



## **FONVCA AGENDA**

### **THURSDAY July 21<sup>st</sup> 2011**

**Place:** DNV Hall 355 W. Queens Rd V7N 2K6

**Time:** 7:00-9:00pm

**Chair:** Cathy Adams – Lions Gate C.A.

**Tel:** 604-987-8695 **email:** cathyadams@shaw.ca

Regrets:

#### **1. Order/content of Agenda(\*short)**

#### **2. Adoption of Minutes of June 16<sup>th</sup>**

<http://www.fonvca.org/agendas/jul2011/minutes-jun2011.pdf>

#### **3. Old Business**

##### **3.1 Council Agenda Distribution - continued**

-Basic Agenda listing still missing from District Dialogue

##### **3.2 Review of Draft 2 of Code of Conduct**

#### **4. Correspondence Issues**

##### **4.1 Business arising from 16 regular emails:**

##### **4.2 Non-Posted letters – 0 this period**

##### **4.3 Roundtable on “Current Affairs”**

**A period of roughly 30 minutes for association members to exchange information of common concerns.**

#### **5. New Business**

##### **Council and other District issues.**

##### **5.1 Why condo-villes don't work**

[http://www.fonvca.org/letters/2011/13jun-to/Doug\\_Curran\\_5jul2011.pdf](http://www.fonvca.org/letters/2011/13jun-to/Doug_Curran_5jul2011.pdf)

<http://www.theglobeandmail.com/report-on-business/industry-news/property-report/why-condo-villes-dont-work/article2086193/>

##### **\*5.2 A conversation with climate change sceptic Professor Freeman Dyson**

<http://www.independent.co.uk/environment/climate-change/letters-to-a-heretic-an-email-conversation-with-climate-change-sceptic-professor-freeman-dyson-2224912.html>

##### **Counterpoint:**

<http://globalsymposium2011.org/wp-content/uploads/2011/05/The-Stockholm-Memorandum.pdf>

#### **5.3 Problem Skateboarders?**

For **week-end/evenings** call RCMP non-emergency: 604-985-1311 who will call RCMP or bylaw officer to attend or call Bylaw Services 604-990-2400 **Monday to Friday between 7:30am to 4pm** and speak to the Customer Service Clerk.

#### **5.4 Global Warming, Trees and Urban Lawns**

<http://www.sciencedaily.com/releases/2010/01/100119133515.htm>

#### **5.5 Cycling index in Metro Vancouver**

<http://www.cher.ubc.ca/cyclingincities/tools.html>

#### **5.6 Walk Score of Neighbourhoods**

<http://www.walkscore.com/> for example...

Main & Mountain Hwy N. Vancouver → score of 72

Lynn Valley Mall → score of 87

Edgemont Village N. Vancouver → score of 83

Gallant Ave N. Vancouver → score of 42

Banff Ct N. Vancouver → score of 68

Phillips and Marine N. Vancouver → score of 77

Lonsdale & 13<sup>th</sup> N. Vancouver → score of 88

Marine & 16<sup>th</sup> W. Vancouver → score of 88

Robson & Denman Vancouver → score of 93

#### **6. Any Other Business**

##### **6.1 Legal Issues**

###### **\*a) DNV Public Involvement Framework**

<http://www.dnv.org/upload/documents/Cpolicy/c1049601b.pdf> 104p

<http://www.dnv.org/article.asp?c=169> as above but html

<http://www.dnv.org/upload/documents/cpolicy/c1049601.pdf>

###### **\*b) Is there a law against council receiving input after close of public hearing?**

<http://www.dnv.org/article.asp?a=5109>

<http://metrovanwatch.wordpress.com/learning-centre/legal-opinion-use-of-public-hearing-to-block-communication/>

###### **\*c) Spring 2011 Legal Review by SMS**

<http://www.sms.bc.ca/issue/?issue=77#535>

###### **\*d) Municipal Governance Articles: Version 2**

<http://www.fonvca.org/agendas/jul2011/municipal-governance.pdf>

###### **\*e) Union Bay SLAPP suit gets slapped down**

<http://www.vancouverisun.com/news/District+government+settles+priccy+suit+agains-t+citizen+blogger/5028829/story.html>

##### **6.2 Any Other Issues (2 min each)**

###### **a) Seylynn Village is for Sale**

<http://www.collierscanada.com/3173>

###### **b) Local Government Under the Community Charter**

The 606 page 2011/4<sup>th</sup> edition was kindly contributed to the community.

###### **c) The Economics of Recycling**

<http://www.lewrockwell.com/lilley/floy14.1.html>

#### **7. Chair & Date of next meeting.**

**Thursday September 15<sup>th</sup> 2011**

**John Hunter (Seymour C.A.) or**

**Diana Belhouse – Delbrook C.A.**

**ATTACHMENTS** -List of Recent Emails to FONVCA

**OUTSTANDING COUNCIL ITEMS**-Cat Regulation Bylaw;

Review of Zoning Bylaw; Securing of vehicle load bylaw;

Snow removal for single family homes bylaw.

