



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall, 1229 Esquimalt Road, Esquimalt, B.C. V9A 3P1
Telephone (250) 414-7100 Fax (250) 414-7111

File 0550-06

November 29, 2012

NOTICE

**A REGULAR MEETING OF COUNCIL WILL BE HELD ON
MONDAY, DECEMBER 3, 2012 AT 7:00 PM, IN THE
COUNCIL CHAMBERS, ESQUIMALT MUNICIPAL HALL,
1229 ESQUIMALT ROAD.**

**ANJA NURVO
CORPORATE OFFICER**



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

A G E N D A **REGULAR MEETING OF COUNCIL**

Monday, December 3, 2012

7:00 p.m.

Esquimalt Council Chambers

1. **CALL TO ORDER**

2. **LATE ITEMS**

3. **APPROVAL OF THE AGENDA**

4. **MAYOR'S ANNUAL ADDRESS**

(1) Mayor's Address

(2) Council Appointments

(a) External Boards, Committees and Commissions

(b) Internal Appointments

(c) Acting Mayor Rotation

RECOMMENDATION:

That Council ratify the appointments of members of Council to External and Internal Committees, Commissions and Boards, and the Acting Mayor Rotation as recommended by Mayor Barbara Desjardins.

5. **MINUTES**

(1) Minutes of the Special Meeting of Council, November 19, 2012

Pg. 1 – 2

(2) Minutes of the Regular Meeting of Council, November 19, 2012

Pg. 3 – 10

(3) Minutes of the Special Meeting of Council, November 26, 2012

Pg. 11 – 12

6. **PRESENTATIONS**

(1) Jack Hull, Interim Program Director, Core Area Wastewater Treatment Program, Diana Lokken, General Manager, Corporate Services and Malcolm Cowley, Manager, Engineering Design Services, Capital Regional District, Re: Core Area Wastewater Treatment Program Cost Allocation

(2) Bill Wellburn, Chair and Curtis Grad, President and Chief Executive Officer, Greater Victoria Harbour Authority, Re: Annual Presentation

7. **PUBLIC INPUT (On items listed on the Agenda)**

Excluding items which are or have been the subject of a Public Hearing.

8. **STAFF REPORTS**

Administration

- (1) Appointment Process – Advisory Committees, Commissions and Board, Staff Report No. ADM-12-058 Pg. 13 – 16

RECOMMENDATION:

That Council approve the revise Council Policy No. ADMIN-40 entitled “Appointment Process – Advisory Committees, Commissions and Board of Variance” as attached to Staff Report No. ADM-12-058

Finance

- (2) 2013 Revenue Anticipation Borrowing Bylaw, Staff Report No. FIN-12-015 Pg. 17 – 21

RECOMMENDATION:

That the Revenue Anticipation Borrowing Bylaw, 2013, No. 2796, in the amount of \$2,500,000 be given 1st, 2nd and 3rd reading.

9. **BYLAWS**

For Adoption

- (1) Freedom of Information Bylaw, 2012, No. 2795 Pg. 22 – 25

10. **MAYOR’S AND COUNCILLORS’ REPORTS**

11. **COMMUNICATIONS**

- (1) Letter from Minister Bill Bennett, Ministry of Community, Sport and Cultural Development, dated November 12, 2012, Re: Esquimalt Centennial Celebrations Pg. 26
- (2) Letter from Dawn Ritchie, Esquimalt Chamber of Commerce, received November 19, 2012, Re: 2012 Esquimalt Chamber of Commerce Membership Pg. 27
- (3) Email from Mark Salter, dated November 19, 2012, Re: Heating Oil Tanks Pg. 28 – 46
- (4) Letter from Sonia Santarossa, Capital Regional District, dated November 21, 2012, Re: 2012 CRD Board and Hospital Board Appointments and 2011 Census Figures Pg. 47 – 48
- (5) Letter from Nils Jensen, Mayor, District of Oak Bay, dated November 26, 2012, Re: Request for Environmental Study of Land-Based Liquid Waste Treatment Project Pg. 49

12. **PUBLIC QUESTION AND COMMENT PERIOD**

*Excluding items which are or have been the subject of a Public Hearing.
Limit of two minutes per speaker.*

13. **ADJOURNMENT**



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

MINUTES
SPECIAL MEETING
OF MUNICIPAL COUNCIL
MONDAY, NOVEMBER 19, 2012

6:30 P.M.
COUNCIL CHAMBER,
MUNICIPAL HALL

PRESENT:

Acting Mayor Tim Morrison
Councillor Meagan Brame
Councillor Lynda Hundleby
Councillor Robert McKie
Councillor David Schinbein

REGRETS:

Mayor Barbara Desjardins
Councillor Dave Hodgins

STAFF:

Laurie Hurst, Chief Administrative Officer
Jeff Miller, Director of Engineering and Public Works
Anja Nurvo, Manager of Corporate Services/Recording Secretary

1. **CALL TO ORDER**

Acting Mayor Morrison called the Special Meeting of Council to order at 6:30 p.m.

2. **LATE ITEMS**

There were no late items.

3. **APPROVAL OF THE AGENDA**

MOTION: Moved by Councillor Hundleby/Councillor Brame:
That the Agenda be approved as circulated.

CARRIED UNANIMOUSLY.

4. **MOTION TO GO IN CAMERA**

MOTION: Moved by Councillor Brame/Councillor McKie:
That Council convene *In Camera* pursuant to Section 90 of the *Community Charter* to discuss:

- Law enforcement, if the council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment; and
- Litigation or potential litigation affecting the municipality; and
- Negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could reasonably be expected to harm the interests of the municipality if they were held in public

in accordance with Section 90 (1) (f), (g) and (k) of the *Community Charter*, and that the general public be excluded.

CARRIED UNANIMOUSLY.

5. **ADJOURNMENT**

MOTION: Moved by Councillor Brame/Councillor McKie:
That the Special Meeting of Council be adjourned at 6:31 p.m.

CARRIED UNANIMOUSLY.

MAYOR OF THE CORPORATION OF THE
TOWNSHIP OF ESQUIMALT
THIS DAY OF _____, 2012

CERTIFIED CORRECT:

ANJA NURVO, CORPORATE OFFICER



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

MINUTES REGULAR MEETING OF MUNICIPAL COUNCIL MONDAY, NOVEMBER 19, 2012 7:04 P.M. COUNCIL CHAMBERS

- PRESENT:** Acting Mayor Tim Morrison
Councillor Meagan Brame
Councillor Lynda Hundleby
Councillor Robert McKie
Councillor David Schinbein
- REGRETS:** Mayor Barbara Desjardins
Councillor Dave Hodgins
- STAFF:** Laurie Hurst, Chief Administrative Officer
Jeff Miller, Director of Engineering and Public Works
Bill Brown, Director of Development Services
Ian Irvine, Director of Financial Services and IT
Anja Nurvo, Manager of Corporate Services
Louise Payne, Recording Secretary
- OTHER:** Inspector Keith Lindner, West Division, VicPD

1. **CALL TO ORDER**

Acting Mayor Morrison called the meeting to order at 7:04 pm.

2. **LATE ITEMS**

There were no late items.

3. **APPROVAL OF THE AGENDA**

MOTION: Moved by Councillor McKie/Councillor Hundleby:
That the Agenda be approved as circulated.

CARRIED UNANIMOUSLY.

4. **MINUTES**

(1) Minutes of the Special Meeting of Council, November 5, 2012

MOTION: Moved by Councillor Brame/Councillor Hundleby:
That the minutes of the Special Meeting of Council held November 5, 2012 be adopted as circulated.

CARRIED UNANIMOUSLY.

(2) Minutes of the Regular Meeting of Council, November 5, 2012

MOTION: Moved by Councillor McKie/Councillor Schinbein:
That the minutes of the Regular Meeting of Council held November 5, 2012 be adopted as circulated.

CARRIED UNANIMOUSLY.

5. **PRESENTATIONS**

(1) Chief Jamie Graham, Deputy Chief Del Manak and Deputy Chief John Ducker, Re: Plecas Report

Deputy Chief Del Manak presented the Plecas Efficiency Review report conducted on Victoria Police Department to analyse staffing workloads and management, and answered questions from Council.

6. **PUBLIC INPUT**

There was no public input.

7. **STAFF REPORTS**

Administration

(1) Freedom of Information Bylaw, 2012, No. 2795, Staff Report No. ADM-12-054

MOTION: Moved by Councillor Brame/Councillor Hundleby:
That Council:

1. Gives first, second and third readings to the Freedom of Information Bylaw, 2012, No. 2795, as attached to Staff Report No. ADM-12-054;

2. Rescinds Council Policy No. ADMIN-22 entitled "Measures to prevent personal information from being inappropriately disclosed"; and
3. Amends Council Policy No. ADMIN-65 entitled "Recorded Public Input" as attached to Staff Report No. ADM-12-054.

CARRIED UNANIMOUSLY.

Finance

- (2) 2013-2017 Financial Plan and Budget Schedule, Staff Report No. FIN-12-014

Council requested that the Budget Schedule of meetings be added to the Schedule of Council meetings for the public's information as well as to the Council Calendar.

MOTION: Moved by Councillor McKie/Councillor Brame:

That Council approve the 2013-2017 Financial Plan and Budget Schedule attached to Staff Report No. FIN-12-014.

CARRIED UNANIMOUSLY.

Engineering and Public Works

- (3) Replacement of Unit 136 Aerial Truck, Staff Report No. EPW-12-029

The Director of Engineering and Public Works presented Staff Report No. EPW-12-029 and answered questions from Council.

MOTION: Moved by Councillor Hundleyby/Councillor Brame:

That the Township enter into a Supply Agreement with Commercial Truck Equipment Corporation for \$112,544.00 (plus HST) for the supply and delivery of an aerial truck.

CARRIED UNANIMOUSLY.

- (4) Discharge of Notice of Contravention of Bylaws from the Land Title for Amended Lot H (DD1561691), Section 10, Esquimalt District, Plan 2923 (788 Dominion Road), Staff Report No. EPW-12-030

MOTION: Moved by Councillor McKie/Councillor Schinbein:

That Council authorize staff to submit the necessary documentation to the Land Title Office in order to have the Notice of Contravention of Bylaws (Instrument No. EK074183) (Schedule "A") discharged from the title of the following property:

PID: 001-507-052 Amended Lot H, (DD1561691) Section 10, Esquimalt District, Plan 2923 (788 Dominion Road)

CARRIED UNANIMOUSLY.

