



CENTRAL COAST REGIONAL DISTRICT

DATE: March 5, 2015

TO: Board Chair Reginald Moody and Board Members

FROM: Krista Ediger, Local Government Management Intern

SUBJECT: Investigation of Establishing of a Noise Bylaw

RECOMMENDATION

That Central Coast Regional District Board of Directors, in accordance with Policy A-25, hold open public meetings with residents in all Electoral Areas to determine the general acceptance of the proposal of establishing a Noise Bylaw.

Or

That Central Coast Regional District Board of Directors, in accordance with Policy A-25, hold an open public meeting with residents in all Electoral Areas C, D and E (Bella Coola Valley) to determine the general acceptance of the proposal of establishing a Noise Bylaw.

Or

That Central Coast Regional District Board of Directors, determine that no further action be taken with establishing of the Noise Bylaw due to the administrative burden and cost associated with establishing such a bylaw.

RECOMMENDATION

That Central Coast Regional District Board of Directors having decided to engage residents to determine the establishment of a Noise Bylaw, further requests Administration to continue investigation for the establishment of Municipal Ticketing Information (MTI) system and report back to the board with recommendations on establishing MTI.

Or

The Central Coast Regional District Board of Directors having decided to engage residents to determine the establishment of a Noise Bylaw, further requests Administration to continue investigation for the establishment of a Bylaw Adjudication

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 CCRD ITEM

System/Bylaw Notice Enforcement Ticket (BNE) system and report back to the board with recommendations on establishing Bylaw Adjudication System/BNE.

Or

That Central Coast Regional District Board of Directors, determines that no further action be taken by Administration on establishing or investigating means of enforcement of a Noise Bylaw, due to the administrative burden and cost associated with establishing ticketing system for such a bylaw.

STRATEGIC PLAN

Vision Statement

Our vision for the Central Coast Regional District is an inclusive, resilient and sustainable group of communities thriving within a locally influenced, safe, healthy and natural environment.

BACKGROUND

The previous Board at the 12 June 2014 Board meeting considered a request to investigate the establishment of a noise bylaw. The request came to the Board because Administration has received complaints from residents regarding noise in their community, continuing well into the night which prohibited normal sleep for residents in the area, over a significant time frame (years).

The Board resolution from the 12 June 2014 Board Meeting was:

- (a) Request to investigate establishment of a noise bylaw

14-06-11 M/S Directors McCullagh/Lande that the Central Coast Regional District Board of Directors requests the Chief Administrative Officer investigate the establishment of a Noise Bylaw and report back with recommendations to the Board at its July 10, 2014 meeting.

CARRIED

At this time, Central Coast Regional District (CCRD) has no such bylaw or bylaw enforcement officer to enforce any bylaw. Following the initial complaints, Administration spoke with the Royal Canadian Mounted Police (RCMP) and established they would consider being part of the enforcement process.

Since the 12 June 2014 Board meeting, Administration has investigated several other local governments Noise Bylaws and how they enforce noise violations. From the research it has been established there are two ticketing systems to manage violation. These systems are either using the Municipal Ticketing Information (MTI) or the Bylaw Notice Enforcement (BNE).

CONSULTATION

N/A – at this point in time, the Board has not made the decision to consult on the establishment of a Noise Bylaw. Depending on the Board decision, consultation with the public may need to be undertaken in accordance with policy, however, the Board must be reminded that to establish a new service such as noise control, and to pay for the consultation would require a budget to undertake this, in addition to costs to actually establish and enforce.

LEGISLATION /POLICY

Local Government Act Division 3 [Enforcement of Regional District Bylaw]

Local Government Act s724

Community Charter Part 8 – Bylaw Enforcements & Related Matters Division 3 [Ticketing for Bylaw Offences] s264 - 273

*Local Government Bylaw Notice Enforcement Act
Offence Act*

BUDGET/FINANCIAL IMPLICATIONS

Within current approved budget:	N/A
Requires further budget consideration	Yes

Establishment of a Noise Bylaw has not been included in the 2015 budget, and if budget funding cannot be found in this year's budget, it would be considered an unlawful expenditure. If no budget is available in the 2015, this would have to be deferred to the 2016 budget.