**FONVCA Received Correspondence/Subject**  
**13 June 2011 → 17 July 2011**

<b>LINK</b>	<b>SUBJECT</b>
<a href="http://www.fonvca.org/letters/2011/13jun-to/Doug_Curran_5jul2011.pdf">http://www.fonvca.org/letters/2011/13jun-to/Doug_Curran_5jul2011.pdf</a>	Successful development of mixed use neighbourhoods.
<a href="http://www.fonvca.org/letters/2011/13jun-to/John_Hunter_4jul2011.pdf">http://www.fonvca.org/letters/2011/13jun-to/John_Hunter_4jul2011.pdf</a>	Engineers and other professionals' liability
<a href="http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_14jun2011.pdf">http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_14jun2011.pdf</a>	Mountain bikes run dogs on trails
<a href="http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_15jun2011.pdf">http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_15jun2011.pdf</a>	Mountain bikers should consider hikers
<a href="http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_17jun2011.pdf">http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_17jun2011.pdf</a>	Mountain bikers and Peter Pan
<a href="http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_18jun2011.pdf">http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_18jun2011.pdf</a>	Mountain biking, helmets & preachers
<a href="http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_18jun2011b.pdf">http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_18jun2011b.pdf</a>	Mountain bikers and dogs
<a href="http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_22jun2011.pdf">http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_22jun2011.pdf</a>	Mountain bikers and trail decommissioning
<a href="http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_23jun2011.pdf">http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_23jun2011.pdf</a>	Mountain biking and tail of 2 councils
<a href="http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_3jul2011.pdf">http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_3jul2011.pdf</a>	Wilderness and mountain biking
<a href="http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_5jul2011a.pdf">http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_5jul2011a.pdf</a>	Mountain biker words
<a href="http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_5jul2011b.pdf">http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_5jul2011b.pdf</a>	Liability, risk, and mountain biking
<a href="http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_6jul2011.pdf">http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_6jul2011.pdf</a>	<i>/déjà vu/</i> of Mountain Biking
<a href="http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_7jul2011.pdf">http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_7jul2011.pdf</a>	Mountain biking and human/wildlife conflicts
<a href="http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_8jul2011.pdf">http://www.fonvca.org/letters/2011/13jun-to/Monica_Craver_8jul2011.pdf</a>	Mountain biking and preserving spirit of wilderness
<a href="http://www.fonvca.org/letters/2011/13jun-to/Wendy_Qureshi_16jun2011.pdf">http://www.fonvca.org/letters/2011/13jun-to/Wendy_Qureshi_16jun2011.pdf</a>	Densification not the solution
<a href="http://www.fonvca.org/letters/2011/13jun-to/Wendy_Qureshi_15jul2011.pdf">http://www.fonvca.org/letters/2011/13jun-to/Wendy_Qureshi_15jul2011.pdf</a>	North Shore MLAs and HST

**Past Chair of FONVCA (Jan 2008-present)**

**Notetaker**

Jul 2011	Cathy Adams	Lions Gate C.A.	John Hunter
Jun 2011	Eric Andersen	Blueridge C.A.	Cathy Adams
May 2011	Dan Ellis	Lynn Valley C.A.	Brian Platts/Corrie Kost
Apr 2011	Brian Platts	Edgemont & Upper Capilano C.A.	Diana Belhouse
Mar 2011	Val Moller	Lions Gate C.A.	Eric Andersen
Feb 2011	Paul Tubb	Pemberton Heights ← Special focus on 2011-2015 Financial Plan	
Jan 2011	Diana Belhouse	S.O.S.	Brenda Barrick
Dec 2010	John Hunter	Seymour C.A. ← Meeting with DNV Staff on Draft#1 OCP	None
Nov 2010	Cathy Adams	Lions Gate C.A.	John Hunter
Oct 2010	Eric Andersen	Blueridge C.A.	Paul Tubb
Sep 2010	K'nud Hille	Norgate Park C.A.	Eric Andersen
Jun 2010	Dan Ellis	Lynn Valley C.A.	Cathy Adams
May 2010	Val Moller	Lions Gate C.A.	Cathy Adams
Apr 2010	Paul Tubb	Pemberton Heights	Dan Ellis
Mar 2010	Brian Platts	Edgemont C.A.	Diana Belhouse
Feb 2010	Special		
Jan 2010	Dianna Belhouse	S.O.S	K'nud Hille
Nov 2009	K'nud Hill	Norgate Park C.A.	Eric Andersen
Oct 2009	Dan Ellis	Lynn Valley C.A.	Cathy Adams
Sep 2009	Brian Platts	Edgemont C.A.	Dan Ellis
Jul 2009	Val Moller	Lions Gate N.A.	Diana Belhouse
Jun 2009	Eric Andersen	Blueridge C.A.	Diana Belhouse
May 2009	Diana Belhouse	S.O.S	Eric Andersen
Apr 2009	Lyle Craver	Mt. Fromme R.A.	Cathy Adams
Mar 2009	Del Kristalovich	Seymour C.A.	Dan Ellis
Feb 2009	Paul Tubb	Pemberton Heights C.A.	Cathy Adams
Jan 2009	K'nud Hille	Norgate Park C.A.	Eric Andersen
Dec 2008	Dan Ellis	Lynn Valley C.A.	Paul Tubb
Nov 2008	Cathy Adams	Lions Gate N.A.	Dan Ellis
Sep 2008	Brian Platts	Edgemont C.A.	John Miller
Jul 2008	Diana Belhouse	Delbrook C.A.	Lyle Craver
Jun 2008	Eric Andersen	Blueridge C.A.	Diana Belhouse
May 2008	Herman Mah	Pemberton Heights C.A.	Cathy Adams
Apr 2008	Del Kristalovich	Seymour C.A.	Del Kristalovich
Mar 2008	K'nud Hille	Norgate Park C.A.	Dan Ellis
Feb 2008	Lyle Craver	Mount Fromme R.A.	Lyle Craver
Jan 2008	Dan Ellis	Lynn Valley C.A.	John Miller

# FONVCA

## Minutes June 16<sup>th</sup> 2011

Place: **DNV Hall 355 W. Queens Rd V7N 2K6**  
 Time: **7:00-9:00pm**

### Attendees

Dan Ellis	Lynn Valley C.A.
Corrie Kost	EUCCA
Del Kristalovich	Seymour C.A.
Cathy Adams(notetaker)	Lions Gate N.A.
Eric Andersen(Chair)	Blueridge C.A.
Brian Platts	EUCCA
John Miller	Lower Cap. Community R.A.