Development Services

- (5) Development Variance Permit, 904 Carleton Terrace, Lot A, Section 11, Esquimalt District, Plan 15294; Lot 7, Section 11, Esquimalt District, Plan 13060, Staff Report No. DEV-12-040

MOTION: Moved by Councillor Hundleby/Councillor Schinbein:
That the application for a Development Variance Permit authorizing the construction as shown in the plan prepared by Carle E. Peterson Architect Inc., stamped "Received September 19, 2012", and sited as detailed on the survey plan prepared by Richard J. Wey & Associates Land Surveying Inc., stamped "Received September 19, 2012", and including the following relaxations to Parking Bylaw, 1992, Bylaw No. 2011, be **approved**, and staff be directed to issue the Permit and register the notice on the title of Lot A, Section 11, Esquimalt District, Plan 15294 and Lot 7, Section 11, Esquimalt District Plan 13060 [904 Carleton Terrace].

Parking Bylaw No. 2011, Section 11(1) – Visitor Parking – a reduction in the required number of dedicated visitor parking spaces from 1 of every 4 spaces to 1 of every 5.2 required spaces [i.e. from a total of 12 visitor spaces to 9 visitor spaces].

Parking Bylaw No. 2011, Section 13(1)(a)(iv) – Number Of Off-Street Parking Spaces – a reduction in the required number of parking spaces from 1.3 spaces per dwelling unit to 1.17 spaces per dwelling unit [i.e. from a total of 47 spaces to 42 spaces].

CARRIED UNANIMOUSLY.

- (6) Development Permit and Development Variance Permit, 1382 Treebank Road West (Lot 1, Section 2, Esquimalt District, Plan VIS1903), Staff Report No. DEV-12-041

MOTION: Moved by Councillor McKie/Councillor Schinbein:

1. That Council resolves that the application for a Development Permit No. 06/2012 limiting siting of the principal building to that shown on the survey plan prepared by Glen Mitchell Land Surveying Inc., stamped "Received October 10, 2012", and limiting landscaping to that shown on the landscape plan provided by Duane Ensign Landscape Design, stamped "Received October 10, 2012", for the proposed development located at Lot 1, Section 2, Esquimalt District, Plan VIS1903 [1382 Treebank Road West], be **approved** and staff be directed to issue the permit and register a notice on the property title.
2. That Council resolves that the application for a Development Variance Permit authorizing construction as shown on architectural plans provided by MJM Architect Inc, stamped "Received October 31, 2012", and including the following relaxation to Parking Bylaw, 1992, No. 2011 for the proposed driveway located at Lot 1, Section 2, Esquimalt District, Plan VIS1903 [1382 Treebank Road West], be **approved** and staff be directed to issue the permit and register a notice on the property title.

Parking Bylaw, 1992, No. 2011, Section 10(1) - Design of Parking Areas - a 6.5% increase to the permitted 15% gradient for a ramp [i.e. from 15% to 21.5% gradient].

CARRIED UNANIMOUSLY.

- (7) New Advisory Planning Commission Bylaw, Staff Report No. DEV-12-042

MOTION: Moved by Councillor Brame/Councillor McKie:

That Council give first reading to Bylaw No. 2792 with additional wording in Section 19 to clarify that the APC meetings are open to the public but the public are not given an opportunity to speak at APC meetings, and may only do so at Council meetings when the application is reviewed by Council; and

That Council give second and third readings to Bylaw No. 2792, as amended, being a bylaw to establish an Advisory Planning Commission and to provide for its composition and procedures.

CARRIED UNANIMOUSLY.

8. BYLAWS

For Adoption

- (1) Council Remuneration Bylaw, 2011, No. 2778, Amendment Bylaw (No. 1), 2012, No. 2794

MOTION: Moved by Councillor Schinbein/Councillor McKie:

That Council Remuneration Bylaw, 2011, No. 2778, Amendment Bylaw (No. 1), 2012, No. 2794 be **adopted**.

CARRIED (Councillors Brame and Hundleby opposed).

9. MAYOR'S AND COUNCILLORS' REPORTS

- (1) Report from Mayor Barbara Desjardins, Re: Annual Committee Review

MOTION: Moved by Councillor Brame/Councillor Hundleby:

That the Mayor's Report on the annual Committee review dated November 19, 2012 be received for information.

CARRIED UNANIMOUSLY.

MOTION: Moved by Councillor Schinbein/Councillor Brame:

That Council direct staff to revise Council Policy ADMIN-40 Appointment Process – Advisory Committees, Commissions and Board of Variance so that current eligible members interested in being re-appointed may send a letter to Council and be re-appointed without going through the application and interview process;

And that the draft revised Council Policy ADMIN-40 be brought back to Council for review and adoption.

CARRIED UNANIMOUSLY.

- (2) Report from Mayor Barbara Desjardins, Re: Mayor's Report – October, 2012

MOTION: Moved by Councillor Brame/Councillor McKie:

That the Mayor's Report – October, 2012 be received for information.

CARRIED UNANIMOUSLY.

- (3) Report from Councillor Brame, Re: Association of Vancouver Island Coastal Communities (AVICC)

MOTION: Moved by Councillor Hundleby/Councillor McKie:
That Councillor Brame's report regarding the Association of Vancouver Island Coastal Communities (AVICC) dated November 19, 2012 be received; and
That Council supports Councillor Brame putting her name forward to the Nomination Committee of the AVICC to be re-elected as a Director at Large.

CARRIED UNANIMOUSLY.

10. REPORTS FROM COMMITTEES

- (1) Draft minutes from the Heritage Advisory Committee meeting, October 17, 2012

MOTION: Moved by Councillor Brame/Councillor Hundleby:
That the draft minutes from the Heritage Advisory Committee meeting held October 17, 2012 be received for information.

CARRIED UNANIMOUSLY.

- (2) Memorandum from the Heritage Advisory Committee, dated November 1, 2012, Re: Lampson Street Memorial Trees Plaque Installation

MOTION: Moved by Councillor Hundleby/Councillor Brame:
That Council request staff to follow up with the School Board and begin the necessary steps to facilitate the completion of the Lampson Street Memorial Trees plaque installation, understanding that the Heritage Advisory Committee will take responsibility for securing the required funds.

CARRIED UNANIMOUSLY.

- (3) Memorandum from the Heritage Advisory Committee, dated November 1, 2012, Re: 1388 Esquimalt Road

MOTION: Moved by Councillor Schinbein/Councillor McKie:
That further consideration of the memorandum from the Heritage Advisory Committee dated November 1, 2012 regarding 1388 Esquimalt Road be **tabled** until further information is provided from staff.

CARRIED (Councillor Hundleby opposed).

- (4) Draft minutes of the Arts, Culture and Special Events Advisory Committee meeting, November 7, 2012

MOTION: Moved by Councillor Hundleby/Councillor Brame:
That the draft minutes of the Arts, Culture and Special Events Advisory Committee meeting held November 7, 2012 be received.

CARRIED UNANIMOUSLY.

- (5) Memorandum from the Arts, Culture and Special Events Advisory Committee, dated November 13, 2012 Re: Arts, Culture and Special Events Advisory Committee Activities and Accomplishments in 2012

MOTION: Moved by Councillor Brame/Councillor McKie:

That the memorandum from the Arts, Culture and Special Events Advisory Committee dated November 13, 2012 regarding Arts, Culture and Special Events Advisory Committee activities and accomplishments in 2012 be received; and

That Council's appreciation to the Chair and members of the Arts, Culture and Special Events Advisory Committee be forwarded to the Committee.

CARRIED UNANIMOUSLY.

- (6) Memorandum from the Arts, Culture and Special Events Advisory Committee, dated November 13, 2012, Re: Poster Advertising on Utility Poles and Vacant Storefronts

MOTION: Moved by Councillor Hundleby/Councillor Brame:

That the memorandum from the Arts, Culture and Special Events Advisory Committee dated November 13, 2012 regarding poster advertising on utility poles and vacant storefronts be referred to staff for a report back to Council.

CARRIED UNANIMOUSLY.

11.

COMMUNICATIONS

- (1) Letter from Karel Roessingh, Chair, Greater Victoria Public Library Board, dated October 31, 2012, Re: 2013 Budget and Five Year Financial Plan – Provisional

MOTION: Moved by Councillor Hundleby/Councillor Brame:

That the letter from Karel Roessingh, Chair, Greater Victoria Public Library Board dated October 31, 2012 regarding the 2013 Budget and Five Year Financial Plan – Provisional be received for information.

CARRIED UNANIMOUSLY.

- (2) Letter from Joe Stanhope, President, Association of Vancouver Island Coastal Communities, dated November 1, 2012, Re: Resolutions Notice/Request for Submissions, Call for Nominations for AVICC Executive.

MOTION: Moved by Councillor Brame/Councillor McKie:

That the letter from Joe Stanhope, President, Association of Vancouver Island Coastal Communities (AVICC) dated November 1, 2012 regarding resolutions notice/request for submissions and call for nominations for AVICC Executive be received; and

That staff be directed to bring forward Resolutions for AVICC to the January 14th, 2013 Committee of the Whole meeting for discussion.

CARRIED UNANIMOUSLY.

12.

PUBLIC QUESTION AND COMMENT PERIOD

There were no public questions or comments.

13.

ADJOURNMENT

MOTION: Moved by Councillor McKie/Councillor Hundleby:
That the Regular Meeting of Council be adjourned at 8:28 p.m.

CARRIED UNANIMOUSLY.

MAYOR OF THE CORPORATION OF THE
TOWNSHIP OF ESQUIMALT
THIS DAY OF _____, 2012

CERTIFIED CORRECT:

ANJA NURVO
CORPORATE OFFICER

DRAFT



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

MINUTES
SPECIAL MEETING
OF MUNICIPAL COUNCIL
MONDAY, NOVEMBER 26, 2012

9:46 P.M.
COUNCIL CHAMBER,
MUNICIPAL HALL

PRESENT:

Mayor Barbara Desjardins
Councillor Lynda Hundleby
Councillor Robert McKie
Councillor Tim Morrison
Councillor David Schinbein

REGRETS:

Councillor Megan Brame
Councillor Dave Hodgins

STAFF:

Laurie Hurst, Chief Administrative Officer
Pat Mulcahy, Human Resources Manager
Anja Nurvo, Manager of Corporate Services/Recording Secretary

1. **CALL TO ORDER**

Mayor Desjardins called the Special Meeting of Council to order at 9:46 p.m.

