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REGULAR COUNCIL MEETING AGENDA

7:00 p.m. in Council Chamber

February 23, 2015

2225 Otter Point Road, Sooke, B.C.

Please note: The Open Portion of this meeting may be webcast live at www.sooke.ca Written and verbal submissions will become part of the public record and are subject to the Freedom of Information and Protection of Privacy Act.

(Please turn off your cellphones in the Council Chambers during the meeting)

CALL TO ORDER		
INTRODUCTION OF NEW BUSINESS/SUPPLEMENTARY INFORMATION		
APPROVAL OF THE AGENDA		
ADOPTION OF COUNCIL AND COW MEETING MINUTES:		
February 10, 2015	Regular Council Meeting	1
February 16, 2015	Committee of the Whole	9
DELEGATIONS – REQUESTS TO ADDRESS COUNCIL (or Presentations - 5 minute time limit each)		
D-1	Timberwest – Corporate Profile, Activity & Operations around Sooke – Domenico Iannidinardo, Vice President of Sustainability	11
D-2	Our Horizon – Warning Labels on Gas Pumps – Erin Gray	13
PUBLIC QUESTION AND COMMENT PERIOD (10 minutes – 2 minutes time limit per person)		
BYLAWS		
B-1	Bylaw No. 610, Revenue Anticipation Borrowing Bylaw, 2015 • Council to consider adoption of Bylaw No. 610	67
B-2	Bylaw No. 611, Zoning Amendment Bylaw (600-15) – 6509 Sooke Road – Rezone to Service Commercial (C3) • Report to Council • Council to consider introduction, first and second reading of Bylaw No. 611 and schedule Public Hearing	71

REPORTS Requiring Action:		
RA-1	West Island Consulting Inc. – Approving Officer Contract <ul style="list-style-type: none"> • Staff Report • Council to consider recommendation 	83
RA-2	Tsunami Hazard Zone Signs <ul style="list-style-type: none"> • Report to Council • Council to consider recommendation 	97
RA-3	2015 Sponsorships <ul style="list-style-type: none"> • Staff Report • Council to consider recommendation 	101
REPORTS For Information – Council, Committees, COW and Commissions and Staff (CAO, Development Services)		
RI-1	Mayor and Council Reports (Verbal)	--
RI-2	BC Climate Action Revenue Incentive Program (CARIP)	103
RI-3	Sooke Fire Rescue Service Monthly Staffing Report – January 2015	119
NEW BUSINESS		
CORRESPONDENCE Requiring Action:		
C-1	Correspondence dated January 26, 2015 from Rupert Yakelashek, Songhees and Esquimalt First Nations RE: Declaration of the Right to a Healthy Environment	123
C-2	Correspondence dated February 17, 2015 from the City of Victoria RE: Governance Review - Guidelines for Study on Amalgamation	127
CORRESPONDENCE For Information:		
I-1	Correspondence dated February 14, 2015 from Ministry of Transportation and Infrastructure: News Release – Cycling funding supports active, healthy communities	129
NOTICE OF MOTION		
NM-1	Mayor to acknowledge Notice of Motion by Councillor Kerrie Reay for consideration by Council at the March 9th, 2015 Regular Council meeting (section 41 of the <i>Council Procedure Bylaw</i>). NOTICE OF MOTION: “ THAT COUNCIL address locating the library in John Phillips Memorial Park”	--

<p>NM-2</p>	<p>Mayor to acknowledge Notice of Motion by Councillor Kerrie Reay for consideration by Council at the March 9th, 2015 Regular Council meeting (section 41 of the <i>Council Procedure Bylaw</i>).</p> <p>NOTICE OF MOTION: “THAT COUNCIL address the parking on Sooke River Road, this is a public safety item.”</p>	<p>--</p>
<p><i>MOTION TO CLOSE THE MEETING TO THE PUBLIC:</i></p> <p>Motion to close the meeting to the public under section 90(1) of the <i>Community Charter</i> to discuss:</p> <p>90(1)(e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;</p> <p>90(1)(l) discussions with municipal officers and employees respecting municipal objectives, measures and progress reports for the purposes of preparing an annual report under section 98 [<i>annual municipal report</i>].</p>		
<p><i>REPORT OF IN CAMERA RESOLUTIONS</i></p>		
<p><i>ADJOURNMENT</i></p>		



DISTRICT OF SOOKE

Minutes of the Regular Meeting of Council
held in the Council Chamber
at 2225 Otter Point Road, Sooke, BC
on TUESDAY, February 10, 2015
7:00 p.m., Council Chamber

COUNCIL PRESENT

Mayor Maja Tait
Councillor Bev Berger
Councillor Rick Kasper
Councillor Ebony Logins
Councillor Brenda Parkinson
Councillor Kevin Pearson
Councillor Kerrie Reay

STAFF PRESENT

Gordon Howie, Chief Administrative Officer
Michael Dillabaugh, Director of Finance
Bonnie Sprinkling, Corporate Officer
Elisabeth Nelson, Municipal Engineer
Steve Sorensen, Fire Chief
Tina Hansen, Corporate Assistant
Staff Sgt. Jeff McArthur (left at 7:50 pm)

CALL TO ORDER

Mayor Tait called the meeting to order at 7:00 p.m.

Fire Chief Sorensen took the opportunity to introduce the following new volunteer firefighters for the Sooke Fire Department:

- Brian Zutz
- Andrew Fulthorpe
- Shane Robertson
- Peter Kornacki
- Wes Raposo
- Chris Daoust (not in attendance)

APPROVAL OF THE AGENDA

MOVED and seconded to move Agenda Item RI-1 RCMP Monthly Mayor Report to immediately following *Adoption of Council and COW Meeting Minutes*.

CARRIED UNANIMOUSLY

MOVED and seconded to remove Agenda Item D-2 Creating Homefulness Society/Woodwyn Farms from the agenda.

CARRIED UNANIMOUSLY

MOVED and seconded to add the following item as new business:

NB-1 MOTION TO CLOSE THE MEETING TO THE PUBLIC:

Motion to close the meeting to the public immediately following Agenda Item I-1 under section 90(1) of the *Community Charter* to discuss:

90(1)(k) 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;

90(1)(l) discussions with municipal officers and employees respecting municipal objectives, measures and progress reports for the purposes of preparing an annual report under section 98 [annual municipal report].

CARRIED UNANIMOUSLY

MOVED and seconded to approve the agenda as amended.

CARRIED UNANIMOUSLY

ADOPTION OF MINUTES

MOVED and seconded that the minutes of the Regular Council meeting held on January 26, 2015 be adopted as circulated.

CARRIED UNANIMOUSLY

MOVED and seconded that the minutes of the Committee of the Whole meeting held on February 2, 2015 be adopted as circulated.

CARRIED UNANIMOUSLY

DELEGATIONS

D-1 Greater Victoria Coalition to End Homelessness – Update on Homelessness in the Region – Andrew Wynn Williams, Executive Director

Andrew Wynn-Williams, Executive Director, provided a powerpoint presentation and overview of Housing and Homelessness in Greater Victoria. Mr. Wynn-Williams overviewed the following:

- Definition of Homelessness
- Spectrum of Housing and Supports
- Drivers of Homelessness
 - Vacancy Rates
 - Average Rent
 - Income
- Number of People Experiencing Homelessness in Greater Victoria
- Number of People at Risk of Homelessness in Greater Victoria
- Housing Solutions
- Overview of Shelter Users
- Patterns of Homelessness in Greater Victoria
- Supportive Housing Needs
- Affordable Housing Needs
- Role of Municipal Government
- Costs of Homelessness
- Public Support to End Homelessness

Mr. Wynn-Williams advised that there is a significant housing shortage in Greater Victoria for those with lower incomes which is a key driver of homelessness in the region; the cost of providing housing will be less than the cost of managing homelessness as a crisis. A discussion ensued between Council and Mr. Wynn-Williams as to the 2014 data collected by the CMHC Housing Market and the BC Housing Association for Sooke and other municipalities in the Capital Regional District.

Mayor Tait thanked Mr. Wynn-Williams for the presentation.

2

Meeting Date: February 10, 2015

Adopted on:

District of Sooke
Regular Council Meeting Minutes

D-3 Sooke Elderly Citizens Housing Society – “Challenges of using mobility scooters in Sooke: - Carol Mallett & Bill Jones

Carol Mallett, Ayre Manor volunteer, provided a powerpoint presentation and addressed Council as to the challenges of using mobility scooters in Sooke. Ms. Mallett introduced Bill Jones who is new to riding mobility scooters and assisted in collecting the information for the presentation. Ms. Mallett stressed the importance that mobility scooters serve to those who have mobility challenges but wish to maintain their independence. Ms. Mallett overviewed the following concerns for mobility scooter riders in the town centre:

- Challenges to scooters riding on sidewalk due to obstacles, small spaces for manoeuvring, lack of ramping, dangerous slopes and reduced visibility for vehicle drivers and scooter riders
- Concerns that scooter riders are often forced to travel on the roads that are unsafe due to traffic, uneven pavement, speed bumps and drainage infrastructure (grates)
- Challenges for scooter riders in stores and other public spaces due to lack of scooter parking, narrow openings and obstacles in the aisles

Ms. Mallett reported that wheelchair users, cyclists, parents with strollers and people with walkers all experience similar issues while navigating through the town centre and several accidents with scooter riders have occurred around the town. Ms. Mallett asked for Council's consideration in removing or remediating mobility scooter hazards in the town centre, consider running an awareness campaign for mobility scooters and include accessibility (District of Sooke Accessibility Report) as a component in future design and development in Sooke

Bill Jones provided information to Council as to incidents that Ayre Manor residents have experienced due to obstacles in the town centre. Mr. Jones reiterated that not only mobility scooter riders are affected but also people in wheelchairs, mothers with strollers and others with mobility issues.

A discussion ensued between Council, Ms. Mallett and Mr. Jones as to the following:

- The previous Council tried to arrange a contract with the Sooke Region Chamber of Commerce to have a program that would encourage local businesses to become more age friendly; it is important that the Chamber receive the information that has been presented this evening
- The Legion is looking at prices to have a tree encroaching on the sidewalk in front of the Legion removed
- Whether information was gathered from high traffic areas beyond the town centre
- Importance of getting this type of information out to the public

RI-1 RCMP Monthly Mayor Report – December 2014

Staff Sgt. McArthur provided an overview of the RCMP Monthly Mayor Report for December 2014. The Staff Sgt. reported on the Detachment's recent purchase of a new restraint chair which has become useful on at least one occasion. Staff Sgt. McArthur reported on enforcement actions over the past month involving arrests for methamphetamine trafficking, property offenses a domestic assault.

A discussion ensued between Council and Staff Sgt. McArthur as to an update on the public servant administrative position, 24/7 RCMP coverage in Sooke, and high impact crash sites in Sooke. Staff McArthur will be providing information to Council on these items at the upcoming Strategic Planning session.

MOVED and seconded to receive the RCMP Monthly Mayor Report – December 2014 for information.

CARRIED UNANIMOUSLY

PUBLIC QUESTION AND COMMENT PERIOD

MOVED and seconded to allow members of the public to address Council as to the 2012 Sooke River Pedestrian Crossing report.

CARRIED UNANIMOUSLY

Sheila Needs, Soule Road resident, stated that she recently submitted a letter and petition to Mayor and Council as to the Sooke River Pedestrian Crossing at Soule Road. Ms. Needs stated that the previous Council did not approve the plan and that she is not in support of the plan.

Robert Barry, Soule Road resident, provided comments as to the Sooke River Pedestrian Crossing plan. Mr. Barrie advised that they did their due diligence when purchasing their property and were advised by the District that there were no future plans for Soule Road.

Mayor Tait clarified that the Sooke River Pedestrian Crossing report was received by the previous Council and the Council did not move forward with the project.

Randy Michelson, Soule Road resident, commented on the Soule Road location for the Sooke River Pedestrian Crossing and the costs associated with proposed bridge; and advised that Sooke River Road is a dangerous road for pedestrians and cyclists.

Shirley Roodbol, Soule Road resident, stated that she does not support the Sooke River Pedestrian Crossing at Soule Road. Ms. Roodbol read and submitted a written statement.

Elizabeth Dennison, Soule Road resident, advised that she is not in favour of the Sooke River Pedestrian Crossing at Soule Road. Ms. Dennison commented on the safety for traffic and pedestrians on Soule Road and at the intersection at Sooke River Road and Soule Road.

Ken Ebbs-Canavan, Calvert Road resident, commented that the Sooke River Pedestrian Crossing plan was not approved by residents in the area and that Soule Road is a poor location for the crossing. Mr. Ebbs-Canavan advised that there is extensive flooding that occurs in that location every five to six years and that the ground is very unstable.

Council discussed:

- The Sooke River Pedestrian Crossing Plan has been “shelved” since 2012 with the identified location of Soule Road

- Concerns as to why the issue of the Sooke River Pedestrian Crossing is being discussed at this time and that Council does not have the background information to be able to discuss the matter
- There was no financial discussion by the previous Council on the crossing and they did not move forward with the project
- Concerns that Soule Road is very narrow and may not be a suitable location for the crossing

Sheila Needs, provided additional comments advising that if Council were to shelve the report again, the property owners would be left in a situation where the sale of the properties would be difficult.

Mayor Tait advised that Council will be discussing priorities for this term during the upcoming Strategic Planning session and Council will be bringing priority items forward for discussion. Council may decide to look at the issue of the Sooke Pedestrian Crossing Plan to see if there should be a revision to the Plan.

Elizabeth Dennison advised that over the years, she has provided information to the District regarding the flood plains and would like Council to receive this information.

MOVED and seconded to shelve the Sooke River Pedestrian Crossing Plan for the Soule Road location for the remainder of this Council's term of office.

MOTION WITHDRAWN

MOVED and seconded to direct staff to bring forward a report on the Sooke River Road Pedestrian Crossing - Soule Road to Sun River Nature Park for Council review and to determine if it is the preferred option for the crossing.

CARRIED UNANIMOUSLY

ACTION ITEM: Council requested that staff contact the Soule Road residents at the time the Sooke River Road Pedestrian Crossing Report comes forward to Council.

BYLAWS

B-1 Bylaw No. 610, *Revenue Anticipation Borrowing Bylaw, 2015*

MOVED and seconded that Bylaw No. 610, *Revenue Anticipation Borrowing Bylaw, 2015* be introduced and read a first time.

CARRIED UNANIMOUSLY

MOVED and seconded that Bylaw No. 610, *Revenue Anticipation Borrowing Bylaw, 2015* be read a second time.

CARRIED UNANIMOUSLY

MOVED and seconded that Bylaw No. 610, *Revenue Anticipation Borrowing Bylaw, 2015* be read a third time.

CARRIED UNANIMOUSLY

REPORTS REQUIRING ACTION

RA-1 Maintenance Service Contracts – 2015-2015 Contract Extension

MOVED and seconded to authorize the Mayor and Chief Administrative Officer to sign the renewal agreements with **Arterra Landscaping** for the Ornamental Area Maintenance Services Contract and the Public Washroom Maintenance Services Contract;

AND FURTHER authorize the Mayor and Chief Administrative Officer to sign the renewal agreement with **Angela Sinclair** for the Trails and Walkways Maintenance Services Contract.

AND FURTHER authorize the Mayor and Chief Administrative Officer to sign the renewal agreement with **Steve's Portable Sawmill and Tree Service** for the Greenspace Maintenance Services Contract.

AND FURTHER authorize the Mayor and Chief Administrative Officer to sign the renewal agreement with **Drew Porter** for the John Phillips Memorial Park Maintenance Services Contract.

CARRIED UNANIMOUSLY

ACTION ITEM: Council requested that staff provide the amounts that each of the individual Maintenance Service Contract firms have been paid separate from their contracts.

REPORTS FOR INFORMATION

RI-2 Mayor and Council Reports (Verbal)

Mayor Tait reported that she and staff met with the Ministry of Transportation and Infrastructure (MoTI) on February 2nd to discuss the roundabout, improvements to Highway 14 and Church Road intersection. Mayor Tait advised that the design of the roundabout will be completed by the end of February or early March and that the design is similar to the roundabout in Lake Cowichan which allows for the navigation of logging trucks. Also, discussions took place as to signage, school crossings and wayfinding signs in the town centre. Mayor Tait reported on attending the Local Government Leadership Academy (LGLA) Forum in Parksville. Mayor Tait advised that she has not yet received a reply from Kinder Morgan to attend an upcoming Council meeting. Mayor Tait reported on an interview she had with Chek News featuring the Sooke Mountain Bike Park.

Councillor Kasper reported on the Local Government Leadership Academy in Parksville where Council received an update as to a 2 percent increase in Gas Tax Funding, had discussions on the importance of fiscal responsibility and the roles of the Elected Officials. Councillor Kasper further reported that Sooke is one of the 50 percent of municipalities that have put together a Strategic Plan. Councillor Kasper also attended the Regional Planning Committee noting that Council must ensure that the District of Sooke's position and interests are heard and reflected in the Regional Sustainability Strategy.

Councillor Berger reported on a SEAPARC grant application to construct an artificial turf field at Fred Milne Park. Councillor Berger also reported on participating in Literacy Week events with a grade five class.

Councillor Pearson reported on attending the Juan de Fuca Water Distribution Commission meeting and advised that they are still waiting to hear on funding for the extension of the water line on West Coast Road to the Kemp Lake Water District

Councillor Parkinson read and submitted her Councillor report.

Gord Howie reported that the Year End Report provides a history of the District's activities from the previous year and forms a portion of the Annual Report that will be presented later this year along with information on Council's Strategic Plan.

RI-3 New Building Canada Fund Grant Application

MOVED and seconded to direct staff to prepare the New Building Canada Fund Grant Application for the Grant Road Connector Project (Phillips to Charters portion) with the culvert option.

CARRIED

Councillor Logins opposed the motion

RI-4 2014 Year End Report

MOVED and seconded to receive the 2014 Year End Report for information.

CARRIED UNANIMOUSLY

CORRESPONDENCE AND COUNCIL REPORTS FOR INFORMATION

I-1 Council Reader File – January 2015

MOVED and seconded to file the Council Reader File – January 2015.

CARRIED UNANIMOUSLY

NEW BUSINESS

NB-1 MOTION TO CLOSE THE MEETING TO THE PUBLIC:

Motion to close the meeting to the public immediately following Agenda Item I-1 under section 90(1) of the *Community Charter* to discuss:

90(1)(k) 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;

90(1)(l) discussions with municipal officers and employees respecting municipal objectives, measures and progress reports for the purposes of preparing an annual report under section 98 [*annual municipal report*].

CARRIED UNANIMOUSLY

ADJOURNMENT

MOVED and seconded to adjourn the open portion of the Regular Council meeting at 9:27 p.m.

CARRIED UNANIMOUSLY

MOVED and seconded to adjourn the meeting at 10:39 p.m.

CARRIED UNANIMOUSLY

Certified Correct:

Maja Tait
Mayor

Bonnie Sprinkling
Corporate Officer



DISTRICT OF SOOKE
Committee of the Whole Minutes
Meeting held
February 16, 2015 at 7:00 pm
Council Chamber, 2225 Otter Point Road

COUNCIL PRESENT

Mayor Maja Tait
Councillor Rick Kasper
Councillor Ebony Logins
Councillor Brenda Parkinson
Councillor Kevin Pearson

STAFF PRESENT

Gordon Howie, Chief Administrative Officer
Michael Dillabaugh, Director of Finance
Bonnie Sprinkling, Corporate Officer
Elisabeth Nelson, Municipal Engineer
Tina Hansen, Corporate Assistant

ABSENT: Councillor Berger, Councillor Kerrie Reay

1. **Call to Order**

The meeting was called to order at 7:00 p.m.

2. **Approval of Agenda**

MOVED and seconded to approve the agenda with the following items as supplemental information:

- Correspondence received February 16, 2015 from Gail Hall
- Correspondence received February 14, 2015 from Patricia Marsh

CARRIED UNANIMOUSLY

3. **Off-leash Dog Park Discussion**

Mayor Tait advised that the purpose of this evening's meeting is for Council discussion on the off-leash dog park as the District has received inquiries on the issue. There is interest in the community to have a dedicated off-leash dog park as well as requiring dogs on-leash only for Whiffin Spit Park.

Gord Howie provided an overview of the timeline for the off-leash dog park to date. Mr. Howie reported that the off-leash dog park group was able to raise \$500 in funds towards the preferred location at Ponds Park Corridor.

Committee Discussion:

- The raising of additional funds by the off-leash dog park group to go towards the Park
- Importance of receiving input from members of the public on the issue of dogs in community parks
- Status of the Spiritwood Development proposal to develop an off-leash dog park in the Spiritwood Development location
- There is an identified need for an off-leash dog park somewhere in the community but the budget process should be completed prior to making any decisions on the issue
- Concerns as to costs associated with the additional parking at Ponds Park Corridor and concerns as to the close proximity of the dog park to residences

- Council may need to look at revisiting the John Phillips Memorial Park Plan and also look at other parks that could be suitable locations
- Council to consider off-leash dog parks when reviewing new development applications
- Importance of making a decision on the issue as sport facilities (Throup Road ball park and Fred Milne soccer fields) are experiencing problems with dogs and refuse

Public Input

Ellen Lewers, Sooke resident, provided comments as to the Off-leash dog park and how the dog park will affect the upcoming budget. Ms. Lewers also advised that people do not leash their dogs on the Galloping Goose Trail and on Whiffin Spit and are leaving dog waste bags along the side of the trail. Ms. Lewers does not support the amount in the budget for “doggie bags.”

Mayor Tait advised that Council will need to take the budget into consideration and that there will need be public input for members of the public on the issue of the off-leash dog park. In terms of “leashing” dogs, there is the issue of how that would be enforced.

Bonnie Sprinkling advised that the “off-leash dog park” group was advised that Council would be discussing the issue this evening.

Council further discussed:

- The City of Kelowna has a “Take a Bag Leave a Bag” Program which could help reduce the costs of “doggie bags”
- Concerns that dog owners are leaving the bags on the side of the trail
- Additional garbage cans have been installed in various locations in order to help control the used “doggie bags” that are being left behind

MOVED and seconded to receive the two Public Information Packages on the Off-Leash Dog Park.

CARRIED UNANIMOUSLY

Action item: Staff to provide Council with the current statistics as to dog licences issued within the District of Sooke and the amount of funds allocated for doggie bags in the financial plan.

4. **Current Issues**

There was no further input from members of the public.

5. **Adjournment**

The meeting was adjourned at 7:27 p.m.

Certified Correct:

Maja Tait
Mayor

Bonnie Sprinkling
Corporate Officer



2205 Otter Point Road
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REQUEST TO APPEAR AS A DELEGATION

In order to appear before Council as a delegation at a Council Meeting, you need to submit a written request to the Corporate Officer by 4:30 pm on the Tuesday before the scheduled Council Meeting. The request can either be by way of this form or a separate letter that you have written which contains the information requested on this form. You can submit your request in person, by mail or by fax at 250-642-0541. The Corporate Officer will let you know when you are scheduled to appear before Council. Council meetings take place at 7:00 p.m. in the Municipal Hall Council Chambers located at 2225 Otter Point Road. Delegations are usually scheduled near the beginning of the meeting. You are limited to a maximum of five (5) minutes to present your material. You may speak on more than one (1) topic or have more than one (1) speaker but you must keep your presentation within the five (5) minute time limit. Please attach to this form any material that you wish Council to review in advance of the meeting.

DATE: OCTOBER 20, 2014 REQUESTED MEETING DATE: DECEMBER 1, 2014

NAME: MAKENZIE LEINE

ORGANIZATION NAME (if applicable): TIMBERWEST

ADDRESS: 201, 648 TERMINAL AVE , VR SE2

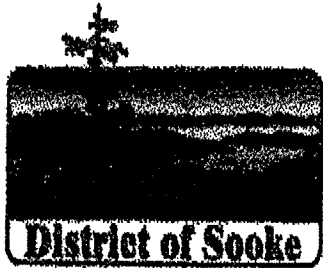
CONTACT NUMBER: 250-802-6254

EMAIL ADDRESS: makenzie.leine@mc.com

TOPIC: CORPORATE PROFILE, ACTIVITY + OPERATIONS IN AND AROUND
THE DISTRICT, MAINTAINING COMMUNICATION WITHIN NEIGHBOR
COMMUNITIES.

PRESENTATION BY: DOMENICO IANNIDINARDO, VPSUSTAINABILITY

AUDIO/VISUAL NEEDS (if any): POWERPOINT + MONITOR



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DATE: January 3, 2015 REQUESTED MEETING DATE: January 26, 2015

NAME: Erin Gray

ORGANIZATION NAME (if applicable): Our Horizon

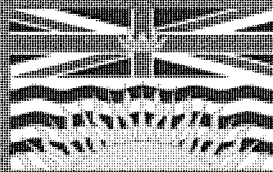
ADDRESS: [REDACTED]
 CONTACT: [REDACTED]
 EMAIL ADDRESS: [REDACTED]

TOPIC: An initiative to put warning labels on gas pumps as a condition of municipal licensing for gas stations. The ability to require these labels appears to fall squarely within the scope of municipal powers, as set out in the Community Charter.

ADDITIONAL NEEDS (if any): DPT



#FaceTheChange
Changing Communities
in a Changing Climate



Report:

**Climate Change & Air Pollution
Warning Labels on Gas Pumps**

Legal Backgrounder for Municipalities in British Columbia



***“The medium is the message because
it is the medium that shapes and controls
the scale and form of human association and action.”***

Marshall McLuhan

Published by *Our Horizon Society*

<http://ourhorizon.org>

January 25, 2015, v. 1

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TABLE OF CONTENTS

Part I – INTRODUCTION AND SUMMARY	i
1.1 Executive Director’s Letter to Municipal Councillors and Staff.....	i
1.2 Environmental Law Club’s Letter to Municipal Councillors and Staff.....	ii
1.3 Executive Summary	4
1.3 Highlights: Climate Change and Warning Labels (Parts II and III).....	5
1.4 Highlights: Legal Research (Part IV)	6
1.5 About <i>Our Horizon</i>	7
1.6 Our TEDx Talk.....	7
Part II – CLIMATE CHANGE & AIR POLLUTION	8
2.1 Our Use of Fossil Fuels Causes Climate Change	8
2.2 A Global Carbon Budget.....	8
2.3 Unburnable Carbon	9
2.4 Fossil Fuel Use by Automobiles in British Columbia.....	10
2.5 Municipalities Contribute To and are Impacted By Climate Change	11
Part III – WARNING LABELS ON GAS PUMPS	13
3.1 The Proposed By-law Amendment	13
3.2 Nozzle Talkers	13
3.3 Warning Label Design	14
3.4 Successful Experience with Tobacco Warning Labels.....	14
3.5 How the Warning Labels Uniquely Address Climate Change.....	15
3.6 A Disruptive Tool to Broaden Engagement and Catalyze Action	17
3.7 Identifiable Benefits to the Municipality	17
Part IV – LEGAL RESEARCH	21
4.1 Regulation of Emission, Air Quality and Climate Change in Canada	21
4.1.1 Tri-Level Regulation	21
4.1.2 Federal, Provincial & Municipal: Relationships within the “Tri-Level Regime”	22
4.1.4 The Precautionary Principle.....	22
4.2 Regulation of Emissions, Air Quality and Climate Change in British Columbia.....	23
4.2.1 Climate Action in B.C.: A Shared Responsibility.....	23
4.2.2 Provincial Climate Change and Air Pollution Legislation	24
4.2.3 Municipal Empowerment in B.C.: the Community Charter.....	24
4.2.4 Municipal Action on Climate Change and Air Quality: Anti-Idling By-laws	25
4.3 Municipal Authority in British Columbia to Regulate on Emissions, Air Quality & Climate Change.....	26
4.3.1 Power to Regulate Business.....	27
4.3.2 Fundamental Powers: Community Well-being, Public health & Environmental Protection.....	29
4.3.3 Precedent for Municipalities’ Jurisdiction to Reduce Greenhouse Gas Emissions.....	31
4.4 Treatment and Limitations of Municipal Decisions	32
4.4.1 Broad Interpretation.....	32
4.4.2 Judicial Deference to Decisions by Municipalities	32
4.4.3 Power to Differentiate.....	34
4.4.4 Limit on the Boundaries of the Municipality	35
4.5 Judicial Treatment of Similar Forms of Municipal Action.....	35

4.5.1 Warning Labels on Tobacco and Compelled Speech	35
4.5.2 Consumer Information Labels on Business Property.....	36
4.5.3 Shark fin Bans.....	37
4.6 Additional Implications of Gasoline Warning Labels	39
4.6.1 Interference with Business	39
4.6.2 Gasoline Retailers Pay for Reasonable Licensing Cost.....	40
4.6.3 Consultation.....	40
Part V – NEXT STEPS.....	42
5.1 Strategy	42
5.2 Complimentary Presentation to your Council	42
5.3 Funding.....	43
5.4 Frequently Asked Questions (FAQs)	43

Part I – INTRODUCTION AND SUMMARY

1.1 Executive Director’s Letter to Municipal Councillors and Staff

Dear Councillors and Staff,

We find ourselves in an unprecedented moment in human history. Our burning of fossil fuels has changed the basic chemistry of our planet. Our continued failure to act impacts the quality of life in our municipalities and jeopardizes the Earth’s capacity to support life. Ban Ki-moon, the Secretary-General of the United Nations, has called climate change our “only one truly existential threat” and “the greatest moral challenge of our generation.”



Negotiations on climate change at the international level have largely failed. Our federal and provincial levels of government have similarly failed to adequately address the greatest challenge of our time. It is up to local governments to lead.


We propose that municipalities take a simple first step, one that draws from experience with other harmful products; we propose that cities and towns require warning labels on gas pumps. The warning labels show the impacts of climate change and air pollution right in the palm of our hand. They are disruptive. They challenge the status quo and create space for alternatives. The labels will cause some individuals to reduce their emissions but, more importantly, they will result in a shift in our collective demand to facilitate meaningful action on the greatest challenge of our time.

Citizens from all over the world have contacted us to replicate this campaign in their own countries. With the pictorial warning labels already on cigarette packaging all over the world (an initiative that started in Canada), this idea has been primed to go global. Our hope is to set precedents in Canadian communities and then bring your examples of leadership to the United Nations Climate Change conference in Paris this December, 2015.

Since launching our project in early 2013, the concept has been endorsed by over 100 academics and leaders in their field from universities across North America. It is a simple, scalable, low-cost intervention to bring us closer to the impacts of fossil fuel use and create a social environment that is more open to reform. For those of you on the west coast who enjoy boating, you can think of the idea as a trim tab that will make it easier to swing our rudder around and move our ship in a more sustainable direction.

As an elected representative, you have the opportunity to make a historic contribution to the fight against climate change. Let us set an example of leadership for the world to follow.

With hope for a better world,

 | **Rob Shirkey**
Executive Director
Our Horizon

1.2 Environmental Law Club's Letter to Municipal Councillors and Staff

Dear Councillors and Staff,

In May 2013, Rob Shirkey contacted the Environmental Law Club (ELC) at the University of Victoria. He was looking for volunteers in B.C. to help with his initiative to put warning labels on gas nozzles. Rob is an alumnus of UVic Law and, not surprisingly, he was a member of the ELC during his time as a student. We students at the ELC immediately put forth our support. Law can be rather theoretical at times, and this seemed like a great opportunity to get involved with something practical: an environmental initiative where we could put the law into action and hold the outcome in our hands. We wanted to be where the rubber hits the road (bicycle tire rubber, that is.)

Over the next few months we followed Our Horizon's progress and watched the idea attract community and media attention across Ontario, Canada and beyond. In November 2013, we hosted Rob at UVic as part of Our Horizon's promotional cross-Canada tour. We were finally able to experience first-hand his enthusiasm and energy as he proposed this simple, yet elegant, idea.

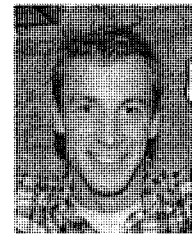
Fast forward to May 2014: Rob had just released his #FaceTheChange Report for municipalities in Ontario and had received positive feedback from a number of councillors across Canada. Then, Emily Kelsall, a grade 10 student from West Vancouver, delivered a brilliant presentation to the District of West Vancouver council about the need for these labels. We knew it was time to translate the #FaceTheChange Report into B.C. law to assist our municipalities to implement the warning labels here.

