



General Purposes Committee

Anderson Room, City Hall
6911 No. 3 Road

Monday, October 7, 2019
4:00 p.m.

Pg. # ITEM

MINUTES

GP-3 *Motion to adopt the **minutes** of the meeting of the General Purposes Committee held on September 16, 2019.*



ENGINEERING AND PUBLIC WORKS DIVISION

- CITY CENTRE DISTRICT ENERGY UTILITY BYLAW NO. 9895, AMENDMENT BYLAW NO. 10100**
(File Ref. No. 12-8060-20-009921) (REDMS No. 6285408)

GP-9

See Page GP-9 for full report

Designated Speaker: Peter Russell

STAFF RECOMMENDATION

That the City Centre District Energy Utility Bylaw No. 9895, Amendment Bylaw No. 10100 presented in the “City Centre District Energy Utility Bylaw No. 9895, Amendment Bylaw No. 10100” report dated September 6, 2019, from the Director, Sustainability and District Energy be introduced and given first, second, and third readings.



Pg. # ITEM

FINANCE AND CORPORATE SERVICES DIVISION

2. **INDEMNIFICATION BYLAW**
 (File Ref. No. 12-8060-20-8459) (REDMS No. 6092440)

GP-17

See Page GP-17 for full report

Designated Speaker: Claudia Jesson

STAFF RECOMMENDATION

That Indemnification Bylaw No. 9911 be introduced and given first, second and third readings.

ADJOURNMENT



General Purposes Committee

Date: Monday, September 16, 2019

Place: Anderson Room
Richmond City Hall

Present: Mayor Malcolm D. Brodie, Chair
Councillor Chak Au
Councillor Carol Day
Councillor Kelly Greene
Councillor Alexa Loo
Councillor Bill McNulty
Councillor Linda McPhail
Councillor Harold Steves
Councillor Michael Wolfe

Call to Order: The Chair called the meeting to order at 4:00 p.m.

MINUTES

It was moved and seconded

(1) That the minutes of the meeting of the General Purposes Committee held on September 3, 2019; and

(2) That the minutes of the special meeting of the General Purposes Committee meeting held on September 9, 2019;

be adopted as circulated

CARRIED

COUNCILLOR KELLY GREENE

1. **MICROPLASTICS FILTERS FOR WASHING MACHINES**

(File Ref. No.)

A product description of a microplastics filter was distributed (Copy on-file, City Clerk's Office).

1.

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It was moved and seconded

For staff to conduct research into microplastics filters for washing machines including consideration of:

- (1) The effectiveness of the filters, potential logistics, estimated resource impacts, and other issues that may arise; and*
- (2) If desirable, potential options to encourage the after-market installation of such filters including the granting of rebates to users, sales of filters by the City, educational programs and otherwise.*

The question on the motion was not called as discussion ensued with regard to the impact of microplastics and engaging Metro Vancouver and other levels of government on initiatives to reduce levels of microplastics in the water supply.

As a result of the discussion, it was suggested that staff seek more information from Metro Vancouver on options to reduce microplastics in the water system.

The question on the motion was then called and it was **CARRIED**.

COMMUNITY SERVICES DIVISION

2. **RICK HANSEN FOUNDATION ACCESSIBILITY CERTIFICATION PROGRAM**

(File Ref. No. 07-3190-01) (REDMS No. 6205828 v. 20)

Discussion ensued with regard to consulting with the Richmond Centre for Disability (RCD) on Richmond's proposed participation in the Certification Program.

In reply to queries from Committee, staff noted that the City works with the RCD on various initiatives and meets with the group on a regular basis.

As a result of the discussion, the following **referral motion** was introduced:

It was moved and seconded

That the staff report titled "Rick Hansen Foundation Accessibility Certification Program," dated August 15, 2019 from the Director, Community Social Development and Acting Senior Manager, Capital Buildings Project Development, be referred back to staff to allow for consultation with the Richmond Centre for Disability.

CARRIED

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3. **STEVESTON COMMUNITY CENTRE AND BRANCH LIBRARY
PROPOSED PROGRAM AND SITE AREA**

(File Ref. No. 06-2052-25-SCCR1) (REDMS No. 6209212 v. 65)

Staff reviewed the proposal, noting that (i) the City is working with the Steveston Community Centre Concept Design Building Committee and the Steveston Community Society on preliminary programming and siting, (ii) the estimated floor area of the proposed community centre and library is approximately 60,000 ft², and (iii) should the programming proceed, staff can commence with developing conceptual designs, community consultation and provide refined cost estimates.

Discussion ensued with regard to (i) the escalated estimated construction costs and current real estate market forces, (ii) including child care space in the programming, (iii) engaging TransLink on bus loop development in the Steveston area, (iv) options to refurbish the existing community centre, (v) options to locate the proposed community centre outside of the proposed area, (vi) options to minimize the proposed building's footprint and preserve park space, (vii) options to demolish the existing facility and develop a new community centre on the same site, and (viii) maintaining programming levels during the construction period.

In reply to queries from Committee, staff noted that (i) the current community centre does not meet current program standards, (ii) the proposed site is in proximity to existing community amenities such as the playground and the martial arts centre and would allow for accessibility to those sites, (iii) the estimated costs includes the demolition of existing facilities and construction of the new facility, and (iv) construction timelines are estimated to be approximately between two to two-and-a-half years.

As a result of the discussion the following **motion** was introduced:

It was moved and seconded

- (1) *That the program totaling 60,350 sq. ft, (Table 2, page 5) for the Steveston Community Centre and Branch Library be approved, as outlined in the staff report titled, "Steveston Community Centre and Branch Library Proposed Program and Site Area," dated August 22, 2019, from the Director, Recreation and Sport Services and the Acting Director, Facilities; and*
- (2) *That staff be directed to:*
 - (a) *provide specific project cost estimates;*
 - (b) *review options to mitigate project costs;*
 - (c) *provide information on potential building sites and formations;*
and

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(d) provide information on the transition of programming from the existing facility to the new facility.

and report back.

The question on the motion was not called as discussion took place on developing affordable seniors housing in the area and incorporating larger multipurpose rooms in the proposed programming.

As a result of the discussion, the following **amendment motion** was introduced:

It was moved and seconded

That Part (1) of the motion on the proposed Steveston Community Centre and Branch Library Proposed Program and Site Area be amended to include provisions to expand the proposed area of the multipurpose rooms by 750 ft².