**Regrets:** Val Moller; John Hunter

The meeting was called to order at 7:05 PM

Del advised the meeting that she and her husband are leaving the North Shore. She was thanked for her many years of service to her local neighbourhood and the wider community.

### 1. ORDER / CONTENT OF AGENDA

- Add: under Any Other Issues
- 6.2a Open Stage
- 6.2b Footnotes-Local Area Plans
- 6.2c Sewage Plant

**Note:** Items marked with \* are mainly for information and usually involved little or no discussion by the members present.

### 2. ADOPTION OF MAY 2011 MINUTES

<http://www.fonvca.org/agendas/jun2011/minutes-may2011.pdf>  
 An email was received re: adoption of (April) minutes – this person was confused by a statement that they took as meaning that minutes for the May meeting were approved at the beginning of the May meeting (a meeting which was just getting underway!) In fact, the link given in the draft May minutes takes one to the April minutes, so the objection was unfounded. Another person sent an email objecting that the April minutes were deemed “approved as circulated” versus being approved at a meeting. This person, not in attendance at the May meeting when the April minutes were approved, nor this (June’s) meeting, was incorrect in stating the minutes were not approved at a meeting- they were approved as circulated, in a proper process at the May meeting. This person wrote with other concerns, but due to him not being in attendance, it’s difficult to deal with any remaining issues and concerns he may or may not still have, after having received

responses from several members of FONVCA via email. In summary – minutes of a FONVCA meeting are approved only at a subsequent FONVCA meeting.

Re: Item #5.0 This was in reference to May 9<sup>th</sup> public input to council by Doug Curran, about which there is concern by at least some FONVCA members that he impugned the reputation and integrity of all community associations. Eric had asked Doug repeatedly for a copy of the letter to council that Doug referred to on May 9<sup>th</sup>. Doug was not forthcoming in providing the letter to Eric.

Jai Jadhav had sent an email expressing concern about the minuted details of Item 5.0, stating, in part, that he did not accept the minutes due to what he felt were improperly included remarks by himself. He wanted Item 5.0 deleted (no alternate example to consider given). Unfortunately, neither person – Jai Jadhav or Doug Curran - with objections to the May minutes, were in attendance to deal with their issues. It was felt there was an appropriate amount of information provided, that the minutes reflected the decisions and context of those decisions, and the draft May minutes were not changed.

Moved by Dan Ellis to adopt the May/2011 minutes as circulated. Seconded by Del Kristalovich. Carried unanimously.

**Note:** re item 5.3 Low Road project in North Van City. This project has been cancelled-City Council voted it down.

### 3. OLD BUSINESS

#### 3.1 Council Agenda Distribution

Nothing new. This is being monitored for future action.

#### 3.2 Review/comments on District OCP

<http://www.nsnews.com/approves+unanimously/4895675/story.html>  
 The above link referred to an article in the North Shore News about DNV Council’s deliberation-a summary of what councillors had to say about the OCP, and the process.

#### 3.3 Review of Proposed Code of Conduct

There have been some official, formal responses from associations and some from individuals as well. This Code of Conduct is to be in reference to FONVCA meetings, only. There was a great deal of discussion around issues such as:

- Would a Code of Conduct be applicable to within FONVCA meetings only?
- How to disagree with one another with respect
- That a Code of Conduct does not legislate disagreement – that is expected within any group,

but just behaviour of members/how you do that with courtesy and respect.

- There was reference to the Code of Conduct that the Federation of Calgary Communities has established.
- There was discussion and some rewriting of the Code of Conduct for FONVCA sent out previously.

The new version (draft b, shown below) will be (re)circulated to FONVCA members and therefore approval was tabled.

## Code of Conduct for FONVCA Representatives

### Draft 2

*A representative of a community association must discharge their duties to their association with integrity.*

*Integrity is defined as soundness of moral principle, especially in relation to truth and fair dealing, uprightness, honesty, and sincerity.*

*A representative must act in good faith and refrain from impugning the character or reputation of any FONVCA representative or FONVCA member association.*

*All members of the F.O.N.V.C.A. are expected to demonstrate the highest standard of behaviour towards other members. In accordance with Disciplinary Procedures outlined in Chapter XX of Robert's Rules of Order Newly Revised, a representative may be suspended or expelled for conduct which breaches this standard.*

## 4. CORRESPONDENCE ISSUES

### 4.1 Business arising from 7 regular e-mails

No discussion.

### 4.2 Non-posted letters – 0 this period.

### 4.3 Roundtable on “Current Affairs”

Edgemont – after a lengthy consultation process new banners are coming for the red poles in for Edgemont village.

Lions Gate-A letter from Doug Curran published by the North Shore News dealing with Local Area Plans, had incorrectly stated that the Lower Capilano OCP process was “years-long (1996-2006)”. In actual fact, the Lower Cap OCP was adopted in 1996. The paragraph relating to the Lower

Cap OCP had been edited out by the newspaper, so this error was not published.