If the Board decided following consultation that they wish to establish a new noise control service through a bylaw, there will be significant other costs associated with the bylaw that will require budget consideration in 2016.

RISK MANAGEMENT

Administration has evaluated potential risks with the proposal and assessed these as negligible with no requirements for controls.

DISCUSSION

Before proceeding any further it needs to be established if the Board wishes to establish a new service area for noise enforcement through a bylaw. If the answer is affirmative, there is a requirement under Policy A-25 Establishment of new service areas (see attached) to consult.

If the public comes back with the desire to have a Noise Bylaw established, and the Board proceeds with establishing a Noise Bylaw, then it needs to be determined what type of ticketing system the CCRD will use to enforce the bylaw. There are two feasible options to enforce a Noise Control Bylaw.

They are:

- 1) Municipal Ticket Information (MTI)
- 2) Bylaw Adjudication System/Bylaw Notice Enforcement Ticket (BNE)

Both the MTI and BNE allow for an Authorize Person set out in the Bylaw in accordance with the *Local Government Act* to issue a ticket. Legislation allows for the Royal Canadian Mounted Police (RCMP) to be named as an Authorized person.

Both systems remove the need to go through the court system to enforce bylaws. If the CCRD does not implement either MTI or BNE but establishes a Noise Bylaw, enforcement will be through the Provincial Court by long form and summary of conviction.

Cost that is associated implementing either MTI or BNE is an IT system. The IT system will be needed for ticketing processing.

Other general information that is needed to be considered for either system is if a staff member along with the RCMP will issue tickets. If this is the case a policy will need to be established. Consideration is needed to decide to include any other existing CCRD Bylaws that can be enforced through tickets, and include them in the ticketing bylaw.

Below is general information about MTI or BNE for consideration.

Municipal Ticketing Information (MTI)

In order for the CCRD to use MTI as a means of enforcing bylaws, a Ticketing Authorization Bylaw also known as a MTI Bylaw must be adopted. The MTI Bylaw will outline key elements on how it will work, identifies which offences are subject to MTI, who can issue the MTI for each offence, and what penalties may be imposed for each offence. A maximum for penalty cannot exceed \$1000 (would need to change the draft "Central Coast Regional District Noise Regulation and Prohibition Bylaw" from \$2000, to \$1000). Penalties are payable to the Regional District and the Regional District collects the revenue from the penalties. MTI must be served in person to the alleged offender. Authorized person does not need to witness violation, but need to have a witness who is willing to testify in court that violation did occur.

MTI issued must be sworn by Authorize Person, and be in complete and prescribed form. If not then the MTI can be considered invalid, and penalty cannot be enforced.

Penalties issued under MTI must be paid in full to the local government within 14 days of receiving the MTI. An incentive such as a reduce fee can be established in the bylaw if the alleged offender pays within the 14 days. A penalty fee for late payment can also be established in the bylaw.

If the alleged offender wishes to dispute MTI, they must do so within the first 14 days by notifying the local government. Further information on how to dispute ticket will be on back of ticket.

If no action is taken by the alleged offender the local government may submit a ticket to the court for consideration of justice, for a Payment Hearing. Court process can be lengthy, time consuming and costly, which leads to some local governments failing to forward the file to the court or withdraw a file from court.

Associated costs with using the MTI can include legal fees for disputes or taking offender to court for unpaid tickets (Payment Hearings). Payment Hearing fees may include, a \$21 fee for filing each certificate, \$50.00 fee for service of summons and \$30.00 fee for service of Commissioner for taking Affidavits. All fees associated with Payment Hearings can be added to claim against offender for cost recovery. There will also be a cost for the tickets, which are issued by the province.