The question on the amendment motion was not called as discussion ensued with regard to the cost estimates for expanded multipurpose rooms in the new facility and staff estimated that such an expansion would cost approximately \$750,000.

As a result of the discussion, it was suggested that the amendment motion be added to the main motion, and there was agreement from the mover, the seconder and all members present to add the amendment motion to the main motion as Part (2)(e).

Cllr. Steves moved a motion to include options for affordable senior housing as part of Part (2) of the motion on the proposed Steveston Community Centre and Branch Library and Mayor Brodie ruled that the proposed motion was out of order as the matter would be considered in a closed meeting.

Cllr. Steves called for a Point of Order and challenged the Chair's ruling.

In accordance with procedure, the Mayor put the following question to Committee – *“Is the Chair to be sustained?”*

The question as to whether the Chair is to be sustained was called and it was **CARRIED** with Cllrs. Day, Greene, Steves and Wolfe opposed.

The question on the main motion, as amended, which reads as follows:

(1) That the program totaling 60,350 sq. ft. (Table 2, page 5) for the Steveston Community Centre and Branch Library be approved, as outlined in the staff report titled, “Steveston Community Centre and Branch Library Proposed Program and Site Area,” dated August 22, 2019, from the Director, Recreation and Sport Services and the Acting Director, Facilities; and

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- (2) *That staff be directed to:*
- (a) *provide specific project cost estimates;*
 - (b) *review options to mitigate project costs;*
 - (c) *provide information on potential building sites and formations;*
 - (d) *provide information on the transition of programming from the existing facility to the new facility; and*
 - (e) *review options to expand the size of the proposed multipurpose rooms by 750ft²;*
- and report back.*

was then called and it was **CARRIED** with Cllrs. Day and Steves opposed.

FINANCE AND CORPORATE SERVICES DIVISION

4. **PROPOSED RICHMOND FOOD RECOVERY NETWORK PROGRAM**

(File Ref. No. 08-4150-01) (REDMS No. 6266216 v. 2)

In reply to queries from Committee, staff noted that (i) FoodMesh is a private for-profit company and that the City can include provisions to secure performance targets in the proposed partnering agreement, (ii) there is an indemnity clause and liability insurance included in the proposed partnering agreement, and (iii) the Food Security and Agricultural Advisory Committee was briefed on the proposed initiative.

It was moved and seconded

That the Chief Administrative Officer and General Manager of Finance and Corporate Services be authorized to enter into a partnering agreement with FoodMesh for the delivery of the proposed Richmond Food Recovery Network Program as outlined in the staff report from the Director, Corporate Business Service Solutions dated August 30, 2019 entitled “Proposed Richmond Food Recovery Network Program”.

The question on the motion was not called as discussion ensued with regard to including a cap on the amount of City staff time allocated for the program

As a result of the discussion, the following **amendment motion** was introduced:

It was moved and seconded

That the following be included in the motion on the proposed Richmond Food Recovery Network Program:

That staff be directed to include a cap of City staff time in the proposed partnering agreement with FoodMesh.

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The question on the amendment motion was not called as direction was given to staff to provide more information on staff's participation in the program with respect to (i) the specific staff involved, (ii) staff's specific roles, and (iii) the amount of staff time required.

As a result of the staff direction, there was agreement from the mover, the seconder and all members present to withdraw the amendment motion, and the amendment motion was **WITHDRAWN**.

The question on the main motion was then called and it was **CARRIED**.

ADJOURNMENT

It was moved and seconded

That the meeting adjourn (5:18 p.m.).

CARRIED

Certified a true and correct copy of the Minutes of the meeting of the General Purposes Committee of the Council of the City of Richmond held on Monday, September 16, 2019.

Mayor Malcolm D. Brodie
Chair

Evangel Biason
Legislative Services Coordinator



City of Richmond

Report to Committee

To: General Purposes Committee

Date: September 6, 2019

From: Peter Russell, MCIP RPP
Director, Sustainability and District Energy

File: 12-8060-20-009921/Vol 01

Re: City Centre District Energy Utility Bylaw No. 9895, Amendment Bylaw No. 10100

Staff Recommendation

That the City Centre District Energy Utility Bylaw No. 9895, Amendment Bylaw No. 10100 presented in the “City Centre District Energy Utility Bylaw No. 9895, Amendment Bylaw No. 10100” report dated September 6, 2019, from the Director, Sustainability and District Energy be introduced and given first, second, and third readings.

Peter Russell, MCIP RPP
Director, Sustainability and District Energy
(604-276-4130)

REPORT CONCURRENCE		
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER
Development Applications Law	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	
REVIEWED BY SMT	INITIALS: 	APPROVED BY CAO

Staff Report

Origin

The purpose of this report is to recommend expansion of the City Centre District Energy Utility (CCDEU) service area to include a commercial and office mixed use development located at 4700 No. 3 Rd, associated with rezoning application RZ 14-672055.

This report supports Council's Strategic Plan 2018-2022 Strategy #2 A Sustainable and Environmentally Conscious City:

2.1 Continued leadership in addressing climate change and promoting circular economic principles.

2.2 Policies and practices support Richmond's sustainability goals.

Background

In October 2015, Council endorsed issuing a Request for Expression of Interest (RFEOI) to identify a utility partner to conduct a feasibility analysis to design, build, finance and operate a district energy utility (DEU) in the City Centre North area of Richmond, on the basis that:

1. DEU will provide end users with energy costs that are competitive with conventional energy costs based on the same level of service; and
2. Council will retain the authority of setting customer rates and charges for DEU services.

LIEC staff issued a Request for Proposals (RFP) in September 2016 with an expanded scope for City Centre to the three proponents shortlisted under the RFEOI. LIEC executed a Memorandum of Understanding (MOU) with the lead proponent, Corix Utilities Inc. (Corix) in February 2018, as directed by LIEC Board and as endorsed by Council.

As the City Centre DEU due diligence process has advanced, staff saw the opportunity to secure a customer base for the immediate implementation of GHG emissions reduction through the rezoning and/or OCP amendment application process. To date, eight development applicants have committed to construct and transfer low carbon energy plants to the City or LIEC at no cost to the City or LIEC through either of these processes, so that LIEC can provide immediate service to these customers. Council adopted the CCDEU Bylaw No. 9895 in September 2018 to secure the commitment from developments. See Attachment 1 for a brief summary of the currently committed spaces under the CCDEU Bylaw along with an overview of the other DEU service areas.