Deep Cove-issue of a marijuana distribution storefront wanting to open ; also-some young –grade 7-students had been caught doing graffiti. They have been doing some cleanup, etc.

Lynn Valley-John Gilmore stepped down as President. New President is Eric Miura. Lynn Valley gala dinner/dance was a great success. Lynn Valley Day– thousands came out for it, even though the weather wasn’t wonderful. Some restructuring of the board is taking place.

Delbrook-They have asked for years for more parkspace, and as stated in their LAP as something they need. They never got it – any input from others? There was a comment about unused school property uses (Balmoral will be closed).

Save Our Shores-Walk this year was rainy, so attendance down. But enjoyed by those who come out – there are many yearly participants. RE: street ends-future beach access signs will be coming soon. There is concern about how thoroughly the relevant beachfront owners are being informed that they have encroached onto public lands.

Blueridge-Blueridge Days. Parade, etc. and they had tv news media coverage. Had an all-candidates meeting jointly sponsored with Seymour Assoc.

## 5. NEW BUSINESS

### Council and other District Issues

#### \*5.1 Ethics of Government Sponsored Gambling

[http://salempress.com/Store/samples/ethics\\_revised/ethics\\_revised\\_lotteries.htm](http://salempress.com/Store/samples/ethics_revised/ethics_revised_lotteries.htm)  
<http://www.arragopwing.com/lotteryposition.html>

The above items are short and felt to be worth reading.

\*5.2 Resilient Communities- Preparing for the Climate Challenges Jun 14-15 at SFU WOSK Centre for Dialogue Details of the conference, speakers, reports, etc. available on their website.

[http://www.pics.uvic.ca/resilient\\_communities.php](http://www.pics.uvic.ca/resilient_communities.php)

For more background material see:

[http://www.pics.uvic.ca/rc\\_background.php](http://www.pics.uvic.ca/rc_background.php)

References:

[http://www.resilientcommunitiescanada.com/timely\\_topics/](http://www.resilientcommunitiescanada.com/timely_topics/)

<http://www.bcsea.org/get-involved/learn-about-us/members/organizations/resilient-communities-canada>

[http://www.southfraser.com/timely\\_topics/community\\_resilience.php](http://www.southfraser.com/timely_topics/community_resilience.php)

#### 5.3 ECO-Municipality Network

[http://www.naturalstepusa.org/storage/NAEMN\\_TNScasestudy.pdf](http://www.naturalstepusa.org/storage/NAEMN_TNScasestudy.pdf)  
Network to improve sustainability in North American Communities.

**12 Indicators:** <http://sekom.sekom.nu/files/indicators.pdf>

A useful item.

## 5.4 Community/Civic Engagement Strategies

An excellent report on this topic from Halifax:

<https://www.halifax.ca/CRCA/CommunityEngagement/documents/CommunityEngagementStrategy.pdf>

A Task Force of City of North Vancouver – chaired by Don Bell – on how to improve civic involvement of residents.

<http://www.cityofnorthvancouver.bc.ca/c//data/1/433/Civic%20Engagement%20Task%20Force%20Final%20Report.pdf>

<http://www.richardgilbert.ca/Files/SFU%20course%20files/Symonds,%20Engaging%20citizens.pdf>

<http://www.cpsa-acsp.ca/papers-2005/Symonds.pdf>

## 5.5 Tree Preservation Bylaw

These public meetings sometimes conflicted with Canucks games. Combined with the fact that there was almost no advertising, until the day of the meeting, attendance by the public was very light. Some concern were expressed about performance of junior DNV staff at these meetings.

Auckland NZ removes most private impacts by Jan 1/2012 by requiring them to be individually “scheduled”.

[http://www.thetreecouncil.org.nz/cms\\_data/files/file/tree%20protection%20rpt%20final.pdf](http://www.thetreecouncil.org.nz/cms_data/files/file/tree%20protection%20rpt%20final.pdf)

Definitely some lessons to be learned from what is happening in New Zealand.

## \*5.6 No One Gives a S\*\*t by John Scheel

*“With Special Thanks to  
The Oakville Town Council for not  
Listening and for its Experiments in  
Waste & Inefficiency”*

See <http://www.johnscheel.com/Freebook.pdf>

## 5.7 DNV 2010 Annual Report

<http://dnv.org/annualreport2010/>

**Not** well done this year. Regressed back to web version only, which was experimented with for the 2006 Annual Report and roundly denounced. Lack of a pdf file for the 2010 annual report was felt to be a serious oversight. Usefulness of format extremely limited for those without web access. Navigation on the web through the document was seriously flawed in many areas.

Questioned why last year’s format wasn’t used as a template, since it was well done and had pertinent information, etc. The alleged savings to use a web based version amounted to pennies per resident.

## \* 5.8 Integrated Resource Recovery Study

Recovering energy from solid and liquid waste. This is done lots in Europe, but is not being talked about much in the public yet. There will be a report coming out on this issue. In meantime one can read the details from the following web link:

<http://www.fidelisresourcegroup.com/North.Shore.IRR.Study.Tech.Appx.FINAL29Mar2011web.pdf> - a 304 page study on garbage

## 6. ANY OTHER BUSINESS

### 6.1 Legal Issues

#### \* a) Judge tosses out ‘exaggerated suit’

[http://www.vancouver.sun.com/story\\_print.html?id=4856004&sponsor=](http://www.vancouver.sun.com/story_print.html?id=4856004&sponsor=)

– Langley group exercised ‘right of free speech’

For BC Supreme Court details of this SLAPP suit see

<http://www.courts.gov.bc.ca/jdb-txt/SC/11/06/2011BCSC0674.htm>

#### \*b) Insuring OCP input is formal part of record

Although people should be able to just send input to Mayor and Council, it’s been found that this is not consistently making it into the public record on an issue. Send correspondence also to the clerk’s dept [clerk@dnv.org](mailto:clerk@dnv.org) to ensure inclusion (if that is ones’ intention).