Under the guidance of Deborah Curran, Hakai Professor in Environmental Law and Sustainability at UVic, seven ELC students stepped up to get the job done. This is why:

Climate change threatens the beauty that surrounds us on Vancouver Island, and *Our Horizon* addresses its single largest contributor: the burning of fossil fuels – and in such a simple, common sense way. I also find the idea of local governments taking steps to combat climate change empowering, as action at the federal and provincial levels can seem out of reach for ordinary citizens. But anyone can go speak to city council with ideas on helping their community (like warning labels on gas nozzles)! - *Erin Gray* -



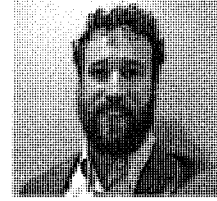
This idea was a no-brainer for me and I had to be a part of it. It's not going to solve climate change tomorrow, but it will get more people talking, not only about the problem, but how they can be a part of the solution. That is what is so exciting, whether it's riding a bike or demanding our politicians to do more, these labels will encourage people everywhere to do their part. That's what climate change needs: collective action. - *Matt Hulse* -



This is a great initiative to get people engaged with climate change and environmental issues. These warning labels will hopefully plant a seed of interest in local residents, and push them to become more informed about greenhouse gas emissions. As this report advocates, change needs to come from all levels of government. This is a step that all municipalities should take, to take a stand in protecting our environment. - *Gabriella Jamieson* -



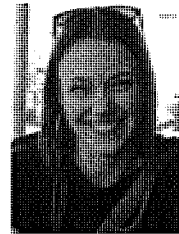
I'm an outdoorsy guy, but I acknowledge that we live in an increasingly urban world. And that's not all bad. Cities are where people can, as a group, best see the link between our daily choices and the outcome of those choices. The more clear that link is, the more sensible our choices will become. - Josh Nobleman -



I grew up in the car heaven that is Los Angeles and have witnessed both the negative environmental effects of automotive dependence and the positive effect of emissions regulations (the air in LA is much less smoggy than it used to be). I find the arguments for putting warning labels on gas pumps compelling and I am excited to be involved in this project advocating for their use in British Columbia. - James Parker -



I got involved with this project because I wanted to contribute to a pragmatic solution to climate change; one that holds people accountable for their actions every time they go for a fill up, and reminds them that they as individuals can take steps to stop climate change. - Mae Price -



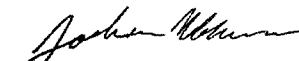
Consumer education and information is simple, direct, and respects the opinion of all sides in a contentious issue such as the role of fuel consumption in climate change. I wanted to be involved in the project because I want to contribute to initiatives that seek to strike a common ground for all sides, in communities that want to build towards a sustainable future. - Dora Tsao -



Municipalities of British Columbia, it's over to you. Show Canada the environmental leadership that it needs right now.

For our shared future,


Gabriella Jamieson


Josh Nobleman


Dora Tsao


James Parker


Erin Gray


Mae Price


Matt Hulse

The legal research in this document is not legal advice and is only applicable to municipalities in British Columbia. It does not apply to Regional Districts, nor does it address the Vancouver Charter (to which the City of Vancouver is subject). Our Horizon Society, its staff, board of directors and volunteer researchers assume no responsibility for reliance on the research contained herein. Municipalities are encouraged to consult their legal departments or seek independent legal advice before taking any action to pursue the proposed by-law amendment. This document should be considered as a starting point for your own analysis.

1.3 Executive Summary ¹

Climate change has been described by Ban Ki-moon, the Secretary-General of the United Nations, as our “only one truly existential threat” and “the greatest moral challenge of our generation.” The *Intergovernmental Panel on Climate Change* has attributed climate change to emissions from our use of fossil fuels. Research shows that we must leave the vast majority of fossil fuel reserves undeveloped if we are to avoid catastrophic climate change.

The transportation sector accounts for approximately 40% of greenhouse gas emissions in British Columbia. These emissions also contribute to poor air quality that compromises the health and well-being of citizens in municipalities across the province. The sources and impacts of these emissions are both experienced locally.

To address these harms, we are proposing climate change and air pollution warning labels for gas pump nozzles. Research shows that similar labels used on tobacco products help to change attitudes and behaviour. Our warning labels become even more compelling when considered in the context of climate change and air pollution as they help to address some of the basic psychological and economic causes of these problems. The labels are disruptive of the status quo and have the potential to catalyze meaningful action on climate change and air pollution.

Municipalities in British Columbia can require gasoline retailers to place these labels on their gas pump nozzles. The warning labels would be a new condition for a gasoline retailer to obtain, continue to hold or renew its business licence. The *Community Charter* provides the authority to require such labels through its *Part II - Municipal Purposes and Powers*, which enable municipalities to regulate in relation to Business, Public Health, and the Protection for the Natural Environment. These powers are broad and the Supreme Court of Canada has recognized that municipal by-laws are to be given a broad and purposive interpretation.² Given restrictions around areas of concurrent jurisdiction, it may also be prudent to request ministerial approval.

Climate change and air pollution is the exact sort of major environmental challenge that is contemplated by the Supreme Court of Canada in *Spraytech v. Hudson*. The reduction of emissions that contribute to these problems is an effort that needs to be undertaken by all levels of government. This view is consistent with provincial and federal messaging on climate change and long-standing practice in cities and towns across Canada. Unlike the recent shark fin ban decision in *Eng v. Toronto*, or that relating to targeted and discriminatory business practices in *Shell Canada v Vancouver*, our by-law amendment does not seek to “affect matters in another part of the world;” indeed, it addresses a matter that is both local in its causes and its impacts. The labels have the potential to yield numerous benefits to municipalities and they do not appear to conflict with any provincial or federal legislation.

Please contact us to arrange a presentation in your community.

¹ *DISCLAIMER: The legal research in this document is applicable to municipalities in British Columbia. It does not apply to Regional Districts, and does not address the Vancouver Charter (to which the City of Vancouver is subject). Our Horizon Society, its staff, board of directors, and volunteer researchers assume no responsibility for reliance on the research contained herein. Municipalities are encouraged to consult their legal departments or seek independent legal advice before taking any action to pursue the proposed by-law.*

² *Nanaimo (City) v. Rascal Trucking Ltd*, 2000 SCC 13 (CanLII), [2000] 1 S.C.R. 342, at para 18.

1.3 Highlights: Climate Change and Warning Labels (Parts II and III)

- **Climate change:** Our use of fossil fuels has increased CO₂ concentrations in our atmosphere and acidified our oceans. Unmitigated climate change would likely exceed our capacity to adapt. The United Nations observes that cities are important places for mitigation initiatives.
- **Unburnable carbon:** Governments have agreed to limit the increase in average global temperature to 2 degrees Celsius. This ceiling has effectively created a global carbon budget. The result is that humanity must now leave the vast majority of our fossil fuel reserves underground.
- **Fossil fuel use by automobiles:** The transportation sector in British Columbia accounts for 40% of our greenhouse gas emissions. Exhaust from automobiles contributes to poor air quality and has been associated with cardiovascular disease, stroke, lung cancer, leukemia, and other health concerns.
- **Municipal concerns:** Cities both contribute to and are impacted by air pollution and climate change. Globally, cities are responsible for approximately 70% of carbon emissions. Municipal government in Canada has control over close to half of our country's greenhouse gas emissions. To date, cities across Canada have taken hundreds of initiatives to reduce their GHGs. Municipal action on climate change is well-established and is integral to addressing the issue.
- **The proposed by-law amendment:** We propose that municipalities require gasoline retailers to place climate change and air pollution warning labels on their gas pump nozzles.
- **Nozzle talkers:** The labels would be affixed to nozzle talkers. A nozzle talker is a sort of rubber sock that fits over standard gas nozzles and is equipped with a flat display for advertising purposes. The medium is recognized by advertisers to be highly effective.
- **Tobacco warning labels:** The most comprehensive meta-study on the effectiveness of tobacco warning labels concludes that they help to change consumer attitudes and behaviour. Tobacco companies have effectively acknowledged this by fighting labelling laws all over the world.
- **Warning label features:** The warning labels address some of the root problems of climate change and air pollution. First, they counteract cognitive biases by bringing faraway consequences into the here and now. Second, they address the problem of diffusion of responsibility by showing impacts right in the palm of our hand. Third, they capture and communicate negative externalities in a qualitative way.
- **Warning label impacts:** The labels take an act that has been normalized for several generations and problematize it. They disrupt the status quo, shake us out of our sense of complacency, and provide impetus for us to do better. They will cause some individual behavioural change but, more importantly, they will contribute to the creation of social conditions that favour meaningful action on climate change.

1.4 Highlights: Legal Research (Part IV)

- **Statutory authority:** The general municipal powers and the specific licensing powers in the *Community Charter* provide a municipality with the authority to pass the herein proposed by-law amendment. These provisions are interpreted broadly. The warning labels would be a new condition for a gasoline retailer to obtain, continue to hold, or renew its business licence.
- **Judicial deference:** Courts have established a deferential approach to decisions of municipal councils.
- **Tri-level regulation:** Climate change is the exact sort of major environmental challenge that is contemplated by the Supreme Court of Canada in *Spaytech v. Hudson*. The issue requires action by governments at all levels. This view is consistent with federal and provincial messaging and long standing practice in municipalities across Canada. Indeed, the B.C. provincial government has required municipalities to establish objectives and goals for the reduction of GHG emissions in their official community plans.
- **Consumer information labels:** Warning labels on tobacco packaging have been upheld by the Supreme Court of Canada. The Ontario Court of Appeal ruled in *ORHMA v. Toronto* that cities can use their licensing powers and their general powers to impose consumer advisories at restaurant entrances. Our warning labels draw on these precedents.
- **Shark fin bans distinguished:** The Ontario Superior Court of Justice found a shark fin ban to be outside the jurisdiction of the City of Toronto as it did not relate to a proper municipal purpose (note: the provisions in the *City of Toronto Act* are roughly equivalent to the *Community Charter's* ss. 7(d), 8(3)(i) and (j)). The issue of finning sharks appears to have had no historic consideration by local government prior to becoming a cause célèbre in 2011; in comparison, municipal action on climate change is a long accepted practice in Canada. Moreover, the shark fin bans addressed a harm that occurred in distant oceans, whereas our by-law amendment addresses a harm that originates from within a municipality and whose impacts are experienced locally.
- **Identifiable benefits:** The warning labels foster the economic, social, and environmental well-being of communities, protect the natural environment, and advance public health.
- **Anti-idling by-laws:** The preamble from numerous municipal anti-idling by-laws reference greenhouse gas emissions, climate change, and local air quality. Implicit in these ubiquitous by-laws is an accepted recognition of vehicular emissions as a matter of local concern. The rationale behind our labelling by-law amendment is identical.

1.5 About Our Horizon



Our Horizon is a federally-incorporated not-for-profit organization that empowers people and communities across Canada to change the world. We think globally and act municipally.

Our name is a rejection of the system that made BP's offshore drilling rig the *Deepwater Horizon* a reality. This rig drilled over 10 km deep in the Gulf of Mexico only to burst and spill 4.9 million barrels of crude oil into our oceans in the summer of 2010.

Our Executive Director recalls being stuck in traffic that summer while listening to radio pundits blame BP for the tragedy. As he sat there, he counted 14 lanes of barely-moving vehicles, all burning fossil fuel. There were thousands of vehicles idling within eyesight and millions more stuck in traffic at that very moment all over the world. While most seemed content to blame BP, he recognized that he was complicit; in fact, we were all responsible.

It is the decisions that we each make on a daily basis that shape our collective reality and make such tragedies possible. It is only when we first acknowledge our role in this unsustainable system that we will be able to take meaningful steps to create a much more desirable future. It's time we #FaceTheChange.

This document is a primer in support of a municipal by-law amendment to require warning labels on gas pumps. We first explore the issue of climate change and air pollution. Next, we discuss our proposal and its intended effects. We then proceed to discuss the legal basis for the by-law amendment, and explain our view that it is impervious to legal challenge. Finally, the document outlines future steps we can take together to make this proposal a reality.

1.6 Our TEDx Talk

Rob Shirkey was invited to deliver a TEDx talk in Toronto in late 2013. The 10-minute video explores some of the psychology and economic theory of our proposal. Rob also shares some of his personal motivations for launching the campaign. The TEDx talk represents a brief introduction to our project and can be viewed online from our website at: <http://ourhorizon.org/TEDx>. A longer, more thorough lecture can be viewed at: <http://ourhorizon.org/CIGI>.

TEDx

x = independently organized TED event



Part II – CLIMATE CHANGE & AIR POLLUTION

This section provides the global context for municipal action on climate change. It discusses research that concludes the vast majority of fossil fuels reserves must remain underground if we are to avoid catastrophic climate disruption. This section also explores climate change and air pollution as being local matters in both cause and impact.

2.1 Our Use of Fossil Fuels Causes Climate Change

The *Intergovernmental Panel on Climate Change* (“IPCC”) is the global authority on climate science. In its 2007 report, the IPCC was unequivocal that “global increases in CO₂ concentrations are due primarily to fossil fuel use” and that “carbon dioxide (CO₂) is the most important anthropogenic [human] GHG.”³ This report notes that “changes in atmospheric concentrations of greenhouse gases... alter the energy balance of the climate system” and that the “warming of the climate system is unequivocal.”⁴

The report recognizes that we are unlikely to successfully adapt to climate change and that we need to reduce our CO₂ emissions: “Unmitigated climate change would, in the long term, be likely to exceed the capacity of natural, managed and human systems to adapt.”⁵ The IPCC observes that cities “are at the forefront of climate change.”⁶ Cities both contribute to the problem and are vulnerable to its impacts and are thus important points for mitigation and adaptation.⁷ With respect to mitigation – and of particular relevance to our proposal – the IPCC notes that “information instruments” and “a wide variety of policies and instruments are available to governments to create the incentives for mitigation action.”⁸

Our warning labels are information instruments that bring IPCC research on the risks of fossil fuel consumption to a broader audience. They link cause with effect at the point of purchase and are consistent with the global authority’s recommendations to avoid exceeding “the capacity of natural, managed and human systems to adapt” to climate change.

2.2 A Global Carbon Budget

In 2009, national governments met at the *United Nations Framework Convention on Climate Change* conference in Copenhagen. The consensus achieved through these negotiations is to limit the increase in average global temperature to 2 degrees Celsius.⁹ While many scientists say this figure is dangerously

³ IPCC Fourth Assessment Report: *Climate Change 2007*, online: Intergovernmental Panel on Climate Change, <http://www.ipcc.ch/publications_and_data/publications_and_data.shtml> (Note: this language is from IPCC AR4. The IPCC’s Fifth Assessment Report was released in phases from September 2013 to October 2014. The language in the IPCC AR5 is even more conclusive.) [IPCC AR4].

⁴ *Ibid.*

⁵ *Ibid.*

⁶ IPCC Working Group III Co-Chairs, *Scoping for the IPCC 5th Assessment Report: Concept paper for an IPCC Expert Meeting on Human Settlement, Water, Energy and Transport Infrastructure – Mitigation and Adaptation Strategies*, online: <https://www.ipcc.ch/scoping_meeting_ar5/doc16.pdf>.

⁷ *Ibid.*

⁸ IPCC AR4, *supra* note 3.

⁹ UNFCCC, 15th Sess., *Report of the Conference of the Parties on its fifteenth session*, FCCC/CP/2009/11/Add.1.

high, it nevertheless remains our current political consensus.¹⁰ Researchers estimate that we can emit roughly 565 Gigatons (Gts) of CO₂ until we reach this 2°C threshold.¹¹ By setting a ceiling on temperature increase, we have effectively created a global carbon budget.

Annual CO₂ emissions help to put this 565 Gts figure into perspective. In 2011, global emissions of CO₂ amounted to 31.6 Gts; this figure represents a 3% increase over the year before.¹² At this rate, we have a little over a dozen years until we commit our planet to this 2°C increase in temperature.¹³ Fatih Birol, the *International Energy Agency's* ("IEA") chief economist, observes that "the door to a two- degree trajectory is about to close."¹⁴

2.3 Unburnable Carbon

In 2011, a group of financial analysts from the UK examined the annual reports of the world's major fossil fuel companies to estimate our global "proven coal, oil, and gas reserves."¹⁵ This calculation represents the total amount of fossil fuels that businesses plan to extract to bring to market for us to burn. The analysts' research revealed that if we were to burn all of these fuels, we would emit 2,795 Gts of CO₂ – *an amount five times greater than the amount that brings us to the 2°C upper limit.*¹⁶ The inescapable conclusion is that we must transition away from fossil fuels or we will commit to catastrophic climate disruption. With current technologies, if we are to remain below this 2°C limit, we will need to leave approximately 80% of our proven fossil fuel reserves undeveloped.¹⁷

In the fall of 2013, the *IPCC* endorsed the concept of a "carbon budget" for humanity.¹⁸ In early 2014, the United Nations climate chief acknowledged that "there is no doubt that most of the fossil fuel reserves we have world-wide will have to stay in the ground."¹⁹ The *International Energy Agency* has come to a similar conclusion.²⁰ The *World Bank* and the *International Monetary Fund* are also calling for measures that would transition economies away from fossil fuels.²¹ Recently, the head of the *World*

¹⁰ Dr. James Hansen *et al*, "Assessing 'Dangerous Climate Change': Required Reduction of Carbon Emissions to Protect Young People, Future Generations and Nature," *PLOS ONE* 8:12 (2013), at 2, online: <<http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0081648>>.

¹¹ Carbon Tracker Initiative, "Unburnable Carbon - Are the world's financial markets carrying a carbon bubble?" (2012), at 6, online: <<http://www.carbontracker.org/report/carbon-bubble/>> [*Carbon Tracker*].

¹² "Global carbon-dioxide emissions increase by 1.0 Gt in 2011 to record high", *International Energy Agency* (24 May 2012), online: <<http://www.iea.org/newsroomandevents/news/2012/may/name,27216,en.html>>.

¹³ If we assume annual CO₂ emissions of 31.6 Gigatons and a 3% rate of growth, it would take approximately 15 years to reach 565 Gigatons of cumulative CO₂ emissions. Since this calculation begins at year 2011, we have approximately a dozen years from 2014 until we reach this threshold. While estimates will vary, the point remains that we have a relatively short period of time to avoid catastrophic climate disruption.

¹⁴ Bill McKibben, "Global Warming's Terrifying New Math", *Rolling Stone Magazine* (01 September 2012), online: <<http://www.rollingstone.com/politics/news/global-warmings-terrifying-new-math-20120719>>.

¹⁵ *Carbon Tracker*, *supra* note 11.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ Justin Gillis, "U.N. Climate Panel Endorses Ceiling on Global Emissions", *The New York Times* (27 September 2013), online: <<http://www.nytimes.com/2013/09/28/science/global-climate-change-report.html>>.

¹⁹ Suzanne Goldenberg, "UN climate chief calls for tripling of clean energy investment," *The Guardian* (14 January 2014), online: <<http://www.theguardian.com/environment/2014/jan/14/un-climate-chief-tripling-clean-energy-investment-christiana-figueres>>.

²⁰ "North America leads shift in global energy balance, IEA says in latest World Energy Outlook," *IEA* (12 November 2012), online: <<https://www.iea.org/newsroomandevents/pressreleases/2012/november/name,33015,en.html>>.

²¹ Sophie Yeo, "World Bank and IMF stress urgency of climate action", *RTCC* (18 October 2013), online: <<http://www.rtcc.org/2013/10/08/world-bank-and-imf-we-must-think-about-climate-change-every-day/>>.

Bank even appeared to encourage divestment from the fossil fuel sector.²² While it may seem inconceivable, we are witnessing the decline of the fossil fuel era and the beginning of a period of massive transition. Communities that acknowledge this reality sooner will have a head start at developing the solutions of tomorrow and will prosper in the long run.

2.4 Fossil Fuel Use by Automobiles in British Columbia

In the 2007 Speech from the Throne, the British Columbia government took one of its first major steps in addressing climate change by acknowledging that “[t]he science is clear. It leaves no room for procrastination. Global warming is real.”²³ The Lieutenant Governor then proceeded to note the major contribution, “about 40 percent”, that the transportation sector makes to B.C.’s total greenhouse gas (“GHG”) emissions and outlined 20 promises to reduce the sector’s impact.²⁴

In the years that followed, though not all of these promises were fulfilled, B.C. has been active in addressing climate change and has encouraged municipal involvement on this issue through initiatives such as the Climate Action Charter and the *Local Government (Green Communities) Statutes Amendment Act*.²⁵ Indeed, while the transportation sector has experienced a 24% overall increase in emissions in the past two decades, from 18.6 megatonnes (Mt) in 1990 to 23.1 Mt in 2011, there has been a slight downward trend since 2007.²⁶

However, as of 2012, the transportation sector still accounts for almost 40% of the province’s total GHG emissions.²⁷ Within this sector, on-road transportation is the major polluter, producing 14.6 Mt of GHG emissions.²⁸ That is, our cars and trucks produce the majority (63%) of emissions attributed to the transportation sector, or roughly a quarter (24%) of B.C.’s total emissions.²⁹ In fact, emissions from on-road transportation have actually *increased* since 2007.³⁰ This is because improvements in fuel efficiency have been offset by an increase in average vehicle size.³¹

Beyond the climate impact, exhaust from automobiles also contributes to poor air quality. According to a 2013 report by Metro Vancouver, cars and light trucks are one of the main contributors to smog-forming pollutants (as well as GHG emissions) in the Lower Fraser Valley.³²

²² Ed King, “World Bank chief backs fossil fuel divestment drive”, *RTCC* (27 January 2014), online: <www.rtcc.org/2014/01/27/world-bank-chief-backs-fossil-fuel-divestment-drive/>.

²³ British Columbia, *Speech from the Throne*, 3rd Session, 38th Parliament, (13 February 2007) Hon. I. Campagnolo, Online: <<http://www.leg.bc.ca/38th3rd/4-8-38-3.htm>>.

²⁴ *Ibid.*

²⁵ BC Ministry of Community Services (15 April 2008) *News Release: “Green Legislation Supports Local Governments*. Online: <http://www2.news.gov.bc.ca/news_releases_2005-2009/2008CS0061-000539.htm>

²⁶ BC Ministry of Environment, (2012) *Summary of GHG Emissions, 1990 – 2011*, Online: <http://www2.gov.bc.ca/gov/topic.page?id=50B908BE85E0446EB6D3C434B4C8C106&title=British%20Columbia%20Greenhouse%20Gas%20Inventory%20Report#1>> (*BC Summary of GHG Emissions*).

²⁷ BC Ministry of Environment *British Columbia Greenhouse Gas Inventory Report 2012*, at 11. Online: <<http://www2.gov.bc.ca/gov/DownloadAsset?assetId=19484040723540AA8CFFD28097BCAB3A&filename=pir-2012-full-report.pdf>> [*BC GHG Inventory Report 2012*].

²⁸ *Ibid.*, at 27.

²⁹ *Ibid.*, at 26.

³⁰ *BC Summary of GHG Emission*, *supra* note 26.

³¹ *BC GHG Inventory Report 2012*, *supra* note 27, at 29.

³² Metro Vancouver (2013) “2010 Lower Fraser Valley Air Emissions Inventory and Forecast and Backcast” at 10. Online: <http://www.metrovancouver.org/services/air-quality/layouts/15/WopiFrame.aspx?sourcedoc=/services/air-quality/AirQualityPublications/2010LowerFraserValleyAirEmissionsInventoryandForecastandBackcast.pdf&action=default&Default>

Vehicle emissions have been associated with cardiovascular disease, stroke, lung cancer in adults, leukemia in children, reduced fertility in men, low birth weight, and other health concerns.³³ In B.C. alone, air pollution was associated with 306 acute premature deaths and 1158 hospital admissions in 2008.³⁴ The Canadian Medical Association estimates that the economic damages of air pollution in B.C. in 2008 were \$91.5 million.³⁵ This accounted for costs due to lost productivity, healthcare, effects on quality of life, and loss of life. These health costs are expected to continue rise in the coming years; it is estimated that between the year 2008 and 2031 there will be a total of 10,483 acute premature deaths, 37,204 hospital admissions, and a total cost of \$30.1 billion due to air pollution in B.C.³⁶ Nationally, about 10 million Canadians, 32% of the population, live in areas with high exposure to traffic-related air pollution and it has been suggested that 21,000 premature deaths can be attributed to air pollution in Canada each year.³⁷

2.5 Municipalities Contribute To and are Impacted By Climate Change

According to C40, a network of “megacities taking action to reduce greenhouse gas emissions”³⁸, cities are responsible for approximately 70% of global carbon emissions.³⁹ In Canada, research from the Federation of Canadian Municipalities shows that “up to half of Canada’s greenhouse gas emissions are under the direct or indirect control or influence of municipal governments.”⁴⁰ These figures mean that, without municipal activities to reduce GHGs, we are effectively unable to address climate change.

Cities and towns across Canada have responded to the threat of climate change by undertaking hundreds of initiatives that are explicitly directed at the reduction of GHG emissions.⁴¹ These activities are consistent with federal and provincial messaging that encourages municipalities to reduce GHGs.⁴² Indeed, municipal action aimed at the reduction of GHGs is a well-established practice in communities across Canada and around the world.

[temOpen=1](#), accessed June 11, 2014.

³³ Monica Campbell *et al.*, “Air Pollution Burden of Illness from Traffic in Toronto - Problems and Solutions”, *Toronto Public Health* (November 2007), online: <<http://www.toronto.ca/legdocs/mmis/2007/hl/bgrd/backgroundfile-8046.pdf>> [*Air Pollution Burden of Illness from Traffic*]

³⁴ Canadian Medical Association (2008) “No Breathing Room: National Illness Costs of Air Pollution” at 31-32. Online: <http://www.healthyenvironmentforkids.ca/sites/healthyenvironmentforkids.ca/files/No_Breathing_Room.pdf>

³⁵ *Ibid*, at 31-32.

³⁶ *Ibid*, at 31-32.

³⁷ Brauer, M., Reynolds, C., Hystad, P. (2013) “Traffic-related air pollution and health in Canada” *Canadian Medical Association Journal* 185(18) (1557-8).

³⁸ “About C40”, C40 Cities, online: <www.c40.org/about>.

³⁹ Ryan Koronowski, “While The World Waits For A Real Climate Deal, Megacities Are Taking Action”, *Climate Progress* (5 February 2014), online: <<http://thinkprogress.org/climate/2014/02/05/3244311/megacities-cutting-carbon-emissions/>> [*Megacities Are Taking Action*].

⁴⁰ “About Climate Change: why act locally on climate change?”, *Federation of Canadian Municipalities*, online: <www.fcm.ca/home/programs/partners-for-climate-protection/about-climate-change.htm>, citing: “Act Locally: The Municipal Role in Fighting Climate Change”, *Federation of Canadian Municipalities* (8 December 2009), online: <www.fcm.ca/Documents/reports/Act_Locally_The_Municipal_Role_in_Fighting_Climate_Change_EN.pdf> [*Act Locally*].

⁴¹ “Partners for Climate Protection, Demonstrating Results”, *Federation of Canadian Municipalities*, online: <www.fcm.ca/home/programs/partners-for-climate-protection/demonstrating-results.htm> [*FCM Partners for Climate Protection*].

⁴² An internet search reveals a variety of examples. For example, former Minister of the Environment John Baird’s spokesperson said: “We’ve said all along that all levels of government are going to have to work together to address climate change and to fight air pollution... Certainly it’s critical all three levels are on-board with this fight.” Source: Michael Oliveira, “Cities can fight climate change best: Report”, *Toronto Star* (23 May 2007), online:

<http://www.thestar.com/news/2007/05/23/cities_can_fight_climate_change_best_report.html> [*Fed and Prav support*].

Communities across the country will be affected by climate change in a variety of ways.⁴³ In B.C., climate change will place ecosystems that support the local economy and communities at risk, affect population health and safety, and lead to increased frequency and intensity of extreme weather events that will increase costs and insurance related to building and infrastructure.⁴⁴ Examples of impacts to municipalities in B.C. include:

- Extreme weather events such as heavy rain and snow falls, heat waves, and drought which are linked to flooding, landslides, water shortages, forest fires, and reduced air quality⁴⁵ These events also have health implications; for example, heat waves are associated with heat stroke and an increase in respiratory illness.
- Decreased snow packs resulting in less runoff in summer and less water for agriculture, hydropower, industry, community, and fisheries.⁴⁶
- Increased risk of floods to coastal communities from to precipitation, river flows, sea-level rise, and storm surges. "An estimated 3,000 to 12,000 B.C. homes near the coast could be at risk of flooding by mid-century."⁴⁷
- Longer forest fire seasons resulting in the increased likelihood of forced evacuations from homes, air quality warnings, and loss of life.⁴⁸
- Continued infestation of the mountain pine beetle in our forests expanding northward, eastward and to higher elevations as warming in North America increases the range of suitable habitats for this destructive pest.⁴⁹

For a list of climate change and air pollution impacts in your community, please consult your local board of health.

⁴³ Natural Resources Canada, "Adapting to Climate Change: An Introduction for Canadian Municipalities" *Government of Canada* (2010), online: <<http://www.nrcan.gc.ca/earth-sciences/climate-change/community-adaptation/municipalities/373>>.

⁴⁴ BC Ministry of Environment, "Climate Change Impacts and Adaptation" (accessed January 2015). Online: <<http://www2.gov.bc.ca/gov/topic.page?id=BE3D1E436EE14ADE8255FA0AD060659C&title=Climate%20Change%20Impacts%20%26%20Adaptation>>.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

⁴⁹ Carroll *et al.*, 2004. "Effects of Climate Change on Range Expansion by the Mountain Pine Beetle in British Columbia". In: T.L. Shore, T.L., Brooks, J.E., Stone, J.E. (Eds.), *Mountain Pine Beetle Symposium: Challenges and Solutions*, October 30–31, 2003. Natural Resources Canada, Canadian Forest Service, Pacific Forestry Centre, Information, Report BC-X-399, Kelowna, British Columbia, at 223-232. Online: <http://www4.nau.edu/direnet/publications/publications_c/files/Carrol_et_al_2003.pdf>.

Part III – WARNING LABELS ON GAS PUMPS

This section explores *Our Horizon's* proposed by-law amendment, experience from tobacco labeling, our idea's theoretical underpinnings, and anticipated positive results from our enacting plan.

3.1 The Proposed By-law Amendment

The by-law amendment would require gasoline retailers to place 3-inch by 3-inch climate change and air quality warning labels on gas pump nozzles as a condition of obtaining, continuing to hold, or renewing a business licence. Many gas pumps already come equipped with “nozzle talkers” that can be used for this purpose.

3.2 Nozzle Talkers

A “nozzle talker” is a sort of rubber sock that fits over standard gas nozzles and is equipped with a flat display area for advertising to face the consumer. Nozzle talkers retail for approximately \$15. A sticker that fits on the 3-inch by 3-inch display area can be printed at nominal cost. The cost of implementing our proposal is small and can easily be covered by a gasoline retailer (see Part IV for more information).

Nozzle talkers were developed by M&M Displays in 1989.⁵⁰ Their website describes the medium as “highly effective” and notes the power of the concept: “This unique merchandising tool literally puts your advertising right into the customers’ hand.”⁵¹ Phoenix Outdoor, a company that specializes in such advertising, observes:

[Nozzle Talkers] provide a unique and highly effective exposure for the advertiser. With the ability to reach millions of people on a monthly basis and with up to 4 minutes of direct interaction with the consumer, this medium guarantees a captive audience. They may be the smallest signs in the Phoenix network but they command 100% attention and deliver big. [They] provide the perfect opportunity to capture the consumer’s attention like no other medium... [and] have proven results in increasing brand awareness and product sales.⁵²

It is clear that the medium is a particularly effective means for communicating information to influence attitudes and behaviour.

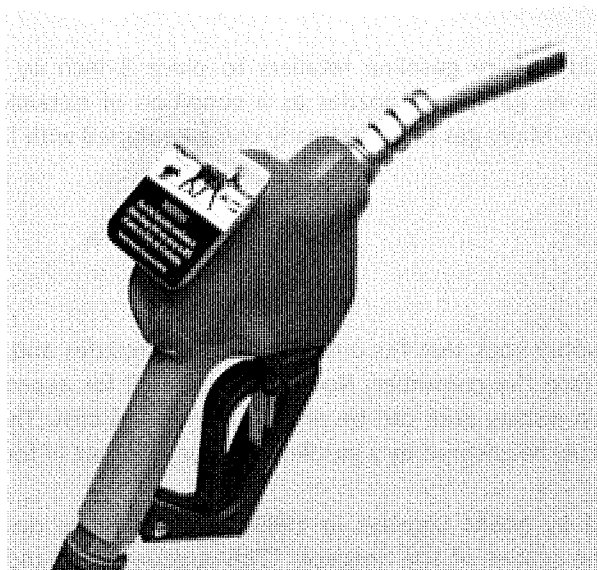
⁵⁰ M&M Displays, “Gas Nozzle Marketing”, online: <<http://www.mmdisplays.com/nozzle-talker/>>.

⁵¹ *Ibid.*

⁵² Phoenix Outdoor, “Nozzle Talkers”, online: <<http://www.phoenixoutdoor.com.au/ambient/>>.

3.3 Warning Label Design

The warning labels designed by *Our Horizon* have a look and feel that is similar to those used on tobacco packages. The labels are designed to communicate the risks of burning gasoline. It is recommended that municipalities develop their own labels to reflect local impacts of air pollution and climate change as well as more global concerns (see Part IV for more information). Please visit our website for samples.