Analysis

The development rezoning application for 4700 No. 3 Rd (RZ 14-672055) was granted Second and Third Reading at the Public Hearing held on January 22, 2018. Staff are currently reviewing the Development Permit application (DP 16-754766) associated with the rezoning application.

The ten storey commercial and office mixed use development is estimated to include a total floor area of approximately 78,416 ft² consisting of approximately 14,937 ft² commercial space and 63,479 ft² of office space.

Expanding the City Centre District Energy Utility service area to include a development of this type results in the following direct benefits:

- Immediate reduction of greenhouse gas (GHG) emissions compared to business as usual;
- Expansion of LIEC's customer base under a positive stand-alone business case while the City Centre strategy develops;
- Providing financial and environmental stability to customers, and;
- Increasing community's energy resiliency.

The rezoning considerations for this development include a requirement for a legal agreement that, if the City elects, would require the developer to transfer ownership of the development's centralized low carbon energy plant to the City or LIEC at no cost to the City or LIEC.

LIEC staff conducted a business case analysis for owning and operating this development's energy plant which yielded positive results. Staff used the same rate structure applied for the other developments under the CCDEU Bylaw service area, which is competitive with the conventional energy costs providing the same level of service. The rate structure and actual rate to customers will be refined once the costs have been confirmed through the design and engineering phase for the first developments within the CCDEU Bylaw service area.

The LIEC Board of Directors recommends expanding the City Centre District Energy Utility service area to include the commercial office development located at 4700 No. 3 Rd.

Financial Impact

None.

The centralized energy system will be designed and constructed by developers at their cost. Costs incurred by LIEC for engineering support and operations and maintenance will be funded from LIEC capital and operating budgets. All LIEC costs will be recovered from customers' fees.

Conclusion

Expanding services in the City Centre area will allow for immediate expansion of LIEC's customer base and in turn immediate connectivity opportunity to future low-carbon district energy systems in Richmond's City Centre area. The project will increase the community's energy resiliency by taking advantage of the district energy system's ability to utilize different fuel sources and future fuel switching capability of the technology.



Peter Russell, MCIP RPP
Director, Sustainability and District Energy
(604-276-4130)

PR:cd

Att. 1: District Energy in Richmond

Att. 2: Map of Current and Future District Energy Utility Areas in Richmond

Attachment 1 – District Energy in Richmond

Richmond’s 2041 Official Community Plan (OCP) establishes a target to reduce greenhouse gas (GHG) emissions 33 per cent below 2007 levels by 2020 and 80 per cent by 2050. The OCP also aims to reduce energy use 10 per cent below 2007 levels by 2020. The City identified district energy utilities (DEUs) as a leading strategy to achieve City’s GHG reduction goals.

The City incorporated Lulu Island Energy Company Ltd. (LIEC) in 2013 for the purposes of carrying out the City’s district energy initiatives. LIEC owns and operates the Alexandra District Energy (ADEU) and Oval Village District Energy (OVDEU) Utilities and advances new district energy opportunities. Table 1 below provides a summary of the developments connected under the DEU service areas to-date; Attachment 2 shows current and planned future DEU areas.

Table 1 – District Energy Utility Service Areas

	Buildings To-Date	Residential Units To-Date	Floor Area	
			To-Date	Build-out
Alexandra District Energy Utility	10	1,736	1.9M ft ²	4.4M ft ²
Oval Village District Energy Utility	9	1,990	2.2M ft ²	6.4M ft ²
City Centre District Energy Utility	8 ⁽¹⁾	3,239 ⁽¹⁾	4.5Mft ² ⁽¹⁾	48M ft ²
DEU-Ready Developments ⁽²⁾	17	4,524	5.3M ft ²	N/A
Total Connected Floor Area			4.1M ft² ⁽³⁾	58.8M ft²

(1) Commitments secured from upcoming developments in the City Centre; first connection expected in 2021.

(2) DEU-Ready developments are designed to connect to the City Centre district energy system at a future point.

(3) The “To-Date Connected Floor Area” figure corresponds to constructed developments currently served by a DEU.

Alexandra District Energy Utility (ADEU)

ADEU provides heating and cooling services to seven residential buildings in the ADEU service area, the large commercial development at “Central at Garden City”, the Richmond Jamatkhana temple and Fire Hall No. 3, comprising over 1,735 residential units and over 1.9 million square feet of floor area. While some electricity is consumed for pumping and equipment operations, almost 100% of this energy is currently produced locally from the geo-exchange fields in the greenway corridor and West Cambie Park, and highly efficient air source heat pumps.