#### \* c) West Vancouver View Wars End in Court

<http://www.nsnews.com/news/West+Vancouver+view+wars+court/4924559/story.html>

<http://www.courts.gov.bc.ca/jdb-txt/SC/11/06/2011BCSC0686.htm>

West Van view wars – involving illegal cutting of trees - - finally dealt with by the court. In the meantime, both parties had sold their properties!

#### \* d) Municipal Governance Articles

<http://www.fonvca.org/agendas/jun2011/municipal-governance.pdf>

The above is a summary of informative Municipal Governance Articles relating to courses given by the Continuing Legal Education Society of British Columbia.. <http://www.cle.bc.ca/>

All the above elements are freely available from the web and access many interesting articles relating to municipal governance.

#### \*e) Use of Public Hearing to Block Communications

<http://metrovanwatch.wordpress.com/learning-centre/legal-opinionuse-of-public-hearing-to-block-communication/>

Council **can** listen to people on an issue, after the close of a public hearing, under some circumstances. (see Corrie’s blog post on the above website). Note that this item is a repeat of last month’s more detailed item 6.2(q).

### 6.2 Any Other Issues (2 min each)

**a) Open Stage** –NS News Editorial on the OCP process, with criticism about some aspects of the process, the move away from Local Area Plans’ importance, etc. See

[http://www.nsnews.com/story\\_print.html?id=4837126&sponsor=](http://www.nsnews.com/story_print.html?id=4837126&sponsor=)

b) Local Plan should remain historical footnotes

[http://www.nsnews.com/story\\_print.html?id=4895679&sponsor=](http://www.nsnews.com/story_print.html?id=4895679&sponsor=)

The above article was critical of both local area planning and “irreconcilable inconsistencies” they create. This is in contrast to the views expressed by our Mayor.

c) Provincial approval of sewage plant move  
[http://www.nsnews.com/story\\_print.html?id=4911956&sponsor=](http://www.nsnews.com/story_print.html?id=4911956&sponsor=)  
Corrie felt that the economics expressed in the article may be in error (i.e. excessive). The full agenda package illustrated his math.

## **7. CHAIR AND DATE OF NEXT MEETING**

Will decide via email whether to hold it, according to need/interest.

August meeting – likely not. Social get together instead?

Thursday July 21<sup>st</sup> 2011

Chair: Cathy Adams – Lions Gate C.A.

Meeting adjourned ~ 9:20PM.

**Subject:** Fwd: Why condo-villes don't work - The Globe and Mail  
**From:** Brian Platts <bplatts@shaw.ca>  
**Date:** Tue, 05 Jul 2011 11:27:42 -0700  
**To:** Corrie Kost <corrie@kost.ca>

----- Original Message -----

**Subject:** Why condo-villes don't work - The Globe and Mail  
**Date:** Mon, 04 Jul 2011 23:49:47 -0700  
**From:** Douglas Curran <dougcurran@shaw.ca>  
**To:** Corrie Kost <corrie@kost.ca>, fonvca@fonvca.org  
**CC:** Brian Platts <bplatts@shaw.ca>

Corrie,

The link below takes the reader to a very good article on the successful development of mixed use neighbourhoods. I believe it would be a useful resource for FONVCA members, if you would please include it in the next FONVCA agenda.

<http://www.theglobeandmail.com/report-on-business/industry-news/property-report/why-condo-villes-dont-work/article2086193/>

thanks, Doug

Douglas Curran  
2046 Curling Road  
North Vancouver, B.C.  
Canada V7P 1X4

Ph: 604-985-5621  
[www.dougcurranphotos.com](http://www.dougcurranphotos.com)

<http://www.theglobeandmail.com/report-on-business/industry-news/property-report/why-condo-villes-dont-work/article2086193/>

**THE GLOBE AND MAIL** 

FONVCA Agenda Item 5.1

City planning

# Why condo-villes don't work

SHELLEY WHITE

Special to Globe and Mail Update

Published Monday, Jul. 04, 2011 4:49PM EDT

Last updated Monday, Jul. 04, 2011 10:51PM EDT

There was a time when no one wanted to end up in Toronto's Liberty Village.

More than a century before the name was coined, the area between King Street West and the Gardiner Expressway (bordered by Dufferin Street to the west and Strachan Avenue to the east) was home to a men's prison and a reformatory for women convicted of crimes like "sexual precociousness" and "incurability." More recently, it was a desolate collection of abandoned factories and empty warehouse buildings – but now, Liberty Village is one of Toronto's most vibrant and fastest growing downtown neighbourhoods.

It's an example of an urban neighbourhood built from scratch – an essential part of modern city building, as tens of thousands of people flood into the downtown core each year. Clearly, Toronto needs somewhere for these people to live, but how do you make sure these newborn neighbourhoods thrive?

Liberty Village is a sort of test bed for the type of development that creates successful, high-density downtown nodes, said Ken Greenberg, an architect, urban planner and author of *Walking Home*.

"Liberty Village is kind of the ugly duckling that I like," said Mr. Greenberg. "Designers look down their noses at it because it's clumsy and not very beautiful, but it has all the ingredients of a successful neighbourhood."