2. **LATE ITEMS**

There were no late items.

3. **APPROVAL OF THE AGENDA**

MOTION: Moved by Councillor Hundleby/Councillor McKie:
That the Agenda be approved as circulated.

CARRIED UNANIMOUSLY.

4. **MOTION TO GO IN CAMERA**

MOTION: Moved by Councillor Hundleby/Councillor McKie:
That Council convene *In Camera* pursuant to Section 90 of the *Community Charter* to discuss:

- Labour relations or other employee relations; and
- Litigation or potential litigation affecting the municipality; and
- Negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could reasonably be expected to harm the interests of the municipality if they were held in public; and
- The consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party

in accordance with Section 90 (1) (c), (g), (k), (m) and 90 (2) (b) of the *Community Charter*, and that the general public be excluded.

CARRIED UNANIMOUSLY.

5. **ADJOURNMENT**

MOTION: Moved by Councillor Hundleby/Councillor Schinbein:
That the Special Meeting of Council be adjourned at 9:47 p.m.

CARRIED UNANIMOUSLY.

MAYOR OF THE CORPORATION OF THE
TOWNSHIP OF ESQUIMALT
THIS DAY OF _____, 2012

CERTIFIED CORRECT:

ANJA NURVO, CORPORATE OFFICER



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall, 1229 Esquimalt Road, Esquimalt, B.C. V9A 3P1
Telephone (250) 414-7100 Fax (250) 414-7111

Council Meeting: December 3, 2012
Staff Report No. ADM-12-058

REQUEST FOR DECISION

SUBJECT: Appointment Process – Advisory Committees, Commissions and Board

RECOMMENDATION:

That Council approve the revised Council Policy No. ADMIN-40 entitled "Appointment Process – Advisory Committees, Commissions and Board of Variance" as attached to Staff Report No. ADM-12-058.

RELEVANT POLICY:

Existing Council Policy No. ADMIN-40 to be revised.

STRATEGIC RELEVANCE:

This Request for Decision relates to the Policy Review Program assigned as an Operational Strategy of the Corporate Services Department.

Submitted by: Writer

Aria Nuru

Reviewed by: CAO

R. Rust

Date:

Nov 28/12

STAFF REPORT

DATE: November 27, 2012 Report No. ADM-12-058
TO: Laurie Hurst, Chief Administrative Officer
FROM: Anja Nurvo, Manager of Corporate Services
SUBJECT: Appointment Process – Advisory Committees, Commissions and Board

RECOMMENDATION:

That Council approve the revised Council Policy No. ADMIN-40 entitled "Appointment Process – Advisory Committees, Commissions and Board of Variance" as attached to Staff Report No. ADM-12-058.

BACKGROUND:

The Chairs of the various Advisory Committees attended at the Committee of the Whole meeting held on October 22, 2012. At that meeting, several suggestions were made in order to improve our committee structure and procedures. The Mayor prepared a report for the Council meeting held on November 19, 2012 and requested Council's input on several issues identified at the October 22nd meeting.

Council passed the following Resolution at the November 19th meeting:

That Council direct staff to revise Council Policy ADMIN-40 Appointment Process – Advisory Committees, Commissions and Board of Variance so that current eligible members interested in being re-appointed may send a letter to Council and be re-appointed without going through the application and interview process;
And that the draft revised Council Policy ADMIN-40 be brought back to Council for review and adoption

The draft revised Policy is attached for Council's consideration. The recruitment process has been revised so that any existing members interested in and eligible for re-appointment simply advise staff. Staff would prepare a report to Council, to be reviewed at an *in camera* meeting. Council may make re-appointments without having to go through the entire process. Following the re-appointments, staff would advertise for any remaining vacancies and the formal application and interview process would be applicable to any new applicants.

ISSUES:

1. Rationale for Selected Option

The revised Policy would allow for a less onerous process for existing members to be re-appointed, would save staff time and advertising costs each year, and would lead to fewer applications to be reviewed and fewer interviews to be conducted by Council.

2. Organizational Implications

The recommendation is for revision of existing Council Policy No. ADMIN-40 to simplify the recruitment procedures for Advisory Committees.

3. Financial Implications

Under the revised recruitment process, advertisements would only be prepared and published for any vacancies remaining following the completion of re-appointments by Council, resulting in a savings in staff time and advertising costs annually.

4. Communication

Staff will distribute and post the revised Council Policy. Staff will prepare a report on re-appointments for Council's consideration at an *in camera* meeting, and will proceed with publication and posting of the remaining vacancies.

ALTERNATIVES:

1. That Council approve the revised Council Policy No. ADMIN-40 entitled "Appointment Process – Advisory Committees, Commissions and Board of Variance" as attached to Staff Report No. ADM-12-058.
2. That Council further amend the revised Council Policy No. ADMIN-40 and approve the Policy as amended.



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

COUNCIL POLICY

TITLE: Appointment Process - Advisory Committees Commissions and Board of Variance

NO. ADMIN - 40

POLICY:

This policy provides guidelines for the annual recruitment process for Committees, Commissions, the Board of Variance, and other appointments of Council.

PROCEDURE:

October

1. Staff reviews appointments to determine which terms are due to expire at the end of the year.
2. Staff advises members whose terms are due to expire and request that they submit a **letter or email indicating whether** they are interested in seeking reappointment.
3. **Staff prepares a report to Council including copies of all letters requesting reappointment for Council's consideration at an *in camera* meeting. Council ratifies which members are to be reappointed.**
4. **Council rises and reports on the reappointments at a subsequent open meeting.**
5. Staff publishes an advertisement in the Esquimalt News **and includes Notice on the Township's website** outlining **any** appointment opportunities **remaining**. Applicants are required to submit an application along with a detailed resume outlining qualifications and volunteer experience.

November/December

6. Staff prepares an ***in camera*** report to Council including copies of all applications submitted and any accompanying documentation.
7. Short interviews will be conducted with each of the applicants at an *In Camera* meeting of Council.
8. **Following completion of interviews**, Council ratifies appointments at the *In Camera* meeting.
9. Council rises and reports on the appointments at a subsequent open meeting.

Note: Schedule may vary in an election year.

Disqualification from Appointment

- A person who is a Municipal employee of Esquimalt is not eligible for appointment to a Commission, Committee, Board, or for any other appointment of Council.

| | | | | |
|-----------------|--------------|------|------------|-------------|
| EFFECTIVE DATE: | APPROVED BY: | REF: | AMENDS NO. | PAGE 1 OF 1 |
| | | | | |



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall, 1229 Esquimalt Road, Esquimalt, B.C. V9A 3P1
Telephone (250) 414-7100 Fax (250) 414-7111

Council Meeting: December 3, 2012
Staff Report No. FIN-12-015

REQUEST FOR DECISION

SUBJECT:

2013 Revenue Anticipation Borrowing Bylaw

RECOMMENDATION:

That the Revenue Anticipation Borrowing Bylaw, 2013, No. 2796, in the amount of \$2,500,000 be given 1st, 2nd and 3rd reading.

RELEVANT POLICY:

Community Charter – Section 177

STRATEGIC RELEVANCE:

The adoption of this bylaw would allow the Township to secure additional funds that may be necessary for the payment of lawful expenditures in advance of the 2013 tax collection date.

Submitted by: Director of Financial Services

Reviewed by: CAO

Date:

Nov 23/12

STAFF REPORT

DATE: November 27, 2012 Report No. FIN-12-015
TO: Laurie Hurst, Chief Administrative Officer
FROM: Ian Irvine, Director of Financial Services
SUBJECT: Revenue Anticipation Borrowing Bylaw

RECOMMENDATION:

That the Revenue Anticipation Borrowing Bylaw, 2013, No. 2796, in the amount of \$2,500,000 be given 1st, 2nd and 3rd reading.

BACKGROUND:

Section 177 of the *Community Charter* permits a Council to borrow money for short term purposes to a limit of 75% of the taxes levied for all purposes in the preceding year. For 2013, this limit is \$17,152,018.

No outside short-term borrowing has been required since 1991 as our net cash balance has been sufficient to cover operating expenditures until the end of June each year when taxes are due. Even if no funds are borrowed, our bank requires the bylaw as security for the bank account overdraft.

For 2013, an amount not exceeding \$2,500,000 may be required to be borrowed by either overdraft or short-term loan. This amount is deemed to be sufficient by the bank and is approximately 7% of our 2012 operating budget. The rate of interest would be determined at the time the loan is made.

ISSUES:

1. Rationale for Selected Option

In the unlikely event that the Township requires additional short term funding prior to the 2013 tax collection period, the bank requests security in the form of an adopted bylaw. Even if no funds are borrowed, the bank requires the bylaw as security for the bank account overdraft.

2. Organizational Implications

None

3. Financial Implications

No outside short term borrowing should be required as our net current cash balance is sufficient to cover lawful expenditures until the end of June 2013 when taxes will be due.

4. Communication

A copy of the adopted bylaw will be provided to our bank and maintained in their files to facilitate timely processing of any necessary short term borrowing requests.

ALTERNATIVES:

1. That the Revenue Anticipation Borrowing Bylaw, 2013, No. 2796, in the amount of \$2,500,000 be given 1st, 2nd and 3rd reading.
2. Make amendments and give the amended Bylaw 1st, 2nd and 3rd reading.

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

BYLAW NO. 2796

A Bylaw to authorize the borrowing of such sums of money as may be necessary to meet current lawful expenditures of the Corporation for the year 2013.

WHEREAS, pursuant to Section 177 of the *Community Charter*, the Municipal Council may, by bylaw provide for the borrowing of money that may be necessary to meet current lawful expenditures;

AND WHEREAS the maximum amount so borrowed shall not exceed at any time the sum of unpaid taxes for all purposes levied during the current year and the money remaining due from other governments;

AND WHEREAS before the adoption of the annual rates bylaw in any year, the taxes in the current year are deemed to be seventy-five per centum of all taxes levied for all purposes in the preceding year;

AND WHEREAS the current year taxes calculated in accordance with the above amount is \$17,152,018;

AND WHEREAS to meet the current lawful expenditure of the Corporation it may be necessary to borrow an amount not exceeding \$2,500,000;

NOW, THEREFORE, THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF ESQUIMALT, in open meeting assembled, hereby enacts as follows:

1. This Bylaw may be cited as the "*REVENUE ANTICIPATION BORROWING BYLAW, 2013, NO. 2796*".
2. It shall be lawful for the Municipal Council to borrow upon the credit of the Corporation a sum not exceeding two million five hundred thousand dollars (\$2,500,000) in such amounts and at such times as may be required, and to pay interest thereon.
3. All the monies so borrowed and the interest payable thereon shall be payable on or before the 31st day of December 2013.