3.4 Successful Experience with Tobacco Warning Labels

In 2001, Canada became the first country in the world to require pictorial warning labels on tobacco packages.⁵³ Our innovation has since spread all over the world. Now more than 60 countries have pictorial warning labels on their tobacco packages.⁵⁴ In 2009, the European Union commissioned a meta-study that reviewed the scientific literature on the effectiveness of tobacco warning labels.⁵⁵ The report included over 200 studies and is the most comprehensive analysis on the subject. The report concludes:

*There is clear evidence that tobacco package health warnings increase consumers' knowledge about the health consequences of tobacco use and contribute to changing consumers' attitudes towards tobacco use as well as changing consumers' behaviour. They are also a critical element of an effective tobacco control policy.*⁵⁶

⁵³ "Canada", Tobacco Labelling Resource Centre, online: <<http://www.tobaccolabels.ca/countries/canada/>>.

⁵⁴ "Cigarette Package Health Warnings: International Status Report", *Canadian Cancer Society*, 3rd ed. (September 2012) at 2, online: <http://global.tobaccofreekids.org/files/pdfs/en/WL_status_report_en.pdf>.

⁵⁵ "A review of the science base to support the development of health warnings for tobacco packages", *Sambrook Research International* (2009) at 1, online: <http://ec.europa.eu/health/tobacco/docs/warnings_report_en.pdf>.

⁵⁶ *Ibid.*

Tobacco companies have acknowledged the impact of these labels by fighting labelling laws all over the world. More generally, there is an entire industry that employs psychologists and runs focus groups to tinker with the images, text, colours, fonts, shapes and textures of packaging – all with the explicit purpose of influencing consumer choices. Clearly, the way a product is presented impacts consumer attitudes and behaviours.

3.5 How the Warning Labels Uniquely Address Climate Change

While there is certainly an analogy to be made with tobacco warning labels, our labels are even more compelling when considered in the context of climate change.

1) *The Labels Create Feedback*

Climate change can be understood as a problem of *no feedback*. There is a delay between cause and effect: we burn fossil fuels today but do not get feedback from our actions to signal a need to change our behaviour. This lack of feedback is compounded by what psychologists call ‘hyperbolic discounting’ or the ‘current moment bias.’⁵⁷ This is our tendency to prefer interests that are small and proximate in time relative to interests that are significant but experienced in the future.

Our warning labels compress time to counteract the effects of the current moment bias. They bring faraway consequences – property damage, extreme weather, and drought – into the here and now. In doing so, they introduce critically important feedback to help us respond to climate change and air pollution in a more adaptive way.

2) *The Labels Locate Responsibility*

Climate change can also be understood as a problem of *diffusion of responsibility*. As individuals, our contribution to the problem is small; collectively, our actions dangerously alter the chemistry of our planet. Social psychologists know that when responsibility for something is shared among many, we often fail to act.⁵⁸ The antidote is intuitive: “the key” to addressing problems of diffusion of responsibility is “getting others to feel personally responsible for helping to solve problems they may not consider their own.”⁵⁹

So where responsibility for a problem is diffuse, one must simply locate responsibility. The placement of the warning label on a gas pump nozzle takes a problem of diffuse origins and locates responsibility right in the palm of your hand. Our idea is not another documentary or vague awareness campaign; there is absolutely nothing like it that connects us to the problems of climate change and air pollution in such a direct way. While our concept may be simple, it truly is a game-changer.

⁵⁷ Adam Kingsmith, “The Psyche Behind Canada’s Environmental Apathy”, *DeSmog Canada* (27 August 2013), online: <<http://www.desmog.ca/2013/08/27/psychology-behind-canada-s-environmental-apathy>>.

⁵⁸ “Diffusion of responsibility”, *Wikipedia*, online: <http://en.wikipedia.org/wiki/Diffusion_of_responsibility>.

⁵⁹ Dr. Alex Lickerman, “The Diffusion Of Responsibility: Why assigning responsibility to groups doesn't work”, *Psychology Today* (14 June 2010), online: <<http://www.psychologytoday.com/blog/happiness-in-world/201006/the-diffusion-responsibility>>.

3) *The Labels Communicate Externalities in a Qualitative Way*

Climate change is also a problem of negative externalities. Externalities are costs or benefits that result from the use of a product but are not reflected in its price. In the context of fossil fuels, we often hear negative externalities expressed as “hidden costs”. Carbon taxes and cap-and-trade regimes seek to internalize these harms to convey the “true cost” of fossil fuels to the market.

While we are able to determine the costs of the concrete and rebar required to adapt our infrastructure to the impacts of climate change and reflect these costs in the price of fossil fuels, how do we capture externalities like the loss of a species or human suffering? While economists have actually developed models for pricing human life, we recognize that price is a deficient language for communicating these values to the marketplace.⁶⁰ Our warning labels are simply a qualitative way of capturing and communicating externalities to the marketplace: what price seeks to convey in quantitative terms (using dollars and cents), our idea communicates in qualitative terms (using image and text). In the abstract, they both achieve the same thing. On the ground, our idea nurtures a focus that engages our sense of humanity in a way that a price signal never could.

Behavioural economists observe that pricing externalities can switch off moral cues that otherwise regulate human behaviour.⁶¹ Ban Ki-moon, the Secretary General of the United Nations has called climate change the “moral challenge of our generation.”⁶² If climate change truly is a moral challenge, why not treat it as such? Our warning labels convey important moral information to the marketplace to help transform communities. It is a market signal that can take us from complaining about the price of gas to demanding that governments and businesses do more to address climate change and air pollution.

As world-renowned communications theorist Marshall McLuhan observed, “The medium is the message.”⁶³ The way in which people typically consume information on climate change is through media such as newspapers, internet, TV and film. While important vehicles for communication, these media, by virtue of their form, unavoidably present the problem as distant or separate and are consumed in a passive manner. By contrast, our form of communication links our consumption of fossil fuels to the impacts of climate change in an unparalleled manner; the medium (i.e. the gas pump nozzle) is the message. Our proposal engages the user in a manner that transitions them from *passive observer* to *active participant* to create a much stronger impetus for change.

For more information on the psychology, economics, and communications theory behind our proposal, please visit our website or read our writings at the [Huffington Post](#).

⁶⁰ To paraphrase Oscar Wilde: we have come to know the price of everything and the value of nothing.

⁶¹ Diana Zlomislic, “Daycare late fees no deterrent, study finds”, *Toronto Star* (4 July 2008), online: <http://www.thestar.com/life/health_wellness/2008/07/04/daycare_late_fees_no_deterrent_study_finds.html>.

⁶² Ban Ki-Moon, “We cannot steal our children’s future” (Speech at United Nations Climate Change Conference in Bali, Indonesia, 12 December 2007), online: <<http://www.un.org/News/Press/docs/2007/sgsm11325.doc.htm>>.

⁶³ Marshall McLuhan, *Understanding Media: The Extensions of Man*, McGraw-Hill (1964).

3.6 A Disruptive Tool to Broaden Engagement and Catalyze Action

We may worry about climate change, oil sands, pipelines, etc., but we rarely question the simple act of pumping gas. There is a complete disconnect. The act of going to a gas station and filling up a car has been normalized for several generations. The warning labels take this unexamined, automatic act and problematize it. In creating a sense of dissatisfaction with the prevailing mobility solution, they stimulate demand for alternatives. The labels disrupt the status quo, shake us out of our sense of complacency, and provide impetus for us to do better. They are a catalyst for change.

Discourse around climate change in Canada tends to overlook end-use in favour of focusing on oil companies, points of extraction (e.g. oil sands, offshore drilling) or means of transportation (e.g. pipelines, shipping). Unfortunately, the uncomfortable reality is that we all share in responsibility for this problem.⁶⁴ Indeed, the vast majority of GHGs come from end-use; emissions from extraction and processing pale in comparison to emissions from vehicle combustion.⁶⁵ While a diversity of approaches is important, there is a risk that in framing the issue as an exclusively upstream problem, we actually distance ourselves from it and perhaps unintentionally perpetuate the status quo through demand-side complacency. A complacent, disconnected marketplace is unlikely to affect change upstream; engaging consumer demand can help us to finally address these issues in a more meaningful way.

The warning labels are pro-market and non-prescriptive; they simply provide relevant information to the marketplace and rely on the market to respond. The labels will cause some individuals to reduce their emissions but, more importantly, they will result in a shift in our collective demand to facilitate meaningful action on climate change and air pollution. Politicians will have more support to pass climate legislation, invest in public transit, build bike lanes and develop complete communities. Businesses will also innovate to meet the needs of a shifting market. The labels can be thought of as a prerequisite for action on climate change and air pollution; they contribute to social conditions that favour reform. After all, if we can't even honestly acknowledge our problem, what hope do we have in actually addressing it?

3.7 Identifiable Benefits to the Municipality

The examples below are just some of the ways in which our proposed warning labels benefit a municipality. It is not intended to be an exhaustive list.

1) Reduction in Vehicular Emissions

The reduction of air pollution and GHGs from vehicular emissions is in itself an identifiable benefit to a municipality. This awareness is already evidenced by anti-idling by-laws (discussed in Section 4.2.4) and by hundreds of municipal initiatives directed at reducing these harmful emissions.⁶⁶

⁶⁴ George Marshall, "Climate-change activists are playing a dangerous game with their 'enemy' narrative", *The Guardian* (16 November 2013), online: < <http://www.theguardian.com/commentisfree/2013/nov/16/climate-change-dangerous-game-enemy-narrative>>.

⁶⁵ "Setting the Record Straight: Lifecycle Emissions of Tar Sands", *Natural Resources Defense Council* (November 2010) at 7, online: <http://docs.nrdc.org/energy/files/ene_10110501a.pdf> [*Lifecycle Emissions*].

⁶⁶ *FCM Partners for Climate Protection*, *supra* note 41.

The proposed by-law amendment is aimed at a sector that is a significant source of GHGs and air pollution and is rationally connected to the objective of reducing these harmful emissions. Our research suggests that the by-law amendment will help to change attitudes and behaviours. Changes in behaviour would result in a direct reduction of harmful emissions while shifts in attitude would facilitate further initiatives to enhance the environmental well-being of a community.

Cities are responsible for approximately 70% of global carbon emissions.⁶⁷ In Canada, up to half of our GHG emissions are under the “control or influence of municipal governments.”⁶⁸ If a court were to conclude that municipalities have no authority to reduce these emissions, it would effectively be consigning us to unmitigated climate disruption. Such a decision would fly in the face of federal and provincial calls for municipal action, delegitimize years’ worth of municipal GHG reduction efforts, and risk opening up existing municipal initiatives to judicial challenge. Such a ruling seems implausible.

2) Shifts in Attitude that Directly Benefit the Municipality

A June 2014 *Globe and Mail* article on the Lower Mainland’s 10-year transit plan captures an example of the political pressures of environmental action in our communities:

“All but one of the region’s 21 cities have agreed to a sweeping \$7.5-billion plan to improve transit over the next 10 years... But the way to pay for it is still a murky mess. Within hours, [the] Transportation Minister shot down one of the main new sources of revenue mayors recommended – the carbon taxes that Lower Mainland residents pay. “I am certainly not going to be the person who goes out and says, ‘We’re going to jack up your income taxes.’”⁶⁹

The vast majority of people in British Columbia commute by car.⁷⁰ If a city like Vancouver implements our by-law amendment, hundreds of thousands of citizens would be exposed to the warning labels on a regular basis. Citizens would become less satisfied with existing mobility solutions and more interested in supporting alternatives, like the upcoming referendum on transit improvements. This shift in attitude gives an elected representative the political capital they need to fund public transit, increase bike lanes, and implement various sustainability initiatives. A councillor could rise and say, “Look, I’ve been getting your calls and I’ve seen these labels too. I’m just as frustrated and worried as you are. Let’s finally invest in public transit and more sustainable infrastructure.” The labels would advance core municipal subject matter to enhance the economic, social, and environmental well-being of a city.

3) Health, Safety and Well-Being of Persons

⁶⁷ *Megacities Are Taking Action*, *supra* note 39.

⁶⁸ *Act Locally*, *supra* note 40.

⁶⁹ Frances Bula, “B.C. Cities Approve Transit Revamp, but funding still unclear”, *The Globe and Mail* (12 June 2014), online: <<http://www.theglobeandmail.com/news/british-columbia/dazzling-pricey-transit-plan-proposed-for-bc-lower-mainland/article19142741/>>.

⁷⁰ “Majority of Toronto commuters still get in cars to get to work: census”, *CBC News* (10 March 2008), online: <<http://www.cbc.ca/news/canada/toronto/majority-of-toronto-commuters-still-get-in-cars-to-get-to-work-census-1.701205>>; Statistics Canada (2013) *2011 National Household Survey*. The commuter statistics for particular cities and regions can be found via a search of the Statistics Canada National Household Survey webpage. Online: <<http://www12.statcan.gc.ca/nhs-enm/index-eng.cfm>>.

Climate change presents a myriad of health and safety concerns. Citizens in cities and towns will face an increased risk of contracting West Nile Virus, Lyme disease, and malaria; risks to water quality and supply; more extreme weather, heat waves, etc. Vehicle emissions have also been associated with cardiovascular disease, stroke, lung cancer in adults, leukemia in children, reduced fertility in men, low birth weight, and other health concerns.⁷¹ The World Health Organization has identified local air pollution as “the most important environmental carcinogen, more so than passive smoking.”⁷² The warning labels address these concerns by reducing harmful emissions and advance the health, safety and well-being of persons.

Impacts from extreme weather events have been related to higher rates of depression, anxiety, violence, and suicide.⁷³ Mental health experts also observe that “at the deepest level, the debate about the consequences of climate change gives rise to profound questions about the long-term sustainability of human life and the Earth's environment.”⁷⁴ Climate change as an existential threat causes many to “commonly [respond with] distress and anxiety. People may feel scared, sad, depressed, numb, helpless and hopeless, frustrated or angry.”⁷⁵ Children and adolescents are among groups that appear particularly at risk to “experience more intense worry that causes distress and or interferes with normal day to day life.”⁷⁶ Our use of fossil fuels is having a profound impact on the health and well-being of an entire generation.

The *Community Charter* refers to “well-being” in s. 7. The purpose of a municipality includes “fostering the economic, social and environmental well-being of its community”.⁷⁷ Studies show that taking measures to address climate change can result in a variety of psychological benefits.⁷⁸ Interestingly, these positive health outcomes “derive from actions that people believe address the climate problem – even if the actual effect on climate is minimal or nonexistent.”⁷⁹ Thus, when it comes to health and well-being, it would appear that an identifiable benefit to a municipality exists in the very act of passing climate legislation, no matter how small the impact.

4) Economic, Social and Environmental Well-Being of the Municipality

The economic impact of congestion in large Canadian cities can cost billions of dollars in lost productivity. For example, Transport Canada conservatively estimates the total cost of congestion in the Lower Mainland at \$1.5 billion annually.⁸⁰ To the extent that the labels can help change commuter behaviour and shift attitudes to facilitate investment in public transit, they help to reduce this economic loss and

⁷¹ *Air Pollution Burden of Illness from Traffic*, *supra* note 33.

⁷² “Air pollution causes lung cancer, WHO agency decides” *Associated Press* (17 October 2013), online: <<http://www.cbc.ca/news/health/air-pollution-causes-lung-cancer-who-agency-decides-1.2100862>>.

⁷³ Jessica Fritze *et al.*, “Hope, despair and transformation: Climate change and the promotion of mental health and wellbeing” *International Journal of Mental Health Systems* 2:13 (17 September 2008), online: <www.ijmhs.com/content/pdf/1752-4458-2-13.pdf> [*Climate Change and Mental Health*].

⁷⁴ *Ibid.*, at 9.

⁷⁵ *Ibid.*, at 6.

⁷⁶ *Ibid.*, at 7.

⁷⁷ *Community Charter*, SBC 2003, c.26, s.7(d) [*Community Charter*].

⁷⁸ Dr. Janet Swim *et al.*, “Psychology and Global Climate Change: Addressing a Multi-faceted Phenomenon and Set of Challenges”, *American Psychological Association* (2011), online: <<http://www.apa.org/science/about/publications/climate-change.aspx>>, at 49.

⁷⁹ *Ibid.*

⁸⁰ Jonathan Arnold, “Congested and Nowhere to Go: Congestion, Road Infrastructure and Road Pricing in Metro Vancouver” (October 2013), at 1 (Adobe PDF p. 7), online: <http://www.bcbc.com/content/1027/RoadPricingPaper_FINAL.pdf>.

provide a direct benefit to the community. The health costs of vehicular emissions are also significant: researchers at the University of British Columbia say that chronic exposure to air pollution causes almost nine times as many deaths as traffic crashes.⁸¹ And the health costs of exposure to air pollution cost Canada an estimated \$8 billion per year.⁸² A reduction in vehicular emissions provides economic, social and environmental benefits to municipalities.

The B.C. fires of 2010 consumed 330,000 hectares of forest in the B.C. interior, with damages estimated at \$220 million.⁸³ As a result of fires, pests and diseases, all exacerbated by climate change, the timber supply in B.C. will decrease by 5-8% by the 2050's.⁸⁴ Forest fires also affect our homes; the fires of 2003 destroyed more than 334 homes and many businesses with an estimated cost of \$700 million.⁸⁵ Flooding will also have a serious economic impact. Based on existing coastal flood protection measures, it is estimated that climate change would lead to damages from flooding of more than \$2000 per British Columbian per year by the 2050.⁸⁶

Carbon pollution also contributes to heat waves, which can cause social unrest.⁸⁷ Climate change will make extreme weather events more frequent and more severe. As explored in previous sections, a reduction in GHG emissions is directed at the root cause of extreme weather and is a legitimate exercise of municipal authority.

⁸¹ *Air Pollution Burden of Illness from Traffic*, *supra* note 33, at 31.

⁸² Scott Sutherland, "UBC researchers find one third of Canadians at risk from traffic pollution" (21 October 2013), online: <<https://ca.news.yahoo.com/blogs/geekquinox/ubc-researchers-one-third-canadians-risk-traffic-pollution-011322071.html>>, citing the Canadian Medical Journal.

⁸³ BC Ministry of Environment (2012) "Making Progress on BC's Climate Action Plan", at 5. Online: <<http://www.env.gov.bc.ca/cas/pdfs/2012-Progress-to-Targets.pdf>> [*Making Progress on BC's Climate Action Plan*].

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

⁸⁶ *Ibid.*

⁸⁷ Courtney Humphries, "Climate change may mean more crime", *Boston Globe* (2 March 2014), online: <<http://www.bostonglobe.com/ideas/2014/03/02/climate-change-may-mean-more-crime/dZCKg5nx7mUcj513lwAEyO/story.html>>.

Part IV – LEGAL RESEARCH

This section explores the legal authority for a municipality in British Columbia to require gasoline retailers to place warning labels on gas pump nozzles advising consumers of the harms associated with the product they dispense. The *Community Charter*, SBC 2003, c 26 provides the authority to require such labels through the municipal authority to regulate business, and specific municipal powers to regulate, prohibit and make requirements concerning protection of the natural environment and public health. The warning labels would be a new licence condition for a gasoline retailer to obtain, continue to hold or renew its business licence.

The legal research in this document is not legal advice and is only applicable to municipalities in British Columbia. It does not apply to Regional Districts, nor does it address the *Vancouver Charter* (to which the City of Vancouver is subject). Our Horizon Society, its staff, board of directors, and volunteer researchers assume no responsibility for reliance on the research contained herein. Municipalities are encouraged to consult their legal departments or seek independent legal advice before taking any action to pursue the proposed by-law amendment. This document should be considered as a starting point for your own analysis.

4.1 Regulation of Emission, Air Quality and Climate Change in Canada

4.1.1 Tri-Level Regulation

We live in an era where senior levels of government appear to be functionally incapable of addressing climate change.⁸⁸ To expect municipalities to suffer the impacts of climate change while at the same time depriving them of the opportunity to respond to its underlying causes would be patently unjust. In *Spraytech v. Hudson*, the Supreme Court of Canada acknowledged the importance of municipal efforts in addressing such global environmental challenges:

The context of this appeal includes the realization that our common future, that of every Canadian community, depends on a healthy environment... This Court has recognized that "[e]veryone is aware that individually and collectively, we are responsible for preserving the natural environment . . . environmental protection [has] emerged as a fundamental value in Canadian society"...

The case arises in an era in which matters of governance are often examined through the lens of the principle of subsidiarity. This is the proposition that law-making and implementation are often best achieved at a level of government that is not only effective, but also closest to the citizens affected and thus most responsive to their needs, to local distinctiveness, and to population diversity. La Forest J. wrote for the majority in R. v. Hydro-Québec, 1997 CanLII 318 (SCC), [1997] 3 S.C.R. 213, at para. 127, that "the protection of the environment is a major challenge of our time. It is an international problem, one that requires action by governments at all levels" [emphasis in original]. His reasons in that case

⁸⁸ Michael Oliveira, "Cities can fight climate change best: Report", *Toronto Star* (23 May 2007), online: <http://www.thestar.com/news/2007/05/23/cities_can_fight_climate_change_best_report.html>.

also quoted with approval a passage from *Our Common Future*, the report produced in 1987 by the United Nations' World Commission on the Environment and Development. The so-called "Brundtland Commission" recommended that "local governments [should be] empowered to exceed, but not to lower, national norms" (p. 220) [emphasis in original].⁸⁹

Climate change is the exact sort of major environmental challenge that is contemplated by *Spraytech*. The reduction of GHG emissions is an effort that needs to be undertaken by all levels of government. This view is consistent with provincial and federal messaging on climate change⁹⁰ and long-standing practice in cities and towns across Canada.⁹¹ The "validity of tri-level regulation" as noted by the Ontario Court of Appeal in *Croplife Canada v. Toronto (City)* has been "unambiguously endorsed by the Supreme Court of Canada... as the accepted model in our federal system."⁹²

4.1.2 Federal, Provincial & Municipal: Relationships within the "Tri-Level Regime"

Municipalities are "creatures of statute" and can only exercise powers that have been delegated to them from the provincial government, such as through the provisions of the *Community Charter* or another Act.⁹³ Further, municipalities cannot enact by-laws that are inconsistent with a Provincial enactment.⁹⁴ To be inconsistent means that by complying with the municipal by-law a person would contravene the provincial enactment.⁹⁵ The following sections explore some of the provincial legislative context that could impact our by-law. A review of federal legislation that addresses climate change, air pollution, vehicle emissions, and gasoline retailers does not reveal any areas of operational conflict with our proposed by-law.

4.1.4 The Precautionary Principle

The precautionary principle is "a principle of customary international law" that is "codified in several items of domestic legislation" and was quoted with approval by the majority in *Spraytech v. Hudson*:⁹⁶

*In order to achieve sustainable development, policies must be based on the precautionary principle. Environmental measures must anticipate, prevent and attack the causes of environmental degradation. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.*⁹⁷

While the science is unequivocal that our use of fossil fuels alters our atmosphere, affects our air quality, etc., it is useful to recall the precautionary principle when considering our by-law amendment. Lack of full scientific certainty should not hinder a municipality's efforts to reduce its GHG emissions and improve its air quality.

⁸⁹ 114957 *Canada Ltée (Spraytech, Société d'arrosage) v. Hudson (Town)*, 2001 SCC 40, [2001] 2 SCR 241, paras. 1-3 [*Spraytech v. Hudson*].

⁹⁰ *Fed and Prov support*, *supra* note 42.

⁹¹ *FCM Partners for Climate Protection*, *supra* note 41.

⁹² *Spraytech v. Hudson*, *supra* note 89, at para. 39.

⁹³ *R v Greenbaum*, [1993] 1 SCR 674, at para 22.

⁹⁴ *Community Charter*, *supra* note 77, s. 10.

⁹⁵ *Community Charter*, *supra* note 77, s. 10(2).

⁹⁶ *Spraytech v. Hudson*, *supra* note 89, at paras. 31-32.

⁹⁷ *Ibid*, at para. 31.

4.2 Regulation of Emissions, Air Quality and Climate Change in British Columbia

4.2.1 Climate Action in B.C.: A Shared Responsibility

In 2007, the Province of British Columbia, the Union of British Columbia Municipalities, and a number of local governments signed the British Columbia Climate Action Charter.⁹⁸ There are now 180 (of a possible 189) local governments across the province that have signed the Charter, including the Capital Regional District and all of its municipalities, and Metro Vancouver and the majority of its municipalities.⁹⁹ In signing the Charter, the Parties acknowledged the reality of anthropogenic climate change, their role in contributing to the issue, and their responsibility to address it. The Charter also outlined a set of common goals necessary to combat climate change. These goals include:

- (a) fostering co-operative inter-governmental relations;
- (b) aiming to reduce GHG emissions, including both their own and those created by others;
- (c) removing legislative, regulatory, policy and other barriers to taking action on climate change;
- (d) implementing programs, policies, or legislative actions within the respective jurisdictions that facilitate reduced GHG emissions, where appropriate;
- (e) encouraging communities that are complete and compact and socially responsive; and
- (f) encouraging infrastructure and a built environment that supports the economic and social needs of the community while minimizing its environmental impact.¹⁰⁰

While the Charter is not legally binding on the signatories, it nevertheless demonstrates the extensive commitment of provincial and local governments to work together to combat climate change and build a clean, healthy environment for present and future generations. It also carries with it potential benefits to its signatory local governments, including participation in the Climate Action Revenue Incentive Program (“CARIP”). CARIP is a conditional grant program that provides funding equivalent to 100 percent of the carbon taxes a local government pays directly – the conditions being: having signed on to the Climate Action Charter, committing to take actions and develop strategies to achieve three stated climate change goals, and reporting on their progress.¹⁰¹ Implementing our proposed by-law amendment can contribute to a local government’s progress toward the climate change goals mandated by CARIP.

A British Columbia Ministry of Environment publication on air quality regulation notes that the “responsibility to protect air quality is a shared effort between local, regional, provincial, and federal jurisdictions in Canada. Local and regional governments influence air quality as a result of community planning and bylaw development with the authority granted under the *Community Charter*.”¹⁰²

⁹⁸ BC Office of the Premier (26 September 2007) “News Release: BC Communities Commit to Carbon Neutrality by 2012”. Online: <http://www2.news.gov.bc.ca/news_releases_2005-2009/2007OTP0139-001194.htm>.

⁹⁹ BC Climate Action Toolkit (2011) *Status of Consideration of the BC Climate Action Charter*. Online: <http://www.cscd.gov.bc.ca/lgd/library/CAC_Signatories_2011.pdf>.

¹⁰⁰ BC Climate Action Charter (2007) s. 4. Online: <http://www.cscd.gov.bc.ca/lgd/library/BC_CLIMATE_ACTION_CHARTER.pdf>.

¹⁰¹ Government of British Columbia, Local Government Ministry, “Climate Action Revenue Incentive Program” (CARIP) (accessed 12 June 2014), online: <<http://www.cscd.gov.bc.ca/lgd/greencommunities/carip.htm>>.

¹⁰² Alderson J. (2007) “Inventory of Air Quality Bylaws in BC for: Anti-Idling, Open Burning, and Wood Burning Appliances” Online: <http://www.bcairquality.ca/reports/pdfs/aq_bylaws_bc.pdf>.

4.2.2 Provincial Climate Change and Air Pollution Legislation

The province of B.C. has adopted a number of enactments to combat climate change and air pollution.¹⁰³ These include:

- *Greenhouse Gas Reduction Targets Act* (GGRTA)
- *Carbon Tax Act*
- *Greenhouse Gas Reduction (Cap and Trade) Act*
- *Greenhouse Gas Reduction (Emissions Standards) Statutes Amendment Act*
- *Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act*
- *Greenhouse Gas Reduction (Vehicle Emissions Standards) Act*
- *Local Government (Green Communities) Statutes Amendment Act*
- *Utilities Commission Amendment Act*
- *Environmental Management Act*

The Province of BC has also enacted a number of regulations with specific provisions concerning gasoline retailers. These enactments include:

- *Gasoline Vapour Control Regulation*, BC Reg. 321/2004. Enacted under the *Environmental Management Act* (EMA), this regulation requires gasoline storage tanks to be equipped with vapour balancing systems¹⁰⁴.
- *Petroleum Storage and Distribution Facilities Storm Water Regulation*, B.C. Reg. 321/2004. Enacted under the EMA, this regulation exempts petroleum storage and distribution facilities that are part of a retail service station from regulations that permit and regulate the discharge of effluent from the facility.¹⁰⁵
- *Renewable and Low Carbon Fuel Requirements Regulation* B.C. Reg. 335/2012. Enacted under the *Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act*, this regulation provides requirements for the labelling of gasoline or diesel fuel that contain renewable fuels such as ethanol and biodiesel.¹⁰⁶

However, it would appear that none of these enactments regulate climate change, air pollution, vehicle emissions, or gasoline retailers in a manner that would cause the placement of warning labels on gas nozzles to be a contravention of provincial legislation.

4.2.3 Municipal Empowerment in B.C.: the Community Charter

¹⁰³ For a list of "Climate Action Legislation", please visit the Ministry of Environment's website: <<http://www2.gov.bc.ca/gov/topic.page?id=60E1E7810BC145C6B6FC00EE31F41EC5&title=Climate%20Action%20Legislation>>.

¹⁰⁴ *Gasoline Vapour Control Regulation*, BC Reg. 321/2004, s.2. Online: <http://www.bclaws.ca/civix/document/id/complete/statreg/226_95/search/+CIVIX_DOCUMENT_ROOT:%22service%20station%22%20+CIVIX_DOCUMENT_ANCESTORS:statreg#section2>

¹⁰⁵ *Petroleum Storage and Distribution Facilities Storm Water Regulation*, B.C. Reg. 321/2004, s.2(5)(c). Online: <http://www.bclaws.ca/civix/document/id/complete/statreg/168_94/search/+CIVIX_DOCUMENT_ROOT:%22service%20station%22%20+CIVIX_DOCUMENT_ANCESTORS:statreg>.

¹⁰⁶ *Renewable and Low Carbon Fuel Requirements Regulation* B.C. Reg. 335/2012, s.7.3. Online: <http://www.bclaws.ca/civix/document/id/complete/statreg/394_2008/search/+CIVIX_DOCUMENT_ROOT:%22service%20station%22%20+CIVIX_DOCUMENT_ANCESTORS:statreg#section7.3>.

When it was enacted in 2003, the *Community Charter* was hailed as “the most empowering local government statute in Canada. It goes further than any provincial legislation in recognizing municipalities as an order of government.”¹⁰⁷ The Charter is an answer to “[l]ocal governments [who] have long spoken out about their common desire to have a real say about the present and future of their communities”.¹⁰⁸ Section 3 of the *Community Charter* states that the purposes of the legislation include providing municipalities and their councils with:

...

- b) The authority and discretion to address existing and future community needs, and
- c) The flexibility to determine the public interest of their communities and to respond to the different needs and changing circumstances of their communities.¹⁰⁹

4.2.4 Municipal Action on Climate Change and Air Quality: Anti-Idling By-laws

Local governments have long recognized that emissions from internal combustion vehicles negatively affect local air quality and contribute to climate change. Anti-idling by-laws are one of many ways by which municipalities have responded to the multiple harms of vehicular emissions. Approximately 25% of B.C. municipalities, which together account for over 50% of the B.C. population, have anti-idling by-laws.¹¹⁰ These include larger municipalities such as Vancouver, North and West Vancouver, and Victoria, and smaller municipalities such as Penticton, Merritt, and Whistler.¹¹¹ A number of other municipalities have anti-idling policies and initiatives in place. Many of these municipalities are supported by initiatives such as Idle-Free BC.¹¹² Implicit in these ubiquitous by-laws is an accepted recognition that exhaust from automobiles contributes to climate change and air pollution, both of which are matters of local concern.

While some of the anti-idling by-laws were created under the municipal power to regulate noise, some of the by-laws, such as that of the City of Victoria,¹¹³ have been enacted under the s.8(3)(i) [*public health*] and the s.8(3)(j) [*protection of the environment*] powers. It is clear that municipalities regard vehicle emissions as a threat to public health and the environment.

Other municipalities, such as the Town of Gibsons, explicitly ground their anti-idling by-law under *Community Charter* s.8(3)(h)¹¹⁴ and s.64(c).¹¹⁵ The by-law notes that the pursuant to these provisions:

¹⁰⁷ BC Ministry of Community, Aboriginal and Women’s Services (11 March 2003) *Backgrounder: Benefits of the Community Charter*. Online: <<http://www2.news.gov.bc.ca/archive/2001-2005/2003mcaws0033-000250-attachment1.htm>>.

¹⁰⁸ British Columbia, *Official Report of Debates of the Legislative Assembly (Hansard)*, vol 14, no. 10 (29 April 2003) at 6295 (Hon T. Nebbeling).

¹⁰⁹ *Community Charter*, *supra* note 77, s. 3.