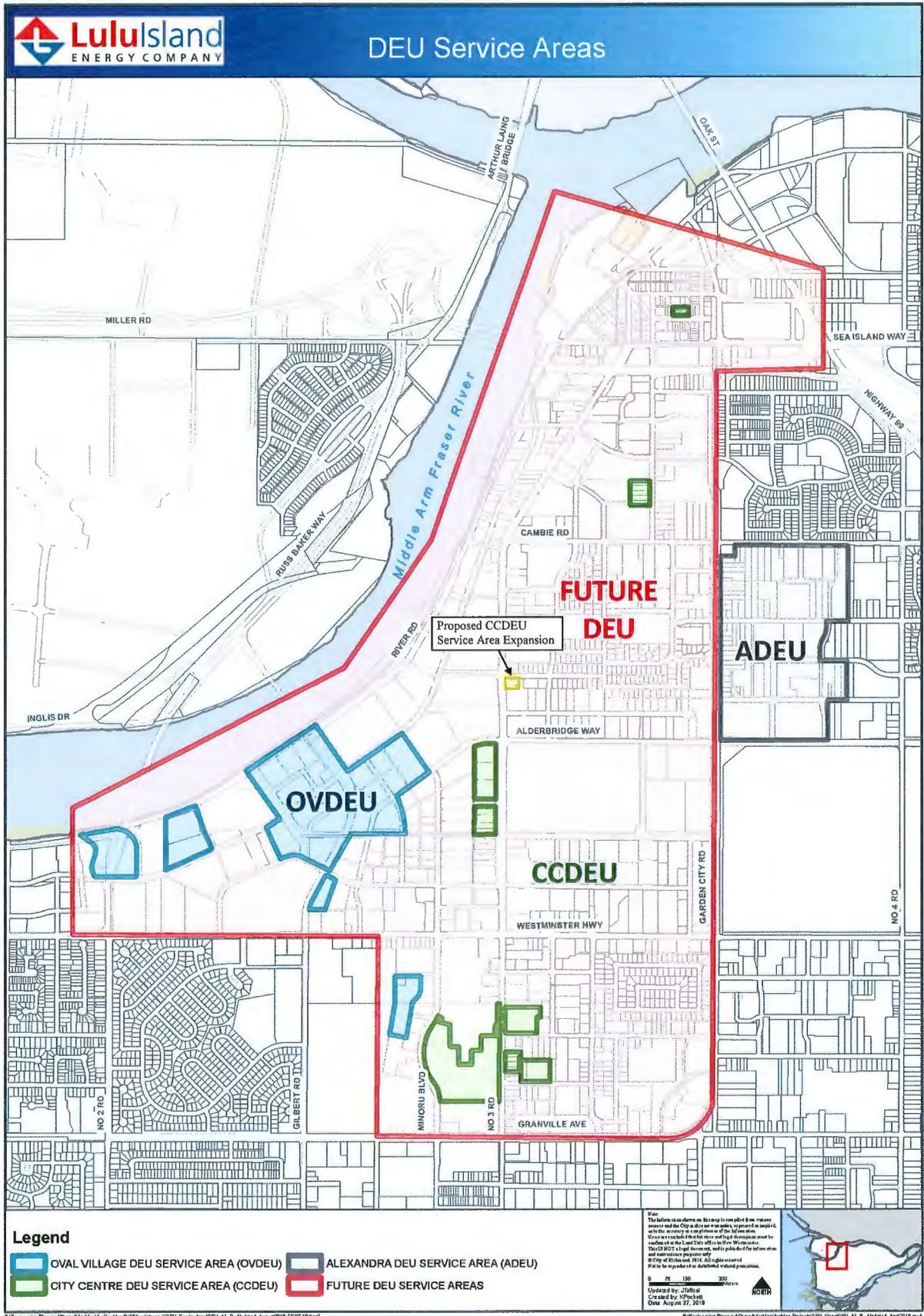
Oval Village District Energy Utility (OVDEU)

OVDEU services eight buildings in the OVDEU service area, containing over 1,700 residential units. Energy is currently supplied from the two interim energy centres with natural gas boilers which combined provide 11 MW of heating capacity. When enough buildings are connected to the system, a permanent energy centre will be built which will produce low-carbon energy. OVDEU is planned to harness energy from the Gilbert Trunk sanitary force main sewer through the implementation of the permanent energy centre in 2025.

City Centre District Energy Utility (CCDEU)

Eight developments, comprising approximately 4.5 million square feet of residential, commercial, and hotel uses, have committed to construct and transfer low carbon energy plants to the City or LIEC at no cost to the City or LIEC. LIEC will operate and maintain these energy plants and provide heating and cooling services to these developments.

Attachment 2 – Map of Current and Future District Energy Utility Areas in Richmond





City Centre District Energy Utility Bylaw No. 9895
Amendment Bylaw No. 10100

The Council of the City of Richmond enacts as follows:

- 1. The City Centre District Energy Utility Bylaw No. 9895 is further amended:
(a) by deleting Schedule A (Boundaries of Service Area) in its entirety and replacing it with a new Schedule A attached as Schedule A to this Amendment Bylaw; and
(b) by deleting Schedule E (Energy Generation Plant Designated Properties) in its entirety and replacing it with a new Schedule E attached as Schedule B to this Amendment Bylaw.
2. This Bylaw is cited as "City Centre District Energy Utility Bylaw No. 9895, Amendment Bylaw No. 10100".

FIRST READING

SECOND READING

THIRD READING

ADOPTED

Four horizontal lines for signatures or initials.

CITY OF RICHMOND
APPROVED for content by originating dept
APPROVED for legality by Solicitor
BRS