4. The form of the obligation or obligations to be given as an acknowledgement of the liability shall be a Promissory Note or Notes bearing the Corporate Seal and signed by the Mayor and the Director of Financial Services.
5. There is hereby set aside as security for the liability hereby authorized to be incurred, the sum of \$2,500,000 being part of the taxes for the current year deemed by the Municipal Council expedient to be so set aside.

Read a first time by the Municipal Council on the day of , 2012.

Read a second time by the Municipal Council on the day of , 2012.

Read a third time by the Municipal Council on the day of , 2012.

ADOPTED by the Municipal Council on the day of , 2012.

BARBARA DESJARDINS
MAYOR

ANJA NURVO
CORPORATE OFFICER

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

BYLAW NO. 2795

A bylaw to provide for the administration of the
Freedom of Information and Protection of Privacy Act

WHEREAS the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165, as amended, requires that a municipality designate the Head and set any fees for services;

NOW THEREFORE the Council of the Township of Esquimalt, in open meeting assembled, enacts as follows:

1. This Bylaw may be cited for all purposes as the "Freedom of Information Bylaw, 2012, No. 2795."

2. (1) The definitions contained in Part I of the Act shall apply to this Bylaw.

(2) In this Bylaw:

"Act" means the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165, as amended.

"Commercial Applicant" means a person who makes a request for access to a record to obtain information for use in connection with a trade, business profession or other venture for profit;

"Council" means the Council of the Township of Esquimalt;

"Head" means the person designated under section 3(1) of this Bylaw as the Head;

"Municipality" means the Township of Esquimalt; and

"Request" means a request under section 5 of the Act.

3. (1) The person from time to time appointed to the position of Corporate Officer of the Municipality is designated as the Head for the purposes of the Act.

(2) For the purposes of the Act, the Head shall act in his or her capacity for all Council, Boards, Commissions and Committees of the Municipality.

(3) The person from time to time appointed to the position of Deputy Corporate Officer of the Municipality is authorized to perform any duty or exercise any function under the Act as designated under Section 3(1).

4. An applicant making a request shall pay to the Municipality the fees set out in Schedule "A" of this Bylaw for the purposes of:
 - (a) locating, retrieving and producing a record;
 - (b) preparing a record for disclosure;
 - (c) shipping and handling a record; and
 - (d) providing a copy of a record.

5. The Freedom of Information and Privacy Bylaw, 1994, No. 2155 is hereby repealed.

READ a first time on the 19th day of November, 2012.

READ a second time on the 19th day of November, 2012.

READ a third time on the 19th day of November, 2012.

ADOPTED on the _____ day of _____, 2012.

BARBARA DESJARDINS
MAYOR

ANJA NURVO
CORPORATE OFFICER

SCHEDULE "A" TO BYLAW NO. 2795

PART 1 - FEES - APPLICANTS OTHER THAN COMMERCIAL APPLICANTS:

| | |
|--|--|
| a) for locating and retrieving a record | \$7.50 per ¼ hour after the first 3 hours |
| b) for producing a record manually | \$7.50 per ¼ hour |
| c) for producing a record from a machine the central readable record | \$16.50 per minute for cost of use of mainframe processor on all locally attached devices plus \$7.50 per ¼ hour for developing a computer program to produce the record |
| d) for preparing a record for disclosure | \$7.50 per ¼ hour |
| e) for shipping copies | actual costs of shipping method chosen by applicant |
| f) for copying records: | |
| (i) photocopies and computer printouts | \$0.25 per page (8.5" x 11") and \$0.30 per page (11" x 17") |
| (ii) floppy disks | \$10.00 per disk |
| (iii) computer tapes | \$30.00 per tape up to 2400 feet |
| (iv) microfiche | \$10.00 per fiche |
| (v) 16 mm microfilm duplication | \$25.00 per roll |
| (vi) 35 mm microfilm duplication | \$40.00 per roll |
| (vii) microfilm/fiche to paper duplication | \$0.50 per page |
| (viii) photographs (colour or black & white) | \$5.00 to produce a negative \$12.00 each for 16"x20" \$9.00 each for 11"x14" \$4.00 each for 8"x10" \$3.00 each for 5"x7" |

| | |
|---|---|
| (ix) photographic print of textual, graphic or cartographic record (8'x10" black & white) | \$12.50 each |
| (x) hard copy laser print B/W 300 dots/inch | \$0.25 each |
| (xi) hard copy laser print B/W 1200 dots/inch | \$0.40 each |
| (xii) hard copy laser print, colour | \$1.65 each |
| (xiii) photomechanical reproduction of 105 mm cartographic record/plan | \$3.00 each |
| (xiv) slide duplication | \$0.95 each |
| (xv) plans | \$1.00 per square metre |
| (xvi) audio cassette duplication | \$10.00 plus \$7.00 per ¼ hour of recording |
| (xvii) video cassette (1/4' or 8mm) | \$11.00 per 60 minute cassette plus \$7.00 per ¼ hour of recording \$20.00 per 120 minute cassette plus \$7.00 per ¼ hour of recording |
| (xviii) video cassette (1/2' duplication) | \$15.00 per cassette plus \$11.00 per ¼ hour of recording |
| (xix) video cassette (3/4") duplication | \$40.00 per cassette plus \$11.00 per ¼ hour of recording |

PART 2 - FEES - COMMERCIAL APPLICANTS:

For each service listed above, the cost will be the actual cost of providing that service.



NOV 12 2012

Her Worship Mayor Barb Desjardins
Ms. Janet Jones, Chair, Centennial Celebrations Select Committee
Township of Esquimalt
1229 Esquimalt Road
Victoria, BC V9A 3P1

Ref: 151600

| | | |
|--|--|-------------------------------|
| CORPORATION OF THE TOWNSHIP OF ESQUIMALT | | |
| For Information: | | |
| <input type="checkbox"/> CAO | <input type="checkbox"/> Mayor/Council | |
| <hr/> | | |
| RECEIVED: NOV 22 2012 | | |
| Referred: <i>Cent. Cmtee</i> | | |
| <input type="checkbox"/> For Action | <input type="checkbox"/> For Response | <input type="checkbox"/> COTW |
| <input type="checkbox"/> For Report | <input checked="" type="checkbox"/> For Approval | <input type="checkbox"/> C |

Dear Mayor Desjardins and Chair Jones:

Thank you for your letter of September 21, 2012, addressed to Honourable Ida Chong, former Minister of Community, Sport and Cultural Development, regarding your recent centennial celebration at Esquimalt Gorge Park. As the new Minister of Community, Sport and Cultural Development I am pleased to respond.

Congratulations, once again, on your centennial and the successful anniversary activities you hosted throughout 2012. A centennial is an important milestone and the Province of British Columbia was pleased to provide \$75,000 to support the arts and culture components of your celebrations. I was very impressed to hear about the volume of diverse activities that were held throughout the year. The Coast Salish Welcome Figure and Mural, and the Centennial Book are wonderful legacies for this year of celebration. The September 8 Centennial Community Celebration sounds like it was a wonderful community gathering to reflect on Esquimalt's history, and showcase arts and culture from across the region. I also admire the efforts that you took to make the Centennial Community Celebration a green event.

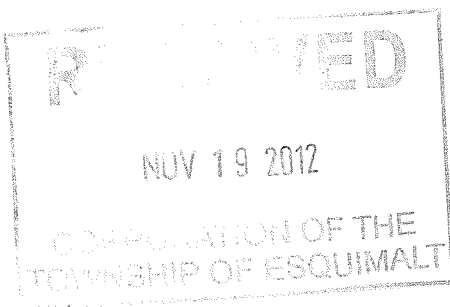
Thank you again for your letter.

Sincerely,

Bill Bennett
Minister

pc: Honourable Ida Chong, MLA
Oak Bay-Gordon Head

Council Agenda
c: Anja



Chamber of Commerce ESQUIMALT

Chamber Office | #103-1249 Esquimalt Rd. | Esquimalt, BC V9A 3P2
Phone: 250-590-2125 | Fax: 250-590-1849 | www.esquimaltchamber.ca

Re: 2012 Esquimalt Chamber of Commerce Membership

Dear Member,

Thank you for choosing to be a member of the Esquimalt Chamber of Commerce, the voice of business in Esquimalt. Our monthly social mixers occur on the last Wednesday of every month, and serve as a way to network and market your business, and learn about topics that affect you. Keep up to date by going to our website www.esquimaltchamber.ca or visit our Facebook page.

Membership with our organization entitles you to a number of benefits through the BC Chamber of Commerce such as health insurance, gas discounts, Visa/MasterCard/Debit discounts, and more. Please go to the BC Chamber Website www.bcchamber.org and look under Benefits and Programs. You can login with the password 1201750.

Enclosed is your receipt and Esquimalt Chamber sticker which you can display at your place of business. This sends an important message to your customers that you are a professional business who is involved in your local community.

We welcome you to the chamber and we look forward to connecting, advocating for, and promoting your business.

Sincerely yours,

Dawn Ritchie
Office Administrator
Esquimalt Chamber of Commerce
admin@esquimaltchamber.ca
Tel: 250-590-2125

Deborah Liske

Subject: FW: Heating Oil Tanks
Attachments: 2012-02-01-PreventingHomeHeatingOilSpillsinBC_Nov2012.pdf; Sioux Plc oil tank

From: Mark Salter [m.salter@shaw.ca]
Sent: November 19, 2012 6:26 PM
To: mayorandcouncil@esquimalt.ca
Subject: Heating Oil Tanks

Dear Mayor and Council

I want to share my concern about the environmental risks of home heating oil tanks that threaten local fish habitat.

I noticed this oil tank just meters from the beach at Gorge Park. I did not notice it until just last week on my walk through the park. You will see in the picture that some shrubs and trees have been cut down allowing a full view of the home heating oil tank from the bridge, which runs off Sioux Place that leads to Gorge Park.