¹¹⁰ BC Ministry of Environment (2012) *2011 Inventory of Air Quality Bylaws in British Columbia: Vehicle Idling, Open Burning, and Wood Burning Appliances*, at 16, Online: <<http://www.bcairquality.ca/reports/pdfs/bylaws-2011.pdf>> [*Inventory of Air Quality Bylaws in BC*].

¹¹¹ *Ibid* at 13-14; see also Idle-Free BC (2014) *Who’s on Board?* Online: <<http://www.idlefreebc.ca/onboard/index.php>> [*Idle-Free BC*].

¹¹² *Ibid*.

¹¹³ City of Victoria, *Idling Control Bylaw No. 07-069*. Accessed on 16 June 2014. Online: <<http://www.victoria.ca/assets/City~Hall/Bylaws/bylaw-07-069.pdf>>

¹¹⁴ *Community Charter*, s. 8(3): “A council may, by bylaw, regulate, prohibit and impose requirements in relation to the following:...(h) the protection and enhancement of the well-being of its community in relation to the matters referred to in section 64 [*nuisances, disturbances and other objectionable situations*]”.

¹¹⁵ *Community Charter* s. 64: “The authority of a council under section 8 (3) (h) [*spheres of authority — nuisances disturbances and other objectionable situations*] may be exercised in relation to the following:...(c) the emission of smoke, dust, gas, sparks, ash, soot, cinders, fumes or other effluvia that is liable to foul or contaminate the atmosphere”

“a municipality may, by bylaw, regulate prohibit and impose requirements with respect to the protection and enhancement of the well-being of its community in relation to the emission of smoke, fumes and other effluvia that is liable to foul or contaminate the atmosphere.”¹¹⁶

Section 64(c) of the *Community Charter* specifically addresses the authority of municipalities to regulate air pollution. It is understandable that an anti-idling by-law would invoke this power to achieve its objective of reducing harmful vehicle emissions that contribute to a number of human health risks. Our gas labels seek to curb emissions for this very same reason.

However, our labels also seek to combat climate change, and s.64(c) seems to support this objective as well. This section states that a council may exercise their s.8(3)(h) authority to regulate in relation to “the emission of smoke, ...fumes or other effluvia that is liable to foul or contaminate the atmosphere”. According to the Merriam-Webster Online Dictionary, “contaminate” means to “make something dangerous ...by adding something harmful or undesirable to it”.¹¹⁷ Vehicle emissions contaminate the atmosphere by adding harmful and undesirable CO₂ and other GHGs to it, thereby making it more dangerous for human (and other) life.

It is worth observing that, from a citizen’s perspective, the warning labels are much less restrictive than anti-idling by-laws. The anti-idling by-laws require citizens to stop running their engines after a prescribed period of time; they proscribe freedom. Our warning labels simply provide information; citizens are free to respond as they like or can ignore the message altogether. While the idea of warning labels on gas pumps is ‘new’ and sure to be challenging for many, it is actually much less restrictive than measures directed at the same harms that are already commonplace.

4.3 Municipal Authority in British Columbia to Regulate on Emissions, Air Quality & Climate Change

The authority for a municipality to implement warning labels on gas nozzles can be found in a number of sources of power within the *Community Charter*. While each municipality has the discretion to choose which power they will rely on, we envision the following possibilities:

- Under the s.8(6) power to regulate in relation to business;
- Under the s.15 business licensing power;
- Under the s.8(3) authority to regulate, prohibit and impose requirements in relation to:
 - (h) the protection and enhancement of the well-being of the community in relation to nuisances and contaminating the atmosphere;
 - (i) public health; and
 - (j) protection of the natural environment.

Each of these possibilities could be implemented as a new regulation or, as an amendment to an existing by-law or business licence. We believe that an amendment to an existing by-law is the most simple and effective option, and for this reason we refer to our proposal as a “by-law amendment”.

We shall explore each of these possibilities in the sections below.

¹¹⁶ Town of Gibsons, Bylaw No. 1010, 2005. *A bylaw to regulate the idling of vehicles*, online: <<http://www.gibsons.ca/bylaws>>.

¹¹⁷ Merriam Webster Online, *Contaminate* (accessed 12 June 2014): <<http://www.merriam-webster.com/dictionary/contaminate>>.

4.3.1 Power to Regulate Business

4.3.1.1 Regulating in Relation to Business

Section 8(6) of the *Community Charter* provides that a council “may by bylaw, regulate in relation to business”.¹¹⁸ “Regulate” is defined in the *Community Charter* as follows:

"regulate" includes authorize, control, inspect, limit and restrict, including by establishing rules respecting what must or must not be done, in relation to the persons, properties, activities, things or other matters being regulated.¹¹⁹

As discussed in *International Bio Research v Richmond (City)*,¹²⁰ a municipality's power to regulate in relation to business is more restrictive than its other powers under *Community Charter* s. 8(3). However, the case suggests that a by-law regulating a business will be properly within the jurisdiction of the municipality if the by-law:

- Regulates, but does not prohibit, a business;¹²¹
- Has a valid municipal purpose. This will be determined by reference to those purposes stated in the by-law as well as those stated in the enabling statute, s.7 of the *Community Charter*. Municipal by-laws are presumed to be enacted in good faith and for proper municipal purposes, and only one proper purpose is necessary, even if the council had other motivations;¹²²
- Is reasonable and is rationally connected to achieving its objective. However, as long as there is a valid municipal purpose, courts will not generally assess the effectiveness of the by-law;¹²³ and
- Does not impose a discriminatory distinction unless in accordance with s.12 of the *Community Charter* and there is regard to the public interest.¹²⁴

Requiring warning labels on gas nozzles would simply be a condition that a gas station must follow, either as a requirement under a by-law or (as discussed below) as a term or condition of holding a business licence. This would not result in a prohibition of their business. The stated purpose of the by-law is up to each individual municipality. However, given that our warning labels seek to address the drivers of climate change and air pollution, both which have serious consequences for municipalities everywhere, any prospective gas label by-law seems likely to have a valid purpose. Indeed, the purpose of such a by-law would seem to complement the municipal purposes stated in the *Community Charter*, most notably s.7(d): “fostering the economic, social and environmental well-being of its community”. Placing a warning label at the point of purchase of fossil fuels seems like a reasonable way to generate awareness of the harms arising from their use and help to foster community well-being. Any alleged discrimination is justified by the clear public interest in combating climate change and, as discussed in section 4.4.3 below,

¹¹⁸ *Community Charter*, s. 8(6). However, before adopting a by-law under 8(6) of the *Community Charter*, s. 59(2) requires council to give notice of its intention to do so, and to provide an opportunity for persons who consider themselves to be affected by the by-law to make representation to council. This notice requirement permits council to determine the form and manner of notice that council considers reasonable. See section 4.6.3.

¹¹⁹ *Community Charter*, *supra* note 77, Schedule, s. 1.

¹²⁰ *International Bio Research v. Richmond (City)*, 2011 BCSC 471 (CanLII).

¹²¹ *Ibid*, at para. 43.

¹²² *Ibid*, at paras. 45-47.

¹²³ *Ibid*, at para. 55-58.

¹²⁴ *Ibid*, at paras. 72-74.

under s.12 of the *Community Charter*.

As per s.59(2) of the *Community Charter*, before enacting the proposed by-law amendment under the s.8(6) business regulation power, a municipality must give notice of its intention to do so, and provide an opportunity for persons who consider they are affected by the by-law to make representations to council.¹²⁵

4.3.1.2 Business Licensing Powers

The business licensing power under s.15 of the *Community Charter* is one way that a municipality may exercise their s.8(6) power to regulate businesses. Under this power, a municipality may establish terms and conditions that must be met in order for a business to obtain, continue to hold, or renew a licence.¹²⁶ A business must have a valid licence to operate.

There does not appear to be reported case law from British Columbia interpreting the s.15 licensing power, though as a form of business regulation, any licensing conditions must fall within the parameters of a valid regulation outlined in the section above.

In Ontario, however, courts have “grant[ed] wide authority to the City [of Toronto] to pass business licensing by-laws that advance the public interest and respond to the needs of the City.”¹²⁷ They “attract an expansive and deferential interpretation.”¹²⁸ Under Ontario’s *Municipal Act*, Ontario municipalities also have authority to pass by-laws regarding “business licensing”.¹²⁹ The Ontario Court of Appeal held in *118143 Ontario Inc. v. Mississauga (City)* that a business licensing system includes “the ability to regulate business premises and the equipment and other personal property used or kept for hire in the business.”¹³⁰

Section 194 of the *Community Charter* permits municipalities to impose business licence fees that cover the cost of administering the regulatory scheme. The municipality must make available to the public, on request, a report explaining how the fee was determined. In the case of warning labels, the cost to implement may be passed on the gas station retailers, if the municipality chose to do so.

4.3.1.3 Current Municipal Regulation of Gas Stations

As noted, all businesses in B.C. are regulated by by-laws and can be required to obtain a licence before they can operate. Gas stations are no exception. From a survey of business regulation across B.C. municipalities, there is usually a single business licence by-law that outlines a general set of rules for all businesses in the district and fixes licence fees.¹³¹ This by-law generally requires that, as a condition of holding a licence, a business must comply with the municipality’s land use or zoning by-law and all other

¹²⁵ *Community Charter*, *supra* note 77, s. 59(2).

¹²⁶ *Community Charter*, *supra* note 77, s. 15(d).

¹²⁷ *Toronto Livery Association v. Toronto (City)*, 2009 ONCA 535 (CanLII), at para. 28 (Note: the equivalent to s. 8(2) in the *City of Toronto Act* is s. 8(3) in the *Community Charter*).

¹²⁸ *Ibid*, at para. 29.

¹²⁹ *Municipal Act*, S.O. 2001, c 25, s. 10(2), 11(3).

¹³⁰ *118143 Ontario Inc. v. Mississauga (City)*, [2004] O.J. No. 4143 (ONCA), at para 12.

¹³¹ The Corporation of the District of Saanich, *Business Licence Bylaw 2002*, No. 8213. Online: <<http://www.saanich.ca/living/pdf/buslicence8213.pdf>>.

applicable municipal by-laws.¹³² Zoning and land use by-laws not only indicate where in a community a gas station may be located, but provide additional regulations including the use of the gas station, building specifications, and parking.¹³³ Other applicable by-laws may regulate such things as the installation and removal of gas pumps.¹³⁴

Working with this existing framework, a municipality might choose to implement out labels in one of the following ways:

- An amendment to the business licensing by-law, inserting a specific provision pertaining to warning labels on gas nozzles;
- An amendment to an existing by-law, inserting specific provision pertaining to warning labels on gas nozzles; or
- The enactment of a new by-law with a specific provision pertaining to warning labels on gas nozzles.¹³⁵

4.3.2 Fundamental Powers: Community Well-being, Public health & Environmental Protection

Section 8(3) of the *Community Charter* empowers a municipality to pass by-laws that “regulate, prohibit and impose requirements in relation to” a list of subject matters. These are considered to be the ‘fundamental powers’ of a municipality and, despite some defined limitations, these powers are to be given a “broad interpretation” so as to empower the municipality.¹³⁶ The powers that would most likely support our proposed by-law amendment include:

- (h) The protection and enhancement of the well-being of its community in relation to the matters referred to in section 64 [*nuisances, disturbances and other objectionable situations*]
- (i) Public health
- (j) Protection of the natural environment

While these powers are broader than the s.8(6) power to regulate businesses, both s.8(3)(i) [*public health*] and (j) [*protection of the natural environment*] are subject to “concurrent jurisdiction” restrictions under s.9 of the *Community Charter*. This means that both the provincial government and the municipality have the ability to regulate in relation to them.¹³⁷ The s.9 provisions are meant to ensure that municipal by-laws are consistent with provincial regulation.¹³⁸ As such, when regulating in these areas, municipalities can only enact a by-law in accordance with relevant provincial regulations, or with the agreement or approval of the responsible cabinet minister.¹³⁹ .¹⁴⁰ It may be prudent to request ministerial approval regardless of whether the by-law is in accordance with a regulation, as previously-enacted by-laws have been overturned in court

¹³² *Ibid* at s. 4.1(i).

¹³³ Township of Esquimalt, Zoning Bylaw 1992 No. 2050 , s. 49. Online: <http://www.esquimalt.ca/files/PDF/Bylaws/Bylaw_2050_-_Zoning_Bylaw_Consolidated_2014.pdf>.

¹³⁴ City of Victoria, *Fuel Equipment and Storage Bylaw*, 2007 No. 07-049. Online: <<http://www.victoria.ca/assets/City~Hall/Bylaws/bylaw-07-049.pdf>>

¹³⁵ While we have referred to a “by-law amendment” throughout this report, we acknowledge that a new by-law may be enacted.

¹³⁶ *Community Charter*, *supra* note 77, s. 4 and *Interpretation Act*, s. 8.

¹³⁷ *Community Charter*, *supra* note 77, s. 9.

¹³⁸ *Inventory of Air Quality Bylaws in BC*, *supra* note 110, at 13.

¹³⁹ *Community Charter*, *supra* note 77, s. 9(3).

¹⁴⁰ *Community Charter*, *supra* note 77, s. 9(3).

due to their lacking ministerial approval.¹⁴¹ This approval should be obtained after the by-law's third reading by Council.¹⁴²

4.3.2.1 Public Health

Section 8(3)(j) of the *Community Charter* permits municipal by-laws that "regulate, prohibit and impose requirements in relation to... public health."¹⁴³

This is an obvious source of jurisdiction for possible by-laws dealing with air pollution; however, it is subject to the "concurrent jurisdiction" of the provincial government.¹⁴⁴ Again, this requires that the enacting municipality ensure that the by-law is (a) in accordance with a regulation; (b) in accordance with an agreement; or (c) approved by the Minister responsible.¹⁴⁵

The province has enacted the *Public Health By-Law Regulation*, B.C. Reg. 42/2004 in relation to this power. In order to pass a public health by-law, municipalities must adhere to the requirements of the regulation. Those that would apply to our proposed by-law amendment include:

- The by-law must concern the "the protection, promotion, or preservation of the health of individuals";¹⁴⁶
- The council must deposit a copy of the by-law with the Minister;¹⁴⁷ and
- Before adopting the by-law, the council must consult with the regional health board or medical health officer responsible for public health matters within the municipality.¹⁴⁸

It appears that our proposed by-law amendment would meet these requirements. As discussed in 2.4 above, it is clear that air pollution has a direct impact on the health of B.C. citizens, and from 2.5, it is becoming increasingly evident that climate change has a similar effect. It is also unlikely that a local health board or health officer would have any serious objections to our initiative, and may even welcome it, given the health burden that vehicle emissions have. Notably, the health board or officer does not have a veto over by-laws, and is consulted for their views.¹⁴⁹

4.3.2.2 Protection of the Natural Environment

Section 8(3)(i) of the *Community Charter* permits municipal by-laws that "regulate, prohibit and impose requirements in relation to... the protection of the natural environment".¹⁵⁰

This authority is also subject to the "concurrent jurisdiction" of the provincial government; municipalities

¹⁴¹ See *Peachland (District) v Peachland Self Storage Ltd.*, 2013 BCCA 273.

¹⁴² *Community Charter*, *supra* note 77, s. 135(4).

¹⁴³ *Community Charter*, *supra* note 77, s. 8(3)(j).

¹⁴⁴ *Community Charter*, *supra* note 77, s. 9(1)(a).

¹⁴⁵ *Community Charter*, *supra* note 77, s. 9(3).

¹⁴⁶ *Public Health Bylaws Regulation*, B.C. Reg. 2/2004, s. 2(1)(a) [*Public Health Bylaws Reg.*].

¹⁴⁷ *Ibid*, s. 2(2)(a).

¹⁴⁸ *Ibid*, s. 2(2)(c).

¹⁴⁹ West Coast Environmental Law (2006) *The Clean Air Bylaws Guide*, at 36. Online:

<<http://wcel.org/sites/default/files/publications/The%20Clean%20Air%20Bylaws%20Guide.pdf>>

¹⁵⁰ *Community Charter*, *supra* note 77, s. 8(3)(i).

can only enact by-laws under this power in accordance with relevant provincial regulations, or with the agreement or approval of the responsible cabinet minister.¹⁵¹ The province has enacted the *Spheres of Concurrent Jurisdiction – Environmental and Wildlife Regulation*, BC Reg. 144/2004, however, this regulation does not provide for by-laws concerning air pollution or climate change.¹⁵² A municipality may still be able to pass a by-law requiring warning labels on gas pumps with the agreement or approval of the Minister of Environment. This would require convincing the Minister of the value of this initiative.

4.3.2.3 Community Well-Being

Lastly, s.8(3)(h) of the *Community Charter* permits municipal by-laws that “regulate, prohibit and impose requirements in relation to... the protection and enhancement of the well-being of its community in relation to the matters referred to in section 64 [nuisances, disturbances and other objectionable situations].”¹⁵³ Section 64 of the *Community Charter* provides a number of matters upon which the municipality can exercise their s.8(3)(h) power. The following two matters are relevant to our proposed by-law amendment:

*(c) the emission of smoke, dust, gas, sparks ash, soot, cinders, fumes or other effluvia that is liable to foul or contaminate the atmosphere.*¹⁵⁴

Section 64(c) specifically provides for the authority of municipalities to regulate air pollution.¹⁵⁵ It does not appear to have been judicially interpreted; however, as noted in 4.2.4 above, an analogy may be drawn with other valid municipal bylaws relating to vehicle emissions. The power provided by s.8(3)(h) and s.64(c) of the *Community Charter* serves to ground the anti-idling bylaw of The Town of Gibsons, B.C.¹⁵⁶ Since gas labels have the same objective as anti-idling bylaws (the reduction of harmful vehicle emissions), this power may perhaps also be used to justify our proposed by-law amendment.

It is also important to note that this power may also be used to support our wider objective of combating climate change. As discussed in 4.2.4 above, vehicle emissions are “smoke, fumes or effluvia” and they contaminate the atmosphere by adding harmful and undesirable CO₂ and other GHGs to it, thereby making it more dangerous for human (and other) life.

This power is not under the “concurrent jurisdiction” of the provincial government and therefore is not subject to any further provincial oversight.

4.3.3 Precedent for Municipalities’ Jurisdiction to Reduce Greenhouse Gas Emissions

Section 53 of the *Community Charter* provides explicit authority for municipalities to exercise their authority under s. 8(3)(l) in relation to buildings to reduce GHG emissions.¹⁵⁷ The fact that this has been contemplated, and deemed to be a valid municipal action, at least in the context of regulating buildings,

¹⁵¹ *Community Charter*, supra note 77, s. 9(1)(b).

¹⁵² *Spheres of Concurrent Jurisdiction – Environmental and Wildlife Regulation*, BC Reg. 144/2004, s.2.

¹⁵³ *Community Charter*, supra note 77, s. 8(3)(h): “(h) the protection and enhancement of the well-being of its community in relation to the matters referred to in section 64 [nuisances, disturbances and other objectionable situations].”

¹⁵⁴ *Community Charter*, supra note 77, s. 64(c).

¹⁵⁵ *Inventory of Air Quality Bylaws in BC*, supra note 110, at 12.

¹⁵⁶ Town of Gibsons, Bylaw No. 1010, 2005. *A bylaw to regulate the idling of vehicles*, online: < <http://www.gibsons.ca/bylaws>>.

¹⁵⁷ *Community Charter*, supra note 77, s. 53(2)(c).

bodes well for the authority to do so in relation to regulating business (or through another head of authority).

4.4 Treatment and Limitations of Municipal Decisions

The powers of a municipality are defined by the *Community Charter* (or other provincial legislation) as well as by the need to avoid inconsistencies with existing provincial legislation, as noted above. However, there are some additional rules regarding the interpretation and extent of municipal powers and the treatment of municipal decisions. These parameters have been set out by both legislation and case-law and relate to interpretation, deference, discrimination, and scope of application.

4.4.1 Broad Interpretation

Section 4(1) of the *Community Charter* provides that:

*“the powers of a municipality and their councils under this Act or the Local Government Act must be interpreted broadly in accordance with the purposes of those Acts and in accordance with municipal purposes.”*¹⁵⁸

As noted, the purposes of the *Community Charter* include the authority to address community needs, and to afford flexibility in the interpretation of municipal enabling statutes.¹⁵⁹ Municipal purposes include good government, laws for community benefit, and fostering the economic, social and environmental well-being of the community.¹⁶⁰

The Supreme Court of Canada endorsed a “broad powers” approach to municipal regulation, after a group of Calgary taxi drivers challenged the jurisdiction of the city of Calgary to enact a by-law limiting the number of taxi plate licences available in the municipality. Mr. Justice Bastarache found that “modern municipalities... require greater flexibility in fulfilling their statutory purposes”.¹⁶¹ Further, a municipality need only have one proper purpose for the by-law to be valid, even if members of Council may have other motivations.¹⁶²

4.4.2 Judicial Deference to Decisions by Municipalities

Our courts have complemented this broad approach by adopting a high degree of deference in the judicial review of decisions of municipal councils. When a municipal decision to enact a by-law is challenged in court by a person affected by that by-law, a court may judicially review whether the decision was within the municipality's power to carry out, and whether the decision was reasonable.

The question of whether the decision was within the jurisdiction of the municipality to make, as described by statute, will be determined by the courts on a low standard of deference, known as “correctness”.¹⁶³ In our case, the court might ask: does the *Community Charter* provide the municipality with the power to pass

¹⁵⁸ *Community Charter*, *supra* note 77, s. 4(1).

¹⁵⁹ *Community Charter*, *supra* note 77, s. 3.

¹⁶⁰ *Community Charter*, *supra* note 77, s. 7.

¹⁶¹ *United Taxi Drivers' Fellowship of Southern Alberta v. Calgary (City)*, 2004 SCC 19, at para. 6.

¹⁶² *International Bio Research v Richmond (City)*, 2011 BCSC 471, at para. 47.

¹⁶³ *Ibid* at para 18.

a by-law amendment relating to vehicle emissions, air pollution, and climate change – yes or no?

If the Court finds that the action was within the municipality's jurisdiction as it is prescribed by statute, the court will then consider whether the municipal action was reasonable. To continue our example, if the court answers "Yes" to the first question, they might then ask: is the gas label by-law amendment reasonable having regard to the process taken by the municipality and, does it fall within a range of possible, reasonable actions that the municipality could have taken to achieve the goal of the by-law?¹⁶⁴

Recently, in the Supreme Court of Canada, in *Catalyst Paper Corporation v. North Cowichan (District)*, a paper manufacturing company sought to judicially review the District of North Cowichan's property taxation by-law that levied a tax rate that was 20 times higher for industrial properties than residential properties. The Court found that when enacting a by-law, a municipality must take into account social, economic, political and other non-legal considerations; as a result, the court will defer to the council's responsibility to serve the people who elected them.¹⁶⁵ Even though the tax rate was very high, due to the additional considerations at issue, the decision by the municipality to enact the by-law was not found to be unreasonable.¹⁶⁶ Indeed, the court confirmed that finding unreasonableness in local government decisions will continue to be very difficult:

*"I conclude that the power of the courts to set aside municipal bylaws is a narrow one, and cannot be exercised simply because a bylaw imposes a greater share of the tax burden on some ratepayers than on others."*¹⁶⁷

This confirms the decision in *Nanaimo (City) v. Rascal Trucking Ltd.*, in which the Supreme Court of Canada concluded that courts may review municipal actions that are made within the bounds of the enabling statute on a *highly deferential* standard:

"A by-law is not unreasonable merely because particular judges may think that it goes further than is prudent or necessary or convenient..."

*... Recent commentary suggests an emerging consensus that courts must respect the responsibility of elected municipal bodies to serve the people who elected them and exercise caution to avoid substituting their views of what is best for the citizens for those of municipal councils..."*¹⁶⁸

Furthermore, due to the global nature of climate change, one might question whether the use of warning labels to encourage a reduction of GHGs by a municipality is reasonable. That is, would the labels have any real impact on climate change? This question is implicit in the larger question of whether climate change can be understood as a municipal issue, a question we believe has already by answered in the affirmative.

¹⁶⁴ *Catalyst Paper Corporation v. North Cowichan (District)*, 2012 SCC 2, [2012] 1 S.C.R. 5, at para. 16 [*Catalyst Paper*].

¹⁶⁵ *Ibid*, at para 19.

¹⁶⁶ William A. Buholzer, *Local Government in British Columbia*, 5th ed. (Vancouver: 2013), at para. 104.

¹⁶⁷ *Catalyst Paper*, *supra* note 164, at para 9.

¹⁶⁸ *Nanaimo (City) v. Rascal Trucking Ltd.*, 2000 SCC 13, [2000] 1 SCR 342, at para 36 [*Nanaimo v. Rascal Trucking*].

A stringent test of reasonableness would also require the court to measure the effectiveness of our proposed intervention. However, such a test, one that would require an intervention to ‘solve’ climate change to be reasonable, would be failed by any proposal at every level of government in Canada. Indeed, if the entire province – or even the entire country – stopped emitting GHGs tomorrow, we would still not ‘solve’ climate change. The proper test therefore is simply whether the measure helps to reduce GHG emissions; anything more than this creates an impossible standard for any level of government.¹⁶⁹ This is also the only possible standard that would make practicable federal and provincial calls for action on climate change by all levels of government.¹⁷⁰

The warning labels meet this test. The fact that another level of government can implement climate change or air pollution initiatives with greater impact is irrelevant. Supreme Court of Canada Justice L’Heureux-Dubé, writing for the majority in *Spraytech v. Hudson*, stated:

“As a general principle, the mere existence of provincial (or federal) legislation in a given field does not oust municipal prerogatives to regulate the subject matter.”¹⁷¹

As noted in 4.1.1, L’Heureux-Dubé went on to describe the system of pesticide regulation as a “tri-level regulatory regime”.¹⁷² There is no doubt that this description can be extended to other areas of environmental regulation. Moreover, the local impacts of vehicular pollution on health and well-being are also served to underscore the municipal jurisdiction in this area.

4.4.3 Power to Differentiate

Section 12(1) of the *Community Charter* provides that “by-laws may...:

- b) establish different classes of persons, places, activities, property or things; and
- c) make different provisions, including exceptions, for different classes established under paragraph (b).”¹⁷³

The warning labels by-law amendment is non-discriminatory as it applies equally to all gasoline retailers within a municipality’s jurisdiction.¹⁷⁴ Notwithstanding this, climate change is an issue with multiple causes that no single proposal can entirely address. To the extent that our by-law amendment provides differential treatment between sectors that contribute to climate change (for example, the transportation sector rather than the industrial sector), a municipality has legitimate discretion to do so under the *Community Charter*.

¹⁶⁹ More broadly, fossil fuel extraction and infrastructure projects are routinely approved by regulatory bodies on the basis that their incremental environmental impacts are insignificant when compared against global carbon emissions. To suggest that initiatives that reduce GHG emissions must somehow achieve more than marginal reductions would be to hold mitigative initiatives to a double standard. Such a standard would create an unjust, asymmetric legal environment in which activities that increase emissions are explicitly favoured over activities that decrease emissions. The result would be an open endorsement of climate change and air pollution. Such a result strikes the author as absurd.

¹⁷⁰ *Fed and Prov support*, supra note 42.

¹⁷¹ *Spraytech v. Hudson*, supra note 89, at para 39.

¹⁷² *Ibid.*

¹⁷³ *Community Charter*, supra note 77, s. 12(1).

¹⁷⁴ This is unlike the situation in *Shell Canada v. Vancouver*. In that case, the target of a resolution by the City of Vancouver was a particular gasoline company, not the sector as a whole.

4.4.4 Limit on the Boundaries of the Municipality

Section 11(1) of the *Community Charter* states that, unless otherwise authorized by statute:

“a municipality and its council may only exercise or perform their powers, duties and functions with the boundaries of the municipality”¹⁷⁵

The Supreme Court of Canada endorsed this principle in *Shell Canada Products Ltd. v Vancouver (City)*. The Court concluded that there is a territorial limit on the council’s jurisdiction and that the purpose of any action must be to provide a benefit to the citizens of the municipality.¹⁷⁶

Our proposed by-law amendment appears to fit these territorial limits. The gas labels would only be placed within the boundaries of the municipality that have legislated our proposed by-law amendment. Furthermore, municipalities across B.C are currently, and will continue to be, affected by climate change and air pollution. Not only are these issues caused, at least in part, by vehicle emissions from each and every B.C. municipality, but the benefits of combating these issues will be felt by the citizens of each and every B.C. municipality. Therefore, the purpose of the proposed by-law amendment would indeed serve to benefit the citizens of the municipality where it was enacted.

However, the court also noted that the council may make laws that “have regard for matters beyond its boundaries”.¹⁷⁷ This ability of councils to consider extraterritorial matters in their deliberations is important in the context of climate change as the economic, social, environmental, and health issues of climate change are not limited by political borders. Therefore, while a municipality must consider the effects of air pollution and climate change with their boundaries, a council can consider the impacts of climate change across ecosystems.

4.5 Judicial Treatment of Similar Forms of Municipal Action

The placement of warning labels on gas nozzles as a means to combat an important issue such as climate change might seem to be a novel idea, but it is not without precedent in Canada. Neither is the use of municipal by-law power to effect change. The following section will describe a number of Canadian initiatives that serve as inspiration and precedent for our labels, and the municipal power to enact them.

4.5.1 Warning Labels on Tobacco and Compelled Speech

A possible challenge to this proposed by-law amendment will come from oil petroleum companies on the grounds that these labels amount to compelled speech and violate their constitutionally protected right to freedom of expression. This argument was encountered in the case of warning labels on tobacco packages.

In a majority decision in *RJR-MacDonald Inc. v. Canada*, the Supreme Court of Canada held that warning

¹⁷⁵ *Community Charter*, *supra* note 77, s. 11(1).

¹⁷⁶ *Shell Canada Products Ltd. v. Vancouver (City)*, [1994] 1 SCR 231, at para 100 [*Shell Canada v Vancouver (City)*].

¹⁷⁷ *Ibid.*

labels on tobacco packages violated manufacturers' s.2(b) freedom of expression rights under the *Charter of Rights and Freedoms* since "freedom of expression necessarily entails the right to say nothing or the right not to say certain things."¹⁷⁸ The court added that the infringement could have been justified under s.1 of the *Charter* but that the proposed designs were not attributed to the government and could give rise to the inference that the warnings were from the manufacturers themselves. The majority held that the government was unable to justify this non-attribution and struck down the legislation.¹⁷⁹

The federal government responded by revising its legislation such that the warnings were attributed to the government; this is why cigarette packaging in Canada today includes the text "Health Canada". The issue was revisited by the Supreme Court of Canada in *Canada v. JTI-Macdonald Corp.* and the labels were upheld.¹⁸⁰ Our gas pump warning labels anticipate this s.2(b) challenge by including attributions in small print at the bottom of our mock-ups.¹⁸¹ While the tobacco warning labels were a federal initiative, the *Charter* analysis would likely remain the same in the municipal context.

4.5.2 Consumer Information Labels on Business Property

Our initiative differs from warnings on tobacco packages in that the proposed gas labels are located on the property of a business, not directly on the product itself. However, a City of Toronto program provides both a precedent for this concept as well as a good example of successful municipal action. While this example comes from a different jurisdiction, the decision by the Ontario Court of Appeal on the matter will provide some weight in courts here in British Columbia.

In 2001, the City of Toronto launched a program that required restaurant owners to place information notices on their entrances to communicate the results of their health inspections to customers. The City relied on its general health and welfare powers and its licensing powers to pass the by-law.¹⁸²

The by-law was challenged by the Ontario Restaurant Hotel & Motel Association ("ORHMA") on several grounds. The Superior Court held that the City's by-law did not clash with provincial health law.¹⁸³ It also concluded that the notices did not infringe on licence holders' s.2(b) freedom of expression rights, which, even if it did, was held to be justifiable given that the notices were "clearly attributed to the City of Toronto and not to the individual restaurant owner."¹⁸⁴

The Superior Court further observed that the information labels do "not in any way prohibit a restaurant owner from disavowing whatever messages the notices contain. An owner is free to post any message the owner chooses in response to the inspection notice."¹⁸⁵ Similarly, gasoline retailers have much space on which to communicate their own messages in response to the labels proposed for their gas nozzles.

The Court of Appeal found that the by-law was rooted in "significant public health and consumer

¹⁷⁸ *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1995] 3 SCR 199 at para 113 [*RJR-MacDonald*].

¹⁷⁹ Interestingly, the minority held that the unattributed messages actually did not violate tobacco manufacturers' freedom of expression. La Forest J. wrote that the expression in question was commercial in nature and far from "the 'core' of freedom of expression values" and "must then be accorded a very low degree of protection."

¹⁸⁰ *Canada (Attorney General) v. JTI-Macdonald Corp.*, 2007 SCC 30, [2007] 2 SCR 610.

¹⁸¹ A possible attribution might read: "Required by Municipality of ABC by-law 2014-058."

¹⁸² *Ontario Restaurant Hotel & Motel Ass. v. Toronto (City)*, 2004 CanLII 34445 (ON SCDC) at para 15.