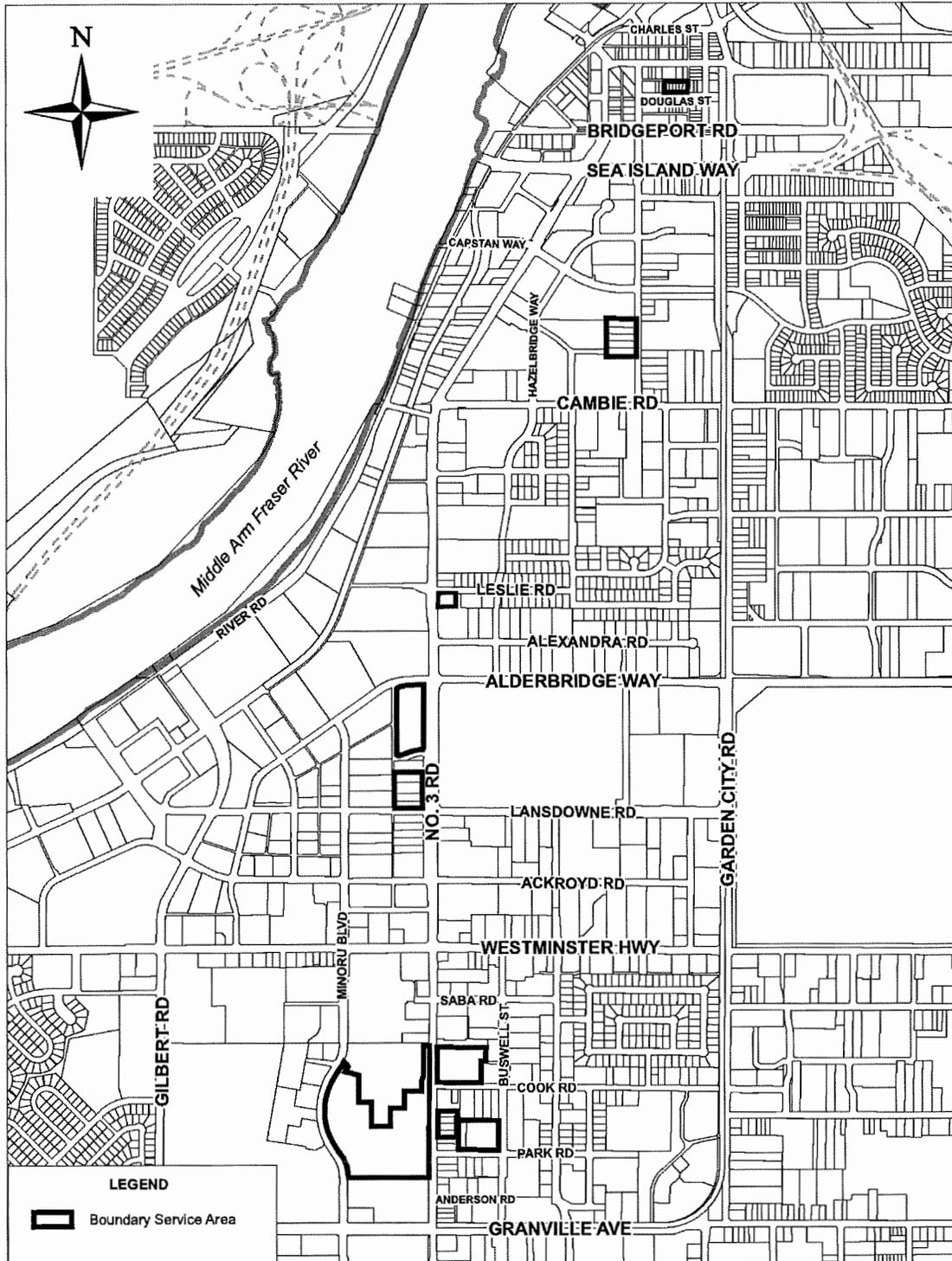
MAYOR

CORPORATE OFFICER

Schedule A to Amendment Bylaw No. 10100

SCHEDULE A to BYLAW NO. 9895

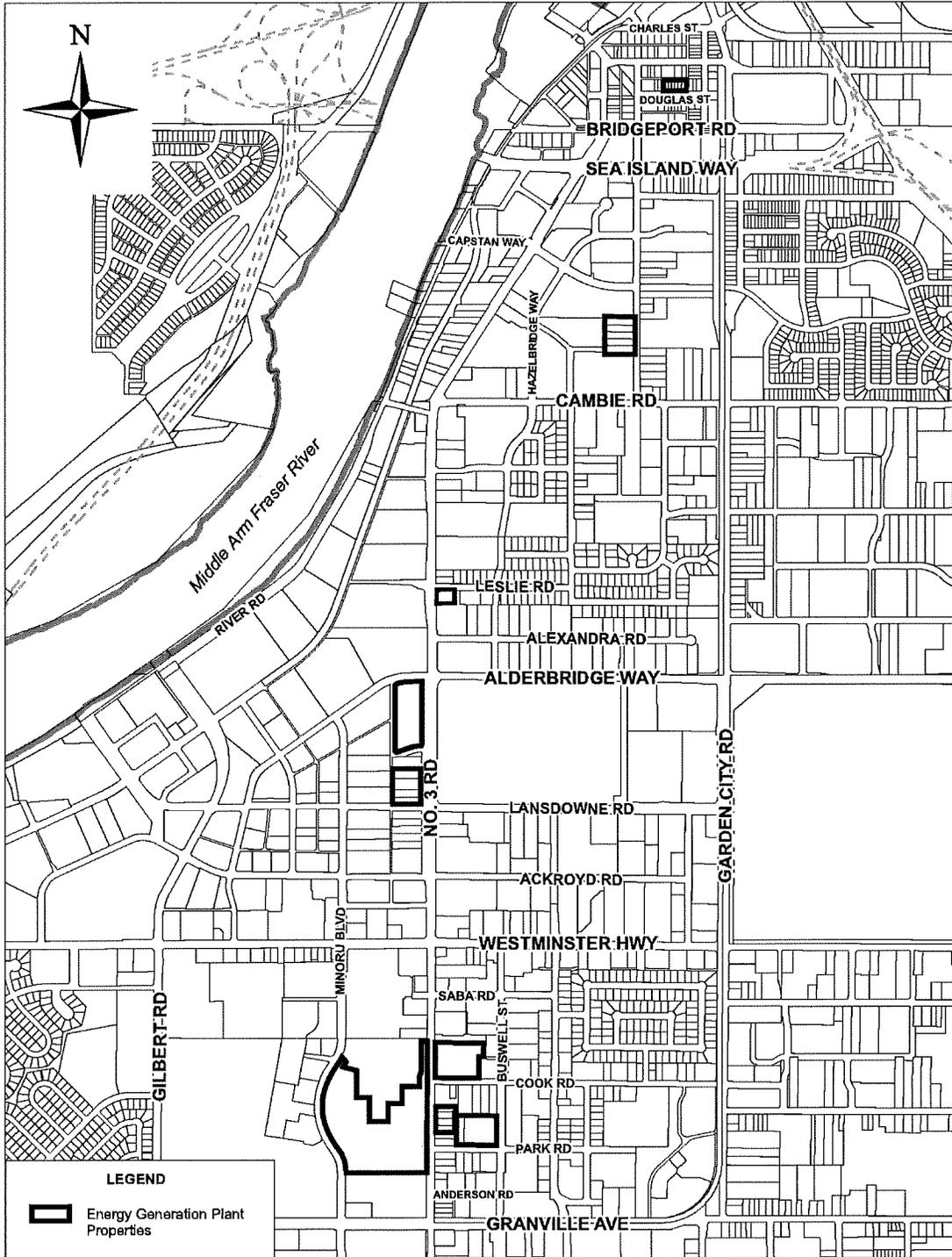
Boundaries of Service Area



Schedule B to Amendment Bylaw No. 10100

SCHEDULE E to BYLAW NO. 9895

Energy Generation Plant Designated Properties





City of Richmond

Report to Committee

To: General Purposes Committee

Date: August 27, 2019

From: Claudia Jesson
Director, City Clerk's Office

File: 12-8060-20-8459/Vol
01

Re: Indemnification Bylaw

Staff Recommendation

That Indemnification Bylaw No. 9911 be introduced and given first, second and third readings.