I have attached details of a recent community forum held by the Gorge/Tillicum Community Association that featured the attached report from the Environmental Law Centre Clinic from UVIC. The report outlines several suggested strategies for local governments to consider when dealing with the prevention of environmental damage from leaking heating oil tanks.

I am hoping that the Town of Esquimalt will be able to show leadership on important environmental issue by finding ways to prevent these home heating oil tanks from damaging all the good work the town has done to improve water quality in the Gorge.

Regards
Mark Salter
832 Rockheights Ave.
Esquimalt



Environmental Law Centre Clinic

**Murray and Anne Fraser Building
University of Victoria
P.O. Box 1700 STN CSC
Victoria, BC, Canada V8W 2Y2
www.elc.uvic.ca**

Preventing Home Heating Oil Spills in British Columbia

(2012-02-01)

**Researchers: Trevor Johnson and ELC
Articled student Naomi Kovak**

Date Published: November 2012

Copyright © 2012 The Environmental Law Centre Society. All rights reserved.

Permission is hereby granted to reproduce and distribute these materials in whole or in part for educational and public interest purposes, provided such copies are disseminated at or below cost, provided that each copy bears this notice, and provided that the Environmental Law Centre is credited as the original published source.

DISCLAIMER: This material is provided for general information as a public and educational resource. We attempt to ensure the accuracy of the material provided, however much of the information is produced by students, not lawyers, and we do not guarantee that it is correct, complete or up to date. The Environmental Law Centre does not warrant the quality, accuracy or completeness of any information in this document. Such information is provided "as is" without warranty or condition of any kind. The information provided in this document is not intended to be legal advice. Many factors unknown to us may affect the applicability of any statement or comment that we make in this material to your particular circumstances. This information is not intended to provide legal advice and should not be relied upon. Please seek the advice of a competent lawyer in your province, territory or jurisdiction; or contact the ELC for more complete information.

Preventing Home Heating Oil Spills in British Columbia

By Trevor Johnson, with Naomi Kovak
Supervised by Calvin Sandborn

Second Edition, November, 2012

Prepared for the Gorge-Tillicum Community Association

DISCLAIMER:

This material is provided for general information as a public and educational resource. We attempt to ensure the accuracy of the material provided, however much of the information is produced by students, not lawyers, and we do not guarantee that it is correct, complete or up to date. The Environmental Law Centre does not warrant the quality, accuracy or completeness of any information in this document. Such information is provided "as is" without warranty or condition of any kind. The information provided in this document is not intended to be legal advice. Many factors unknown to us may affect the applicability of any statement or comment that we make in this material to your particular circumstances. This information is not intended to provide legal advice and should not be relied upon. Please seek the advice of a competent lawyer in your province, territory or jurisdiction; or contact the ELC for more complete information.

Contents

Overview 4

Economic Liabilities for Homeowners 5

Causes of leaks 6

 Leaking tanks: 6

 Leaking plumbing: 7

 Filling tanks no longer in place: 7

Current Legislative schemes: 7

Fisheries Act 8

Environmental Management Act 8

Fire Code 8

 Municipal Bylaws 9

Potential models for reforming the law 9

 Physical requirements for tank and equipment 10

 Limiting the length of time a tank can be installed on a property 12

 Regulating oil delivery to tanks 12

 Inspection and Monitoring 13

 Decommissioning requirements 13

 Direct Economic incentives to discourage oil tanks: 14

 Liability provisions and insurance requirements 15

Recommendations: Solutions from Other Jurisdictions 17

Overview

Numerous homes in British Columbia are still heated by fuel oil. Indeed, oil was the most popular type of home heating in places like Greater Victoria before 1992 -- when a natural gas line was built from the mainland.

Home oil furnaces require the installation of a storage tank on the property to hold the oil. These tanks were typically 1000L and installed in one of three ways: either freestanding outside, buried outside, or in the basement of the home, with plumbing taking the oil from the tank to the heating unit in each case as needed.

However, these tanks and systems are aging and are becoming a growing environmental hazard. For example, a number of fuel oil spills have recently occurred in Saanich from home heating oil tanks. While in many cases these spills have been small, their persistence is quite troubling. For example, in the six months between September 2011 and February 2012, it has been reported that there were ten spills into streams on Vancouver Island -- and five in Saanich alone¹. In one case 1000 litres spilled during the height of salmon spawning season into Saanich's Colquitz River, contaminating the river, nauseating the neighbours, and killing a large number of coho and other fish². Just three months later a similar spill occurred on the same river.

Unfortunately, the design of storm water systems makes it likely that such home heating oil spills will damage natural bodies of water. When spills occur, they tend to flow into storm sewers (sometimes via perimeter drains around the house). Rain runoff then washes the oil through the storm sewer system into streams and lakes.

Spills can contaminate streams, pollute the local air, mar the aesthetics of parks and green spaces and impact wildlife. In particular, B.C. is fortunate to be home to a number of rare runs of urban salmon-spawning streams, which also support a wide array of aquatic and terrestrial life along their lengths and at their outflows. Such spills can threaten this remarkable natural asset.

Even if a home heating oil spill is small, the impacts can be significant. One cup of oil can pollute a quantity of water equal to an Olympic swimming pool. And the very frequency of these spills enhances the concern, because a stream may be unable to fully recover in between contamination events. As salmon runs are based on a 5-year cycle the full extent of the damage caused by these incidents may not be evident for some time -- but preliminary reports from those on the ground are troubling.

Once in the stream the oil harms the fish in a number of ways. Oil is toxic. The fish ingest the oil when they feed on other organisms in the water that has been coated with oil and in turn suffer poisoning. The oil also coats their gills making it difficult for them to exchange oxygen, which causes the fish to suffocate. And finally it also damages the eggs that are laid in the streambeds.

¹ Kevin Slavin (February 24, 2012) "Colquitz River Polluted again after 630 liters of home heating oil spills in Saanich" quoting Graham Knox, manager of BC's environmental emergency program Saanichnews.com

² Kevin Slavin (November 27, 2011) "Oil Spill Darkens Feel-good story of Urban Salmon Creek" retrieved from <http://www.saanichnews.com/news/134564313.html>

The oil contaminates the benthic substrate, which is highly toxic to the eggs of spawning salmon. Once there, it remains in the environment for as long as several seasons and reduces, sometimes nearly completely, the survival rate of the hatchlings. As the Pacific salmon tend to return to the same stream from which they came, the loss of a single season's run can have a serious effect for generations to come.

Such damage to salmon streams and marine waters is critically important. Salmon are iconic in British Columbia – and are of profound cultural significance for First Nations. In addition, when streams are damaged, it can not only impact the fish, but also the eagles, osprey, seals, sea lions, bear and orca that rely upon them.

Sighting salmon, eagles, heron and osprey – or even an occasional bear or whale – may be the stuff of movies in most parts of North America, but it is a common occurrence for British Columbians. It is a critical part of what makes SuperNatural British Columbia. In the long run, repeated oiling of our local streams can put this at risk.

We need to act, and not just for purely environmental reasons. If we are to maintain a strong economy, it is important that we protect our urban waterways and fish. Twenty-first century companies rate the quality of a city's physical environment as one of the two top factors in siting a company.³ For example, when Microsoft located its game division in Victoria, it cited the liveability of this region as a major factor. And the tourism industry depends upon the health of our local waters, fish and wildlife. Unchecked chronic oil spills threaten these economic drivers that depend upon a healthy environment.

Economic Liabilities for Homeowners

Not only do home heating oil tanks represent a significant risk to local the local environment and economy, they also represent a significant economic liability to individual homeowners. B.C.'s *Environmental Management Act* and the common law can require the owner of a property that is a contamination source to pay for the cost of cleaning up that contamination and contamination of neighbouring properties.

The cost of these clean ups can be very high. This is especially the case where the fuel makes its way into a stream, which is quite likely. In the case of one recent spill the homeowners were faced with a clean-up cost exceeding \$200,000⁴. A clean up bill of that size represents an enormous and very likely unmanageable debt to a middle class family.

Unfortunately, insurance generally does not cover these types of spills as most brokers offering insurance in Saanich have an explicit pollution exclusion clause.

The insurance industry has responded to the potential for very large liabilities from these old tanks. Now all but one of the companies offering homeowner policies in Victoria have written "pollution exclusion" clauses into their policies -- which prevents them from having to pay for damage from such a spill.

³ Sandborn, *Green Space and Growth*, p. 4.

⁴ *Courbould v BCAA Insurance Corporation*, 2012 BSCS 1536, at para 17

Even where insurance was in place, one court found that the presence of the leak amounted to a inherent defect in the property rather than an incident giving rise to a valid insurance claim⁵.

Many property owners are ill-informed about the risks associated with home heating oil systems, and the potentially economically disastrous costs associated with their failure. A number of jurisdictions have published risk-prevention guides in an attempt to better inform the public.⁶ Clearly it will benefit BC homeowners if a system can be devised to prevent such leaks – and their serious environmental and economic impacts.

Causes of leaks

The spills that have occurred have generally happened in one of three ways: either the tank itself leaked, the plumbing from the tank leaked, or the delivery company tried to fill a tank that was no longer in place.

Leaking tanks:

As noted earlier, in order to utilize this type of heating one had to have a tank storing the oil onsite. The problem is that the tanks themselves are prone to corrosion from condensation accumulating inside of the tank. This settles to the bottom of the tank because it is heavier than the oil and it encourages the growth of highly acidic bacteria that eats away at the metal. This corrosion is not apparent from the outside of the tank until it actually begins to leak, and by then it is too late to prevent the environmental harm.

This problem does not plague all tanks uniformly. Outside freestanding tanks are much more prone to this type of corrosion because they experience more temperature fluctuation and condensation. However, any leaks from such units are much more rapidly detected than underground tanks. In fact, some sources suggest that the majority of in ground tanks have caused some level of contamination of the surrounding soil, but unless it becomes particularly bad it goes unnoticed.

Corrosion problems are actually getting worse. Today's new lower sulphur and bio-fuel blended heating oil is more conducive to the growth of this bacteria and so these leaks, if the problem is unaddressed, will only increase in frequency in the coming years.