¹⁸³ *Ibid.* at para 20.

¹⁸⁴ *Ibid.* at para 46.

¹⁸⁵ *Ibid.* at para 47.

protection imperatives” and merely required the licence holder to disclose risks associated with the consumption of its product.¹⁸⁶ It upheld the Superior Court’s decision and added that “the Charter does not prohibit governments from communicating messages that contradict commercial messages.”¹⁸⁷ Our warning labels are similarly rooted in significant public health and consumer protection concerns.¹⁸⁸ The labels merely disclose the risks associated with consumption of the licence holders’ product.

4.5.3 Shark fin Bans

Unsuccessful precedent case law can be as informative as successful case law. *Eng v Toronto (City)* 2012 ONSC 6818 (CanLII) and *Shell Canada Products Ltd. v Vancouver (City)* [1994] 1 SCR 231, both of which concern municipal by-laws that were struck down by the courts, have been helpful in delineating the scope of the municipal law power in Canada. They are distinguishable from our proposed by-law in a number of ways.

The City of Toronto recently had its shark fin ban overturned in *Eng v. Toronto (City)*. Part of Justice Spence’s reasoning was based on his finding that the ban would not “have any identifiable benefit for Toronto with respect to the environmental well-being of the City.”¹⁸⁹ He held the city was seeking to affect matters outside the boundaries of Toronto, without benefiting inhabitants within the City itself.⁹⁹

In his judgment, Justice Spence referred to *Shell Canada Products Ltd. v. Vancouver (City)*, a Supreme Court of Canada decision. The case addressed a resolution by the City of Vancouver not to do business with Shell Canada, a petroleum company, due to its investments in apartheid South Africa. The purpose of the resolution was to encourage Shell to withdraw from doing business in South Africa and express moral outrage against the apartheid regime.¹⁹⁰ However, it was disputed whether the resolution fell within the powers of the City of Vancouver as provided by the *Vancouver Charter*.¹⁹¹

Section 189 of the *Vancouver Charter* states that “Council may provide for the good rule and government of the city.”¹⁹² The court found this provision instructive, indicating that while there is a territorial limit on the Council’s jurisdiction, the council can make laws that “have regard for matters beyond its boundaries” though the purpose of these laws must be to benefit the citizens of the city.¹⁹³ The court also found that the Resolution was discriminatory because it singled out Shell for doing business in South Africa, while taking no action against other corporations who were also doing business in South Africa at the time.¹⁹⁴

It should be noted that there was a very strong minority judgment in this case, written by Justice McLachlin (as she was at the time) who found the Resolution *was* within the powers of the Vancouver municipal government. Some of Justice McLachlin’s reasons concerning the interpretation of municipal legislation were subsequently adopted by the Supreme Court of Canada in *Spraytech v. Hudson (City)* and *Nanaimo*

¹⁸⁶ *Ontario Restaurant Hotel & Motel Association v. Toronto (City)*, 2005 CanLII 36152 (ON CA) at para 14.

¹⁸⁷ *Ibid*, at para 11.

¹⁸⁸ Public Health Agency of Canada, “Climate Change and Public Health Factsheets”, Government of Canada, online: <<http://www.phac-aspc.gc.ca/hp-ps/eph-esp/fs-fi-a-eng.php>>.

¹⁸⁹ *Ibid*, at para 66.

¹⁹⁰ *Shell Canada v Vancouver (City)*, *supra* note 176, at para 74.

¹⁹¹ *Ibid*, at para 75.

¹⁹² *Vancouver Charter*, SBC 1953, c 55, s.189.

¹⁹³ *Shell Canada v Vancouver (City)*, *supra* note 176, at para 100.

¹⁹⁴ *Ibid*, at para 105.

*(City) v. Rascal Trucking Ltd.*¹⁹⁵

The shark fin decision and the Shell Canada decision can be distinguished from our proposed initiative on a number of grounds. Three grounds are of particular interest:

1) The labels merely provide information, they are not a ban or prohibition

Eng v. Toronto (City) concerns an outright ban on an otherwise legal product. Our labelling by-law amendment is not a ban; it is merely the provision of information to consumers. It is more akin to *RJR-MacDonald* and *Ontario Restaurant Hotel & Motel Association v. Toronto*. *Shell Canada v. Vancouver (City)* concerned a prohibition against doing business with a law-abiding company. Relative to the shark fin ban or the resolution against Shell Canada, our proposal is not restrictive at all; citizens would be free to consume gasoline exactly as they did in the absence of the labelling by-law amendment. The unobtrusive nature of our by-law amendment is made even more evident when considered against the “existential threat” that is climate change.¹⁹⁶

2) Greenhouse gas reduction efforts by municipalities are customary

The practice of finning sharks quickly became a cause célèbre in municipal circles in 2011. Prior to this period, the subject matter appears to have had no historic consideration by local governments in Canada. However, in 2011, the question of whether there existed a valid municipal purpose was very much a live issue. In the end, only a handful of municipalities actually passed bans on shark fin products.

The context for our labelling by-law amendment is entirely different. Municipalities across our country have undertaken hundreds of initiatives directed at the reduction of GHG emissions over the course of many years.¹⁹⁷ Federal and provincial governments are explicit in their encouragement for all levels of government to act on climate change.¹⁹⁸ The practice of municipal action to reduce GHG emissions is an accepted custom; it would seem highly unlikely for a court to rule to the contrary.

3) Location of the act and location of the harm

In *Eng v. Toronto (City)* and *Shell Canada v Vancouver (City)*, there was a weak nexus to matters of local concern. The act that caused the harm (eg. a person finning a shark) and the harm itself (eg. a shark being finned) occurred in distant oceans. As with the prohibition against *Shell*, the shark fin ban in *Eng* sought to “affect matters in another part of the world.”¹⁹⁹ This distance was compounded by an intervention whose intended impact was mediated by abstract principles of supply and demand.²⁰⁰ In the context of our proposal, both the location of the act that causes the harm and the location where the harm is experienced occur entirely within a municipality’s borders. The connection is direct: as soon as I finish pumping gas and turn my key in the ignition, I am causing the harm. Indeed, our by-law amendment does not seek to “affect matters in another part of the world”; it addresses a matter that is happening

¹⁹⁵ References to Justice McLachlin’s judgment in *Shell Canada v Vancouver* can be found in *Spraytech v. Hudson*, at para 23, and *Naniamo v. Rascal Trucking*, at para 36.

¹⁹⁶ “UN Secretary-General in Davos: Climate Change is “only one truly existential threat”, *International Institute for Sustainable Development* (29 January 2009), online: <<http://climate-l.iisd.org/news/un-secretary-general-in-davos-climate-change-is-%E2%80%99Only-one-truly-existential-threat%E2%80%9D/>>.

¹⁹⁷ *FCM Partners for Climate Protection*, *supra* note 41.

¹⁹⁸ *Fed and Prov support*, *supra* note 42.

¹⁹⁹ *Eng v. Toronto (City)*, 2012 ONSC 6816 (CanLII), at para. 51 [*Eng*].

²⁰⁰ *Ibid*, at para. 43.

down the street.

The impacts of GHGs vary from place to place and engage communities as local entities.²⁰¹ Recent examples from British Columbia are illustrative. In February 2014, twenty people were laid off from their jobs in Qualicum Beach on Vancouver Island when a local shellfish producer had to scale back their operations. The plant had to downsize considerably because 95% of its shellfish crop, about 10 million scallops, were lost to ocean acidification – an another effect of rising atmospheric CO₂.²⁰²

Logging communities in B.C.'s interior are more concerned with the impacts to forests from the proliferation of the Mountain Pine Beetle due to warmer winters.²⁰³ The local distinctiveness of climate change impacts recalls the principle of subsidiarity from *Spraytech*, and highlights the fact that it is actually the municipal level of government that is best situated to implement our warning labels. The local nexus for our by-law amendment is further strengthened by the fact that air pollution from vehicles impacts health and the environment on a very local level.²⁰⁴

In short, the *Eng* and *Shell* decisions involved sets of facts that were fundamentally different from the herein proposed by-law amendment. However, *Eng* and *Shell* provide some guidance with respect to label design. The reasoning in these decisions that permits a council to "... have regard for matters beyond its boundaries in exercising its powers..."²⁰⁵ supports, by extension, the development of a series of warning labels that reflect local matters which are complemented by a series of label designs that reflect more global concerns.

4.6 Additional Implications of Gasoline Warning Labels

4.6.1 Interference with Business

The question of illegality due to interference in a licence holder's business was explored by the Ontario Court of Appeal in *Toronto Taxi Alliance Inc. v. Toronto (City)*. In this case, restrictions placed on the taxicab industry were upheld. The court found that "the by-law was passed for a proper purpose" and the fact that it "interferes to some extent with the contractual and financial decision making of licence holders does not render the by-law invalid."²⁰⁶ This is consistent with *Re Christie Taxi Ltd. and Doran* where the court observed that a by-law that regulates a business "is valid even though it interferes with private contractual and civil rights."²⁰⁷

In considering warning labels on tobacco packages, La Forest J. wrote for the minority in *RJR-MacDonald* that "[t]he warnings do nothing more than bring the dangerous nature of these products to the attention of the consumer... the only cost associated with the unattributed health warning requirement was a

²⁰¹ "Caring for the Air," Metro Vancouver (2014), online:

<http://www.metrovancouver.org/services/air-quality/AirQualityPublications/Caring_for_the_Air-MV2014.pdf>.

²⁰² John Harding, "10 million scallops are dead; Qualicum company lays off staff", *The Parksville Qualicum Beach News* (25 February 2014), online: <<http://www.pqbnews.com/news/247092381.html>>.

²⁰³ "Mountain pine beetle poised to ravage Eastern Canada", *CBC News* (4 April 2013), online:

<<http://www.cbc.ca/news/technology/mountain-pine-beetle-poised-to-ravage-eastern-canada-1.1339467>>.

²⁰⁴ *Air Pollution Burden of Illness from Traffic*, *supra* note 33.

²⁰⁵ *Eng*, *supra* note 199, at para. 51.

²⁰⁶ *Toronto Taxi Alliance Inc. v. Toronto (City)*, 2005 CanLII 47232 (ONCA), at para. 53.

²⁰⁷ *Re Christie Taxi Ltd. and Doran*, 1975 CanLII 336 (ON CA), 1975 CarswellOnt 894, at para 30.

potential reduction in profits; manufacturers of dangerous products can reasonably be expected to bear this cost.”²⁰⁸

The IPCC and various other organizations have concluded that we must leave the vast majority of fossil fuels underground or we jeopardize the viability of our planet for future generations. Vehicular emissions also have a direct impact on our health and result in significant economic costs. In this context, any interference with private contractual and civil rights and any reduction in profit can only reasonably be expected given the dangerous and costly nature of the product.

4.6.2 Gasoline Retailers Pay for Reasonable Licensing Cost

Section 8(8) of the *Community Charter* states that a municipality’s power to regulate, prohibit, and impose requirements include powers to:

- (a) Provide that persons may engage in a regulated activity only in accordance with the rules established by bylaw;
- (c) Require persons to do things with their property... [and] and to do things at their expense...²⁰⁹

Section 194(1) of the *Community Charter* also permits a municipal council to impose a fee in respect of the exercise of the authority to regulate, prohibit, or impose requirements.

Therefore, costs incurred by the municipality in administering the warning labels by-law amendment can be recovered via licensing fees. In *Surdell-Kennedy Taxi Ltd. v. Surrey (City)*, the City of Surrey implemented a by-law requiring an auction process for taxi licences, which included a fee. The B.C. Supreme Court stated:

[F]or the auction price to be properly characterized as a license fee the auction price must bear a direct relationship to Surrey's cost of administering the licensing service.²¹⁰

In *Surdell-Kennedy*, the auction fee was deemed to be an invalid form of taxation, as it was not directly related to the City’s costs to administer the licensing service. The Court cited an Ontario Court of Appeal case, *Urban Outdoor Trans Ad v Scarborough (City)*, which states that the fees must “bear a reasonable relation to the cost of providing the service” and are intended to “defray expenses, not to raise revenue”.²¹¹ Fortunately, and of particular interest to fiscally-minded councillors, if the cost for our initiative is passed on via licensing fees to gasoline retailers, it would likely be deemed reasonable as the cost for stickers and nozzle talkers is nominal.

4.6.3 Consultation

²⁰⁸ *RJR-MacDonald*, *supra* note 178.

²⁰⁹ *Community Charter*, *supra* note 77, s. 8(8)(a),(c).

²¹⁰ *Surdell-Kennedy Taxi Ltd. v. Surrey (City)*, 2001 BCSC 1265, at para. 36.

²¹¹ *Ibid*, citing *Urban Outdoor Trans Ad v Scarborough (City)*, 2001 CanLII 24140 (ON CA), at para 31.

In the process of creating a by-law regulating businesses under s. 8(6) of the *Community Charter*, council must give notice of its intention and provide consultation opportunities for persons affected by the bylaw.²¹² The form, manner, time and frequency of the notice are decided as the Council considers reasonable.²¹³ Such efforts help to address procedural concerns.

²¹² *Community Charter*, *supra* note 77, s. 59(2).

²¹³ *Community Charter*, *supra* note 77, s. 59(3).

Part V – NEXT STEPS

5.1 Strategy

In November 2013, a delegate at the United Nations COP19 climate conference in Warsaw, Poland said upon seeing our gas nozzle: “I’ve been to all 19 COP meetings and I’ve never seen an idea so simple yet so powerful.” We believe that our idea has the potential to make a significant contribution in the fight against climate change and we are excited to be leading this groundbreaking effort in Canada.

Our strategy is to continue to meet with councillors to secure support for the by-law amendment in advance of actual votes taking place. We also plan on doing more outreach to grow public support for the by-law amendment so that city and town halls will be packed with citizens wishing to give deputations in support.

We have selected a few cities that we believe are receptive to our by-law amendment and are focusing our resources there. We plan on pushing for votes in these communities and then using these positive examples to empower councillors to support the by-law amendment in other communities.

We will be video recording deputations by youth and uploading them to YouTube so that their examples will inspire others to do the same. In fact, we have already been contacted by people and groups from all around the world about our campaign. Our idea has been primed to go global by the warning labels already on tobacco packaging in numerous countries. We want to bring positive examples of leadership from Canadian communities to the United Nations Climate Change Conference in Paris in December 2015 to share with delegates from all over the world.

Please contact us at communications@ourhorizon.org to learn more or to book Rob as a speaker for your organization or event.

5.2 Complimentary Presentation to your Council

The apparent simplicity of our idea is deceptive; there is a significant amount of research behind it that should be communicated to decision-makers to ensure the idea is given due consideration. If your community is actively considering this by-law amendment, we respectfully ask that our Executive Director be invited to offer a complimentary presentation. This will help to ensure that your council has access to full and relevant information during the course of its deliberations and is able to discharge its duties to your municipality in good faith. If we are unable to be there in person, we would be pleased to provide a presentation and answer questions via teleconference.

5.3 Funding

We are often asked about our sources of funding. Since launching in early 2013, we have successfully raised over \$25,000 from more than 300 individual donors from all over the world. The rest of our campaign has been personally funded by our executive director; unfortunately, he is no longer financially able to do so. Securing funding in 2015 for a small team of dedicated advocates will be crucial to ensuring the success of our campaign. Know any wealthy philanthropists that want to support a grassroots effort at leading change? Send them our info!

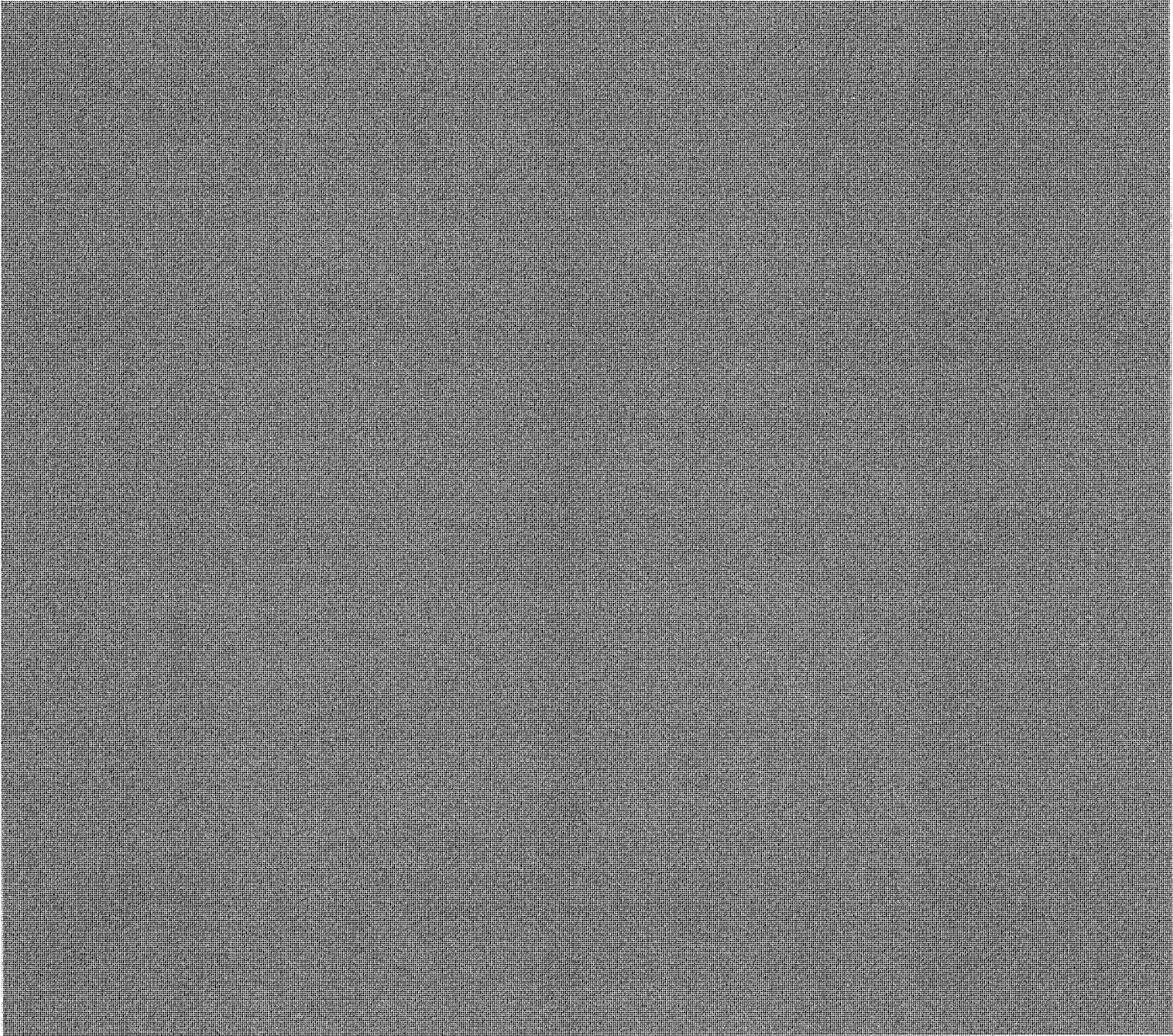
As a not-for-profit whose advocacy work means we do not qualify for charitable status, it can be a challenge to fund our work. Your donations are appreciated. Please contact us at supporters@ourhorizon.org to learn how you can help.

5.4 Frequently Asked Questions (FAQs)

This document is intended as a starting point for municipal consideration of our warning labels by-law amendment. We omitted material in an attempt to keep the sections on climate change, the warning labels, and legal research as succinct as possible. Please visit our Frequently Asked Questions (FAQs) page at www.ourhorizon.org for more information and do not hesitate to contact us with questions.

*“Never doubt that a small group of thoughtful,
committed citizens can change the world.
Indeed, it's the only thing that ever has.”*

Margaret Mead





December 8, 2014

Climate Change & Air Pollution Info Labels on Gas Pumps

*A preliminary summary report for municipalities in British Columbia**

This document is an abbreviated adaptation of a 40-page legal report produced by *Our Horizon* that is [available for download as a PDF](#). While that report has an Ontario focus, it may still be of interest to decision-makers in British Columbia. We are currently working on the equivalent report for British Columbia and expect to publish it in early 2015. The document that you are reading is an early summary of our research for B.C. municipalities.

We have produced this document because Rob Shirkey, the [Executive Director of *Our Horizon*](#), will be in B.C. this January 11th – 31st giving lectures on the proposal. We encourage mayors, councillors, and staff to attend a lecture while Mr. Shirkey is in B.C. as the item may be brought forward by a resident in your community later in 2015. Attending a talk is a good opportunity to learn the research behind the proposal and ask questions. Please [visit this page](#) for our schedule of talks in British Columbia.

Highlights: Climate change and air pollution in British Columbia municipalities

- While climate change discourse in Canada tends to focus on oil sands and pipelines, the vast majority of greenhouse gas emissions in this sector actually come from end-use; emissions from extraction and processing pale in comparison to emissions from vehicle combustion. According to *C40*, cities are responsible for approximately 70% of global carbon emissions.
- The transportation sector in British Columbia accounts for 40% of greenhouse gas emissions in the province. Exhaust from automobiles contributes to poor air quality and has been associated with cardiovascular disease, stroke, lung cancer, leukemia, and other health concerns.
- The sources and impacts of these emissions are both experienced locally. To date, cities across Canada have taken hundreds of initiatives to reduce their GHGs. Municipal action on climate change is well-established and is integral to addressing the issue.

Highlights: Information labels on gas pumps

- The concept of climate change warning labels on gas pumps [has been endorsed by over 100 academics and leaders in their field from universities across North America](#).
- Research shows that similar labels used on tobacco products help to change both attitudes and behaviour.
- Our warning labels help address the psychological and economic reasons that hinder action on climate change. First, they counteract cognitive biases by bringing faraway consequences into the here and now. Second, they address the problem of diffusion of responsibility by showing impacts right in the palm of our hand. Third, they capture and communicate negative externalities in a qualitative way.

- The labels take an act that has been normalized for several generations and de-normalize it. They disrupt the status quo, shake us out of our sense of complacency, and provide impetus for us to do better. We anticipate that they will cause some individual behavioural change but, more importantly, they will contribute to the creation of social conditions that favour meaningful action on climate change.

Highlights: Legal research

- Municipalities in British Columbia can require gasoline retailers to place climate change & air pollution information labels on their gas pump nozzles. The labels would be a new condition for a gasoline retailer to obtain, continue to hold or renew its business licence.
- The *Community Charter* appears to provide the authority to require such labels through its power to regulate in relation to business (s.8(6) and s.15). Further, with cooperation with the Provincial government, it may require the labels through its concurrent jurisdiction to regulate in relation to Public Health (s.8(3)(i)) and the Protection for the Natural Environment (s.8(3)(j)).
- The Supreme Court of Canada has recognized that municipal by-laws are to be given a broad and purposive interpretation; this is incorporated into s.4(1) of the *Community Charter* itself. Courts have established a deferential approach to decisions of municipal councils.
- Climate change is the exact sort of major environmental challenge that is contemplated by the Supreme Court of Canada in *Spaytech v. Hudson*. The issue is one that requires action by governments at all levels. This view is consistent with federal and provincial messaging and long standing practice in municipalities across Canada. Indeed, the B.C. provincial government has required municipalities to establish objectives and goals for the reduction of GHG emissions in their official community plans through the *Local Government (Green Communities) Statutes Amendment Act*.
- Warning labels on tobacco packaging have been upheld by the Supreme Court of Canada. Our warning labels anticipate freedom of expression challenges by including attributions in small print at the bottom of our mock-ups similar to those on tobacco packages.
- The Ontario Court of Appeal ruled in *ORHMA v. Toronto* that cities can use their licensing powers and their general powers to impose consumer advisories at restaurant entrances. Our warning labels draw on these and other precedents.
- The preamble from numerous municipal anti-idling by-laws reference greenhouse gas emissions, climate change, and local air quality. Implicit in these ubiquitous by-laws is an accepted recognition of vehicular emissions as a matter of local concern. The rationale behind our labelling by-law amendment is identical.

We look forward to releasing our comprehensive report in early 2015. Hope to see you at a talk!

* The legal research in this document is not legal advice and is only applicable to municipalities in British Columbia. It does not apply to Regional Districts, nor does it address the Vancouver Charter (to which the City of Vancouver is subject). Our Horizon Society, its staff, board of directors and volunteer researchers assume no responsibility for reliance on the material contained herein. Municipalities are encouraged to consult their legal departments or seek independent legal advice before taking any action to pursue the proposed by-law amendment.

Can municipalities require climate change warning labels?



**Dianne Saxe
with Meredith James**

Here's a great new idea for municipal action on climate change: warning labels!

Our Horizon¹ is a non-profit organization with a mandate to empower people and communities to take action on climate change. Their new campaign aims to get municipalities to use their existing powers in new ways to reduce greenhouse gas (GHG) emissions. For example, using municipal business licensing powers, *why not require gasoline retailers to put climate change warning labels on gasoline dispensers?* Like anti-smoking labels on tobacco packages, climate warning labels could encourage people to burn less gasoline. By raising awareness in this way, the labels could also help build demand for greater action on climate change.

Assuming that labels would reduce GHG emissions, can municipalities do this?² We think it's worth a try.

Business Licensing Powers

Under the various municipal acts across Canada, municipalities have substantial powers to license and regulate local businesses. Some municipalities already use this power to license service stations.

Municipal powers may not conflict with provincial or federal regulation, but there can be some overlap. In *Ontario Restaurant Hotel & Motel Association v. Toronto (City)*,³ the association challenged the city's power to require restaurant operators to post the results of food premises inspections, under its licensing powers. They asserted that inspection of food

premises, and posting the results of those inspections, was already dealt with by the provincial *Health Promotion and Protection Act*.

The Ontario Court of Appeal rejected this argument. Applying the test set out in *114957 Canada Ltée. v. Hudson (Town)*,⁴ it found there must be an "express contradiction – that is, there must be an actual conflict in operation." The court concluded that the municipal by-law and the Act were "designed to mesh with one another, not clash." Provincial legislation did not oust the municipality's powers to regulate in matters respecting public health.

By the same analysis, a carefully crafted climate change warning label by-law should survive legal attack, if it does not conflict directly with a federal or provincial law, is intended to complement provincial regulations, and has a valid municipal purpose.

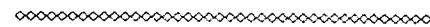
Valid Municipal By-Law Must Be Grounded in Benefits to Community

A municipality's powers are set out in, and limited by, its enabling legislation. Typically, these powers are tied to "municipal issues"; the economic, social, and environmental well-being of the municipality; and the health, safety, and well-being of its residents.

In *Eng v. Toronto (City)*,⁵ the Ontario Superior Court struck down a by-law banning shark fins within the City of Toronto. The applicants challenged whether the ban had a valid municipal purpose, arguing that the federal and/or provincial government could better address the concerns behind the ban, that there would be no identifiable benefit to the city, and that there was no evidence that the health of any inhabitant of the city was harmed by the purchase, sale, or possession of shark fins, or occasional consumption of shark fin soup.

The court found that, although broad, "municipal issues" have to have a specific local nexus:

[20] The power to deal with municipal issues is a broad power since it is not defined in the Act. However, that fact does not mean that an issue is a municipal issue merely because a policy decision is taken by city council that an issue is important and it is desirable to take municipal action with regard to the issue. If all that was required to give jurisdiction to the city were such



DIANNE SAXE, D. Jur. is a leading Canadian environmental lawyer. She is a Certified Specialist in Environmental Law, and holds one of Canada's only Doctorates of Jurisprudence (Ph.D.) in environmental law. She is also a certified, experienced mediator.

MEREDITH JAMES is an Associate with the Saxe Law Office. She holds a BSc in Environmental Biology from the University of Alberta and a JD from the University of Saskatchewan.

1 <<http://ourhorizon.org>>.

2 At the time of writing this article, Our Horizon had not yet posted a legal opinion. They advised us, however, that it will be available shortly.

a policy decision, the determination of the scope of the jurisdiction of the city would be solely a matter for the decision of city council. That result would be inconsistent with the fact that the powers delegated to the city under the Act are limited to municipal issues.

[21] Nor does the fact that a matter relates to one of the categories of matters identified in section 8 (2) of the Act by itself make that matter a municipal issue. For example, the criminal laws of Canada certainly bear on the "social well-being of the city," but that fact does not by itself make the matters dealt with by the *Criminal Code* municipal issues within the jurisdiction of the city under the Act.

The court concluded that a shark fin ban would not be invalid "merely because another level of government could impose the ban with potentially greater effect." Rather, the ban failed because there would be no identifiable benefit to the environmental well-being of the city, as the ban would not make a significant different

to the protection of sharks. "[A]lthough ecological threats facing the planet affect the entire planet, including the city, that does not make those ecological threats a municipal issue." There was also no identifiable social benefit to the city. "There is nothing to suggest that the offensive practice of shark-finning in distant oceans affects the ability of Torontonians to live together as an urban community. For this reason, it cannot be considered to relate to their social well-being." Lastly, the court found there was "no air of reality to the potential adverse impact on health from shark fin consumption."

Climate Change a "Municipal Issue"?

Thus, the key question is whether climate change has a meaningful local nexus, so that raising awareness about it, and mitigating emissions, could be considered a "municipal issue." Is it more like shark finning, where all the harm takes place in "distant oceans," or more like pesticide use,⁶ which has both local and systemic effects?

Although climate change is a global issue, its causes and impacts are also local. In terms of causes: Drivers fill their tanks each day in municipalities across Canada, and burn their gasoline driving within those municipalities. Canadians are, per capita, among the world's worst GHG emitters, and the transportation sector is the largest contributor to our GHG emissions.⁷

In terms of impacts, climate change is already having effects within municipalities, with direct impacts on municipal budgets and local health and welfare. The National Climate Assessment and Development Advisory Committee recently released a scathing update on what climate change already means for the U.S., and

what is coming soon.⁸ "Climate change is already affecting human health, infrastructure, water resources, agriculture, energy, the natural environment, and other factors – locally, nationally, and internationally ... There is mounting evidence that the costs to the nation are already high and will increase very substantially in the future, unless global emissions of heat trapping gasses are strongly reduced."

Natural Resources Canada, in their booklet *Adapting to Climate Change: An Introduction for Canadian Municipalities*, sets out some of the many impacts on municipalities of the changing climate:⁹

Anticipated impacts across Canada include increased frequency and severity of extreme weather events (e.g., heat waves, floods, coastal storm surges, and droughts), more smog episodes and disease outbreaks, thawing of permafrost, loss of northern sea ice, and rising sea levels. These impacts will affect municipalities large and small, urban and rural, and have both positive and negative implications on infrastructure (e.g., transportation, water supply, sewage), social and economic systems (e.g., human health, competitiveness, recreation) and natural environments (e.g., biodiversity loss, habitat degradation, invasive species).

Perhaps fortunately, burning gasoline does more than just damage the climate. It also has more clearly local impacts, such as on air quality and on the urban heat island effect. The combined effect of these local impacts, and the real local pain caused by climate change as a whole, could be enough of a municipal nexus to support a labelling by-law.

We won't know for sure until someone tries. Where is the next Hudson?

3 2005 CanLII 36152 (ON CA).

4 2001 SCC 40.

5 2012 ONSC 6818.

6 *114957 Canada Ltee. v. Hudson (Town)*, 2001 SCC 40.

7 Environment Canada, Canada's Emissions Trends 2012 <www.ec.gc.ca/Publications/253AE6E6-5E73-4AFC-81B7-9CF440D5D2C5/793-Canada's-Emissions-Trends-2012_e_01.pdf>.

8 National Climate Assessment and Development Advisory Committee, Third National Climate Assessment Report <<http://ncadac.globalchange.gov>>.

9 Natural Resources Canada, *Adapting to Climate Change: An Introduction for Canadian Municipalities* <www.nrcan.gc.ca/earth-sciences/climate-change/community-adaptation/municipalities/373>.

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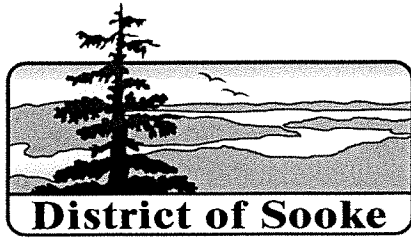
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REQUEST FOR DECISION
Regular Council
Meeting Date: February 23, 2015

To: Gord Howie, Chief Administrative Officer
From: Corporate Services
Re: **Bylaw No. 610, Revenue Anticipation Borrowing Bylaw, 2015**

RECOMMENDATION:


THAT COUNCIL adopt Bylaw No. 610, *Revenue Anticipation Borrowing Bylaw, 2015*.

On February 10th, 2015 Council gave first, second and third reading to Bylaw No. 610, *Revenue Anticipation Borrowing Bylaw, 2015* to provide for the borrowing of money in anticipation of revenue.

It is now in order for Council to consider adoption of the Bylaw.