Claudia Jesson
Director, City Clerk's Office
(604-276-4006)

Att. 4

REPORT CONCURRENCE		
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER
Law Risk Management	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	
REVIEWED BY STAFF REPORT / AGENDA REVIEW SUBCOMMITTEE	INITIALS: 	APPROVED BY CAO

Staff Report

Origin

In 1987, Council passed Bylaw No. 4896, which was a bylaw to indemnify officers, employees and members of council of the Corporation of the Township of Richmond from damage claims that arise out of the performance of their duties (see **Attachment 1**). The current bylaw was adopted pursuant to section 262(3) of the *Municipal Act* (1979) (the “former legislation”), which has since been replaced by section 740 of the *Local Government Act* (see **Attachment 2**). The current legislation expands the scope of indemnification permitted by bylaw, particularly as it permits indemnification of former members of City council, City employees, and City officers (i.e. retired municipal officials), whereas the former legislation only permitted indemnification of current municipal officials.

The indemnification provisions in the current bylaw are outdated, and are narrower than those in place in most municipalities in the Lower Mainland. The proposed Indemnification Bylaw No. 9911 (see **Attachment 3**) reflects the changes in the current legislation and makes the City’s indemnification bylaw consistent with those of other municipalities in the Lower Mainland.

This report supports Council’s Strategic Plan 2018-2022 Strategy #5 Sound Financial Management:

Accountable, transparent, and responsible financial management that supports the needs of the community into the future.

Analysis

In the course of carrying-out their functions and duties, municipal officials are potentially subject to a legal action or prosecution. Provided that the action or prosecution is brought against a municipal official in the exercise or intended exercise or performance of their municipal duties and functions, provincial legislation permits a local government to indemnify municipal officials by bylaw. In very general terms, an indemnification bylaw provides that legal fees, as well as costs, fines and awards of damages incurred or made against a municipal official will be paid by the local government.

Indemnifying members of Council and staff from actions brought against them in the exercise of their municipal duties and functions is best practice, as it helps the City attract and retain municipal officials and provides municipal officials with the assurance that they will not suffer negative personal financial consequences from the well-intentioned exercise of their duties.

The scope of indemnification permitted by bylaw under the former legislation is narrower than that permitted under the current legislation. The former legislation:

- permitted indemnification of only current (and not former) members of council, City employees, and City officers;
- did not permit indemnification to members of other organisations (for example, libraries) that provide municipal services or for other persons who may provide municipal services (for example, volunteers);

- permitted indemnification by bylaw only in respect to claims for damages (i.e. civil proceedings seeking compensation) and legal costs in a court proceeding arising out of such claims. Indemnification for legal and other costs and awards in respect to criminal or regulatory prosecutions or proceedings under the *Public Inquiry Act* required a specific resolution of not less than 2/3 of council members; and
- did not permit indemnification for a fine incurred by an employee, officer or member of council in respect to any criminal offence.

The current legislation expands the scope of indemnification permitted by bylaw and, as a result, the proposed bylaw permits indemnification for:

- both current and former members of Council, City employees and City officers;
- a much broader range of “municipal officials” who provide municipal or quasi-municipal services (such as members of the library board, and City volunteers);
- any amount incurred to defend a criminal prosecution brought against a person in connection with the exercise of their duties, as well as any amount incurred to satisfy a judgement, award or penalty imposed in a prosecution, subject to exceptions described in **Attachment 4**; and
- legal and other costs and awards for regulatory prosecutions (such as a regulatory offence under the *Workers Compensation Act*) or proceedings under the *Public Inquiry Act*.

Consistent with the former legislation and the current bylaw, the current legislation and the proposed bylaw also stipulate that the City may not seek indemnity against a municipal official unless a court makes a finding that the municipal official has been guilty of dishonesty, gross negligence or malicious or wilful misconduct.

Financial Impact

The City’s current liability insurance (through the Municipal Insurance Association of British Columbia (MIABC)) covers both current and former municipal officials, and covers the broad range of municipal officials (including volunteers) included under the proposed bylaw. Therefore, in the very limited and unlikely cases where the City is not also added as a defendant, the financial impact of increasing the scope of people covered by the City’s indemnity bylaw would be borne within the City’s self-insurance deductible, currently at \$250,000 per claim or occurrence.

Similarly, in the very limited and unlikely cases where the City is not also added as a defendant, to the extent the proposed bylaw expands the scope of indemnification to cover the following items (which are not covered under the City’s insurance coverage), the indemnification costs will be borne by the City:

- a) damage caused by an intentional or criminal act;
- b) fines or penalties;
- c) liabilities under the *Workers Compensation Act*; and
- d) such other exclusions as may be approved annually by MIABC’s board.

Conclusion

The purposes of the proposed bylaw are to update the current bylaw to reflect the increased scope of authority to indemnify that is provided in the current legislation and to make the scope of the City's indemnification bylaw consistent with that of other local governments in the Lower Mainland. The current bylaw is out of date and does not provide the protection that elected officials and staff are entitled to receive, under the current legislation, in order to carry out their duties and responsibilities without apprehension.

The proposed bylaw will only bring the City of Richmond to be consistent with the standards for indemnifying by other local governments. Indemnifying members of Council and staff from actions brought against them in the exercise of their municipal duties and functions is best practice, as it helps the City attract and retain municipal officials and provides municipal officials with the assurance that they will not suffer negative personal financial consequences from the well-intentioned exercise of their duties.



Claudia Jesson
Director, City Clerk's Office
(604-276-4006)

- Att. 1: Current Bylaw
- Att. 2: Excerpts from the Local Government Act
- Att. 3: Indemnification Bylaw No. 9911
- Att. 4: Exceptions on Indemnification for Fines

ATTACHMENT 1
CURRENT BYLAW

THE CORPORATION OF THE TOWNSHIP OF RICHMOND

BYLAW NO. 4896

**A BYLAW TO INDEMNIFY OFFICERS, EMPLOYEES AND
MEMBERS OF COUNCIL OF THE CORPORATION OF THE
TOWNSHIP OF RICHMOND FROM DAMAGE CLAIMS**

WHEREAS section 262(2) of the Municipal Act R.S.B.C. 1979, Chapter 290 provides that the Council may by bylaw indemnify its officers, employees and members of Council against any claim for damages against an officer, employee or member of Council arising out of the performance of his duties and, in addition, pay legal costs incurred in a court proceeding arising out of the claim;

AND WHEREAS pursuant to section 262(3) of the Municipal Act, R.S.B.C. Chapter 290, the Council may provide that:

The Council shall not seek indemnity against an officer, employee or member of Council in respect of any action of the officer, employee or member that results in a claim for damages against the municipality, but the council may seek indemnity against an officer, employee or member where the claim arises out of the gross negligence of the officer, employee or member, or where, in relation to the action that gave rise to the claim against an officer or employee, the officer or employee wilfully acted contrary to

- (a) terms of his employment, or
- (b) an order of a superior.