⁵ Johnston v Chubb Insurance Company of Canada, 2010 QCCA 1066

⁶ See for example: District of Saanich, Environmental Services. *Home Heating Oil Tanks: Tank Maintenance & Spill Response* <<http://www.saanich.ca/living/environment/pdf/OilTanks2012.pdf>>; Government of the Northwest Territories, Department of Environment and Natural Resources. *Check Your Heating Fuel Tank!* <[http://www.enr.gov.nt.ca/live/documents/content/Check Your Fuel Tank.pdf](http://www.enr.gov.nt.ca/live/documents/content/Check%20Your%20Fuel%20Tank.pdf)>; Government of the Northwest Territories, Department of Environment and Natural Resources, *Homeowners Guide to Oil Tanks* <[http://www.enr.gov.nt.ca/live/documents/content/Homeowners Guide Oil Tanks.pdf](http://www.enr.gov.nt.ca/live/documents/content/Homeowners%20Guide%20Oil%20Tanks.pdf)>; Government of Nova Scotia, Department of Environment. *Homeowners Guide to Heating Oil Tank Systems* <<http://www.gov.ns.ca/nse/petroleum/docs/OilTankGuide.pdf>>; and Government of Nunavut, Department of Environment. *Illustrated Homeowners Guide to Heating Oil Tank Inspections* <<http://www.gov.nu.ca/env/ogh.pdf>>

Leaking plumbing:

The second most common cause of leaks into the environment is from the plumbing that connects the fuel source to the appliance that burns it. The plumbing is often exposed to the elements and comprised of thin-walled metal tubing. This tubing is highly prone to puncture and corrosion. For example, in one recent Saanich incident a person using a weed-trimmer to mow around the structures at his house cut through the plumbing leading to a spill. In the Maritimes it is not uncommon for vandals to cut the plumbing on tank systems⁷. Generally speaking, leaky plumbing, like leaks from the tanks themselves, is prevalent and largely the result of age of the system and poor design.

There are also problems with the accessories that go in between the tank and the plumbing. One of the more common of these is a fuel filter located immediately on the tank drain nozzle. It too is prone to corrosion as a result of the accumulation of condensation in the bottom of the housing, which can lead to failure and leakage.

Filling tanks no longer in place:

I include this not because it is particularly prevalent, indeed I am only aware of one case where this was the cause of the spill. I include it because, while not common, the sheer volume of material spilled is very high relative to other spills of this type, the severe repercussions of this type of spill can extend to neighbouring property owners, and also because it is illustrative of the lack of effective regulation over decommissioning old tanks. The recent spill from an Adelaide Avenue home in Saanich was the result of the fuel delivery company going to the wrong house to fill up an oil tank that had been removed, but with the filler pipe left in place. The delivery driver pumped oil into the filler pipe – and directly into the basement. The driver would have had no indication whatsoever just by looking at the filler hole that there was no tank attached to it⁸.

Current Legislative schemes:

The current legal framework that affects home oil storage tanks is disparate, unwieldy and ineffective. Notably, there is the provincial *Environmental Management Act*, the Federal *Fisheries Act*, the British Columbia *Fire Code*, and bylaws enacted at the municipal level. While each of these legal regimes touches on this problem in some way, they fail to deal with it directly, cohesively, or effectively. Most important, the laws tend to deal with spills and contamination after the fact -- no laws deal effectively and comprehensively with preventing the damage in the first place.

⁷ See for example, "Nova Scotia Oil spill caused by vandalism causes threat to salmon" by Stephanie Dearing found at <http://www.digitaljournal.com/article/281864>, or "Oil Vandals Hit Halifax Barber Shop" found at <http://www.cbc.ca/news/canada/nova-scotia/story/2011/12/12/ns-oil-vandals-hit-barber.html>

⁸ Kevin Slavin (February 23, 2012) "Oil Tank Spills Continue to Cause Concerns" Retrieved from <http://www.saanichnews.com/news/140085213.html>

Fisheries Act

The *Fisheries Act* makes it illegal for anyone to deposit a deleterious substance into waters frequented by fish⁹. Oil leaking from home heating oil tanks certainly constitutes a substance deleterious to fish, and a conviction under s. 36 can lead to substantial penalties. However, s. 36 of the *Fisheries Act* generally only comes into play after a spill has occurred and damage is already done.

Environmental Management Act

The *Environmental Management Act* can require a homeowner whose property has been the source of contamination to pay for the cost of that clean up. However, this is primarily a compensatory regime – it doesn't necessarily prevent the problem in the first place. The problem with this scheme is that homeowners do not generally know about their broad potential liability under it -- and the ones that do likely assume that their insurance will cover it. Furthermore, there is a question whether this regime achieves the full cost internalization necessary to fully incentivise the homeowner to prevent the spills¹⁰.

The benefit of this Act is that it is an absolute liability regime, meaning that there is no defence generally available if the substance has leaked into the environment. In that sense it is a very effective law. The weakness is that it only comes into play once the damage to the environment has been done.

Fire Code

The BC *Fire Code*, which incorporated the National *Fire Code* into BC Law in 2006, works in conjunction with the Canadian Standards Association's "Installation code for oil-burning equipment" ("CSA Code"), and includes a few provisions governing decommissioning of tanks, and the standards of tank design.¹¹ But these codes do not provide for regular monitoring of tanks to prevent spills, and are primarily concerned with fire prevention, and human health and safety -- not environmental health and safety. An illustration of just how ineffective these

⁹ *Fisheries Act*, section 36. Note that the newly-weakened s. 35 which now prohibits causing serious harm to commercial, recreational or aboriginal fisheries might also be invoked, but may be difficult to prove.

¹⁰ When doing a basic cost benefit analysis, a rational economic actor will avoid those costs where the expected clean-up cost X the probability of the payout being needed is less than the cost taking the preventative steps. Where the costs are so large that no individual would actually be able to pay them their internalization mechanism is lost. Instead the rational economic actor will only pay for the cost of prevention where the probability of payout X cost that they will actually be paying out exceeds the cost of the prevention measures. Consequently, the market will under-demand and under-supply environmental prevention. In that sense it is comparable to the classic open access resource problem, that is to say, a homeowner who uses the environmental resource only pays for a fraction of the cost of using that resource but gains all of the benefit.

¹¹ BC Reg 175/2006 ("BC *Fire Code*"); Consumer Standards Association, *Installation Code for oil-burning equipment*, B139-09 (August 2009) ("CSA Code").

provisions can be at preventing spills occurred in 2006 -- where one of the spills that occurred was traced back to a firehouse as its source.¹²

Municipal Bylaws

Many municipalities have enacted bylaws that require a permit and inspection for the installation, removal, or repair of home heating oil systems.¹³ These bylaws work in conjunction with the British Columbia *Building Code*, the British Columbia *Fire Code*, and the CSA Code.¹⁴ However, many homeowners remain uninformed of these by-laws and simply rely upon installation contractors to meet local permitting requirements. This, combined with varying degrees of punitive consequence for non-compliance, can render the bylaw regimes inconsistent and ineffective in preventing spills.¹⁵

In sum, perhaps the most important law governing home heating oil spills is the BC *Environmental Management Act*. The *Fisheries' Act*, though much more robust in number of ways, including the ability to levy punitive fines, has a wider range of defences available that could serve to limit the applicability of that act¹⁶. But both laws are reactive to incidents, and not preventative.

Potential models for reforming the law

The Province and local governments need to enact law reform to deal with this issue. Research indicates that many jurisdictions have addressed the tank spill problem by using a wide range of regulatory tools to prevent spills in the first place. These can be tailored to prevent situations that lead to leaks – and can be more effective at prevention than the reactive compensation and penal provisions of the *Environmental Management Act* and the *Fisheries Act*. The Canadian Council of Ministers of the Environment (“CCME”) has published the *Environmental Code of Practice for Aboveground and Underground Storage Tank Systems Containing Petroleum and Allied Petroleum Products* (“CCME Code”), a model set of technical requirements that is intended to “promot[e] environmentally sound management of petroleum and allied petroleum product

¹² Kevin Slavin (December 6, 2011) “Oil Spill History Repeats Itself in Saanich, Stream Steward says” Retrieved from <http://www.saanichnews.com/news/135111208.html>

¹³ See for example: City of Colwood, by-law No 785, *A bylaw to establish permit and inspection fees with respect to the installation and removal of oil burning equipment and flammable or combustible liquid storage tanks*, (2004); The Corporation of the District of Oak Bay, by-law No 4144, *A Bylaw to regulate the installation of oil burning equipment and flammable liquid and combustible liquid fuel tanks*, (2002) (“Oak Bay Bylaw”); The Corporation of the District of Saanich, by-law No 8204, *Oil Burning Equipment and Flammable Liquid and Combustible Liquid Fuel Tank Bylaw*, (2001).

¹⁴ CSA Code, *supra* note 11.

¹⁵ For example, the Oak Bay Bylaw has relatively severe consequences with potential fines as high as \$2000 for non-compliance (Oak Bay Bylaw, *supra* note 12 at s. 13). Whereas, the Colwood Bylaw doubles the permit fee for work that is commenced prior to obtaining a permit, resulting in an additional \$50 charge for failing to obtain a permit for a new tank installation (Colwood Bylaw, *supra* note 12 at s. 4, and Appendix A).

¹⁶ *Fisheries Act*, section 78.6

storage tank systems through the application of uniform performance standards throughout Canada.”¹⁷ The CCME Code can be adopted by any authority having jurisdiction, and goes beyond the British Columbia *Fire Code* and CSA Code to address issues such as the need to upgrade aging systems.¹⁸ To date no part of the CCME Code has been officially adopted as law in British Columbia.¹⁹

Prevention provisions fall into roughly into seven categories. These are:

- Physical requirements for tanks and equipment,
- Limiting the length of time a tank can be installed on a property,
- Regulating oil delivery to tanks,
- Inspection and monitoring requirements,
- Requirements for proper decommissioning of tanks,
- Direct economic incentives, and
- Laws imposing or modifying liability including insurance provisions.

Each of these legal requirements addresses a different potential cause of spills. Implementation of the full suite of such laws would create a robust scheme that should solve the problem of home heating oil spills.

Physical requirements for tank and equipment

One approach is to establish a technology standard for tanks and equipment. Such standards are easy to understand and easy to implement. Technology standards are one of the more common elements of the various regulatory regimes designed to prevent home heating oil spills. A number of design elements are potentially problematic for causing leaks -- and so various standards have been set to address these shortcomings. Some types of these provisions that we would recommend BC implement include:

¹⁷ Canadian Council of Ministers of the Environment, *Environmental Code of Practice for Aboveground and Underground Storage Tank Systems Containing Petroleum and Allied Petroleum Products* (2003) (“CCME Code”) at x.

