



MEMO

June 18, 2019

TO: Charles Hamilton, Chief Administrative Officer
FROM: Gerald Christie, Manager Development Services
SUBJECT: June 25, 2019 Electoral Area Directors' Committee Meeting Agenda
Topic: Electoral Area B Building Inspection Removal

BACKGROUND:

On May 26, 2019, Electoral Area B Director David Brooks-Hill provided an Electoral Area Directors' (EAD) Committee meeting agenda topic to the Assistant Deputy Corporate Officer for the upcoming June 25, 2019 meeting. The agenda topic proposes, (1) the removal of building inspection services from rural Electoral Area B outside of the City of Revelstoke Fire Protection Area, OR (2) if the Board does not agree to vote in favour of option 1, then the Director desires to withdraw Electoral Area B from the CSRD building inspection service entirely.

Given the significance of this proposed EAD topic, the long history of CSRD Board discussions of this issue, and to ensure that accurate information is before the Board, I thought it necessary to provide you with the following information and comments prior to the EAD meeting.

In preparing this memo I have sought clarification from staff at the Ministry of Municipal Affairs and Housing and reviewed legal interpretations of the Community Charter and Local Government Act with regard to removal of a building inspection service.

DISCUSSION:

Several aspects of Director Brooks-Hill's EAD agenda submission require a response. These are set out below.

Appropriateness of Building Inspection Removal as an EAD Topic

Director Brooks-Hill has submitted as an EAD agenda item, "Removing building inspection/building permit requirements for Area B outside of fire protection area." Further, the Director notes that "if the Board does not agree to vote in favour of this..." he will seek to withdraw building inspection from the bylaw service area entirely.

The Director has noted two options, to modify or to remove the building inspection service in Electoral Area B. This is not being put forward as a 'discussion' item for the EAD but instead is a request for decision that only the Board, and not the EAD Committee, can make.

Essentially, a motion is being put forward to amend the building inspection service boundary; if that is defeated, then a second motion would be put forward by the Director to remove the service completely from Electoral Area B.

There have been numerous discussions by the Board on the reasons for enacting a building inspection service in CSRD Electoral Areas and the positive implications to the Corporation of doing so, i.e. health safety of residents, reduction in legal costs, improved bylaw enforcement, adherence to land use bylaws, etc. Further, given the previous Board discussions, corporate impact of the bylaw, and that an "either-or" ultimatum has been put forward by the Director, this topic should be redirected to the Board for discussion. I therefore recommend that this memo be provided to the Electoral Area Directors for the EAD meeting of June 25, 2019, and also be provided on the July 18, 2019 Board agenda for information.

Electoral Area Building Inspection Service – travel; permit times

Travel times for building staff has been noted as one reason to remove the building inspection service outside of the fire service area of the City of Revelstoke. The Director specifically commented on the travel time needed to drive to Trout Lake as well as the inability for residents to obtain a building permit within one year.

Building staff routinely book inspections along the way to Trout Lake, or on the return trip, in the Begbie Bench and Shelter Bay areas as well as across the ferry in developments at Galena Bay and in Trout Lake. Although it can make for a long day for staff to attend these sites, it has not proven onerous or unsustainable. Of note, the greatest increase in new construction and permits have come from these areas south of Revelstoke.

In light of the Director's comments with regard to the length of time to obtain a building permit, I reviewed the 28 building permit files with Building Inspection staff that have been applied for in Electoral Area B since March 2018 (start of the service); there are no outstanding permits in the electoral area which support the Director's comment that "it is nearly impossible to get a permit within one year."

When complete and paid for building permit applications have been received by the CSRD, building staff have been consistent in having the applications processed and reviewed by staff for bylaw and BC Building Code compliance, within four weeks. In approximately six cases where this process has taken longer, in some cases several months, building applications: have not been paid for; do not have required ownership signatures; delays have been due to the applicant's engineer; the proposed use first requires a rezoning or Temporary Use Permit; the applicant has encountered servicing issues; or, the applicant has submitted incomplete/incorrect drawings.

Development Services staff are often in constant contact with applicants and if there is a concern with regard to application processing timelines, a Director is encouraged to contact the appropriate Team Leader or myself as necessary so the concern can be looked into.

Revelstoke/EA B Fire Protection Service Area

The Director has noted that he would be willing to have the building inspection service stay if the service was only provided in the City of Revelstoke/EA B Fire Protection Service Area. Part of the reason a building inspection service was brought into Electoral Area B was due to the occurrence of home fires in the rural area and concern about construction meeting BC Building Code

requirements for the structure's proposed use. As noted above, the greatest increase in new construction and permits is in the Begbie Bench, Shelter Bay and Galena Bay areas; only Begbie Bench is covered under the Rural Revelstoke Fire Protection Service Area. From a fire, health and safety perspective, it is particularly critical for those areas not within a fire protection boundary to have building inspection.