NOW THEREFORE the Council of The Corporation of the Township of Richmond, in open meeting assembled, enacts as follows:

1. The Corporation of the Township of Richmond will indemnify its officers, employees and members of Council against any claim for damages against an officer, employee or member of Council arising out of the performance of his duties and, in addition, pay legal costs incurred in a court proceeding arising out of the claim.
2. The Corporation of the Township of Richmond shall not seek indemnity against an officer, employee or member of Council in respect of any action of the officer, employee or member that results in a claim for damages against the municipality, but the council may seek indemnity against an officer, employee or member where the claim arises out of the gross negligence of the officer, employee or member, or where, in relation to the action that gave rise to the claim against an officer or employee, the officer or employee wilfully acted contrary to

- (a) terms of his employment, or
- (b) an order of a superior.

Bylaw No. 4896

- 2 -

3. Bylaw No. 3153 is hereby repealed.
4. This Bylaw is effective and in force and binding on all persons as from the day following the date of its adoption.

ATTACHMENT 2
EXERPTS FROM THE LOCAL GOVERNMENT ACT

Immunity for individual local public officers

738 (1) In this section, "**local public officer**" means any of the following:

- (a) a member of a council;
- (b) a director of a regional board;
- (c) a trustee of an improvement district;
- (d) a commissioner for a local community commission under Division 9 [*Local Community Commissions*] of Part 6 [*Regional Districts: Governance and Procedures*];
- (e) a member of a commission established under section 263 (1) (g) [*regional district commissions*] of this Act or section 143 [*municipal commissions*] of the *Community Charter*;
- (f) a member of a library board under the *Library Act*;
- (g) a member of any greater board or of any board that provides similar services and is incorporated by letters patent;
- (h) a member of an advisory planning commission under section 461;
- (i) a member of a board of variance under Division 15 [*Board of Variance*] of Part 14 [*Planning and Land Use Management*];
- (j) a member of the Okanagan-Kootenay Sterile Insect Release Board or an officer or employee of that board;
- (k) a member of the Okanagan Basin Water Board;
- (l) a trustee of a body of the Islands Trust under the *Islands Trust Act*;
- (m) an officer or employee of a municipality, regional district, improvement district, library board under the *Library Act*, a greater board referred to in paragraph (g), the trust council under the *Islands Trust Act* or the Okanagan Basin Water Board;
- (n) an election official or a regional voting officer under section 179 [*assent voting conducted by more than one local government*];
- (o) a volunteer firefighter or a special constable;

(p) a volunteer who participates in the delivery of services by a municipality, regional district or a body referred to in paragraphs (c) to (l) under the supervision of an officer or employee of the municipality, regional district or any of those bodies;

(q) a member of a board of trustees established or appointed by a municipality under section 37 [*local government operations*] of the *Cremation, Interment and Funeral Services Act*;

(r) a member of a municipal committee, of a regional district board committee or of an improvement district committee under section 689 [*appointment of select and standing committees*] who is not also a member of the municipal council, regional district board or improvement district board, as applicable.

(2) No action for damages lies or may be instituted against a local public officer or former local public officer

(a) for anything said or done or omitted to be said or done by that person in the performance or intended performance of the person's duty or the exercise of the person's power, or

(b) for any alleged neglect or default in the performance or intended performance of that person's duty or the exercise of that person's power.

(3) Subsection (2) does not provide a defence if

(a) the local public officer has, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct, or

(b) the cause of action is libel or slander.

(4) Subsection (2) does not absolve any of the corporations or bodies referred to in subsection (1) (a) to (l) from vicarious liability arising out of a tort committed by any of the individuals referred to in subsection (1) for which the corporation or body would have been liable had this section not been in force.

Warning as defence for local government financial officer

739 It is a good defence to any action brought against a municipal or regional district financial officer for unlawful expenditure of local government funds if it is proved that the individual gave a written and signed warning to the council or board that, in his or her opinion, the expenditure would be unlawful.

Indemnification against proceedings for local government officials

740 (1) In this section:

"indemnification" means the payment of amounts required or incurred

(a) to defend an action or prosecution brought against a person in connection with the exercise or intended exercise of the person's powers or the performance or intended performance of the person's duties or functions,

(b) to satisfy a judgment, award or penalty imposed in an action or prosecution referred to in paragraph (a), or

(c) in relation to an inquiry under the *Public Inquiry Act*, or to another proceeding, that involves the administration of the municipality or regional district or the conduct of municipal or regional district business;

"municipal official" means

(a) a current or former council member,

(b) a current or former municipal officer or employee, or

(c) a person who is or was a person referred to in section 738 (1) [*immunity for individual municipal local public officers*], but only in relation to the exercise of powers or the performance of duties or functions for or on behalf of a municipality;

"regional district official" means

(a) a current or former member of a regional district board,

(b) a current or former officer or employee of a regional district, or

(c) a person who is or was a person referred to in section 738 (1), but only in relation to the exercise of powers or the performance of duties or functions for or on behalf of the regional district.

(2) Indemnification for municipal officials and regional district officials may be provided as follows:

(a) a council may do the following:

(i) by bylaw, provide for the indemnification of municipal officials in accordance with the bylaw;

(ii) by resolution in a specific case, indemnify a municipal official;

(b) a board may do the following:

(i) by bylaw, provide for the indemnification of regional district officials in accordance with the bylaw;

(ii) by resolution in a specific case, indemnify a regional district official.

(3) As a limit on indemnification under subsection (2), a council or board must not pay a fine that is imposed as a result of a municipal official or regional district official, as applicable, being convicted of an offence that is not a strict or absolute liability offence.

(4) Sections 100 [*disclosure of conflict*] and 101 [*restrictions on participation if in conflict*] of the *Community Charter* do not apply to a council member or board member who could be, or would be, indemnified under a bylaw or resolution under subsection (2) of this section.

(5) Subject to subsection (6), a council may not seek indemnity against a municipal official, and a board may not seek indemnity against a regional district official, in respect of any conduct of the person that results in a claim for damages against the municipality or regional district, as applicable.

(6) The restriction under subsection (5) does not apply if the court makes a finding in the action that the person has been guilty of dishonesty, gross negligence or malicious or wilful misconduct.