¹⁸ The CCME identifies the Ministry of Environment, Environmental Services Branch, Industrial Waste Section and the Office of the Fire Commissioner, Ministry of Public Safety and Solicitor General as authorities in British Columbia with the jurisdiction to adopt the CCME Code. [See: Canadian Council of Ministers of the Environment, *Environmental Code of Practice for Aboveground and Underground Storage Tank Systems Containing Petroleum and Allied Petroleum Products* “Appendix A: Authorities having jurisdiction” (Revised March 2012) <http://www.ccme.ca/assets/pdf/pn_1326_rvsvd_appendix_a_1.0_e.pdf>].

¹⁹ However, the British Columbia *Fire Code* does identify Part 9 of the CCME Code as one of three acceptable engineering standards that can be applied in conforming with the requirement that the decommissioning of underground storage tanks be “in conformance with good engineering practice” (*supra* note 11, at s. 4.3.15.1.). Alternatively, decommissioning can be in accordance with the similar American Petroleum Institute Standards, or National Fire Protection Association 30, Annex C. (BC *Fire Code*, *supra* note 11 at s. 4.3.15.1, and Appendix A).

- Requirements that the tank and other aspects of the system be manufactured from either non-metallic or corrosion resistant materials²⁰;
- Requirements for the tank to be manufactured from fiberglass or be double walled²¹;
- Require interstitial monitoring device to be installed on double walled tanks to alert of any leaks²²;
- Requirements for various valves and containment apparatus²³;
- Requirements for the nozzle to be located on the bottom²⁴;
- Require the plumbing to be made out of an insulated material in order to prevent puncture from external sources²⁵; and
- Establish standards of certification that must be met by the tank²⁶ (this is done by incorporating other statutory or professional standards covering the exact same subject matter²⁷).

The CCME Code provides draft technical requirements in Part 3 and Part 4 that address design and installation standards for new aboveground and underground storage tank systems; these draft technical requirements incorporate many of the recommendations identified here.²⁸

However, such standards do little to address systems already in place. If a homeowner is completely replacing or modifying an existing system then these can come into play. However, many leaks come from existing tanks – tanks that are not well designed, not well-maintained, or not even used any more. Just imposing technology standards on *new installations* will be of very limited success if it is the only thing done.

Again, the CCME Code provides draft regulations that address the need to register existing storage tank systems by a prescribed date, and to upgrade or decommission non-conforming storage tank systems within two years of the effective date of the CCME Code adoption.²⁹ Under the CCME Code fuel delivery to tanks not registered by a prescribed deadline would be prohibited.³⁰ One effective measure for identifying tanks that are in compliance would be the imposition of a requirement to affix a date of installation on new tanks, or registry on existing tanks, and disallowing delivery people from depositing fuel in a tank without that identification.

²⁰ See Prince Edward Island home heat tank regulation sections 4;7(3).

²¹ See for example Heating Oil Storage Tank System Regulations, 2003, NLR 60/03 s.15(4)(a), PEI Home Heat Tank Regulation section s.7(3-5)

²² See for example PEI home heat tank regulation section 1(f), 7(4)(b)

²³ See for example PEI s14(2)(a)

²⁴ See for example PEI home heat tank regulation section 7(4)(b))

²⁵ See Massachusetts law [ch453 of the Acts of 2008, amended in 2010]

²⁶ See for example PEI home heat tank regulation section 7

²⁷ See for example PEI Home Heat Tank Regulation section s.7(2)

²⁸ CCME Code, *supra* note 17, at Parts 3 & 4.

²⁹ *Ibid*, at Parts 2 & 7.

³⁰ *Ibid*, at s. 2.5.1

Limiting the length of time a tank can be installed on a property

A number of jurisdictions have imposed restrictions on the length of time that a tank may be installed on a property. For example, Prince Edward Island now requires that steel tanks be replaced every 15-25 years depending on the tank design and steel thickness.³¹

Jurisdictions have acted in different ways to set time limits on tanks: establishing different maximum lengths, varying the time limit for different tank configurations, and establishing different procedures for dealing with the matter when a tank has exceeded the time limit.

In some jurisdictions the specific time limits are set out in the Act; elsewhere the minister sets the limits in regulations; and elsewhere the issuer of the identification tags for tanks (discussed below) can set the time limit as they see fit in the circumstances. Note that a number of jurisdictions with more comprehensive schemes have prescribed these time limits in the regulations themselves³².

Time limits need to reflect the variable resilience of the different types of systems. For example, a single walled tank may only have a safe life of ten years outside above ground and twenty below ground or inside. In contrast, a double-walled tank with an interstitial monitoring device could conceivably stay in the ground indefinitely as long as the interstitial space continued to be monitored³³. Prince Edward Island has excluded approved non-corroding home heat tanks from its time limits.³⁴

Restrictions on the length of time a tank may be installed on the property will only be effective if there are consequences when the tank is past its date. The jurisdictions examined have two different potential consequences:

- There can be restrictions on delivery, where the fuel truck driver is not allowed to deliver to any house unless there is a tag attached that is valid³⁵; or
- There can be a requirement for periodic re-inspection, resulting in either a new tag to be issued or the homeowner being forced to decommission the tank³⁶.

Regulating oil delivery to tanks

The tank time limits need to have a mechanism in place to force compliance when the tank expires. One way of accomplishing this is to require oil delivery companies to check a government-mandated identification tag affixed to the filler cap on the tanks at the time of

³¹ http://www.atlanticbca.com/eng/regulations_pei.html

³² See for example Heating Oil Storage Tank System Regulations, 2003, NLR 60/03 s.15(1),(5)

³³ See for example Heating Oil Storage Tank System Regulations, 2003, NLR 60/03 s.15

³⁴ http://www.atlanticbca.com/eng/regulations_pei.html

³⁵ See for example Heating Oil Storage Tank System Regulations, 2003, NLR 60/03 s. 13(1)(b)(ii), or PEI s 14(1)

³⁶ See for example PEI. Home Heat Tank Regulations S.19.

installation or last inspection -- and refuse to fill such tanks if the date on the tag has expired. The oil company is then typically required to report this to the ministry responsible for overseeing the issuance of the identification tags -- which can then order an inspection, discussed further below.

The one shortcoming in this regard is that the expired tank may only get reported when the driver attempts to deliver to a house with a tank past its expiry date. In cases where the homeowner has switched to a newer heating technology and no longer orders new oil, then the tank could sit there far past its safe life.

There are ways to overcome this problem however. Government inspection can be triggered automatically at the expiry date filed in the ministry's records.

An effective way to ensure removal of such obsolete tanks would be to legally require every installer of any type of home heating systems to ensure that the old oil tank has been properly decommissioned before installing a new system.

Inspection and Monitoring

Periodic inspection of existing home oil tank systems is crucially important. Systems tend to age, corrode and fail over time. Such systems are often poorly designed and constructed. For example, a few years ago the Prince Edward Island government estimated that 63 percent of PEI home heating tanks failed to meet proper installation standards to protect against spills. This is why the PEI government ordered the inspection of all such tanks by 2006. Inspected tanks were given a government-issued identification tag – and it became illegal to deliver oil to a home heat tank which had not been inspected and given a valid tag.³⁷

Furthermore, ongoing inspection of installed equipment is necessary to check on aging, corrosion, and other potential problems. The nature of the monitoring required depends on the exact nature of the installed equipment. This can take the form of requiring usage monitoring, dipping to check for the presence of water, checking the interstitial monitoring device for changes in pressure, and even occasional soil samples where a leak is suspected. The CCME Code suggests that inspection and performance testing should be conducted annually, and makes it mandatory that any deficiencies identified through the inspection process be remedied in conformance with the Code.³⁸ In order to ensure the effectiveness of a mandatory inspection regime, delivery of oil should be prohibited for any tanks found inadequate.

Decommissioning requirements

Tanks no longer in use still pose a significant threat to the environment. They need to be properly decommissioned. For example, decommissioning of an underground tank can involve

³⁷ http://www.atlanticrbca.com/eng/regulations_pei.html

³⁸ CCME Code, *supra* note 17, at s. 8.4.

removing it entirely, or draining it of all old fuel, cleaning it, and filling it with an inert substance such as sand (to prevent soil subsidence from tank collapse).

The British Columbia *Fire Code* establishes that unused underground oil storage tanks must be decommissioned³⁹. However, governments have grossly inadequate information about exactly where those underground tanks actually are. In addition, there is not a comprehensive scheme to require proper decommissioning of above-ground tanks.

Any new regulation regime for home heat tanks needs to ensure enforcement of proper decommissioning of home heating oil tanks. Legislation needs to fashion a way to identify and track where old tanks are – and ensure their proper decommissioning.

To do this effectively, we must obtain accurate information on where these old tanks are located. The West Vancouver Fire Department has been attempting for several years to get a handle on the exact number there and has yet to do so⁴⁰.

One way of improving the information about where old tanks are located would be to legislate a requirement that oil delivery companies keep a database of their customers along with the date of expiry of their systems. This database could be used to keep track of where oil tanks are, and help in identifying tanks that will be dropped from usage in the future. This information -- along with information gathered from homeowners who may self-identify their old tanks in order to get free insurance coverage (discussed below) -- should help determine the exact locations of unused tanks.

Direct Economic incentives to discourage oil tanks:

One approach that has been commonly used in other jurisdictions is to provide homeowners with direct incentives to change to different methods of heating altogether. These can take the form of either a positive economic incentive to switch to a new technology, or a negative incentive if the homeowner does not. The positive incentive is through a subsidy program that pays people a small amount of compensation to switch to a newer heating technology. An example of this was done in New Jersey and the program was so successful that the fund actually ran out of money, though it is still being administered in the expectation of receiving future appropriations⁴¹. The negative economic incentive can come in the form of an annual fee for continuing to keep the tank installed. This can be a powerful incentive to remove the tank. However, despite that benefit, these programs have been unpopular and may not be terribly effective at achieving their ends, especially in light of the inadequate records regarding where

³⁹ British Columbia *Fire Code*, supra note 11, at s. 4.3.15.1.