Attached Documents:

1. Bylaw No. 610



Bonnie Sprinkling

Approved for Council Agenda

_____ Engineering	_____ Planning
 _____ Corp. Services	 _____ Finance
_____ CAO	



DISTRICT OF SOOKE

BYLAW No. 610

A bylaw to provide for the borrowing of money in anticipation of revenue.

Under section 177 of the *Community Charter*, the Council may, by bylaw, provide for the borrowing of money that may be necessary to meet current lawful expenditures.

The Council of the District of Sooke, in open meeting assembled, enacts as follows:

1. This bylaw is cited as *Revenue Anticipation Borrowing Bylaw, 2015*.
2. The Council is empowered and authorized to borrow upon the credit of the municipality from a financial institution an amount or amounts not exceeding the sum of \$4,849,318, and to pay interest thereon at a rate not to exceed prime plus two percent (2%).
3. The form of obligation to be given as acknowledgement of the liability must be an overdraft or promissory notes bearing the corporate seal and signed by the authorized Signing Officers.
4. The following bylaws are hereby repealed:
 - a. Bylaw No. 4, *Revenue Anticipation Borrowing By-Law 1999/2000*;
 - b. Bylaw No. 87, *Revenue Anticipation Borrowing Bylaw, 2002*;
 - c. Bylaw No. 125, *Revenue Anticipation Borrowing Bylaw, 2003*;
 - d. Bylaw No. 159, *Revenue Anticipation Borrowing Bylaw, 2004*;
 - e. Bylaw No. 208, *Revenue Anticipation Borrowing Bylaw, 2005*;
 - f. Bylaw No. 237, *Revenue Anticipation Borrowing Bylaw, 2006*;
 - g. Bylaw No. 304, *Revenue Anticipation Borrowing Bylaw, 2007*;
 - h. Bylaw No. 354, *Revenue Anticipation Borrowing Bylaw, 2008*;
 - i. Bylaw No. 387, *Revenue Anticipation Borrowing Bylaw, 2009*;
 - j. Bylaw No. 430, *Revenue Anticipation Borrowing Bylaw, 2010*;

- k. Bylaw No. 437, *Revenue Anticipation Borrowing Amendment Bylaw (430-1)*;
- l. Bylaw No. 483, *Revenue Anticipation Borrowing Bylaw, 2011*;
- m. Bylaw No. 517, *Revenue Anticipation Borrowing Bylaw, 2012*;
- n. Bylaw No. 566, *Revenue Anticipation Borrowing Bylaw, 2013*;
- o. Bylaw No. 589, *Revenue Anticipation Borrowing Bylaw, 2014*.

Introduced and read a first time the 10th day of February, 2015.

Read a second time the 10th day of February, 2015.

Read a third time the 10th day of February, 2015.

Adopted on the day of , 2015.

Certified correct:

Maja Tait
Mayor

Bonnie Sprinkling
Corporate Officer



REQUEST FOR DECISION

Regular Council

Meeting Date: February 23, 2015

To: Gord Howie, Chief Administrative Officer

From: Planning Department

Re: **6509 Sooke Road - Rezone to Service Commercial (C3)**
(Lots 1, 2, 3, 4, 25, 26, 27 and 28, Block 11, Section 14, Plan 217)

RECOMMENDATION:

THAT COUNCIL introduce and give first and second reading to Bylaw No. 611, *Zoning Amendment Bylaw (600-15)*

AND THAT COUNCIL direct staff to schedule a Public Hearing for Bylaw No. 611 in accordance with the requirements of the *Community Charter* and the *Local Government Act*

1. Executive Summary:

The applicant has applied to rezone 6509 Sooke Road from Light Industrial (M1) to Service Commercial (C3). The applicant proposes to use a portion of the building as an automobile repair shop. The applicant would maintain the existing Sooke Backhoe business on the property.

To reduce impacts on the neighborhood, it is proposed that "gas bar" and "car wash" be prohibited uses on the subject property.

Due to the history of past industrial and commercial uses that have operated on the property since the 1930's, there is a potential for contamination on the site. For this reason staff cannot reasonably determine if "restaurant", "place of worship", and "employee housing" are suitable uses for the property. Since the owner does not want to use the property for "restaurant", "place of worship", or "employee housing", the owner has no objection to these uses being prohibited on the properties.

To ensure "small, neighbourhood scale" development is maintained, staff is suggesting that the maximum height of a principal building on the subject properties be reduced from 15m (49ft) to 10m (32.8ft).

The Service Commercial Zone as proposed will meet Bylaw No. 400, *Official Community Plan Bylaw, 2010 (OCP)*.

2. Background:

The subject property consists of 8 properties all created in 1900. The properties total approximately 1780m² (+/- 0.44 acres). The building was built in the early 1930's. A rezoning does

not trigger consolidation of these lots even though the existing building straddles the lot lines. In the future, if the owner was to remove the existing building and construct a new building, lot consolidation might be required.

In the Sooke Region Museum book called "The Sooke Story – The History and the Heartbeat", this property and the existing building were a gas station and automobile repair shop in the 1930's. It was operated by and called the "Cains Brothers Garage".

The building has since been converted where half of the building was used as a welding shop for many years, with the other half being occupied by Sooke Backhoe. Currently, Sooke Backhoe is the only tenant, occupying 1600ft² of a 3200ft² building. Attached to the back of the 3200ft² building, adjacent to Lanark Road is a 1200ft² carport-like structure. The owner proposes this space to be utilized by the auto repair shop. It is proposed that the auto repair shop also occupy the now empty half of the building, where the welding shop used to be.

Although there are no plans to build any new structures on the property, the owner has stated that the entire exterior of the building, including windows and doors will be improved to beautify the building through creating a "west coast" look.

A. Neighboring Properties

The subject property is adjacent to Lanark Road, Charters Road, Sooke Road and closed Kennedy Road. The land uses surrounding the subject property across Charters Road to the east and Lanark Road to the south is single family residential. There is single family residential across Highway 14 to the north as well as some commercial (vet clinic) at 6250 Sooke Road. To the east on the other side of closed Kennedy Road is a commercial zone (6527 Sooke Road).

Due to the history of uses on the site, the potential for site contamination is there. The *Environmental Management Act* is the main law governing contaminated sites. Until such time that the site is confirmed to not be contaminated, staff cannot determine whether residential uses or assembly-like uses are suitable uses on the site. The owner has no objection to the following uses being prohibited: "restaurant", "place of worship", and "employee housing".

Staff is also recommending and the owner is in agreement, that "gas station" and "car wash" are not uses appropriate for the neighborhood and that these uses also be prohibited on the property.

Dedication of land for Highway 14 will be dealt with at the time of any disposition of Closed Kennedy Road land.

3. Analysis:

The property is designated *Community Residential* within Bylaw No. 400, *Official Community Plan Bylaw, 2010* (OCP) and is within the Sewer Specified Area (SSA).

This rezoning application meets the intent of the OCP. In the *Community Residential* designation of the OCP, Section 5.1.3(j)(ii) states that small, neighbourhood scale commercial development may be considered on Sooke Road between Charters Road and Sooke Elementary School. The subject property falls within this area.

To ensure the "small, neighbourhood scale" development is maintained on this property, staff is suggesting that the maximum height of a principal building on the property be reduced from 15m (49ft) to 10m (32.8ft). The existing building is approximately 4.8m (16ft) high. As the height of the

service commercial building would be less than that allowed for single family development, the two uses should be compatible in height. The neighbouring duplexes at the corner of Charters Road and Lanark Road are 9.6m in height.

The proposed Service Commercial (C3) zone is predominately a commercial automobile service zone. Because the proposed auto repair shop would be occupying a building that was originally constructed and previously used for an auto repair shop establishment, its use for another auto repair shop would not significantly change the property's presence in the neighbourhood. The proposed change in zoning to C3 is regarded as a more compatible zone for the area than the current industrial zone as this is not an area where the OCP encourages industrial development to be established.

The residential properties on the east side of Charters Road and on the south side of Lanark Road are legally established uses and consideration must be given to control excessive illumination, noise and visual blight which might result from the operation of an auto repair shop when near residential uses. Common auto repair shop characteristics can be mitigated by requiring buffering, and using fully shielded lighting that is directed downward in strategic locations.

Adequate buffering such as fencing, landscaping, or topographic characteristics protects adjacent properties from adverse effects of a proposed use. Bylaw No. 600, *Sooke Zoning Bylaw, 2013* (Zoning Bylaw) requires continuous landscaping not less than 1.5m wide along the developed portions of each side of the site which abuts a public highway. The building is approximately 4.8m high and is screened by blackberry bushes and trees along Lanark Road and Charters Road. The drop in elevation from Sooke Road to Lanark Road also helps to provide natural shielding for the ground floor residence's to the east and for residences to the south.

The improvements to the exterior of the building may require a Development Permit and at this time, in addition to reviewing the form and character of the building, staff can look at site illumination and noise as well as improvements to screening.

Any traffic generated by the proposed uses within the C3 zone would be accessing Highway 14, an arterial road and traffic is not expected to negatively affect neighbouring residential use. Ministry of Transportation and Infrastructure (MOTI) have no concerns and have given the owner a Controlled Access Permit for the proposed businesses accesses onto Highway 14.

4. Legal Impacts:

A Development Permit may be required for this project. Notification of the application will be advertised in the local newspaper for two consecutive weeks prior to the date of the Public Hearing (PH). Adjacent landowners within a 100m radius will also be notified of the PH at least ten days prior to the meeting.

5. Financial Impacts:

The Applicant will pay for all costs associated with offsite improvements and development must follow District of Sooke Bylaws and regulations. The application fees received from the applicant will be used to cover the cost of advertising for the public hearing.

The proposed change in zoning will generate employment opportunities and would enable the re-use of a partially vacant commercial building.


6. Implication of Recommendation:

Staff recommends approval for the application to move forward for the following reasons:



- This rezoning application will meet the intent of OCP section 5.1.3(j)(ii) that says small, neighbourhood scale commercial development may be considered on Sooke Road between Charters Road and Sooke Elementary School provided that “gas bar” and “car wash” are prohibited uses on the land and the maximum height is restricted to be equal or lesser than what the maximum heights are in the surrounding neighbourhood;
- This rezoning will meet OCP objective 5.1.2(d) as a C3 zone will provide the most efficient use of land and efficient use of existing infrastructure for infill/densification with the condition that residential uses and assembly-like uses be prohibited as uses on the property;
- Use of the property for an auto repair shop would not significantly change the property’s presence in the neighbourhood;
- A C3 zone is regarded as a more compatible zone for this area than the current industrial zone as the OCP does not support industrial in this area.

Attached Documents:

1. Application Summary
2. Referral Agency Comments
3. Subject property map
4. Bylaw No. 611



Tara Johnson, MCIP, RPP
Planner II

Approved for Council Agenda	
Engineering	Planning
	
Corp. Services	Finance
_____ CAO	

Application Summary

Address	6509 Sooke Road
Legal	Lot 1, 2, 3 and 4, Block 11, Section 14, Plan 217 Lot 25, 26, 27 and 28, Block 11, Section 14, Plan 217
Existing Zoning	Light Industrial (M1)
Proposed Zoning	Service Commercial (C3)
Existing OCP	Community Residential
Proposed OCP	n/a
Parcel Size	1780 m ² (0.44 acres)
DP Area	A DP may be required
Services	Water: CRD Water Sewer: Municipal Drainage: On-site
Adjacent Land Uses	North: Hwy 14, single family residential and commercial South: Lanark Road and single family residential East: Charters Road and single family residential West: Closed Kennedy Road and commercial

Present Zoning and Proposed Zoning

	M1	C3
Minimum Lot Size for Subdivision	600 m ²	600 m ²
Maximum Height of Principle Building	13 m	15 m, however, staff is recommending a reduction to 10 m
Maximum height accessory building	9 m	9 m
Maximum Lot Coverage	70%	60%

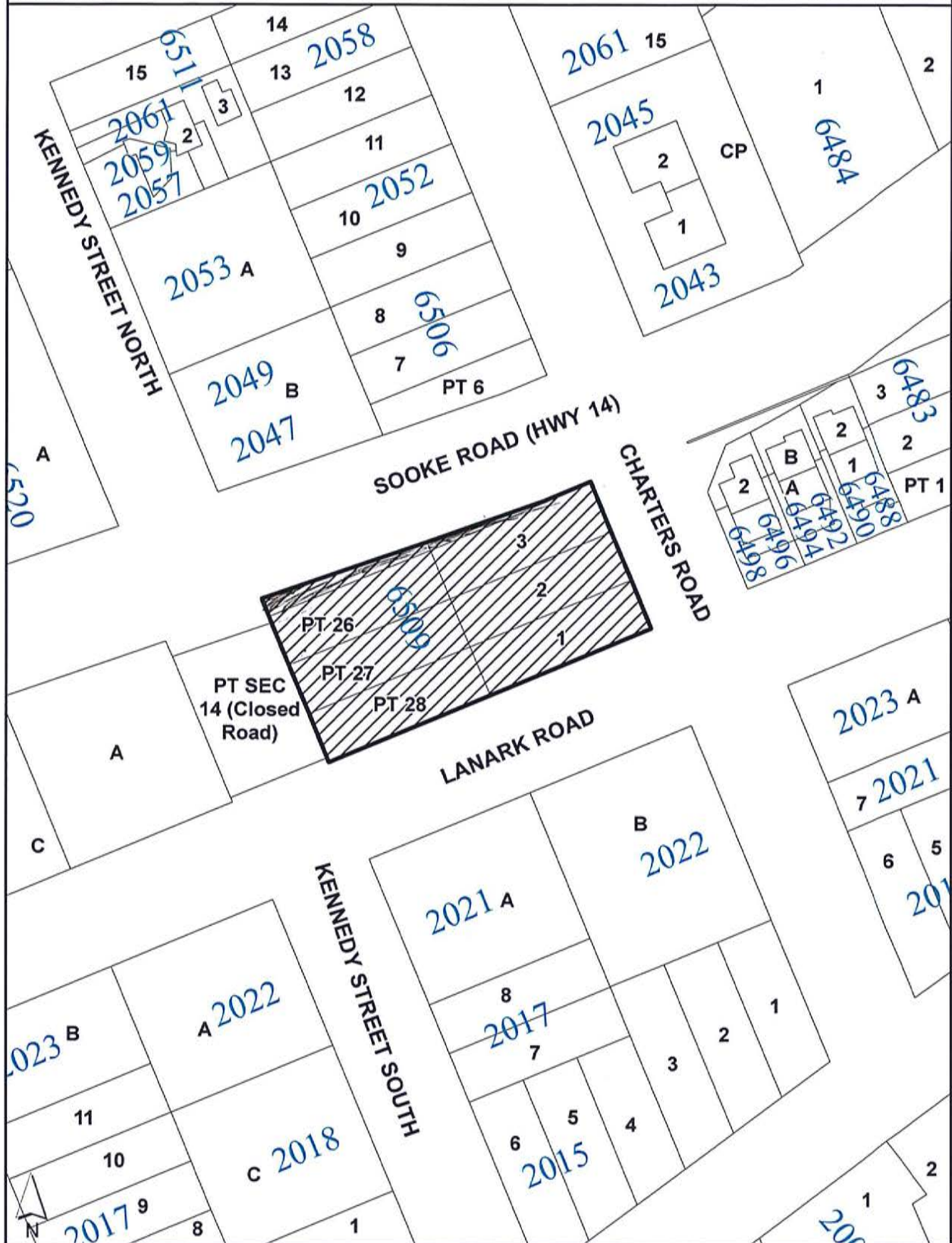
**SUMMARY OF COMMENTS RECEIVED
IN RESPONSE TO DISTRICT OF SOOKE REFERRAL SENT January 15, 2015**

EXTERNAL REFERRALS	
Agency	Comments
BC Hydro	No objections
Ministry of Transport and Infrastructure	The ministry has no objections to the proposed rezoning as long as the owner has required a Controlled Access Permit to Hwy 14 for the proposed new use. MOTI has since granted a Controlled Access Permit.
BC Transit	No response
Beecher Bay	No concerns but encourages consultation with them and T'Sou-ke nation should any archaeological sites be found.
CRD Water	Community piped water can be supplied to the proposed development provided that the owner(s) is prepared to pay all necessary costs and fees authorized under CRD Bylaws for the supply and installation of a water distribution system capable of meeting all domestic and fire flow requirements. Existing lots are presently serviced with water by a single 19mm (3/4') water service located at the property frontage on Sooke Rd. A fire flow of greater than 15,000 L/min with 138 kPa (20 psi) residual pressure is presently available to this development in the water main adjacent to the fire hydrant located at the intersection of Sooke Rd and Charters Rd. Full letter available if requested.
SEAPARC	No response.
T'souke Nation	No response.
Archeological Branch	No response
School District #62	No concerns
Fortis BC	No concerns.
Shaw Cable	No response.
Telus	No response
Fire	No concerns. For information purposes at this point in time, there may be a requirement to upgrade fire separation and a fire safety plan will be required
Engineering	Listed below is the Engineering Department referral response for the application to rezone the property noted above: a. Any construction on or related to the site must be in accordance with the District of Sooke Subdivision and Development Standards Bylaw 404, Suburban Area requirements and any other applicable bylaws. b. Allowance for pedestrian movement along Highway 14 frontage to be maintained or improved as appropriate.



SUBJECT PROPERTY MAP

File: PLN01122



 Subject Property

0 10 20 30
Metres



DISTRICT OF SOOKE

BYLAW No. 611

A bylaw to amend Bylaw No. 600, *Sooke Zoning Bylaw, 2013* for the purpose of amending the zoning on 6509 Sooke Road from Light Industrial (M1) to Service Commercial (C3).

The Council of the District of Sooke, in open meeting assembled, enacts as follows:

1. This bylaw is cited as *Zoning Amendment Bylaw (600-15)*.
2. Bylaw No. 600, *Sooke Zoning Bylaw, 2013* is amended in **Schedule A** by changing the zoning on the properties legally described as:
 - Lot 1, Block 11, Section 14, Sooke District, Plan 217
 - Lot 2, Block 11, Section 14, Sooke District, Plan 217
 - Lot 3, Block 11, Section 14, Sooke District, Plan 217
 - Lot 4, Block 11, Section 14, Sooke District, Plan 217
 - Lot 25, Block 11, Section 14, Sooke District, Plan 217 Except That Part Shown on Plan 1110 OS
 - Lot 26, Block 11, Section 14, Sooke District, Plan 217
 - Lot 27, Block 11, Section 14, Sooke District, Plan 217
 - Lot 28, Block 11, Section 14, Sooke District, Plan 217

and as shown outlined in black and hatched on Schedule A to this bylaw, from Light Industrial (M1) to Service Commercial (C3).

3. Bylaw No. 600, *Sooke Zoning Bylaw, 2013* is further amended in *Schedule 403 – Service Commercial (C3)* by adding the following clause as section 403.8(e):

“403.8(e) Notwithstanding the Permitted Uses set out in section 403.2 and the Maximum Height for Principal Buildings set out in section 403.5 for properties in the C3 zone, on the properties identified as:

- Lot 1, Block 11, Section 14, Sooke District, Plan 217
- Lot 2, Block 11, Section 14, Sooke District, Plan 217
- Lot 3, Block 11, Section 14, Sooke District, Plan 217



File No. 2240-20

REPORT FOR INFORMATION
Regular Council
Meeting Date: February 23, 2015

To: Gord Howie, Chief Administrative Officer
From: Finance Department
Re: **West Island Consulting Inc. – Approving Officer Contract**

RECOMMENDATION:

THAT COUNCIL approve the Consultant Service Agreement with West Island Consulting Inc. for Approving Officer services;
AND authorize the Mayor and Chief Administrative Officer to execute the agreement on behalf of the District of Sooke.

1. Executive Summary:

The District of Sooke entered into an agreement with West Island Consulting Inc., Mr. Rob Howat, on September 30, 2013 for Approving Officer Services. That agreement included wording that did not allow for an extension beyond March 31, 2015.


Mr. Howat has done an excellent job in his capacity as approving officer with the District and works extremely well with all departments within the organization.

With the end of the current contract coming up the recommendation is that the District of Sooke enter into a new agreement with West Island Consulting Inc. for a period of two years with the possibility of one six month renewal upon the mutual agreement between the parties.

Attached Documents:



- 1. Consultant Services Agreement.

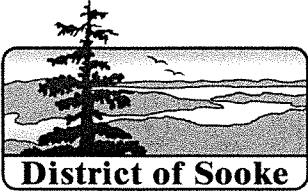
Respectfully,



Michael Dillabaugh, CA
Director of Finance

Approved for Council Agenda

_____ Engineering  _____ Corp. Services	_____ Planning  _____ Finance
_____ CAO	



CONSULTANT SERVICES AGREEMENT

Project Name: Approving Officer

THIS AGREEMENT dated for reference this ____ day of _____, 2015

BETWEEN:

WEST ISLAND CONSULTING INC., BC 0802476, 3880 Rock City Road, Nanaimo BC
V9T 4Y8

("the Consultant")

AND:

DISTRICT OF SOOKE, a municipal corporation incorporated under the *Local Government Act*, having an address at 2205 Otter Point Road,
Sooke, British Columbia, V9Z 1J2

(the "District of Sooke")

GIVEN THAT:

- A. The District of Sooke desires to engage the services of the Consultant as an independent contractor to perform consulting services as more particularly described below, and
- B. The Consultant agrees to provide such services on the terms and subject to the conditions set out in this Agreement,

IN CONSIDERATION OF the sum of one (\$1.00) dollars paid by the District of Sooke to the Consultant, and the mutual agreements and covenants under this Agreement, and as a condition of the District of Sooke retaining the Consultant, the receipt and sufficiency of which consideration is hereby acknowledged, the parties to this Agreement agree as follows:

1.0 Interpretation

1.1 In this Agreement, the following terms have the meanings set out after each:

"Agreement" means this agreement, including the recitals and schedules hereto, each as supplemented or amended from time to time;

2.0 Schedules Incorporated

2.1 The following are Schedules to, and form an integral part of, this Agreement:

Schedule "A"

Schedule "B"

If there is a conflict between a provision in a schedule to this Agreement and any other provision of this Agreement, then the provision in the schedule is inoperative to the extent of the conflict, unless it states that it operates despite a conflicting provision of this Agreement.

3.0 Effective Date and Term

3.1 This Agreement takes effect immediately upon execution by all of the Parties.

3.2 The term of this Agreement is for that period set out in Schedule A.

4.0 Authority

4.1 The Consultant represents and warrants to the District of Sooke that it has the authority to enter into this Agreement and carry out its transactions and all necessary resolutions and procedural formalities have been completed and the persons executing this Agreement on its behalf are duly authorized to do so.

5.0 Services

5.1 The District of Sooke hereby retains the Consultant as an independent contractor to provide the services described in Schedule A ("the Services").

5.2 The Consultant shall provide the Services strictly in accordance with the terms and conditions set out in this Agreement.

5.3 The Consultant shall provide the Services during the time period set out in Schedule A, regardless of the date of execution or delivery of this Agreement unless an extension of the time period is agreed to in writing by both parties.

5.4 The Consultant will perform the Services to a standard of care, skill and diligence maintained by person providing, on a commercial basis, services similar to the Services.

6.0 Compensation

6.1 During the term of this Agreement the District of Sooke shall pay the Consultant for the Services at the rates and times described in Schedule B.

6.2 The Consultant shall submit written statements of account to the District of Sooke according to the schedule set out in Schedule B.

6.3 The District of Sooke shall reimburse the Consultant for all necessary expenses that the Consultant incurred while performing the Services and shall do so in accordance with the terms set out in Schedule A.

- 6.4 The District of Sooke shall not pay the Consultant for any fees or expenses in excess of any limit specified in Schedule A, except where that is agreed to in writing by the parties.
- 6.5 Any expense claims provided by the Consultant to the District of Sooke shall be supported by proper receipts.

7.0 Consultant's Obligations

- 7.1 The Consultant shall be responsible for the payment of all income and other taxes attributable to any payments made under this Agreement. The Consultant agrees to indemnify and save harmless the Company from and against any and all manner of actions, claims and demands which may be made against it in respect of any fees, assessments, levies, rates, taxes or other charges made, demanded, assessed or otherwise claimed by any provincial or federal government or other body of competent jurisdiction in respect of any monies paid to the Consultant under this Agreement.
- 7.2 The Consultant shall apply for and, immediately on receipt, remit to the District of Sooke any refund or remission of federal or provincial tax or duty available with respect to any items used in connection with this Agreement.
- 7.3 The Consultant shall supply and pay for all labour and materials necessary or advisable to provide the Services.
- 7.4 The Consultant shall be responsible for all applications, permits or other approvals necessary or advisable to provide the Services.
- 7.5 The Consultant shall maintain time records and books of account, invoices, receipts, and vouchers for all expenses incurred, in form and content satisfactory to the District of Sooke.
- 7.6 The Consultant shall, upon request, fully inform the District of Sooke of all work done in connection with providing the Services.
- 7.7 The Consultant shall comply with the District of Sooke's instructions regarding the performance of the Services, but not as to the manner in which those instructions are carried out, except as specified in this Agreement.
- 7.8 The Consultant shall, when necessary, provide and supervise a sufficient number of workers to enable timely and proper performance and completion of the Services, and shall ensure that all such workers are competent, work efficiently and are qualified by education, training and experience to carry out the tasks to which each is assigned.
- 7.9 All workers hired by the Consultant to perform the Services shall be the employees of the Consultant and shall not be the employees of the District of Sooke.
- 7.10 The Consultant shall refrain from doing anything that would result in workers hired by the Consultant being considered the employees of the District of Sooke.
- 7.11 The Consultant shall reassign, replace or remove a worker who is does not meet the requirements described above, or who has behaved or is likely to behave in a manner detrimental to the provision of the Services, or has violated or is likely to violate the confidentiality provisions of this Agreement.
- 7.12 Where a worker is identified in a schedule to this Agreement as "Key Personnel" and is essential to the performance of the Services, then the Consultant shall not remove or replace them without the District of Sooke's prior written approval.
- 7.13 The Consultant shall bear the expense of replacing its workers.

7.14 Nothing in this Agreement restricts the right of the Consultant to terminate its employee's employment, or renders the Consultant liable for an employee's voluntary termination, or for any labour strike or lockout involving the Consultant's employees.

8.0 Conflict of Interest

8.1 The Consultant shall not provide services to any other person or organization where that could reasonably give rise to a conflict of interest.

9.0 Subcontracting

9.1 The Consultant shall not subcontract any obligation under this Agreement, other than to persons or firms listed in this Agreement, without the prior written consent of the District of Sooke.

9.2 The District of Sooke may, for reasonable cause, object to the use of a proposed subcontractor and require the Consultant to retain another qualified subcontractor.

9.3 No subcontract, whether consented to or not, shall relieve the Consultant of any obligations under this Agreement.

9.4 The Consultant shall ensure that any subcontractor fully complies with this Agreement when performing the subcontracted Services.

10.0 Non-Compliance

10.1 If the Consultant fails to observe, perform, or comply with any provision of this Agreement, then the District of Sooke may, at its sole discretion:

(a) allow the Consultant to continue to provide the Services with a time limit for compliance, rectification or both; or

(b) suspend all or part of the Services, including payments in whole or in part, and give the Consultant a time limit for compliance, rectification or both.

10.2 If the District of Sooke has set a time limit for compliance, rectification or both and believes that the Consultant has failed to meet the time limit, the District of Sooke may employ whatever means necessary to rectify that non-compliance, including performance of the Consultant's obligations on the Consultant's behalf and/or termination of this Agreement, and the Consultant shall pay an amount equal to all costs reasonably incurred by the District of Sooke in rectifying the non-compliance.

11.0 Termination

11.1 The District of Sooke may terminate this Agreement at any time, and without cause, by giving 30 (Thirty) days' written notice of termination to the Consultant and paying the Consultant an amount equal to the minimum fees that would otherwise have been payable for the Services completed at the time of termination. That payment shall discharge the District of Sooke from all liability to the Consultant under this Agreement.

11.2 The District of Sooke may terminate this Agreement if the Consultant fails to comply with any of the terms, covenants and agreements that the Consultant must observe or perform under this

Agreement and that failure continues for 30 (Thirty) days after receipt by the Consultant of notice in writing from the District of Sooke specifying the failure.

- 11.3 The Consultant may terminate this Agreement by providing 30 (Thirty) days' written notice of termination to the District of Sooke.

12.0 Information Made Available

- 12.1 The District of Sooke shall make available to the Consultant all information in its possession that the District of Sooke considers relevant to the Consultant's performance of the Services.

13.0 Intellectual Property

- 13.1 The Consultant agrees that any documentation or deliverables developed by the Consultant for the purposes of this Agreement is the property of the District of Sooke and any copyrights, ownership rights or any other rights to such documentation or deliverables remain solely with the District of Sooke.

14.0 Materials and Equipment

- 14.1 Any material or equipment that the District of Sooke provides to the Consultant, or to a subcontractor hired by the Consultant, shall remain the exclusive property of the District of Sooke.
- 14.2 The Consultant shall deliver to the District of Sooke any material or equipment provided to the Consultant or the Consultant's subcontractor immediately following expiration or termination of this Agreement, or as requested by the District of Sooke, and the material or equipment shall be returned in the same condition that it was supplied to the Consultant, except for loss or damage resulting from reasonable wear and tear associated with the performance of the Services.

15.0 Insurance

- 15.1 The Consultant shall, at its own expense, maintain at all times during the term of this Agreement, general liability insurance coverage in an amount and with deductibles as described in the District of Sooke Risk Management – Contract Services Policy 5.4, and shall ensure that the District of Sooke is named as an insured.
- 15.2 The Consultant shall apply to the Workers' Compensation Board for coverage for the Consultant and any workers or other persons engaged by the Consultant to perform the Services during the term of this Agreement.
- 15.3 The Consultant may, at its own expense, provide additional insurance for its members to augment WorkSafe BC coverage.
- 15.4 The Consultant shall comply with all conditions of the *Workers Compensation Act* and regulations, and will be responsible for all fines, levies, penalties and assessments made or imposed under the *Workers Compensation Act* and regulations relating in any way to the Services, and shall indemnify and save harmless the District of Sooke, its employees and agents, from and against any such fines, levies, penalties and assessments.

16.0 Confidentiality

- 16.1 The Consultant acknowledges that in the performance of its responsibilities hereunder, the Consultant may have access to confidential information and records and the Consultant shall maintain strict confidentiality concerning any information, data, reports, instructions or directions received from or delivered by the District of Sooke in connection with the providing of any Services under this Agreement (“the Confidential Information”).
- 16.2 Statements or materials related to the Services shall not be released by the Consultant to the public without the prior written approval of the District of Sooke.
- 16.3 During and after the term of this Agreement, the Consultant shall not, directly or indirectly, disclose Confidential Information to any person or use any Confidential Information, except:
- (a) as required in the course of performing the Services and then only to staff of the District of Sooke on a need-to-know basis; or
 - (b) with the prior written consent of the District of Sooke.
- 16.4 All Confidential Information which the Consultant shall prepare or use or come in contact with shall be and remains the District of Sooke’s sole property and shall not be removed from the District of Sooke’s premises without its prior written consent, except as required in the normal course of performing the Services under this Agreement.
- 16.5 The Consultant agrees to return to the District of Sooke all the Confidential Information provided by the District of Sooke and any copies of such material in its possession forthwith upon demand.
- 16.6 The Consultant agrees that it will cause any worker, before commencing his or her duties, to sign a written confidentiality agreement and the Consultant shall be liable to the District of Sooke for any breach of any such agreement by the worker.
- 16.7 The Consultant agrees that, upon request of the District of Sooke, or in the event that the Consultant ceases to require use of the Confidential Information, or upon expiration or termination of this Agreement, the Consultant will turn over to the District of Sooke all data, documents, specifications, drawings, reports, software, disks or other computer media, or other material in the possession or control of the Consultant that:
- (a) may contain or be derived from ideas, concepts, creations, or trade secrets and other proprietary and Confidential Information; or
 - (b) is connected with or derived from the Consultant's Services to the District of Sooke.
- 16.8 The Consultant agrees and acknowledges that the Confidential Information is of a proprietary and confidential nature and that any failure to maintain the confidentiality of the Confidential Information in breach of this Agreement cannot be reasonably or adequately compensated for only in money damages and would cause irreparable injury to the District of Sooke. Accordingly, the Consultant agrees that the District of Sooke is entitled to, in addition to all other rights and remedies available to him at law or in equity, an injunction restraining the Consultant and any agents of the Consultant, from directly or indirectly committing or engaging in any act restricted by this Agreement in relation to the Confidential Information.

17.0 Notices

- 17.1 Any notice permitted or required to be given by a party hereunder shall be given in writing, and may be delivered by hand, sent by facsimile transmission, or forwarded by first-class prepaid

registered mail to the addresses and fax numbers set forth below, or to such other addresses as may from time to time be provide by the parties in writing. Any notice delivered by hand or sent by facsimile shall be deemed to be given and received at the time of sending. Any notice that is sent by prepaid or registered mail shall be deemed to have been received by the party to whom it is addressed on the fourth (4th) business day (Saturdays, Sundays and Statutory Holidays excluded) following the date of posting, provided that Canada Post service is not interrupted by strike or lock-out at the time of posting or within four (4) business days thereafter, in which case the notice shall only be effective once it is actually delivered.

