation itself. Further discussion of this particular component of the meeting will follow later in this Memorandum.

The third component of the Meeting was then dedicated to a discussion of the Association's request pertaining to the fire hydrant and pumping station options. Engineering Staff and the District's consultant provided feedback on some of the technical ramifications of the request, and the writer indicated to the Association that initial advice from the Municipal Solicitor was that the request would very likely have re-petitioning implications. In addition, the terms and conditions of approval of the District's infrastructure grant application for this project would have to be closely scrutinized, so as to avoid any possible risk of invalidating the original conditions of grant approval. **[Note: The District is now in receipt of follow-up correspondence from the Association formally withdrawing its request for further investigation of the fire hydrant and pumping station options. This letter appears on the agenda of the May 20, 2008 Regular Council Meeting.]**

In regards to the various concerns which have been expressed by some residents in the area with respect to the petitioning process and the petition documentation, considerable discussion took place at the meeting on the following specific concerns:

- Council Member Conflict of Interest
 - Staff noted that the District had obtained prior legal advice from the Municipal Solicitor in regards to any potential conflict of interest involving Councillor Garrison related to this file.

- Approaches to Select Property Owners Only
 - Concerns have been expressed that certain property owners residing within the proposed LSA were never approached by the petitioners, and some property owners were apparently unaware of the petitioning process until very recently.

- Inaccurate Project Description (Fire Protection)
 - Concerns have been expressed by some residents that information was provided by the petitioners which may have led some to believe that fire hydrants and adequate pressures for fire flows would be provided, thereby lowering residents' home insurance costs. Allegations have been made that some residents may have been misled due to factual inaccuracies in the information which was provided by the petitioners, particularly given that the petition clearly states that "Service will not be provided for fire protection or agricultural or commercial irrigation purposes".
- Status of the Central Saanich West Voters Association
 - Concerns have been expressed that the Association is not representative of all land owners within the proposed LSA, and that when questioned by certain residents, the Association has not been forthcoming with respect to membership information.
- Coercion to Sign Petition
 - Some allegations have been made that some residents were "aggressively advised" to sign the petition or were "harangued" by the petitioners.
- Petition Appendices Not Provided
 - The covering page to the petition document makes reference to an Appendix "A" (list of the affected properties within the proposed LSA) and an Appendix "B" (map of the proposed LSA). Some residents stated that they had never seen the two Appendices, and that the petition that was circulated by the petitioners did not include these Appendices.
- Parcels Missing From the Proposed LSA
 - During the week of April 21, 2008, it was brought to the District's attention that four parcels had been omitted from Appendix "A" (list of properties within the proposed LSA). This has been attributed to the fact that the map which was utilized by the District in preparing the list of affected properties did not show in every case the status of all subdivisions within the area. The four properties in question were, however, correctly included within the defined boundaries of the proposed LSA which is depicted on the map (Appendix "B"), and that issue alone (omission of these four parcels) would not invalidate the sufficiency of the petition.
- Lack of Openness / Transparency / Public Process
 - Concerns were expressed that apparently all residents within the proposed LSA were not provided with the same degree and extent of information with respect to this project.

Finally, also mentioned at the meeting were several concerns related to issues other than the petitioning process and documentation itself – concerns such as whether the project may be in contravention of the policies contained in the District's Official Community Plan (OCP), as well as the proposed method of cost recovery (parcel tax as opposed to rate on assessed value of land and / or improvements) for the project.

Prior to the conclusion of the meeting the writer summarized the main points of discussion, and advised the attendees that he would be seeking legal advice from the Municipal Solicitor particularly in regards to the concerns related to the petitioning

process, and the potential implications in terms of the District moving forward with the next steps in the process. These next steps would typically be preparation and introduction of the necessary LSA and Loan Authorization Bylaws for the project. The writer also requested that the Association provide a letter indicating whether it still wished to move forward with further investigation of the hydrant and pump station options. Finally, the writer requested that the residents within the proposed LSA dialogue amongst themselves and indicate to the District what steps they are prepared to take to address the various concerns which have been raised. It was strongly recommended by the writer that a neighbourhood meeting of the proposed LSA take place at the earliest possible opportunity, prior to proceeding with further steps in the process. The writer even suggested that he would be prepared to recommend to Council some degree of assistance to be provided by the District in regards to logistical support and possible facilitation for the meeting.