⁴⁰ Several years after the program was first brought into being the municipality was still sending out letters and information packages trying to figure out which properties still had tanks. For an example of these letter see: http://westvancouver.ca/uploadedFiles/Emergency_Services/Emergency_Services_Main_Pages/FOP%20LETTER%20TO%20ACCOMPANY%202011%20DECLARATION.pdf, or http://westvancouver.ca/uploadedFiles/Emergency_Services/Emergency_Services_Main_Pages/FUEL%20STORAGE%20TANK%20RESPONSE%20FORM.pdf

⁴¹ New Jersey Petroleum Underground Storage Tank Remediation, Upgrade And Closure Fund

these tanks are actually located. This was recently tried in West Vancouver through the West Vancouver Tank Permitting scheme and has been controversial⁴².

Liability provisions and insurance requirements

As noted above, tanks can not only create large risks to the environment, they can also create a massive economic liability to individual homeowners. This homeowner liability is exacerbated by the fact that insurance policies generally do not cover such losses.

A number of the jurisdictions examined have attempted to deal with this problem. There are a number of different models that can be looked at, and each has its strengths and weaknesses.

The first decision to be made about a law governing insurance is whether it will be compelled or voluntary. The argument in favour of voluntary is fairly straightforward. The homeowners know the peril they are facing if they do not have some sort of protection and so should be free to take that risk. However, there are good reasons to believe that this will lead to an under-consumption of insurance by the public. First, the public simply doesn't know about the level of liability they may be facing – and economic models require decision makers to have reasonably complete information. Furthermore, there is a reason to believe that even if the homeowners in question had perfect information that they would still under-consume insurance goods because of the lack of full cost internalization noted earlier.

By contrast, mandatory insurance is based on the idea that the individuals in question are engaged in an activity that has a high likelihood of imposing costs on others that they will be unable to bear and so should be insured for it. This is the reason why we force people to buy auto insurance for example. The problem with compelled insurance is that it tends to be very unpopular, even where it on average saves everyone money⁴³.

For home heating tanks, one possible way of providing compelled insurance with low political costs might be to impose a public insurance scheme similar to the one in Washington State whereby the insurance fund is paid for by a small surcharge on each unit of fuel⁴⁴. A great benefit in the way that they have designed their system is that the homeowners only receive insurance protection if they sign up their system ahead of time, at no cost. Consequently it provides a strong incentive for those owners that have a tank on their property to self identify. This serves the vital function of improving government records about where all the oil tanks are.

Even if the decision is made to ultimately leave the choice of whether to buy insurance up to the individual homeowner, there will still be a need for some form of regulatory intervention. Currently the insurance companies on Vancouver Island have pollution exclusion clauses that prevent them from being on the hook for any of these costs. Even where they do not have such

⁴² West Vancouver Fuel Storage program

⁴³ One need only look to our neighbors to the south and the public outrage over the compelled health insurance mandate of the Patient Protection and Affordable Care Act

⁴⁴ See for example Washington state, 70.149 RCW and Chapter 374-70 of the Washington Administrative Code, also <http://www.plia.wa.gov/heating/insurance.htm>

an exclusion clause, recent case law would suggest that property owners might still find themselves without coverage⁴⁵. Other jurisdictions have passed regulations requiring the insurance companies to at least offer pollution coverage, though they still leave it up to the individual homeowner whether or not to purchase it⁴⁶.

As deliverers of oil, the oil companies are in a unique position to reduce risk of spills from poor tanks. Therefore, government should review how making such companies absolutely liable for spills -- and requiring them to carry commensurate insurance -- might reduce the incidence of spills.

⁴⁵ Johnston v Chubb Insurance Company of Canada, 2010 QCCA 1066

⁴⁶ See Massachusetts law [ch453 of the Acts of 2008, amended in 2010]

Recommendations: Solutions from Other Jurisdictions

Having surveyed a number of other jurisdictions that have dealt with this issue, we make the following recommendations for reform. British Columbia and local governments should legislate the following:

- Mandatory physical requirements for home heating oil tanks and equipment, including requiring tanks to be double-walled or made of fiberglass, requiring reinforced plumbing and making containment apparatuses mandatory, etc. CCME Code standards should be considered.
- Requirements for tank system replacement and upgrades, including maximum time limits on the length of time a tank can stay installed on a property;
- A requirement that tank systems be registered – and establishment of government-issued identification tag systems that confirm tanks and systems are in good shape and not obsolete. Delivery of fuel to tanks without a valid tag should be prohibited;
- Mandatory regular inspection systems, including authorization of inspectors to enter private property for that purpose;
- Require every installer of home heating systems to ensure that the old oil tank has been properly decommissioned before installing a new system.
- Require proper decommissioning of any tanks that no longer meet certification or if unused for a prescribed period. This will require setting up mechanisms to identify where all tanks are (including access to oil delivery company records and offering of public insurance to homeowners who self-identify old tanks).
- Governments should consider legislating absolute liability for oil companies for any subsequent spills from a tank they fill – and a requirement that the company carry liability insurance for that liability;
- Subsidies to homeowners to change to cleaner home heating options;
- A public insurance fund paid for by surcharge on fuel to pay for spills from the property of those homeowners who have self-identified as having a tank.



Making a difference...together

Capital Regional District
625 Fisgard Street, PO Box 1000
Victoria, BC, Canada V8W 2S6

T: 250.360.3000
F: 250.360.3234
www.crd.bc.ca

November 21, 2012

Ms. Anja Nurvo
Manager of Corporate Services
Township of Esquimalt
1229 Esquimalt Road
Victoria, BC V9A 3P1

Dear Ms. Nurvo:

Re: 2012 CRD Board and Hospital Board Appointments and 2011 Census Figures

The Capital Regional District Board and Hospital Board **Inaugural Meetings** will take place on **Wednesday, December 12, 2012 at 1:30 p.m.** in the 6th floor Boardroom, 625 Fisgard Street. At the Inaugural Meeting any new Directors will be sworn in and a Chair and Vice Chair are elected.

We have recently received notice from the province of the regional district population and voting strength as a result of the 2011 Census. As a result of the recent Census, there has been no change to the voting strength for the Township of Esquimalt. A copy of the 2011 Census data and voting strength is attached for your information. Please note the changes are effective December 1, 2012.

This letter serves to confirm your municipal appointee(s) and the number of votes per appointee(s):

| | |
|---------------------------------------|---------|
| Mayor Barb Desjardins | 4 votes |
| Councillor Lynda Hundleby (alternate) | |

In accordance with Sec. 784 and 786 of the *Local Government Act*, these appointments exist at the pleasure of Council. Should there be a change in the appointment of either the director or alternate director, please notify me in writing of Council's resolution no later than **Monday, December 3, 2012**. The information may be faxed to 250-360-3130 or emailed to ssantarossa@crd.bc.ca. For any new appointees, please include a mailing address, telephone/fax numbers and an email address.

If you have any questions regarding the above, please contact me at 250-360-3128.

Yours sincerely,

Sonia Santarossa
Manager, Legislative Services

Att.

cc: Laurie Hurst, CAO

Capital Regional District
 (incorporated February 1, 1966)
 Voting Unit: 5,000 population

| | 2011 Census including subsequent population changes certified by the Minister | Number of Directors (voting strength/5) | Voting Strength (population/ voting unit) |
|-------------------------|--|--|--|
| Cities: | | | |
| Colwood | 16,093 | 1 | 4 |
| Langford | 29,228 | 2 | 6 |
| Victoria | 80,017 | 4 | 17 |
| Districts: | | | |
| Central Saanich | 18,463 | 1 | 4 |
| Esquimalt | 16,209 | 1 | 4 |
| Highlands | 2,120 | 1 | 1 |
| Metchosin | 4,803 | 1 | 1 |
| North Saanich | 11,089 | 1 | 3 |
| Oak Bay | 18,015 | 1 | 4 |
| Saanich | 109,752 | 5 | 22 |
| Sooke | 11,435 | 1 | 3 |
| Towns: | | | |
| Sidney | 11,178 | 1 | 3 |
| View Royal | 9,381 | 1 | 2 |
| Electoral Areas: | | | |
| F. Saltspring Island | 10,234 | 1 | 3 |
| G. Outer Gulf Islands | 5,306 | 1 | 2 |
| H. Juan de Fuca | 6,668 | 1 | 2 |
| Totals: | 359,991 | 24 | 81 |

Populations certified by the Minister of Community, Sport and Cultural Development under section 783 of the Local Government Act as per the definition of population in the Schedule to the Community Charter. Effective December 1, 2012.

These population figures are to be used only in the determination of voting strength and Director representation.

1. Population includes people residing on Indian Reserves and boundary extensions to December 31, 2011.



THE CORPORATION OF THE DISTRICT OF OAK BAY
MUNICIPAL HALL – 2167 OAK BAY AVENUE – VICTORIA, B.C. V8R 1G2
PHONE 250-598-3311 FAX 250-598-9108 WEBSITE: www.oakbay.ca

OFFICE OF THE MAYOR

November 26, 2012

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

For Information:

CAO Mayor/Council

Self Bill

RECEIVED: NOV 28 2012

Referred:

For Action For Response CGTW

For Report Council Agenda IC

Geoff Young, Chair
Capital Regional District
625 Fisgard Street
Victoria BC V8W 1R7

Dear Chair Young:

**Request for Environmental Study of Land-Based
Liquid Waste Treatment Project**

At its meeting held November 13, 2012, Oak Bay Municipal Council considered the issue of the Capital Regional District's proposed land based liquid waste treatment project, and the following resolution was adopted:

Whereas the District of Oak Bay has a strong commitment to environmental stewardship of our air, land and water; and

Whereas concerns have been raised about the potential detrimental environmental impact of the Capital Regional District's (CRD) proposed land-based liquid waste treatment project; and

Whereas the benefits of the CRD'S proposed land-based liquid waste treatment project have been questioned by leading scientists; and

Whereas there has been no independent comparative environmental impact assessment of the current and proposed system for disposing of liquid waste;

Therefore be it resolved that Oak Bay Council request the CRD, in collaboration with and with the consent of the federal and provincial governments, to jointly fund a full environmental study that will assess the comparative environmental impact of the current process and proposed process for disposing of liquid waste before the CRD plans are finalized; and

Be it further resolved that a copy of this motion be sent to the Prime Minister, the Premier, the Chair of the CRD and the six other communities participating in the CRD Core Area Liquid Waste Management Committee."

Yours truly,

original signed by

Nils Jensen
Mayor

NJ/jp

cc: Member Municipalities, CRD Core Area Liquid Waste Management Committee