Bylaw Dispute Adjudication/Bylaw Enforcement Notice (BNE) System

Bylaw Dispute Adjudication System allows for locally-based administration and adjudication of bylaw violation disputes. It avoids the need to hire legal counsel, and removes unnecessary attend of witnesses for dispute which helps promote timely resolution of bylaw enforcement disputes. Establishing a bylaw dispute adjudication system is a lengthy process, and a generous amount of time is needed to successfully implement this system.

Bylaw dispute adjudication system initial preparation is more extensive than MTI. The first initial steps that need to be taken by a local government to implement this system are:

- Need to determine if the dispute adjudication system will apply to one or more local governments. If so, determine which local government will be responsible for the day to day administration of the shared process and where the adjudication hearing will be held.
- Provide a Staff Report to Board recommending implementation of Bylaw Dispute Adjudication System
- Forward a copy of Board resolution indicating the intent to establish a Bylaw Dispute Adjudication System to Court Services Branch, Ministry of Attorney General
- Confirm the Bylaw Notice Enforcement Regulation (B.C. Reg. 175 (2004) has been or will be amended to apply the *Local Government Bylaw Notice Enforcement Act* to your local government
- Negotiate agreement between participating local governments, and enact necessary bylaws to enter into the agreement, if required

Bylaw Dispute Adjudication system is enforced by Bylaw Notice Enforcement (BNE) tickets. After the initial steps are completed a Bylaw Notice Enforcement Bylaw needs to be adopted. The BNE bylaw outlines which bylaws are enforced through this system, and the penalty for each offence. BNE bylaw also needs to address early payment discount, late payment surcharge, dispute fees and additional information to appear on ticket (other than what is required by legislation). Once a BNE bylaw is established, any offences outlined in it can only be enforced through this system

If one or more local governments are sharing an Adjudication system, it only applies to the administration process and the adjudication hearings. Each local government maintains independent bylaws, and tickets. For the CCRD, an agreement with another local government would be needed to implement the bylaw adjudication system. The Cariboo Regional District and the City of Williams Lake both use this system. An agreement with one of these local governments is recommended. If possible it would be more suitable to have one of them handle the day to day administration, and to hold adjudications rather than the CCRD. Discussion with these local governments still needs to take place.

The BNE ticket has two main features, a single "front-end" ticket process for initiating enforcement and locally managed "back-end" venue for non-judicial adjudication to hear ticket dispute. The BNE ticket informs the recipient of the alleged bylaw contravention, amount of penalty and how to pay the fine or dispute the allegation. The recipient then has a fixed amount of time to action by either paying or disputing. The amount of time is set out by the local government but has to be at least 14 days after Bylaw Notice was received. If person neither pays nor disputes BNE in the allotted time, a late penalty can be applied and penalty will be due and owed to local government immediately. The maximum penalty of a BNE is \$500 (would need to change the draft "Central Coast Regional District Noise Regulation and Prohibition Bylaw" from \$2000, to \$500).

The local government has the option to establish the position of screening officer. The screening officer must be a current staff member and they will help reduce the number of disputes that go to adjudication. This position is optional through legislation, however it is highly recommended. If a person wishes to dispute alleged offence, the screening officer would have a meeting with them to discuss the allegation before it goes to the adjudication process. The screening officer after hearing from the alleged offender may cancel the BNE if they believe allegation didn't occur, if required information is missing from the notice, or any other reasons set out by local government. They also have the authority to enter into compliance agreements. A compliance agreement is where the alleged offender acknowledges contravention of bylaw, set out remedies or conditions on future behavior to be performed in designated time period, and reduces or waives fine at the end of that time period. It is important note that most local governments do not use compliance agreements with noise bylaws. If BNE is not canceled, a compliance agreement is not reached, or alleged offender does not pay the BNE then at this point it would go to the adjudicator system. A screening officer may not be a feasible option for the CCRD.