17.2 Notices under this Agreement are to be delivered as follows:

To the District of Sooke:

District of Sooke of Sooke
2205 Otter Point Road
Sooke, BC V9Z 1J2
Attention: Corporate Officer
Fax: (250) 642-0541

To the Consultant:

West Island Consulting Inc.
3880 Rock City Road
Nanaimo, BC, V9T 4Y8
Attention: Rob Howat

18.0 Dispute Resolution

18.1 In the case of any dispute arising between the District of Sooke and the Consultant, a party to this Agreement may give the other party notice of the dispute, and if the matter cannot be resolved the parties may submit the dispute to arbitration by a single arbitrator in accordance with the *Commercial Arbitration Act* (British Columbia), as amended.

19.0 Force Majeure

19.1 For the purposes of this Agreement, the term "Force Majeure" is defined as an Act of God, an act of a public enemy, war, labour disruptions and other extraordinary causes not reasonably within the control of the Consultant.

19.2 If the Consultant is rendered unable, wholly or in part, by Force Majeure to provide the Services then the Consultant shall provide to the District of Sooke notice of the Force Majeure as soon as reasonably possible, and to the extent that the Consultant's performance is impeded by the Force Majeure it shall not be in breach of its obligations under this Agreement.

19.3 The parties acknowledge and agree that during an event of Force Majeure, the Consultant's obligations pursuant to this Agreement shall be reduced or suspended as the case may be, but not longer than the continuance of the Force Majeure, except for a reasonable time period after if required by the Consultant to resume its obligations.

20.0 No Assignment

20.1 The Company may not assign any of its rights or interests in this Agreement.

21.0 Binding on Successors

21.1 This Agreement enures to the benefit of and is binding upon the parties and their respective successors and permitted assigns, notwithstanding any rule of law or equity to the contrary.

22.0 Remedies Cumulative

22.1 No reference to or exercise of any specific right or remedy by the District of Sooke prejudices or precludes the District of Sooke from any other remedy, whether allowed at law or in equity or expressly provided for in this Agreement. No such remedy is exclusive or dependent upon any other such remedy, but the District of Sooke may from time to time exercise any one or more of such remedies independently or in combination. Without limiting the generality of the foregoing, the District of Sooke is entitled to commence and maintain an action against the Consultant to collect any sum not paid when due, without exercising the option to terminate this Agreement.

23.0 Waiver

23.1 Waiver by the District of Sooke of any breach of any term, covenant or condition of this Agreement by the Consultant must not be deemed to be a waiver of any subsequent default by the Consultant. Failure by the District of Sooke to take any action in respect of any breach of any term, covenant or condition of this Agreement must not be deemed to be a waiver of such term, covenant or condition.

24.0 Indemnity

24.1 The Consultant shall indemnify, release and save harmless the District of Sooke and its elected and appointed officials, officers, employees, agents, contractors, successors and assigns from any and all liabilities, actions, damages, claims, losses, orders, fines, penalties, costs and expenses, including the full amount of all legal fees and expenses that may be brought against, or suffered or incurred by, the District of Sooke or any of its elected and appointed officials, officers, employees, agents, contractors, successors and assigns, in any way directly or indirectly arising from or in connection with the activities, actions or omissions of the Consultant or any of its employees, subcontractors, agents, licenses, servants, invitees or anyone for whom the Consultant is in law responsible, in relation to the Services or in connection with this Agreement. The indemnities set out in this paragraph do not include indemnifications for negligence or wilful or malicious misconduct on the part of the District of Sooke or a person for whom the District of Sooke is responsible at law. This paragraph will survive termination of this Agreement.

25.0 Release

25.1 The Consultant releases the District of Sooke from and against all liabilities, claims, demands, damages, costs, expenses, suits and actions which the Consultant may at any time have against the District of Sooke in respect of the Services, this Agreement and related matters. The obligations of the Consultant under this section survive the expiry or earlier termination of this Agreement.

26.0 General

26.1 Time is of the essence of this Agreement.

- 26.2 Parties may by written agreement amend this Agreement
- 26.3 Every reference to each party is deemed to include the heirs, executors, administrators, corporate successors, servants, employees, agents, contractors, officers, licensees and invitees of such party, wherever the context so requires or permits.
- 26.4 Wherever the singular or masculine or neuter is used in this Agreement, the same shall be construed as meaning the plural, the feminine or body corporate where the context or the parties so require.
- 26.5 Unless otherwise specified in this Agreement, all references to currency are in Canadian dollars.
- 26.6 The headings included in this Agreement are for convenience only and do not form part of this Agreement and will not be used to interpret, define or limit the scope or intent of this Agreement.
- 26.7 This Agreement shall be construed in accordance with the laws of the Province of British Columbia. Without limitation, the Consultant acknowledges that this Agreement is subject to the *Freedom of Information and Protection of Privacy Act*.
- 26.8 If any portion of this Agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of the Agreement.
- 26.9 The provisions in this Agreement constitute the entire agreement between the parties and supersede all previous communications, representations, warranties, covenants and agreements whether verbal or written, between the parties with respect to the subject matter of this Agreement.

NOW THEREFORE as evidence of their agreement to be bound by the terms of this Agreement, the parties have executed this Agreement as follows:

DATED the day of _____, 2015

District of Sooke of Sooke by its)
authorized signatories:)
)

Mayor:)
)

Chief Administrative Officer:)

DATED the day of _____, 2015)
)
West Island Consulting Inc. by its)
authorized signatories:)
)

Name:)
)

SCHEDULE A

Services:

Mr. Rob Howat of West Island Consulting Inc. will perform the duties of the Approving Officer for the District of Sooke pursuant to all applicable legislations, regulations and bylaws.

Term:

The District retains the contractor to provide the services in accordance with the terms of this Agreement.

The Consultant will provide the Services during the term of this agreement which term will, notwithstanding the date of execution and delivery of this Agreement, be conclusively deemed to commence on April 1, 2015 and will end on March 31, 2017 or as extended upon mutual agreement between the parties unless earlier terminated pursuant to Section 11.

The term of this Agreement will provide for a renewal for up to an additional six-month term. The contract term will not renew beyond September 30, 2017.

The renewal mentioned above will be automatic unless the District gives the consultant 30 days written notice that the contract will expire at the end of each term.

Work Schedule:

The Consultant agrees to be available to provide the Services at the District of Sooke Municipal Hall a minimum of one day per week. Actual hours will be mutually agreed to between the parties. If additional time is required for the performance of the Services, either party may request an increase in the work schedule. Any increase will be mutually agreed to.

Fee Schedule:

The Consultant will charge the District of Sooke \$80/hour excluding travel time to and from Sooke.

Travel to and from Sooke and vehicle use for meetings and site visits will be charged at \$0.50 per kilometer.

The District will also agree to reimburse the Consultant for overnight accommodation when required by the duties performed or the need due to inclement weather. Any such expenditure must be first approved by the District of Sooke.

SCHEDULE B

Payment Schedule:

The Consultant will provide, on a monthly basis, invoices to the District of Sooke for the work provided in the previous month based on the Fee Schedule in Schedule A.

Any expense claims provided by the Consultant to the District of Sooke shall be supported by proper receipts.



REQUEST FOR DECISION

Regular Council
Meeting Date: February 23, 2015

To: Gord Howie, Chief Administrative Officer
From: Emergency Coordinator
Re: **Tsunami Hazard Zone Signs**

RECOMMENDATION:

THAT COUNCIL authorize staff to install Tsunami Warning signs at the locations identified as Priority Hazard Zones in this report.

1. **Executive Summary:**

The Capital Regional District (CRD) completed and released an extensive study of the tsunami risk to all areas within the CRD. It has been determined that in the event of a major earthquake within the Cascadia Fault, approximately 100km off the Sooke coastline) this will be impacted by a tsunami of approximately 2.4m in height within 1 hour of the earthquake occurrence. The CRD study is recommending that 4m above the high tide mark be the basis for establishing a safe zone along the waterfront.

The Sooke Emergency Planning Committee passed a motion at the October 22, 2013 meeting with the following recommendation: "To recommend to Council that the areas recognized as areas at risk of Tsunami in CRD study, be identified with signage"

In addition, Emergency Management BC has just announced the first ever Tsunami Preparedness Week in partnership with many other jurisdictions across the world. This will take place from March 22 to 28 with extensive promotion and advertising including the release of the newly updated Tsunami Smart Manual. As such, this is an appropriate time to bring the installation of the tsunami warning signage in the District of Sooke forward to Council for consideration as per the August 12, 2013 Council resolution.

2. **Background:**

At the August 12, 2013 meeting, Council resolved as follows:

MOVED and seconded to authorize staff to identify the potential tsunami hazard zones within the District of Sooke and to provide an estimated cost for the installation of standard warning signage as recommended by the Sooke Emergency Planning Committee;

AND FURTHER TO direct staff to hold a public information session on the Tsunami signage in the fall.

The public was given an opportunity to voice their opinion on having the tsunami warning signs installed at three public sessions held in 2014. At each session members of the public were given an opportunity to vote on whether they wished to see the signs installed in potential high risk areas. Approximately 175 people voted with about 95% of those in favour of the signs being installed.

3. Analysis:

Safe zones for most areas within the CRD have been established as 4m above the usual high tide mark.

Priority areas identified as potentially being in the tsunami hazard zones include:

- Whiffin Spit Park (1 sign at park entrance)
- Ella Beach (1 sign at trail entrance)
- The old Butler log sorting area along West Coast Road at the western end of the District of Sooke (2 signs – one east bound and one west bound sides of West Coast Road)
- Billings Spit area (2 signs)

Additional areas where signs could be considered include:

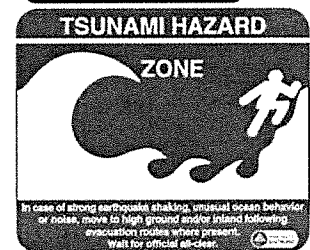
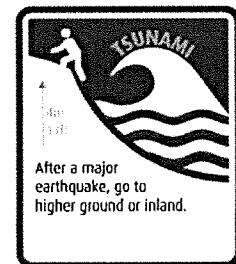
- Low lying areas of the Sooke Harbour along Whiffin Spit Road and West Coast Road from approximately Sea Lion Way to the Municipal Boat Launch.
- Low areas along Belvista Road
- Sooke Community Association Park off Phillips Road
- Coopers Cove
- Low waterfront along the Silver Spray development.

4. Legal Impacts:

Both the CRD and the Province of BC provide graphics to produce common informational warning signs to be used throughout the region. The CRD is recommending that these signs be placed in areas that are below the 4m threat line. While all these signs have a slight variation in the wording, the graphics are used internationally and are therefore recognized throughout the world. As such, there should not be any legal impacts in using such signage, however there may be some legal impact of not installing the signs given all the public attention this topic receives.

5. Strategic Relevance:

The recommended course of action is to place tsunami warning signs in the areas identified as Sooke Priority Zones as a pilot project. Once people are used to seeing the signs, and become more familiar with Tsunami zones additional signs could be installed in other areas of concern identified in this report.



The installation of the tsunami warning signs fits into the goals of Emergency Planning as they would serve as a warning system as well as providing emergency information on what to do and where to go for assistance for local residents and tourists that may be in the area should such an event occur.

6. Financial Impacts:

The estimated cost of the priority zone tsunami sign project including material and labour to install the six signs is expected to be \$1500.00 with funds coming from the existing Emergency Program budget.

7. Additional Information

Emergency Management BC has information on Tsunami Preparedness Week 2015 available on social media at the following locations:

- Twitter: <https://twitter.com/EmergencyPrepBC>
- Web: <https://www.emergencyinfobc.gov.bc.ca/be-tsunami-smart>
- Pinterest: <https://www.pinterest.com/emergencyinfobc/tsunami-preparedness>
- Flickr: <https://www.flickr.com/photos/emergencyinfobc/sets/72157642015403403>
- YouTube: <https://www.youtube.com/playlist?list=PL3E2CB95DFC42670D>

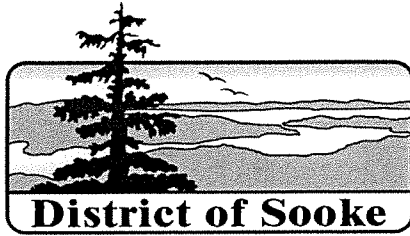
The updated Tsunami Smart Manual will be available in mid-March.

Respectfully,



Steven Sorensen – Fire Chief/Emergency Coordinator

Approved for Council Agenda	
Engineering	Planning
 Corp. Services	 Finance
CAO	



REQUEST FOR DECISION
 Regular Council
 Meeting Date: February 23, 2015

To: Gord Howie, Chief Administrative Officer
 From: Corporate Services
 Re: **2015 Sponsorships**

RECOMMENDATION:

THAT COUNCIL approve the annual sponsorships for 2015 for the following local non-profit organizations or events:

- Sooke Lions Club
- Sooke Fall Fair Society
- Sooke Fine Arts Society
- Sooke Community Choir
- Edward Milne Community School Grads
- Anti-Bullying Campaign
- Fire Safety Campaign
- Sooke Region Chamber of Commerce
- Sooke Food CHI
- Navy League of Canada, Sooke Branch

1. Executive Summary:

The purpose of this report is for Council to review the local non-profit organization previously sponsored by the District of Sooke and to consider approval of the sponsorship for 2015.

2. Background:

Since incorporation, the District of Sooke has placed annual sponsorship advertisements in the local newspapers or in special publications such as a catalogue or booklet. The sponsorships proposed for this year are as follows:

Sooke Lions Club	Telephone Directory	\$440
Sooke Fall Fair Society	Catalogue	\$175
Sooke Fine Arts Society	Catalogue	\$250
Sooke Community Choir	Christmas Song Book	\$125
Sooke Fall Fair Society	Good Luck to Volunteers	\$ 25
EMCS Grads	Congratulations	\$ 20

Anti-Bullying	Campaign	\$ 50
Fire Safety	Campaign	\$ 50
Sooke Region Chamber of Commerce	Santa Parade (co-host)	\$400
Sooke Region Chamber of Commerce	Sooke Business Awards	\$200

Further, Council has sponsored trophies and events for local non-profits. The following sponsorships are proposed for 2015:

Sooke Fall Fair Society	Keeper Award Photo	\$100
Sooke Food CHI	Seedy Saturday (hall rental)	\$210
Navy League of Canada Sooke Branch	2 Trophies	\$ 80


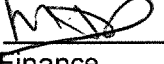
3. Financial Impacts:

The sponsorships are funded under the Advertising/Communications or the Public and Government Relations budgets.

Respectfully,



Bonnie Sprinkling

Approved for Council Agenda	
_____ Engineering	_____ Planning
 _____ Corp. Services	 _____ Finance
_____ CAO	



File No. 5270-01

REPORT FOR INFORMATION
Regular Council
Meeting Date: February 23, 2015

To: Gord Howie, Chief Administrative Officer
From: Engineering
Re: BC Climate Action Revenue Incentive Program (CARIP)

RECOMMENDATION:

THAT COUNCIL receive the 2014 BC Climate Action Revenue Incentive Program (CARIP) report.

1. Executive Summary:

The purpose of this report is to present to Council the District of Sooke's 2014 BC Climate Action Revenue Incentive Program (CARIP) report.

2. Background

The District of Sooke (Sooke) is a signatory to the BC Climate Action Charter (Charter). This includes a commitment to take action and develop strategies to achieve three goals:

- Measuring and reporting on community-wide GHG emissions;
- Creating complete, compact and energy-efficient communities; and
- Becoming carbon neutral in respect to corporate operations starting in 2012.

As a signatory to the Charter, the District of Sooke is eligible for the province's Climate Action Revenue Incentive Program (CARIP). This is a conditional grant program that provides funding equivalent to 100% of the carbon taxes that the municipality paid directly the previous year. This funding supports local governments in their efforts to reduce greenhouse gas emissions and move forward on achieving their Charter goals. Sooke has been participating in the CARIP program since 2010.

Local governments are required to report on the quantitative fuel use and on their efforts toward meeting their climate action goals from the preceding year to obtain their CARIP rebate. To be eligible for the conditional grant, local governments are required to report publicly. The 2014 District report, combined with the posting of its attachments on www.sooke.ca, will satisfy the public reporting component of this requirement.

2. Legal Impacts:

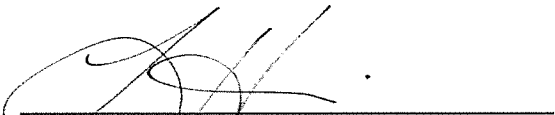
The *BC Climate Action Charter* is a voluntary commitment, with no legal repercussions for non-compliance. Sooke will receive their CARIP rebate for 2014 if the corporation is not carbon neutral as long as all reporting is submitted and posted publicly. It is unknown at this time what will happen in future years.

3. Financial Impacts:



The CARIP rebate is paid into the Carbon Tax Rebate Reserve and is calculated to be \$1,749.42 for 2014 (Attachment 2).

Attached Documents:

1. Sooke CARIP Report for 2014
2. Sooke CARIP Carbon Tax Calculation for 2014
3. Sooke CARIP Public Report Attestation for 2014



Laura Hooper, M. Sc. P. Ag.
Parks and Environmental Services Coordinator

Approved for Council Agenda	
_____ Engineering	_____ Planning
 _____ Corp. Services	 _____ Finance
_____ CAO	

Climate Action Revenue Incentive Program (CARIP) Public Reporting - Climate Actions Survey 2014

Broad Planning

BROAD PLANNING

Broad Planning refers to the high level, strategic planning that sets the stage for GHG reductions. Land use planning that focuses on Smart Growth principles (compact, complete, connected and centred) plays an especially important role in energy and GHG reduction. Plans that relate to a certain sector should be included in that sector, e.g. transportation plans in the 'Transportation' sector. In the appropriate boxes below, please record all corporate and community-wide actions taken in 2014 and proposed for 2015. Number and type of actions will vary by community. Please refer to the 'Action Examples' tab above for assistance in understanding the type of information to include in each action category. If the action was taken in partnership, please indicate with whom.

	Yes	No	Please specify or comment
Since initially establishing OCP targets, policies, and actions for the reduction of greenhouse gas (GHG) emissions, as required by the Local Government Act, has your local government updated those targets, policies and actions?	False	True	(No response)

Variable	Response
Does your local government use the Community Energy and Emissions Inventory (CEEI) to measure progress?	Yes
Has your local government established Development Permit Areas (DPAs) for climate action (i.e. energy conservation, water conservation and/or GHG emission reduction)?	No

CORPORATE - Broad Planning

	Actions taken in 2014	Actions proposed for 2015
Feasibility Studies, Research, Analysis	(No response)	(No response)
Plans, Policies, Regulations	Developed CEEP (Community Energy and Emissions Plan).	CEEP Implementation
Policy Implementation	(No response)	(No response)
Employee Training, Awareness	(No response)	(No response)
Committees, Staffing	Climate Action Committee	Continue
Funding	Carbon Tax Rebate Reserve Fund established.	Continue contributions

COMMUNITY-WIDE - Broad Planning

	Actions taken in 2014	Actions proposed for 2015
Feasibility Studies, Research, Analysis	(No response)	(No response)
Plans, Policies, Regulations	Developed CEEP (Community Energy and Emissions Plan).	CEEP Implementation
Policy Implementation	(No response)	(No response)
Community Education, Engagement	(No response)	(No response)
Committees, Staffing	(No response)	(No response)
Funding	(No response)	(No response)

Buildings

BUILDINGS

Low-carbon buildings use the minimum amount of energy needed to provide comfort and safety for their inhabitants, and tap into renewable energy sources for heating, cooling and power. These buildings can save money, especially viewed over the long term. In the appropriate boxes below,

please record all corporate and community-wide actions taken in 2014 and proposed for 2015. Number and type of actions will vary by community. Please refer to the 'Action Examples' tab above for assistance in understanding the type of information to include in each action category. If the action was taken in partnership, please indicate with whom.

Variable	Response
Does your local government have green building/construction policies, plans or programs?	Yes

CORPORATE - Buildings

	Actions taken in 2014	Actions proposed for 2015
Physical Improvements, Construction	(No response)	(No response)
Feasibility Studies, Research, Analysis	Analysis undertaken of building waste options and impact on carbon emissions.	(No response)
Plans, Policies, Regulations	(No response)	(No response)
Policy Implementation	(No response)	(No response)
Employee Training, Awareness	(No response)	(No response)
Committees, Staffing	(No response)	(No response)
Funding	(No response)	(No response)

COMMUNITY-WIDE - Buildings

	Actions taken in 2014	Actions proposed for 2015
Physical Improvements, Construction	(No response)	(No response)
Feasibility Studies, Research, Analysis	(No response)	(No response)
Plans, Policies, Regulations	Town Centre Revitalization Bylaw - amendment provides a tax exemption for both Built Green Canada and for LEED certified projects in the town core.	Continue

Policy Implementation	(No response)	(No response)
Community Education, Engagement	(No response)	(No response)
Committees, Staffing	(No response)	(No response)
Funding	(No response)	(No response)

Energy Generation

ENERGY GENERATION

A transition to renewable or low-emission energy sources for heating, cooling and power supports large, long-term GHG emissions reductions. Renewable energy including waste heat recovery (e.g. from biogas and biomass), geo-exchange, micro hydroelectric, solar thermal and solar photovoltaic, heat pumps, tidal, wave, and wind energy can be implemented at different scales, e.g. in individual homes, or integrated across neighbourhoods through district energy or co-generation systems. In the appropriate boxes below, please record all corporate and community-wide actions taken in 2014 and proposed for 2015. Number and type of actions will vary by community. Please refer to the 'Action Examples' tab above for assistance in understanding the type of information to include in each action category. If the action was taken in partnership, please indicate with whom.

Variable	Response
Has your local government undertaken district energy projects in 2014?	No
Has your local government undertaken renewable energy projects 2014?	No
Are you aware of the integrated resource recovery (IRR) guidance page on the BC Climate Action Toolkit? (http://www.toolkit.bc.ca/tool/integrated-resource-recovery-irr)	Yes

CORPORATE - Energy Generation

	Actions taken in 2014	Actions proposed for 2015
Physical Improvements, Construction	(No response)	(No response)
Feasibility Studies, Research, Analysis	(No response)	(No response)
Plans, Policies, Regulations	(No response)	(No response)
Policy Implementation	(No response)	(No response)
Employee Training, Awareness	(No response)	(No response)
Committees, Staffing	(No response)	(No response)
Funding	(No response)	(No response)

COMMUNITY-WIDE - Energy Generation

	Actions taken in 2014	Actions proposed for 2015
Physical Improvements, Construction	(No response)	(No response)
Feasibility Studies, Research, Analysis	(No response)	(No response)
Plans, Policies, Regulations	(No response)	(No response)
Policy Implementation	(No response)	(No response)
Community Education, Engagement	(No response)	(No response)
Committees, Staffing	(No response)	(No response)
Funding	(No response)	(No response)

Greenspace

GREENSPACE

Greenspace refers to parks and greenways, boulevards, community forests, urban agriculture, riparian areas, gardens, recreation/school sites, and other green spaces, such as remediated brownfield/contaminated sites. Greenspaces support climate change mitigation (reducing emissions by absorbing and sequestering GHG) and adaptation (providing shade, cooling, deflecting strong wind, and improving air quality). In the appropriate boxes below, please record all community-wide actions taken in 2014 and proposed for 2015 (Note: the 'Greenspace' sector only has a community-wide actions section). Number and type of actions will vary by community. Please refer to the 'Action Examples' tab above for assistance in understanding the type of information to include in each action category. If the action was taken in partnership, please indicate with whom.

Variable	Response
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Does your local government have urban forest policies, plans or programs?	No
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COMMUNITY-WIDE - Greenspace

	Actions taken in 2014	Actions proposed for 2015
Physical Improvements, Construction	New multi-use trail constructed in 2014 (Wadams Way / Church Road) SEAPARC multi-use trail completed.	CIPP (Bike BC grant) 2014 successful application will add new trail in 2015.
Feasibility Studies, Research, Analysis	(No response)	(No response)

Plans, Policies, Regulations	(No response)	(No response)
Policy Implementation	(No response)	(No response)
Community Education, Engagement	(No response)	(No response)
Committees, Staffing	(No response)	(No response)
Funding	(No response)	(No response)

Solid Waste

SOLID WASTE

Reducing, reusing, recycling, recovering and managing the disposal of the residual solid waste minimizes environmental impacts and supports sustainable environmental management, greenhouse gas reductions, and improved air and water quality. In the appropriate boxes below, please record all corporate and community-wide actions taken in 2014 and proposed for 2015. Number and type of actions will vary by community. Please refer to the 'Action Examples' tab above for assistance in understanding the type of information to include in each action category. If the action was taken in partnership, please indicate with whom.

Variable	Response
Does your local government have construction and demolition waste reduction policies, plans or programs?	No
Does your local government have organics reduction/diversion policies, plans or programs?	Yes

CORPORATE - Solid Waste

	Actions taken in 2014	Actions proposed for 2015
Physical Improvements, Construction	(No response)	Improvements to waste diversion facility in Municipal Hall and Fire Department.
Feasibility Studies, Research, Analysis	Audit for Corporate waste reduction conducted in 2014.	(No response)
Plans, Policies, Regulations	(No response)	(No response)
Policy Implementation	(No response)	(No response)
Employee Training,	(No response)	Training for Municipal employees and Fire

Awareness		Department staff.
Committees, Staffing	(No response)	(No response)
Funding	(No response)	(No response)

COMMUNITY-WIDE - Solid Waste

	Actions taken in 2014	Actions proposed for 2015
Physical Improvements, Construction	(No response)	(No response)
Feasibility Studies, Research, Analysis	(No response)	(No response)
Plans, Policies, Regulations	(No response)	(No response)
Policy Implementation	(No response)	Support the implementation of CRD ban on organics in landfill.
Community Education, Engagement	(No response)	(No response)
Committees, Staffing	(No response)	(No response)
Funding	(No response)	(No response)

Transportation

TRANSPORTATION

Transportation actions that increase transportation system efficiency, emphasize the movement of people and goods, and give priority to more efficient modes, e.g. walking, cycling, ridesharing, and public transit, can contribute to reductions in greenhouse gas emissions and more livable communities. In the appropriate boxes below, please record all corporate and community-wide actions taken in 2014 and proposed for 2015. Number and type of actions will vary by community. Please refer to the 'Action Examples' tab above for assistance in understanding the type of information to include in each action category. If the action was taken in partnership, please indicate with whom.

Variable	Response
Does your local government have policies, plans or programs to support alternative modes and technologies of transportation (e.g. walking, cycling, transit, electric vehicles)	Yes

Does your local government have a transportation demand management (TDM) strategy? (http://www.toolkit.bc.ca/resource/transportation-demand-management-small-and-mid-sized-communities-toolkit)	No
Does your local government have policies, plans or programs to support local food production (thus reducing transportation emissions)?	Yes

CORPORATE - Transportation

	Actions taken in 2014	Actions proposed for 2015
Physical Improvements, Construction	(No response)	Roundabout construction on Highway 14 in town centre.
Feasibility Studies, Research, Analysis	(No response)	(No response)
Plans, Policies, Regulations	(No response)	(No response)
Policy Implementation	(No response)	(No response)
Employee Training, Awareness	(No response)	(No response)
Committees, Staffing	(No response)	(No response)
Funding	(No response)	(No response)

COMMUNITY-WIDE - Transportation

	Actions taken in 2014	Actions proposed for 2015
Physical Improvements, Construction	Added multi-use trails which promote active transportation and thus reduce vehicle emissions.	(No response)
Feasibility Studies, Research, Analysis	(No response)	(No response)
Plans, Policies, Regulations	(No response)	(No response)
Policy Implementation	(No response)	(No response)
Community Education, Engagement	(No response)	(No response)
Committees, Staffing	(No response)	(No response)
Funding	(No response)	(No response)

Water and Wastewater

WATER and WASTEWATER

Managing and reducing water consumption and wastewater is an important aspect of developing a sustainable built environment that supports healthy communities, protects ecological integrity, and reduces greenhouse gas emissions. In the appropriate boxes below, please record all corporate and community-wide actions taken in 2014 and proposed for 2015. Number and type of actions will vary by community. Please refer to the 'Action Examples' tab above for assistance in understanding the type of information to include in each action category. If the action was taken in partnership, please indicate with whom.

Variable	Response
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Does your local government have water conservation policies, plans or programs?	No
---	----

CORPORATE - Water and Wastewater

	Actions taken in 2014	Actions proposed for 2015
Physical Improvements, Construction	(No response)	(No response)
Feasibility Studies, Research, Analysis	(No response)	(No response)
Plans, Policies, Regulations	(No response)	(No response)
Policy Implementation	(No response)	(No response)
Employee Training, Awareness	(No response)	(No response)
Committees, Staffing	(No response)	(No response)
Funding	(No response)	(No response)

COMMUNITY-WIDE - Water and Wastewater

	Actions taken in 2014	Actions proposed for 2015
Physical Improvements, Construction	(No response)	(No response)
Feasibility Studies, Research, Analysis	(No response)	(No response)
Plans, Policies, Regulations	(No response)	(No response)
Policy Implementation	(No response)	(No response)
Community Education, Engagement	(No response)	(No response)
Committees, Staffing	(No response)	(No response)

Funding

(No response)

(No response)

Other Climate Actions

OTHER CLIMATE ACTIONS

This section is intended to give local governments a chance to record other climate actions that could not be captured in the above sectors, including climate change adaptation actions and air quality actions. In the appropriate boxes below, please record all corporate and community-wide actions taken in 2014 and proposed for 2015. Number and type of actions will vary by community. Please refer to the 'Action Examples' tab above for assistance in understanding the type of information to include in each action category. If the action was taken in partnership, please indicate with whom.

Variable	Response
Has your local government begun to integrate the impacts of a changing climate (adaptation) into its planning and operations?	No
Are you aware of the climate change adaptation guidance page on the BC Climate Action Toolkit? (http://www.toolkit.bc.ca/adaptation-challenges-and-opportunities)	Yes

CORPORATE - Other Climate Action

	Actions taken in 2014	Actions proposed for 2015
Physical Improvements, Construction	(No response)	(No response)
Feasibility Studies, Research, Analysis	(No response)	(No response)
Plans, Policies, Regulations	(No response)	(No response)
Policy Implementation	(No response)	(No response)
Employee Training, Awareness	(No response)	(No response)
Committees, Staffing	(No response)	(No response)
Funding	(No response)	(No response)

COMMUNITY-WIDE - Other Climate Action

	Actions taken in 2014	Actions proposed for 2015
Physical Improvements, Construction	(No response)	(No response)
Feasibility Studies, Research, Analysis	(No response)	(No response)

Plans, Policies, Regulations	(No response)	(No response)
Policy Implementation	(No response)	(No response)
Community Education, Engagement	(No response)	(No response)
Committees, Staffing	(No response)	(No response)
Funding	(No response)	(No response)

Innovation

INNOVATION

This section is intended to give your local government an opportunity to describe any energy and GHG emission reduction activities that have been undertaken over the past year(s) that your local government is particularly proud of and would like to share with other local governments.

CORPORATE - Innovation

Please describe any innovative corporate actions taken in 2014 and add links to additional information where possible.

Carbon Tax Rebate Reserve Fund established in 2014.

COMMUNITY-WIDE - Innovation

Please describe any innovative community-wide actions taken in 2014 and add links to additional information where possible.