In his view, creating a successful neighbourhood from scratch is all about the mix.

Firstly, said Mr. Greenberg, communities require diverse housing options to accommodate singles, couples, families, retirees and low-income students. "The idea is being able to age in place, to go from one stage to another in the same neighbourhood, so you can put down roots," he said.

Neighbourhoods also need a mix of housing and retail to create the crucial element of "walkability," Mr. Greenberg says. It's a move away from old-school city planning, which tended to separate the different aspects of daily life.

"Where are the grocery stores, the hardware store? Where are the daily life needs that you can walk to?" he said. "Very often the developers that are doing the condominiums don't know anything about retail and don't care, because their objective is to sell the condo units and get out. But they're increasingly learning that there's an opportunity there, and teaming up with experts in retail.

"If you extend that beyond shopping, if you want families to be there, where's the daycare? Where are the playgrounds? Where are the schools? You have to think about it in a different way."

The best new neighbourhoods combine the four pillars of good planning, said Gordon Stratford, design director at the architectural firm HOK Canada and chair of Toronto's Design Review Panel. These pillars are financial (affordable housing), environmental (natural elements, like trees and parks), social (places where people can work, shop and interact) and cultural (a place with a defined culture, either through historical preservation or created by the community itself).



“Think about the perfect place you want to live in – I can live here, I can work close at hand, I can go to the park, I can get a library book, my kids can go to school here,” he said. “People are taking to heart the idea that if I don’t have to take hours and hours to commute from where I live to where I work, if I don’t have to go so far to get my food, if all these things can be in such close proximity, it can really work.”

In his view, the march of technology has created a need for people to be able to live in a neighbourhood that has a small-town feel.

“With the Internet and social networking, you can reach anyone in the world,” he said. “I think that as a counterbalance, people really are even more interested in having great neighbourhoods.”

Mr. Greenberg said he sees the right kind of mix starting to emerge in places like Toronto’s Distillery District, and in other pockets of the downtown core, including the King and Spadina area. He compares that with the CityPlace condo development, growing on old railway lands south of Front Street, between Bathurst Street and the Rogers Centre.

“It’s a monoculture – thousands of tiny units, very little in the way of shopping, very little in the way of anything else,” he said. “The development industry tends to identify one product and replicate it over and over again. Right now, it’s the very small condominium unit, sold to young first-time purchasers, and nothing else. You’re not creating community, but a transient population.”

City governments need to ensure that neighbourhoods aren’t just filled with condo after condo, said real estate analyst Don Campbell.

“Residential development is fantastic for tax dollars – it’s, ‘forget about jobs, let’s just do residential,’” he said. “I am a free market guy, but there has to be some government control to make sure that neighbourhoods are built with commercial zones. I’m seeing a lot more of that mixed-use – commercial on the bottom, condos on the top.”

Mr. Greenberg says this kind of intelligent city development isn’t just for the downtown core. He points to the area around Mississauga’s Square One shopping centre, where parking lots are being colonized and office use is picking up for the first time in 20 years.

“It was this giant regional mall, but now you have City Hall, a YMCA, a library and Sheridan College moving in,” he said. “And what’s interesting is that a number of the major land owners, including the owner of Square One, are saying, ‘We’ve got to start colonizing the parking lots and creating an urban neighbourhood.’”

Although he sees positive change in terms of neighbourhood building, there's still a long way to go.

“This is the biggest and most interesting challenge facing people who deal with cities today,” he said. “It needs to be a partnership between the city, who have to say ‘We need this, we want this,’ and the private sector, which has to deliver it.”

<http://www.independent.co.uk/environment/climate-change/letters-to-a-heretic-an-email-conversation-with-climate-change-sceptic-professor-freeman-dyson-2224912.html?service=Print>

Independent.co.uk

FONVCA Agenda Item 5.2

# Letters to a heretic: An email conversation with climate change sceptic Professor Freeman Dyson

World-renowned physicist Professor Freeman Dyson has been described as a 'force-of-nature intellect'. He's also one of the world's foremost climate change sceptics. In this email exchange, our science editor, Steve Connor, asks the Princeton scholar why he's one of the few true intellectuals to be so dismissive of the global-warming consensus

*Friday, 25 February 2011*

**From: Steve Connor**

**To: Freeman Dyson**

You are one of the most famous living scientists, credited as a visionary who has reshaped scientific thinking. Some have called you the "heir to Einstein", yet you are also a "climate sceptic" who questions the consensus on global warming and its link with carbon dioxide emissions. Could we start by finding where we agree? I take it you accept for instance that carbon dioxide is a powerful greenhouse gas that warms the planet (1); that atmospheric concentrations of CO2 have risen since direct measurements began several decades ago (2); and that CO2 is almost certainly higher now than for at least the past 800,000 years (3), if you take longer records into account, such as ice-core data.

Would you also accept that CO2 levels have been increasing as a result of burning fossil fuels and that global temperatures have been rising for the past 50 years at least, and possibly for longer (4)? Computer models have shown that the increase in global temperatures can only be explained by the increase in atmospheric CO2 concentrations (5). Climate scientists say there is no other reasonable explanation for the warming they insist is happening (6), which is why we need to consider doing something about it (7). What part of this do you accept and what do you reject?

**From: Freeman Dyson**

**To: Steve Connor**

First of all, please cut out the mention of Einstein. To compare me to Einstein is silly and annoying.

Answers to your questions are: yes (1), yes (2), yes (3), maybe (4), no (5), no (6), no (7).