If alleged offender wishes to dispute BNE and no screening officer is used by the local government, the offender must fill out the back side of the BNE ticket and return it to the local government within 14 days after receiving the notice. Administration will schedule date and time of adjudication, and provide the disputant with at least 14 days written notice of the time, date and location of hearing. The disputant must tell local government if they plan to appear at adjudication hearing in person, by writing, telephone or other electronic means. The adjudication process strictly confirms or cancels the BNE. If adjudication confirms the BNE, a dispute fee of \$25 can be applied to help recover portion of the cost.

Adjudicator who presides over adjudication is selected on a rotational base, and is managed by an outside organization. Local government who's in charge of scheduling must contact organization for an adjudicator.

Costs associated with implementing the bylaw adjudication system is: staff time to draft report to for the Board; drafting of bylaws; and contacting and creating an agreement with another local government.

Ongoing costs will include cost sharing of administration and adjudication fees with other local government. Adjudication fees are based off type of hearing that was requested. These fees are: for a hearing in person it is \$19.44 per each, hearing in writing it is \$12.50 per each, and hearing by telephone is \$16.66 per each. Cancelation fee for adjudication is \$175, if less than 48 hours' notice is not given.

If an agreement is not reached with another local government, the CCRD will have additional costs for an adjudicator. Legislation states that if the adjudicator needs to travel more than 32 km from their place of employment, travel and expense must be covered by the local government.

CONCLUSION

Complaints have been received with respect to noise issues in the valley; currently the CCRD does not have a bylaw or the means to enforce a bylaw to cover noise control. The Board needs to decide if the region wishes to establish a new service area for noise enforcement through a bylaw and the means in which to enforce it.

Administration will be recommending the Board of Directors make a decision based on the information provided on whether they wish to proceed with the establishment of a new service for Noise Enforcement.

If the Board decides to progress the establishment of a new service for Noise Enforcement, then in accordance with Policy A-25, open public meetings with residents would be held in the areas identified for proposed establishment of the new service.

Administration would also continue investigation for the establishment of Municipal Ticketing Information (MTI) system and report back to the board with recommendations on establishing MTI.

If the Board decides they do not wish to progress the establishment of a new service for Noise Enforcement, particularly due to administrative burden and cost associated with the said establishment, then no further action will be taken.

Respectfully submitted



Krista Ediger

Local Government Management Intern

CENTRAL COAST REGIONAL DISTRICT
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A-25 – Establishment of New Service Areas

Preamble: It is desirable to have a process for consideration of the establishment of new service areas within the regional district that is consistent with the provisions of the *Local Government Act*.

Policy:

1. The Director of the Electoral Area involved, along with Administrative Staff, should hold an open public meeting with residents within the proposed local area requesting a service or with a proponent group representing residents, to outline the procedure and determine the general acceptance of the proposal.
2. If a proposal is deemed to be generally feasible, the boundaries of the proposed local service area must be clearly established and a map of the proposed local service area is prepared.
3. If there is some question as to the feasibility of a proposal, a feasibility study, engaging consultants, may be necessary. The consideration of such a study is taken by the Director to the Board of Directors.
4. An assessment applicable to the proposed local service area is compiled.
5. It must be established whether to tax the proposed service on the basis of:
 - a) land only;
 - b) improvements only;
 - c) land and improvements.
6. A budget is prepared to determine the capital debt requirement, as well as operational and maintenance costs applicable to the proposed service.
7. Once the method of taxation has been determined and a budget has been prepared, the requisition rate (dollars for \$1,000 of assessed value) for the proposed service is established.
8. With the establishment of the requisition rate, an informational presentation is prepared, showing examples of what the cost to taxpayers would be on:
 - a) a residential property;
 - b) a business property;as well as any other information pertinent to the service.
9. Once the information presentation materials are prepared, or the results of a feasibility study known, another public information meeting is held to discuss all available information. The tone of the meeting should enable the Director, in consultation with administrative staff, to decide whether it would be in the best

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interests of both the people within the local area and the Central Coast Regional District to recommend to the Board of Directors to proceed with establishment of the proposed service.

Date Adopted: October 13, 2011