Indemnification against proceedings for other local public officers

741 (1) Subject to subsection (2), section 740 applies to the following in relation to any person referred to in section 738 (1) [*immunity for individual local public officers*]:

(a) a greater board;

(b) the Okanagan-Kootenay Sterile Insect Release Board;

(c) the trust council under the *Islands Trust Act*;

(d) a library board under the *Library Act*.

(2) Subsection (1) applies only in relation to the exercise of powers or the performance of duties or functions for or on behalf of the applicable corporation.

ATTACHMENT 3



City of Richmond

Bylaw 9911

Indemnification Bylaw No. 9911

The Council of the City of Richmond enacts as follows:

PART ONE: DEFINITIONS

1.1 In this bylaw:

City	means the City of Richmond;
Community Charter	means the <i>Community Charter</i> [SBC 2003] c. 26, as amended;
Council	means council of the City;
Local Government Act	means the <i>Local Government Act</i> [RSBC 2015] c. 1, as amended;
Municipal Official	means: <ul style="list-style-type: none">(a) a current or former member of Council;(b) a current or former officer of the City;(c) a current or former employee of the City;(d) a member of a City commission established under section 143 of the <i>Community Charter</i>;(e) a member of the City's library board;(f) a member of a City advisory planning commission under section 461 of the <i>Local Government Act</i>;(g) a member of a City board of variance under Division 15 of Part 14 of the <i>Local Government Act</i>;(h) an officer or employee of the City's library board;

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- (i) a volunteer firefighter or a special constable;
- (j) a volunteer who participates in the delivery of services by the City or a body referred to in paragraphs (d) to (g) above under the supervision of an officer or employee of the City or such body; or
- (k) a member of a City standing or select committee who is not also a member of Council; and

Public Inquiry Act means the *Public Inquiry Act* [SBC 2007] c. 9.

PART TWO: INDEMNIFICATION

- 2.1 Subject to section 2.2, the City will indemnify a **Municipal Official** from and against amounts required or incurred by the **Municipal Official**:
- (a) to defend an action or prosecution brought against the **Municipal Official** in connection with the exercise or intended exercise of the **Municipal Official's** powers or the performance or intended performance of the **Municipal Official's** duties or functions;
 - (b) to satisfy a judgment, award or penalty imposed in an action or prosecution referred to in section (a); or
 - (c) in relation to an inquiry under the **Public Inquiry Act**, or to another proceeding, that involves the administration of the City or the conduct of the City's business.
- 2.2 The City will not indemnify a **Municipal Official** pursuant to this Bylaw in respect to a fine imposed as a result of a **Municipal Official** being convicted an offence that is not a strict or absolute liability offence.
- 2.3 The City will not seek indemnity against a **Municipal Official** in respect of any conduct of the **Municipal Official** that results in a claim for damages against the City, unless a court makes a finding that the **Municipal Official** has been guilty of dishonesty, gross negligence or malicious or wilful misconduct.

PART THREE: SEVERABILITY AND REFERENCE TO OTHER ACTS

- 3.1 If any section, sub-section, clause or sub-clause of this bylaw is, for any reason, held to be invalid by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this bylaw.
- 3.2 Any reference to another enactment in this bylaw is a reference to the other enactment as amended or replaced, whether amended or replaced before or after the adoption of this bylaw.

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Bylaw 9911

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PART FOUR: REPEAL AND CITATION

4.1 Bylaw No. 4896 is hereby repealed.

4.2 This bylaw may be cited as "Indemnification Bylaw No. 9911".

FIRST READING

SECOND READING

THIRD READING

ADOPTED

CITY OF RICHMOND
APPROVED for content by originating dept.
APPROVED for legality by Solicitor

MAYOR

CORPORATE OFFICER

5928448

ATTACHMENT 4
EXCEPTIONS ON INDEMNIFIATION FOR FINES

In accordance with the Current Legislation, the Proposed Bylaw limits indemnification for fines imposed as result of prosecution to those relating to convictions for strict or absolute liability offences (being offences that do not require the accused to have had a deliberate intention or “guilty mind” in order to be convicted, and are not subject to the defence of due diligence or mistake of fact). Given this limitation, and the fact that the offence must be in respect of the performance of a municipal official’s duties and functions, the practical scope of the indemnification for fines in the criminal context is quite narrow and likely limited to *Criminal Code* offenses pertaining to the dangerous operation of a motor vehicle.



Indemnification Bylaw No. 9911

The Council of the City of Richmond enacts as follows:

PART ONE: DEFINITIONS

1.1 In this bylaw:

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- (i) a volunteer firefighter or a special constable;
- (j) a volunteer who participates in the delivery of services by the **City** or a body referred to in paragraphs (d) to (g) above under the supervision of an officer or employee of the **City** or such body; or
- (k) a member of a **City** standing or select committee who is not also a member of **Council**; and

Public Inquiry Act

means the *Public Inquiry Act* [SBC 2007] c. 9.

PART TWO: INDEMNIFICATION

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- (a) to defend an action or prosecution brought against the **Municipal Official** in connection with the exercise or intended exercise of the **Municipal Official's** powers or the performance or intended performance of the **Municipal Official's** duties or functions;
 - (b) to satisfy a judgment, award or penalty imposed in an action or prosecution referred to in section (a); or
 - (c) in relation to an inquiry under the **Public Inquiry Act**, or to another proceeding, that involves the administration of the **City** or the conduct of the **City's** business.
- 2.2 The **City** will not indemnify a **Municipal Official** pursuant to this Bylaw in respect to a fine imposed as a result of a **Municipal Official** being convicted an offence that is not a strict or absolute liability offence.
- 2.3 The **City** will not seek indemnity against a **Municipal Official** in respect of any conduct of the **Municipal Official** that results in a claim for damages against the **City**, unless a court makes a finding that the **Municipal Official** has been guilty of dishonesty, gross negligence or malicious or wilful misconduct.

PART THREE: SEVERABILITY AND REFERENCE TO OTHER ACTS

- 3.1 If any section, sub-section, clause or sub-clause of this bylaw is, for any reason, held to be invalid by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this bylaw.
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4.2 This bylaw may be cited as “**Indemnification Bylaw No. 9911**”.

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THIRD READING

ADOPTED

CITY OF RICHMOND
APPROVED for content by originating dept.
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MAYOR

CORPORATE OFFICER