On May 6, 2008 the District received correspondence from the Association withdrawing its request for further investigation of the fire hydrant and pumping station options. This letter appears on the agenda of the May 20, 2008 Regular Council Meeting. The Association has requested that Council instruct Staff to proceed with preparation of the necessary Bylaws to advance the project. No reference is made in the correspondence to a neighbourhood meeting.

Staff have consulted with the Municipal Solicitor on the various concerns related to the petitioning process and have sought advice on any implications in terms of the District moving forward with the next steps in the process. The Municipal Solicitor has advised that, in regards specifically to the concern related to the petition Appendices allegedly not having been circulated or provided to all petitioners, the petition does not likely comply with the requirements of the Community Charter. Without Appendix "A" and "B" being attached to each signed petition, it is the Solicitor's opinion that the petition does not likely meet the legal requirements, and the process and any future bylaws would be susceptible to challenge on that basis.

In view of the Municipal Solicitor's advice, and given the nature of the other expressed concerns related to the petitioning process, the writer does not recommend that the District proceed at this time with introduction of the necessary Bylaws to advance this project. In the writer's view the District has essentially three options at this juncture: either abandon the project and forego the grant funding; or require that the residents re-petition; or the District undertake the LSA on its own initiative pursuant to the Community Charter. If Council is still prepared to advance this project, and does not wish to undertake the process by way of District initiative, the residents should be required to undertake a new petitioning process. The writer would recommend that any re-petitioning for this project by the residents be undertaken in accordance with the following process:

1. Firstly, before proceeding with any further action on this file, the District require that a "neighbourhood meeting" be called, to which all residents in the proposed LSA would be invited, to fully explain all aspects of the proposed project including legal process, engineering and financial / cost recovery details. This would also be the time for a full and complete discussion of possible enhancements to the scope of the project (e.g. fire hydrants / adequate fire flows) and ramifications in terms of potential cost and further engineering analysis that would be required.

2. The District offer to assist in the arrangements for the neighbourhood meeting including:
 - Provision of venue (Fire Training Centre);
 - Mail-out of notice of meeting to all residents within the proposed LSA; and,
 - Staff (Administration, Finance, Engineering) attendance at the meeting to explain details of the project and process.
3. Following the neighbourhood meeting, and assuming there is still a willingness to proceed with the project by way of a resident petitioning process, the District prepare all copies of the petitions, including all attachments, and mail the petition to each of the affected residents. The package would include a covering letter clearly indicating that the petition was being sent out on behalf of the Association or other identified individual, group or representative, and was not a District of Central Saanich initiative. Residents would be instructed, that if they were in favour of the project proceeding, to return the complete signed petition, including all attachments, directly to the District.

RECOMMENDATIONS:

1. That the District not proceed at this time with introduction of the necessary Bylaws to advance this project; and,
2. Council provide direction on how it next wishes to proceed based on the three options presented on page 4 of this Memorandum; and,
3. If a resident re-petitioning process is to be undertaken, it be undertaken in accordance with the recommended three step process outlined on pages 4 and 5 of this Memorandum.

Respectfully Submitted,



Gary C. Nason
Administrator

P.S. Subsequent to the May 1, 2008 meeting, the writer has become more fully aware of the nature of some of the concerns which were expressed at the meeting regarding whether the project may not be in conformance with the District's OCP policies. To date, the Municipal Solicitor has not been consulted on any issues related to the OCP, as these emerged in insufficient time to include any Solicitor advice or comment on this matter in this particular Memorandum. Staff will continue to consult with the Solicitor as deemed necessary on this and any other emergent issues related to the Senanus file, and will provide further recommendations at a future meeting if considered warranted.