There are six good reasons for saying no to the last three assertions. First, the computer models are very good at solving the equations of fluid dynamics but very bad at describing the real world. The real world is full of things like clouds and vegetation and soil and dust which the models describe very poorly. Second, we do not know whether the recent changes in climate are on balance doing more harm than good. The strongest warming is in cold places like Greenland. More people die from cold in winter than die from heat in summer. Third, there are many other causes of climate change besides human activities, as we know from studying the past. Fourth, the carbon dioxide in the atmosphere is strongly coupled with other carbon reservoirs in the biosphere, vegetation and top-soil, which are as large or larger. It is misleading to consider only the atmosphere and ocean, as the climate models do, and ignore the other reservoirs. Fifth, the biological effects of CO2 in the atmosphere are beneficial, both to food crops and to natural vegetation. The biological effects are better known and probably more important than the climatic effects. Sixth, summing up the other five reasons, the climate of the earth is an immensely complicated system and nobody is close to understanding it.

That will do for the first set of questions. Now it is your turn.

**From: Steve Connor**

**To: Freeman Dyson**

So you accept that carbon dioxide is a powerful greenhouse gas that warms the planet, that concentrations of CO2 in the atmosphere have been rising since direct measurements began several decades ago, and that CO2 is almost certainly higher now than for at least the past 800,000 years. You think it "maybe" right that CO2 levels have been increasing as a result of fossil fuel burning but you don't accept that global temperatures have been rising nor that the increase in carbon dioxide has anything to do with that supposed trend. And finally, you have little or no faith in the computer models of the climate.

As a physicist you must be aware of the calculations of estimated increases in global average temperatures due to the positive radiative forcing of the extra carbon dioxide in the atmosphere – the heat "captured" by CO2. The mainstream estimate suggests that doubling CO2 from pre-industrial levels would increase global average temperatures by about 3C. If you accept that CO2 levels have never been higher, but not that global average temperatures have increased, where has the extra trapped heat gone to? Can we deal with this before we go on?

**From: Freeman Dyson**

**To: Steve Connor**

No thank-you! The whole point of this discussion is that I am interested in a far wider range of questions, while you are trying to keep us talking about narrow technical questions that I consider unimportant.

You ask me where the extra trapped heat has gone, but I do not agree with the models that say the extra trapped heat exists. I cannot answer your question because I disagree with your assumptions.

**From: Steve Connor**

**To: Freeman Dyson**

Sorry you feel that way, I hope we can get back on track. I was only trying to find out where your problem lies with respect to the scientific consensus on global warming. As you know these models are used by large, prestigious science organisations such as Nasa, NOAA and the Met Office, which use them to make pretty accurate predictions about the weather every day. The scientists who handle these models point out that they can accurately match up the computer predictions to real climatic trends in the past, and that it is only when they add CO2 influences to the models that they can explain recent global warming. There is a scientific consensus that CO2 emissions are having a discernible influence on the global climate and I was attempting to find out more precisely why you part company from this consensus.

You have written eloquently about the need for heretics in science who question the accepted dogma. There are a number of notable instances in science where heretics have indeed been proven to be right (Alfred Wegener and continental drift) but many more, less notable examples where they have been shown to be wrong and, in time, will be forgotten (remember Peter Duesberg or Andrew Wakefield?). So it was in the light of your heretical stance on climate science that I'd like to know why we should believe a few lone heretics – albeit eminent ones such as yourself – rather than the vast body of scientists who have a plethora of published work to back up their claims? It's an important question because it's about who we, the public, should believe on scientific matters and why?

**From: Freeman Dyson**

**To: Steve Connor**

When I was in high-school in England in the 1930s, we learned that continents had been drifting according to the evidence collected by Wegener. It was a great mystery to understand how this happened, but not much doubt that it happened. So it came as a surprise to me later to learn that there had been a consensus against Wegener. If there was a consensus, it was among a small group of experts rather than among the broader public. I think that the situation today with global warming is similar. Among my friends, I do not find much of a consensus. Most of us are sceptical and do not pretend to be experts. My impression is that the experts are deluded because they have been studying the details of climate models for 30 years and they come to believe the models are real. After 30 years they lose the ability to think outside the models. And it is normal for

experts in a narrow area to think alike and develop a settled dogma. The dogma is sometimes right and sometimes wrong. In astronomy this happens all the time, and it is great fun to see new observations that prove the old dogmas wrong.

Unfortunately things are different in climate science because the arguments have become heavily politicised. To say that the dogmas are wrong has become politically incorrect. As a result, the media generally exaggerate the degree of consensus and also exaggerate the importance of the questions.

I am glad we are now talking about more general issues and not about technical details. I do not pretend to be an expert about the details.

**From: Steve Connor**

**To: Freeman Dyson**

Well, I'll try to keep it general, but it may involve talking specifics. One of my own academic mentors once explained to me that science is really just a very useful intellectual tool for teaching us about the world, just as philosophy teaches us how to think. The trouble for non-scientists is that we have to rely on professional scientists to tell us what they are finding out. But as you say yourself, it is even difficult sometimes for scientists in one field of endeavour to truly get to grips with the details in a different discipline. So, as a layman, I look at the wealth of evidence being presented to me on climate change, and the qualifications and track record of those presenting their results in the peer-reviewed literature, and I make a judgement. Do I believe in the small minority of mavericks, many of whom do not have a published track record, or the vast majority who do? Do I go with the heterodox or the orthodox?

