

IRENE C. FAULKNER

BARRISTER & SOLICITOR

Our file: 50010-001

September 5, 2008

Mr. Kirk Handrahan, Executive Director
Infrastructure Development Branch
Ministry of Economic Development
PO Box 9327 Stn Prov Govt
Victoria, BC V8W 9N3

Mr. Glen Brown, A/Director,
Infrastructure & Engineering
Ministry of Community Services
PO Box 9838 Stn Prov Govt
Victoria BC V8W9T1

The Honorable Rona Ambrose,
Minister of Western Economic Diversification
Room 163 East Block
Ottawa, ON K1A 0A6

Western Economic Diversification Canada
700 - 333 Seymour Street
Vancouver, BC V6B 5G9

Dear Sirs/Mesdames:

Re: C-BC-MRIF Grant #17304: Senanus Watermain

I represent the Mount Newton Neighbourhood Association (MNNA), which is comprised of a number of residents of the Mount Newton Crossroads neighbourhood in Central Saanich.

I am writing to you with respect to the Canada-British Columbia Municipal Rural Infrastructure (CBCMRIF) grant referenced above, which I understand has been approved, subject to environmental assessment, for the construction of a watermain extending along Mount Newton Crossroad and Senanus Drive in Central Saanich.

My clients respectfully request that this grant approval be rescinded, as the grant application and the related municipal process is deficient in a number of areas and in violation of numerous rules and policies of CBCMRIF. In that the grant proposal was approved on erroneous grounds, the appropriate remedy is to rescind the grant.

I am enclosing a comprehensive report prepared by members of the MNNA, which details the numerous deficiencies in the application and which clearly illustrates that the proposed project does not meet the objectives or eligibility criteria of the CBCMRIF Grant program.

While the deficiencies in the District of Central Saanich's application are numerous and well documented in the enclosed report, I would like to highlight a few of the specific problems with this grant application here:

1. The District of Central Saanich applied for the grant on the basis of a 2000 certified petition result, for which they no longer retain records. The prior District Council passed two resolutions to not proceed with an infrastructure grant application on the basis of that petition. Since 2000 the catchment area, the schedule of homeowners, and project costs have changed, as have the laws governing petition certification. A subsequent petition in 2008 was certified by a narrow margin of land owners (59.38%), several of whom have since written to indicate they no longer support the project. There were a number of problems with this petition including the fact that attachments referred to in the Petition were not provided with it, a Q&A sheet distributed by the proponents of the petition was misleading in that it indicated that the proposed watermain would provide fire protection and a decrease in insurance premiums, and that it was within the mandate of the Chief Medical Health Officer to force residents to pay the cost of the line. In addition, some property owners within the catchment were not included in the schedule of properties and some owners within the catchment received no notice of the petition. The District has received advice from the municipal solicitor that the 2008 petition would likely fail if challenged under the *Judicial Review Act*.
2. The grant proposal and process are in violation of applicable rules and policies of CBCMRIF. The Proposal does not meet fundamental Grant Eligibility Criteria. The District's portion of the CBCMRIF funding is not in place, as Local Service Area ByLaws have not been created, the proposed watermain is not ranked as a priority project by the local government, it has not been endorsed by a resolution of the Council, and it is contrary to the District of Central Saanich's Official Community Plan and the Capital Regional District's Regional Growth Strategy Bylaw.
3. The grant proposal does not comply with the purpose and strategic objectives of CBCMRIF. Specifically, it does not promote "holistic approaches to infrastructure planning and management", nor does it promote the "integration of demand management in public infrastructure planning and management." The proposed project does not support "sustainability principles" central to CBCMRIF's mandate. These important objectives of CBCMRIF are undermined by financing the "supply-management" system proposed by Central Saanich.
4. Key reports were omitted from the application package, while other reports which have earlier been shown by the District to be inaccurate were included. In particular, a key report by the Chief Medical Health Officer which concluded that there was no health hazard in the present system was not provided to CBCMRIF. Likewise, a report of the District's Water Task Force was omitted from the application.
5. We note from your press release of August 31, 2007 that "this project is conditionally approved pending completion of an environmental assessment." Significant environmental concerns have been raised by my clients. These concerns have not been investigated or addressed by Central Saanich.
6. There are at least 7 properties in the proposed catchment with known archaeological sites on them. Al Mackie, Archaeologist with the B.C. Ministry of Tourism, Culture and the Arts, notes that "the record for this area is old and probably incomplete and likely inaccurate ... it is likely there are more sites in the area." Mr. Mackie, on behalf of the Archaeology Branch,

has recommended that an archaeological impact study be conducted to ascertain which areas may warrant an archaeological impact assessment which would require that a permit be issued under the *Heritage Conservation Act*. The District has not conducted any archaeological study.

7. The District's share of the cost of this proposed watermain is to be borne by the 64 land owners in the catchment area by way of a parcel tax. As the maps in Appendix 11 of the Report indicate, this will result in tax increases averaging 25.4% for 43 properties with average assessed values of \$601,680, while 21 properties with average assessed value of \$2,244,711 will incur tax increases of only 6.8% on average. If federal and provincial funds are advanced, such funds will benefit a handful of wealthy landowners to the detriment of the majority of the neighbourhood residents – a most inequitable and undesirable result.

As I am sure you will appreciate, my clients concerns with respect to this proposed watermain and the process followed by the District of Central Saanich in its attempts to implement the project are well founded. As the mandate of the CBCMRIF program is to advance the public agenda towards sustainability, and the current proposal has significant deficiencies and represents a serious retrograde step, to allow the grant to stand would, in our view, set a very dangerous precedent. In the circumstances, we respectfully request that CBCMRIF re-visit this application and rescind its approval of Grant #17304.

Should you require further information or documentation, my clients will be happy to provide same and would be pleased to meet with you at your convenience to answer any questions which you might have.

I look forward to your prompt response.

Yours sincerely



Irene C. Faulkner

cc: Mr. Murray Coell, MLA
Mr. Gary Lunn, MP, Saanich-Gulf Islands
Board of Directors, Capital Regional District
Planning Department, Capital Regional District
The Ombudsman of British Columbia
Office of the Inspector of Municipalities
Mr. Bill Buholzer, Legal Representative for Central Saanich