Local Government Act Service Withdrawal Regulations

The Director has suggested that he can unilaterally withdraw from the building inspection service for Electoral Area B once the service has been in place for 5 years based on the authority granted in Section 357 (Initiating a service review) of the Local Government Act (LGA). This interpretation of the LGA is not correct.

Building inspection is a "regulatory service", and therefore a participant cannot initiate a service withdrawal as noted under s. 361 of the LGA (emphasis added):

Initiating service withdrawal

361 (1) A participant may initiate service withdrawal if **all** the following circumstances apply:

- (a) the service has been subject to
 - (i) a service review that was initiated within the past 3 years, or
 - (ii) an alternative review process, in accordance with establishing bylaw provisions under section 340 (1) (e), that was started within the past 3 years;
- (b) the first meeting respecting the review, which in the case of a service review is the first preliminary meeting under section 359, was convened more than 8 months ago;
- (c) the service is **not**
 - (i) a service referred to in section 338 (2) [*services for which no establishing bylaw required*],
 - (ii) **a regulatory service**, or
 - (iii) a service prescribed under subsection (6).

(2) A participant may initiate service withdrawal under this Division even if the establishing bylaw provides terms and conditions for withdrawal under section 340 (1) (f).

(3) To initiate service withdrawal, a participant must give written notice to the board, all other participants in the service and the minister.

(4) The notice under subsection (3) must

- (a) describe the terms and conditions of participation in the service that the participant finds unsatisfactory, and
- (b) give reasons, relating to those terms and conditions, as to why the participant wishes to withdraw from the service.

As s. 361 of the LGA does not apply to regulatory services, to amend or repeal the building inspection service, the establishing bylaw must be amended or repealed by the Board. This is provided for in s. 349 of the LGA, and it requires approval of the Inspector:

Amendment or repeal of establishing bylaws

349 (3) A bylaw amending or repealing an establishing bylaw has no effect unless it is approved by the inspector.

Staff have consulted with the Ministry regarding the circumstances in which the Inspector will approve a bylaw amendment that entails withdrawal from a building inspection service.

Staff have been advised that the Inspector is unlikely to approve a bylaw amendment that reduces a building inspection service area unless electoral approval has been obtained, substantial rationale has been provided as to why the building inspection service cannot be maintained, and the Regional District has taken steps to consult with the Building and Safety Standards Branch (building.safety@gov.bc.ca) to look for solutions to any problems that would allow the building inspection services to remain in place in a given area.

Ministry staff note that they are not aware of any specific case where the Inspector has approved the reduction or elimination of building inspection service area boundaries or the removal of participants. This is because *"the province considers building inspection to be in the best interest of residents and a significant benefit to the health and safety of citizens."*

There is a second option for altering the boundaries of the building inspection service, without approval of the Inspector.

It is possible to add or remove parcels from a service area, without triggering a requirement to obtain Inspector approval, pursuant to the *Regional District Establishing Bylaw Approval Exemption Regulation*, which enables adding or removing parcels where the owners petition to be added or removed. However, this process requires approval of at least 2/3 of the participants, which in the case of the Building Inspection Service, means three of the four existing participants must consent:

Exemption — bylaw amending service area boundary

2 (1) An amendment to an establishing bylaw that changes the boundaries of a service area by one or both of the following is exempt from the requirement for the inspector's approval under section 349 (3) of the Act:

- (a) adding parcels to the service area;
- (b) removing parcels from the service area.

(2) **An exemption under subsection (1) applies only if**

- (a) the owners of parcels to be added, parcels to be removed or both, as the case may be, submit a petition to the regional district to change the boundaries of the service area, and
- (b) at least 2/3 of the participants consent to the amendment.

In order to be a sufficient valid petition, the petition must be signed by the owners of the parcels as follows:

1. At least 50% of the owners of the parcels to be removed; and
2. Owners that in total represent 50% of the next taxable value of all the land and improvements in or on the parcels to be removed.

Summary

In order to move forward with the Director's request to amend or remove the building inspection service for Electoral Area B the Board must:

- Approve a motion to vote on the removal or amendment of the building inspection service area;
 - Stream 1 – Petition to Amend
 - A) Motion must include to have staff organize a formal petition process with which 50% of the owners representing 50% of the net taxable value of all the land and improvements in or on the parcels to be removed; and,
 - B) If a petition is received meeting the LGA requirements noted above, 2/3 of the participants in the service area must then consent to the amendment to the service area;
 - Stream 2 – The Board may proceed to amend the establishing bylaw:
 - A) in accordance with the requirements applicable to the adoption of the service establishment bylaw, or with the consent of at least 2/3 of the participants;
 - B) The bylaw must be approved by the Inspector; and,
 - C) If approval is given by the Inspector, Building Bylaw No. 660 will then need to be amended by the Board to change that Bylaw's noted service area boundary.

Regards,



Gerald Christie, MCIP, RPP
Manager Development Services