(No response)

Local Government Information

LOCAL GOVERNMENT INFORMATION

Variable	Response
LOCAL GOVERNMENT INFORMATION Name of Local Government	Sooke, District of
LOCAL GOVERNMENT INFORMATION Name of member Regional District (RD)	Capital
LOCAL GOVERNMENT INFORMATION Regional Growth Strategy (RGS) in your region	Yes
LOCAL GOVERNMENT INFORMATION Population	10,000-49,999

Submitted by:

Variable

Response

Submitted by: | Name

Brent Blackhall

Submitted by: | Position

Deputy Director of Finance

Submitted by: | Email

info@sooke.ca

Submitted by: | Telephone # (ten digit)

2506421634

Carbon Tax Calculation Form
Under the Climate Action Revenue Incentive Program

Local Government Name: Contact Information: Name: Position: Telephone Number: Email address:	District of Sooke
	Brent Blackhall
	Deputy Director of Finance
	250-642-1634
	bblackhall@sooke.ca

**Calculation of carbon tax paid directly by the local government
for fuel purchased between January 1 and December 31, 2014**

Fuel Type	Unit measure	Units	Tax Rate per unit, January 1, 2014 to December 31, 2014	Carbon Tax paid
Most common fuels in a local government context:				
Gasoline	Litre	6850.54	0.0667	456.931018
Diesel	Litre		0.0767	0
Bio-Diesel ²	Litre	5700.01	0.0767	437.190767
Natural Gas	Gigajoule ³	574.1	1.4898	855.29418
Natural Gas	m ³ ³		0.057	0
Propane	Litre		0.0462	0
Other fuels which are taxed:				
Heating Oil	Litre		0.0767	0
Locomotive Fuel	Litre		0.0767	0
Heavy Fuel Oil	Litre		0.0945	0
Aviation Fuel	Litre		0.0738	0
Jet Fuel	Litre		0.0783	0
Kerosene	Litre		0.0783	0
Naphtha	Litre		0.0765	0
Methanol	Litre		0.0327	0
Butane	Litre		0.0528	0
Ethane	Litre		0.0294	0
Refinery Gas	m ³		0.0528	0
Coke Oven Gas	m ³		0.0483	0
Coal -- Low Heat Value ⁴	Tonne		53.31	0
Coal -- High Heat Value ⁴	Tonne		62.31	0
Coke	Tonne		74.61	0
Petroleum Coke	Litre		0.1101	0
Tires -- shredded ⁵	Tonne		71.73	0
Tires -- whole ⁵	Tonne		62.4	0
Peat	Tonne		30.66	0
Total Carbon Tax Paid:				1749.415965

- Only list fuels that were purchased for the local government's own use, on which carbon tax was paid, and where that carbon tax was not refunded or recovered from another party (e.g., through a lease arrangement). Also do not include any fuels that were exempted from carbon tax (for more information
- Bio-diesel blends must be prorated in order to claim the diesel and bio-diesel portions on the appropriate line. The proportion of the blend (B5, B10, B15 etc) that is conventional hydrocarbon-based diesel is included on the diesel line; consequently, the bio-diesel pro-rated amount must be entered on the bio-diesel line. For example, a 10,000 litre purchase of B10, which is 10% bio-diesel and 90% hydrocarbon-based diesel, would be recorded as 9,000 litres hydrocarbon-based diesel (90% of 10,000
- Marketable Natural Gas may be recorded at either Gigajoules or m³
- Low Heat Value Coal includes Sub-Bituminous Coal; High Heat Value Coal includes Bituminous Coal
- Only include tires if they are combusted

I declare that the information contained in this Carbon Tax Calculation Form is true and correct and based on actual accounting records and not estimates. I am also aware of the requirement to report publicly by March 8, 2015 using the report generated from the Climate Actions Survey and by June 2, 2015 using the report generated from the Carbon Neutral Progress Survey.

Signature of Financial Officer: *Michael Dillabaugh* Feb. 13/15

CARIP Climate Actions Public Report Attestation

As per the CARIP guidance, the Financial Officer is required to submit this attestation form to attest that:

- On or before **March 8, 2015**, the report generated from the Climate Actions Survey submitted online to the Province has been made public.

The Financial Officer must complete and sign this attestation form by the applicable deadline and email a scanned copy to the province at infra@gov.bc.ca.

CARIP Climate Actions Public Report Attestation Form — DUE on or before March 8, 2015

I declare that the 2014 final, complete report generated from the Climate Actions Survey submitted online to the Province on *(insert date)* for *(insert name of local government)* was made public on *(insert date)*.

Name, Title (print) CFO _____

Signature: _____

Date: _____



File No. 7200-01

REPORT FOR INFORMATION
Regular Council
Meeting Date: February 23, 2015

To: Gord Howie, Chief Administrative Officer
From: Sooke Fire Rescue Department
Re: **Monthly Staffing Report – January, 2015**

RECOMMENDATION:


THAT COUNCIL receive the Sooke Fire Rescue Service Monthly Staffing Report as of January 31, 2015 for information

1. Executive Summary:



The following report summarizes the current staffing levels as of January 31, 2015 for the Sooke Fire Rescue Service including:

- Number of Career Firefighters
- Number of Active Volunteer Firefighters
- Number of Volunteer Firefighters on Leave of Absence
- Number of Firefighters on Light Duty Assignment
- Number of new recruit firefighters currently in training
- Number of limited duty volunteer firefighters (Driver only)
- Number of Support Service Volunteers

The numbers of firefighters are divided by the Fire Station they normally attend with those members living in Sunriver included in the totals for Station 2.

Respectfully,


Fire Chief

Approved for Council Agenda	
Engineering	Planning
	
Corp. Services	Finance
_____ CAO	

Sooke Fire Rescue Service – Department Staffing Report 2015

MONTH		2 nd half of 2014						1 st half of 2015						
		J	A	S	O	N	D	J	F	M	A	M	J	
Career Staff	Chief/Deputy/Training Officer/Firefighters x 2	5	5	5	5	5	5	5						
Station 1	Active Volunteer Firefighters	16	16	17	16	16	15	15						
	Firefighters on LOA	3	1	1	3	2	2	1						
	Recruit Firefighters Training	0	0		4	4	4	3						
	Firefighter on Light Duty Only	0	1	1	0	0	0	1						
	Apparatus Driver Only	0	1	0	0	1	1	1						
	Sub Total	19	19	19	23	23	22	21						
Station 2 including members from Sun River Station	Total Active Firefighters	7	7	7	7	8	8	9						
	<i>Responding from Station 2</i>	3	3	3	3	3	3	3						
	<i>Responding from Sunriver</i>	4	4	4	4	5	5	6						
	Firefighters on LOA	2	1	1	1	1	1	1						
	Recruit Firefighters Training	0	0	0	3	3	2	2						
	Apparatus Driver Only	1	1	1	1	1	1	1						
	Sub Total	10	9	9	12	13	12	13						
Support Services	Safety Educators	6	5	5	5	6	6	6						
	Dispatcher	1	1	1	1	1	1	1						
	Chaplain	1	1	1	1	1	1	1						
	First Responder Instructor	2	2	2	2	0	0	0						
	Inspector	1	1	1	1	1	1	1						
	Sub Total	11	10	10	10	9	9	9						
Total Career Firefighters		5	5	5	5	5	5	5						
Total Active Volunteer Firefighters		23	23	24	23	24	23	24						
Firefighters LOA		4	2	3	4	3	3	2						
Total FF on Light Duty Only		0	1	2	0	0	0	1						
Total Driver Only		1	2	1	1	2	2	2						
Total Recruits		0	0	0	7	7	6	5						
Total Suppression		34	33	34	40	41	39	39						
Total Support Services		11	10	10	10	9	9	9						
Total Membership		45	43	44	50	50	48	48						

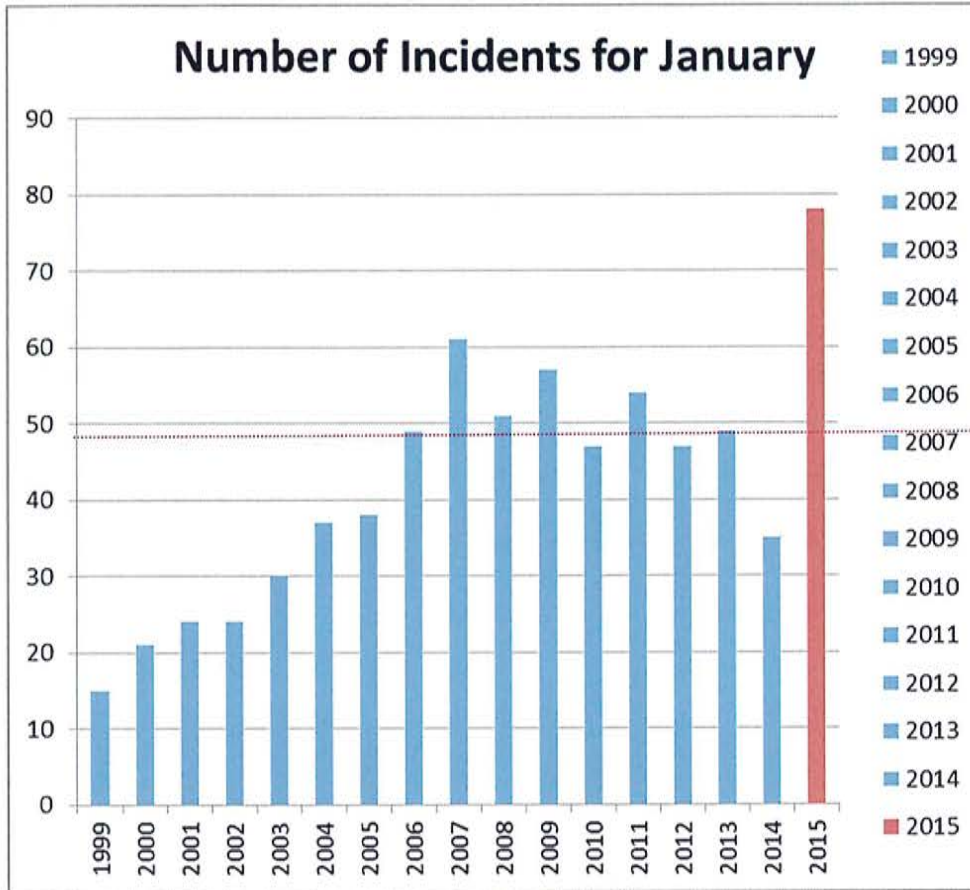
Sooke Fire Rescue Department - Monthly Emergency Incident Compilation Report

Incident Type	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	total
Structure Fire	1												1
Chimney Fire	1												1
Appliance Fire	1												1
Vehicle Fire	1												1
Brush Fire	0												0
Dumpster Fire	2												2
Explosion	0												0
Motor Vehicle Incident	6												6
Rescue	1												1
Hazardous Condition	2												2
Public Assist	1												1
Alarm Bells	8												8
First Responder	55												55
Burning Complaint	4												4
TOTAL	83												83

Sooke Fire Rescue responded to a total of 79 incidents and 4 burning complaints during the month of January. This is the busiest January on record for the fire department. The calls span a wide range of types from a fully involved structure fire, an automobile fire adjacent to an occupied home, a dumpster fire at an apartment block and another apartment where smoke was issuing from the windows due to a fire on the stove. In addition to several motor vehicle incidents, there has also been a steady amount of serious medical calls that the department has attended. In nine of the medical responses this month, there were significant waiting times for an ambulance ranging from 8 minutes to 38 minutes after the fire department arrived on scene.

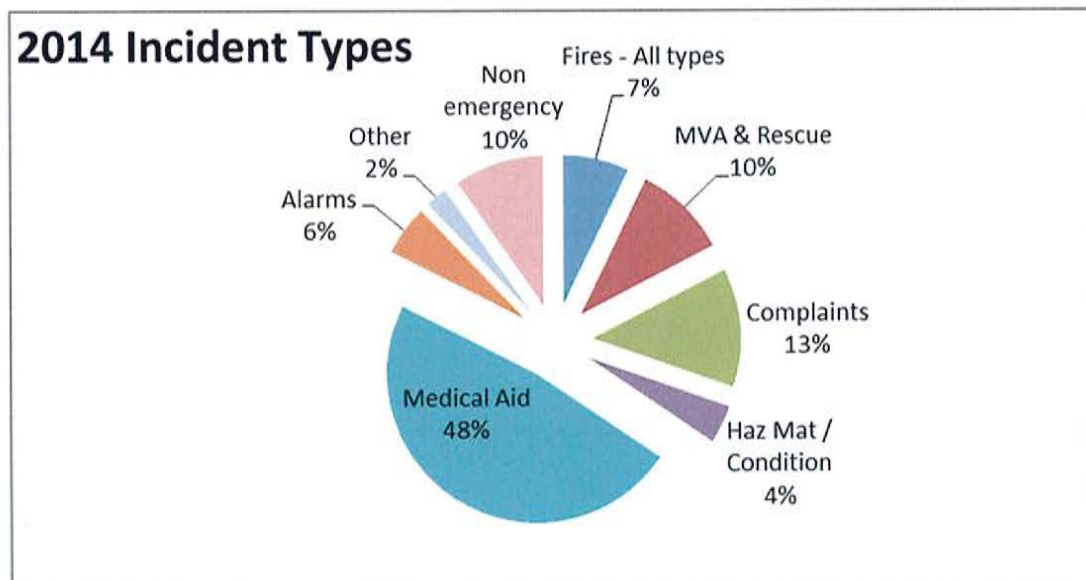
This rise in responses this month represents a **62% increase** in the ten year average for the month of January of 48.8 calls. The majority of these incidents have occurred during regular working hours which is the time the least amount of staffing is available.

Two of the volunteer firefighters were successful in the recruiting process for career positions with CFB Esquimalt Fire Department. Congratulations to Nick Gottfried and Paul Rudd who will both start as career firefighters this month. At the moment, both hope to maintain their volunteer membership in Sooke Fire Rescue Department as well as their full time status with CFB Esquimalt.



For January, monthly call average for past ten years is 48.8 (49) responses.

Number of FD responses in month of January (1999 – 2015). Ten year average is 49 emergency calls
Totals **do not include** "Burning Complaints"



Graph represents types of incidents attended in 2014 as a percentage of total

January 26, 2015

Dear Mayor Tait and Councillors,

Last November my sister Franny and I participated in two Blue Dot Tour events with David Suzuki. The Blue Dot Tour was a series of events across Canada to inspire people to ask their municipal governments to make a declaration recognizing the **right to a healthy environment**. Once enough cities and towns have made this declaration they will go to their provincial or territorial government to ask them to pass an environmental bill of rights. Once enough provinces and territories have done this the Canadian government will be asked to amend the Canadian Charter of Rights and Freedoms to guarantee the right to live in a healthy environment.

Since the tour started a number of cities across Canada have made this declaration. Since I went to the Blue Dot event, I have worked with Mayor Lisa Helps and Victoria's City Council to make an environmental rights declaration. It makes me feel so proud that I played a part in this historic event. Working with the City of Victoria on passing the declaration was one of the highlights of my life.

I'm contacting you because in my opinion the Capital Regional District is the most wonderful place in the world. I feel it is a gift to grow up here. I know that making the environment a priority will make Greater Victoria a healthier and safer place not just now but when I am an adult and long after that. I want all municipalities in the CRD, across Vancouver Island and the province to join the City of Victoria in making municipal declarations recognizing the right to a healthy environment.

Recently, I found out that kids have the least amount of power in our society. I think that kids should have as much say as adults especially with things that affect them. I'm not old enough to vote but I feel I'm not powerless, especially after my recent experience with the City of Victoria. Kids have a voice and people should listen to what we have to say.

What I would like to share is everything we need comes from nature, so if humans are harming nature we're directly harming ourselves. Everyone should have the right to drink clean water, eat healthy food and breathe clean air. One hundred and ten countries have recognized environmental rights. Canada is not one of them. If we work together it could be.

For more information about David Suzuki's Blue Dot Movement please go to their website: bluedot.ca. I told the David Suzuki Foundation that I would be writing to you. They sent me a model declaration for Sooke. If you have any questions please contact Cameron Esler, National Blue Dot Movement Organizer with the David Suzuki Foundation, at community@bluedot.ca.

I thank you for taking the time to read in my letter. If I can support your efforts to make an environmental rights declaration in Sooke please let me know. You can contact me at my mom's email address, skyeladell@mac.com.

Sincerely,


Rupert

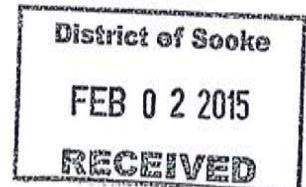
Rupert (age 10)

Rupert Yakelashek

Victoria, British Columbia
Traditional Territory of the Songhees and Esquimalt First Nations
Canada
V8R 4A5

Original Document to File No. 0630-01

For Action	CC	Agenda	Other
			
Community Life			
CAO			
Corp Services			
Engineering	<input checked="" type="checkbox"/>	LH	
Finance	<input type="checkbox"/>		
Planning	<input type="checkbox"/>		
Fire	<input type="checkbox"/>		
Other	<input type="checkbox"/>		



SUBJECT: Declaration of the Right of a Healthy Environment

MOTION

WHEREAS the District of Sooke understands that people are part of the environment, and that a healthy environment is inextricably linked to the well-being of our community;

AND WHEREAS the David Suzuki Foundation Blue Dot Tour has inspired many Canadians to request that the right to a healthy environment be enshrined in the Canadian Charter of Rights and Freedoms;

THEREFORE BE IT RESOLVED THAT the District of Sooke endorses the following declaration:

“All people have the right to live in a healthy environment, including:

The right to breathe clean air;

The right to drink clean water;

The right to consume safe food;

The right to access nature;

The right to know about pollutants and contaminants released into the local environment;

The right to participate in decision-making that will affect the environment.

The District of Sooke has the responsibility, within its jurisdiction, to respect, protect, fulfill and promote these rights.

The District of Sooke shall apply the precautionary principle: where threats of serious or irreversible damage to human health or the environment exist, the District of Sooke shall take cost-effective measures to prevent the degradation of the environment and protect the health of its citizens. Lack of full scientific certainty shall not be viewed as sufficient reason for the District of Sooke to postpone such measures.

The District of Sooke shall apply full-cost accounting: when evaluating reasonably foreseeable costs of proposed actions and alternatives, the District of Sooke will consider costs to human health and the environment.

By December 31st, 2015, the District of Sooke will consider objectives, targets, timelines and actions within its jurisdiction to fulfill residents' right to a healthy environment, including options to:

Ensure equitable distribution of environmental benefits and burdens within the municipality, preventing the development of pollution “hot spots”;

Ensure infrastructure and development projects protect the environment, including air quality;

Address climate change by reducing greenhouse gas emissions and implementing adaptation measures;

Responsibly increase density;

Prioritize walking, cycling and public transit as preferred modes of transportation;

Ensure adequate infrastructure for the provision of safe and accessible drinking water;

Promote the availability of safe foods;

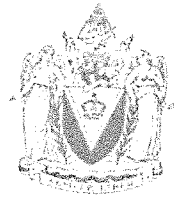
Reduce solid waste and promote recycling and composting;

Establish and maintain accessible green spaces in all residential neighbourhoods.

The District of Sooke shall review these objectives, targets, timelines and actions every five (5) years, and evaluate progress towards fulfilling this declaration.

The District of Sooke shall consult with residents as part of this process.”

AND BE IT FURTHER RESOLVED THAT the District of Sooke forward this resolution to the Association of Vancouver Island and Coastal Communities, the Union of BC Municipalities, the Federation of Canadian Municipalities and member local governments, requesting favourable consideration by local councils and by delegates at the 2015 annual meetings of these associations.



February 17, 2015

Dear Mayor Tait,

I am writing to apprise you of the actions taken by Victoria City Council towards a governance review.

On behalf of Council, I have written to Minister Coralee Oakes requesting the Provincial government undertake a study on regional governance, based on the enclosed guidelines. I have also requested a meeting with Minister Oakes to discuss these recommendations.

We are proposing the enclosed document to guide this study, to effectively evaluate the various models to achieve good municipal governance, to follow sound methods to assess the merits of each, and to ensure inclusion of all interested parties and agencies, including members of the public. These guidelines are a slightly amended version of those sent to all of us by the Amalgamation Yes group.

Residents of our region have made it clear that there is a real and widespread interest in a governance review. There is a strong mandate from the residents of Greater Victoria to evaluate the current model and others to achieve good municipal governance. I encourage you to consider writing a similar request to Minister Oakes.

I look forward to working with you on this important issue and to bringing the best possible governance to our region.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lisa Helps', written over a printed name and title.

Lisa Helps
Victoria Mayor

Encl.

Cc.

Mayor Richard Atwell
Mayor Barbara Desjardins
Mayor Alice Finall
Mayor Carol Hamilton
Mayor Nils Jensen
Mayor Steve Price

Mayor John Ranns
Mayor David Screech
Mayor Kenneth Williams
Mayor Ryan Windsor
Mayor Stewart Young

Guidelines for Study on Amalgamation

- 1) The study team must report to the Minister and must be instructed to carry out its task in a timely manner.
- 2) The study must be inclusive and engage all the municipal agencies in the Capital Region and the First Nations.
- 3) The study must examine the existing municipal structure (including the CRD) in the Capital Region and recommend changes to achieve good municipal governance across the region, including participation, accountability, efficiency and effectiveness.
- 4) The study process must include opportunities for the public to interface with the study team during the preparation of the report.
- 5) The study must consider more than one option for municipal boundaries in the Capital Region.
- 6) When evaluating each option, consideration must be given to providing consideration of residential, commercial, urban, and rural interests.
- 7) The study must evaluate the economic, social, environmental and cultural merits of each option.
- 8) The study must include a plan for public meetings to discuss the recommendations of the report.
- 9) The study must prescribe timelines for implementation of the study.
- 10) The study must identify implementation issues that need to be resolved.

View the [printer-friendly version](#) of this release.



NEWS RELEASE

For Immediate Release
2015TRAN0015-000180
February 14, 2015

Ministry of Transportation and Infrastructure

Cycling funding supports active, healthy communities

VICTORIA – Twenty communities throughout British Columbia will receive more than \$3.69 million in BikeBC funding this year to expand and build cycling lanes, trails and paths for B.C. families.

BikeBC is the Province's cost-sharing program that helps local governments build cycling projects that attract and support commuter, recreational and tourism cyclists and pedestrians. This year's investment will generate more than \$7.38 million in cycling infrastructure. Since 2001, the B.C. government has committed almost \$155 million for cycling infrastructure, creating new bicycle lanes and trails in over 100 communities in the province.

Cycling contributes to increased physical activity and helps reduce greenhouse gases, and this year's 22 projects cover a wide range, including bike lanes and multi-use trails, as well as improvements to roads and highways, to allow better shared use for cyclists.

During consultations for the new 10-year transportation plan, BC on the Move, the ministry heard that enhanced cycling infrastructure and improved transportation choices are important to British Columbians. Many local governments and community organizations indicated that increased participation in cycling and walking programs and improvements to cycling and pedestrian trails and networks are among their highest priorities.

Quotes:

Minister of Transportation and Infrastructure Todd Stone –

"The importance of cycling infrastructure in our communities is a common theme we hear when talking to British Columbians about their transportation priorities. Our BikeBC program supports those priorities and this year's funding will be used for projects across the province, from Sooke to Williams Lake to Prince George."

Quick Facts:

- Cycling 10 kilometres to and from work every day would reduce your greenhouse gas emissions by 15,000 kilograms a year.
- Cycling eight kilometres is equal to 30 minutes of moderate exercise.

Learn More:

For more information about Bike BC, visit: www.th.gov.bc.ca/BikeBC

A backgrounder follows.

Media Contact:

Government Communications and Public Engagement
Ministry of Transportation and Infrastructure
250 413-7941



BACKGROUNDER

For Immediate Release
2015TRAN0015-000180
February 14, 2015

Ministry of Transportation and Infrastructure

Twenty-two projects receive BikeBC funding

- Central Kootenay (Regional District): Great Northern Rail Trail, multi-use trail between Falls Street and Svoboda Trailhead at Davies Street – \$70,375.
- Chilliwack: Bike lanes between Adams Road and #6905 Sumas Prairie Road – \$52,499.
- Coquitlam: Crosstown Bike Route (Phase 3), separated bike path between Dewdney Trunk Road and Johnson Street at Glen Drive – \$343,510.
- Duncan: Government Street Cycling Project, bike lanes from Gibbons Road to the Cowichan Lake Road roundabout and then to Boundary Road – \$50,534.
- Kelowna: UBC Okanagan Rails with Trails (Phase 2); installation of signage to guide trails users to and from the facility – \$100,000.
- Kelowna: Lakeshore Avenue Active Transportation Corridor, separated bike path/bike lanes between DeHart Road and McClure Road – \$360,000.
- Langley: 216 Street Connector, a combination of buffered bike lanes and shared roadway – \$47,285.
- Nanaimo: Boundary Transportation Improvement Project, a combination of buffered bike lanes and separated cycle track between Northfield Road and Bowen Road – \$120,000.
- North Saanich: West Saanich Road bike lanes between Ardmore Drive and the Institute of Ocean Sciences – \$225,983.
- North Vancouver (City): North Shore Spirit Trail separated multi-use trail between the Squamish Nation Waterfront Greenway and the Bewicke section of the Spirit Trail – \$400,000.
- North Vancouver (District): Lynn Valley Road bike lanes between William Avenue and Mollie Nye Way – \$201,874.
- Oak Bay: Foul Bay and Lansdowne intersection bike lanes and bike loop detectors – \$52,828.
- Powell River: Duncan and Mason Streets bike lanes – \$73,500.
- Prince George: North Nechako Road bike lanes between Foothills Blvd. and Rosia Road – \$290,880.
- Qualicum Beach: Downtown to Waterfront Connector separated bike path along Memorial Avenue – \$101,500.
- Rossland: Pinewood Connectors separated multi-use trails between downtown and subdivision – \$24,537.

- Sechelt: Active Transportation Corridor, bike lane and shared roadway combination between Reff Road and Trail Avenue, and Lighthouse Avenue and Ripple Way – \$100,000.
- Sooke: Galloping Goose Sooke Connector Trail - separated bike path and shared roadway between the Galloping Goose Trail at Kirby Road and Sooke River Road at Sooke Road – \$75,352.
- Squamish-Lillooet Regional District: Friendship Commuter Trail - separated multi-use path between Village of Pemberton and Ull'us Centre in Mount Currie – \$71,343.
- Surrey: Fraser Heights Greenway – shared multi-use path on 108 Avenue and a separated multi-use path on the former 154 Street – \$577,419
- Surrey: Cycling improvements, bike lanes and bike boxes along 105A Avenue – \$214,328.
- Williams Lake: Highway 97 / Toop Road and Carson Drive, separated bike path and shared roadway – \$142,498.

Media Contact:

Government Communications and Public Engagement
Ministry of Transportation and Infrastructure
250 413-7941

Connect with the Province of B.C. at: www.gov.bc.ca/connect



BikeBC – Moving Cycling Forward

2014/2015 APPLICATION FORM

PLEASE READ THE GUIDELINES before completing this Application Form. A separate application must be completed for each project. All applications must be completed in full and submitted with mandatory supporting documentation. See the Guidelines for more details.

Applicants should be aware that information collected is subject to provincial freedom of information legislation.

This Application Form is designed to be filled in electronically using word processing software. Each question must be completed using less than 200 words. If you require help completing a particular question, click on the area to be filled in and press the Help Key (F1) on your keyboard.

If you require further assistance: Phone: (250) 356-5306 or Email: Jessica.Ling@gov.bc.ca

A. Applicant Information

Legal Name of Local Government: District of Sooke	
Mailing Address: 2205 Otter Point Road, Sooke, B.C., V9Z 1J2	
Primary Contact Name: Brent Blackhall Title: Deputy Director of Finance	Phone No.: 250-642-1635
Email Address: bblackhall@sooke.ca	Fax No: 250-642-0541

B. Project Description

Project Title (where signage is warranted for project, what will the project title be): Galloping Goose - Sooke Connector Trail.
What type of infrastructure is being proposed? (See Guidelines for definitions) Bike Lanes <input type="checkbox"/> Separated Bike Path <input checked="" type="checkbox"/> Shared Roadway <input checked="" type="checkbox"/> Shoulder Bikeway <input type="checkbox"/> Other <input type="checkbox"/> (describe):
Project Description (include rationale for the route and long term goals and objectives): Galloping Goose connector trail to Sooke Road to allow users of the Galloping Goose Trail safe access to Sooke core. Currently the Galloping Goose runs from the crossing at Coopers Cove to Leechtown with no access to the existing network of trails and sidewalks in Sooke that could carry users into the Sooke town core. This project would provide a safe connection of the Galloping Goose to the existing multi use trail network in Sooke and avoid an otherwise lengthy cycle trip along the busy Sooke Rd (Hwy 14). Start point Galloping Goose at Kirby Road End point Sooke River Road at Sooke Road Length 1.14 km – Include map with location of project
Proponent's ranking of project priority is <u>1</u> out of <u>1</u> applications submitted.

C. Project Information

<p>1. The project directly links into the community's plans for supporting healthy living and physical fitness.</p> <p>a. Does the community have an active community plan as defined by BC Recreation and Parks Association? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (http://www.bcrpa.bc.ca/recreation_parks/active_communities.htm)</p> <p>b. Does this project contribute to increased physical activity as part of your active community plan? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (if yes, explain how) <u>This project is listed in our Parks and Trails Master Plan as the number one priority of the Class A projects. During the master planning process public, stakeholders and District staff all expressed a desire to develop a defined cyclist and pedestrian connection from the Galloping Goose Trail into Sooke's Town Centre. This would allow people to safely commute in and out of Sooke</u></p>





without competing with traffic along a busy stretch of Highway 14 from Coopers Cove to Sooke River Road. The new project would provide an easy connection with new multi-use trails constructed by the District along Church Road (2013) and Wadam's Way (2014). The District recently completed a cycling trail in 2014 through the SEAPARC property near the Phillips Rd/Sooke Rd intersection that would provide an easy connection with this proposed CIPP project to the Church Rd and Wadam's Way multi-use trails.

2. Does the Official Community Plan include plans for facility development and land acquisition for greenways and bikeways? Yes No

All projects must be part of your community's adopted Bicycle Network Plan. Please attach a copy of the network plan, any updates to the plan, and show the project on the plan.

3. Does the project promote, or have the potential to promote, transportation cycling? Yes No (See the Guidelines for definition of transportation cycling)

4. Is the project "shelf ready" and able to be completed within one year of funding approval? (See the Guidelines for definition of "shelf ready")

- a. Has the required property acquisition been completed? Yes No
b. Have all required permits and approvals been obtained? Yes No (i.e. DFO, Environment, TRAN, BC Hydro etc.) Please attach copies.
c. Has all public consultation been completed? Yes No (Provide applicable dates) Oct 19 and 21 2012
d. Are there any outstanding issues? Yes No (Please explain what the issues are and how/when they will be resolved) _____

5. Is the project endorsed by a recognized cycling organization? Yes No (Provide copy of letter(s))

6. Does the project directly link one or more existing cycling paths? Yes No (Provide details) Project will connect the Galloping Goose Trail to existing multi-use trails that are part of the Town Centre Connection.

7. Does the project extend an existing cycling path? Yes No (Provide details) Project will provide a connection from the Galloping Goose Trail to the town centre network of multi-use trails.

8. Does the project start or finish on the border of another jurisdiction? Yes No
a. If yes, name: _____
b. If yes, does it link to the other jurisdiction's existing or planned cycling network? Yes No

9. Are there other modes of transportation that link up to the project? (transit, train, park and ride, etc.) Park and Ride at Sooke River Road/Sooke Road, BC Transit stop at same location.





BikeBC – Moving Cycling Forward

2014/2015 APPLICATION FORM

10. List all trip generators that are served by this project. (e.g. large employers, schools, shopping malls) <u>Students attending Journey Middle School and Edward Milne Secondary School, cycle tourists using the Galloping Goose and looking for a connection to the Sooke Town Centre, Sooke residents using the SEAPARC Leisure Centre and Bike Skills Park and new SEAPARC Multi-use Trail.</u>
11. Number of motor vehicle traffic lanes: Before: <u>2</u> After improvement: <u>2</u>
12. Width of vehicle travelled lane (in metres) Before: <u>6m</u> After improvement: <u>6m</u>
13. Width of cycling facility (in metres): Before: <u>0</u> After improvement: <u>1.5m</u>
14. Will the project result in a cycling facility on both sides of the road? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
15. Is parking currently permitted along this roadway? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A a. If yes, check applicable: <input type="checkbox"/> one side <input type="checkbox"/> both sides b. Will parking be eliminated once the project is complete? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
16. Number of hindrances (See definition in <i>Guidelines – Appendix 1</i>) Before: <u>0</u> After improvement: <u>0</u>
17. Speed of motor vehicle traffic in km/h (same direction of cycling traffic) Before: <u>50km/hr</u> After improvement: <u>50km/hr</u>
18. Average daily motor vehicle count on adjacent lane (same direction of cycling traffic): <u>??</u> Vehicles/Day
19. Are any traffic signals required? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, please see Guidelines for additional required information.
20. Are any structures required? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, please describe (Attach drawings if available)
21. Is the proposed bikeway included as part of a larger construction project? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, describe the project and funding sources (attach additional sheet if required) _____





22. Current daily bike trips on the route. (Actual counts are mandatory. Attach count data sheets.) <u>under 5</u> trips/hour Daily bike trips anticipated after the project. <u>over 5</u> trips/hour (Include explanation on estimation)
23. How large is the population served by the project? <u>12,400</u> (See "catchment area" definition in <i>Guidelines – Appendix 1</i>)
24. How does the project improve safety? (Include, if applicable, information such as anticipated reduction in number of collisions per year) <u>Avoids cycling along a busy stretch of Hwy 14 into Sooke.</u>

D. Project Costing Information

Total Project Cost (Eligible costs only – please attach CIPP costing sheet)	150,705
Contributions from Third Parties (Please attach CIPP partnerships details sheet)	<u>0</u>
Total Project Cost minus Third Party Contributions	<u>150,705</u>
Local Government Share (minimum 50%)	<u>75,353</u>
Cycling Infrastructure Partnerships Program Share	<u>75,352</u>