Politicians of course have to do the same but they have to make important decisions, or not as the case may be. And the problem with climate change, as you know, is that if we wait until we are absolutely certain beyond any doubt whatsoever that global temperatures are rising dangerously as a result of carbon dioxide emissions, it will be too late to do anything about it because of the in-built inertia of the climate system. Even if we stopped carbon dioxide emissions overnight immediately, temperatures would still be expected to increase for some years to come before they stabilise.

So I guess my question would be, what if you are wrong? What if all the other scientists connected with the Intergovernmental Panel on Climate Change, the UK Met Office, NASA, NOAA, the World Meteorological Organisation, and just about every reputable university and institute doing research on climate science, happen to be right? Isn't it a bit risky for me and the rest of the general public to dismiss this vast canon of climate science as just "fuss" about global warming when all I've got to go on is a minority opinion?

**From: Freeman Dyson**

**To: Steve Connor**

I have this unfortunate habit of answering email immediately, which is in the long run not sustainable. So I will answer this one and then remain silent for three days.

Of course I am not expecting you to agree with me. The most I expect is that you might listen to what I am saying. I am saying that all predictions concerning climate are highly uncertain. On the other hand, the remedies proposed by the experts are enormously costly and damaging, especially to China and other developing countries. On a smaller scale, we have seen great harm done to poor people around the world by the conversion of maize from a food crop to an energy crop. This harm resulted directly from the political alliance between American farmers and global-warming politicians. Unfortunately the global warming hysteria, as I see it, is driven by politics more than by science. If it happens that I am wrong and the climate experts are right, it is still true that the remedies are far worse than the disease that they claim to cure.

I wish that The Independent would live up to its name and present a less one-sided view of the issues.

**From: Steve Connor**

**To: Freeman Dyson**

Just to return to Alfred Wegener for one moment. Although he wasn't the first to note that the continents seem to slot together like a jigsaw, such as the west coast of Africa and the east coast of South America, he was a visionary who actually went out to find the geological evidence to support his idea of continental drift. However, as you say, he didn't have a mechanism for how this "drift" happened. So it is perhaps understandable that many of his peers dismissed his theory in the 1930s. It was only with the discovery of plate tectonics 30 years later that everyone could agree on the true mechanism, which replaced Wegener's discredited theory of the continents somehow forging their way through the crust of the ocean basins. This doesn't in any way undermine his heroic contribution to science, and I say heroic in the true sense of the word given that he died in 1930 on his 50th birthday while trekking across Greenland – his body was never recovered and is now presumably encased in ice and moving slowly to the sea.

The point I want to make is that it may well have been right for the scientific "establishment" of the 1930s to be sceptical of Wegener's theory until more convincing evidence emerged, which it eventually did. The experts, rather than the public, could see the flaws in Wegener's argument which is why there was a scientific consensus against him. You are saying that the situation today with global warming is similar. However, surely an important difference this time is that it is the scientific consensus that is warning us of the dangers of continuing emissions of carbon dioxide, and that this consensus is saying quite categorically that if we wait until utterly definitive evidence emerges of dangerous climate change it will be too late to do anything about it.

One of the problems I have with the climate "sceptics" is that they keep changing their arguments. First they say that there is no such thing as global warming, thereby dismissing all the many thousands of records of land and sea temperatures over the past century or so. Then they say that carbon dioxide emissions are not causing the Earth to warm up, thereby defying basic physics. If that fails, they say that a bit of extra heat or carbon dioxide might not be that bad – it may be true that more people die from cold than heat, but how many die of drought and famine? And true, carbon dioxide boosts plant growth, but did you see the recent research suggesting a possible link between two atypical droughts in the Amazon in 2005 and 2010, when the rainforest became a net emitter of carbon dioxide, with higher sea-surface temperatures in the tropical Atlantic? Plants need water, not just carbon dioxide.

And if all else seems to fail, the final line of argument of the "climate sceptics" is that, "OK, carbon dioxide may have something to do with rising temperatures but what the heck, we can't do anything about it because the cure is worse than the disease". It seems to me that although there are still many uncertainties, much of the science of climate change is pretty settled, more so than you will admit to. To continue to report on "both sides" as you suggest is rather like ringing up the Flat Earth Society and asking them to comment on new discoveries in plate tectonics.

**From: Freeman Dyson**

**To: Steve Connor**

My three days of silence are over, and I decided I have no wish to continue this discussion. Your last message just repeats the same old party line that we have many good reasons to distrust. You complain that people who are sceptical about the party line do not agree about other things. Why should we agree? The whole point of science is to encourage disagreement and keep an open mind. That is why I blame The Independent for seriously misleading your readers. You give them the party line and discourage them from disagreeing.

With all due respect, I say good-bye and express the hope that you will one day join the sceptics. Scepticism is as important for a good journalist as it is for a good scientist.

Yours sincerely, Freeman Dyson

**From: Steve Connor**

**To: Freeman Dyson**

Sorry you feel that way. Thank you anyway.

Steve Connor

FONVCA Agenda Item 5.2

# 3rd Nobel Laureate Symposium on Global Sustainability

Transforming the World in an Era of Global Change  
Stockholm, Sweden, May 16-19 2011

<http://globalsymposium2011.org/wp-content/uploads/2011/05/The-Stockholm-Memorandum.pdf>

## The Stockholm Memorandum

Tipping the Scales towards Sustainability

18 May 2011



Photo: Mattias Klum

# The Stockholm Memorandum

## Tipping the Scales towards Sustainability

3rd Nobel Laureate Symposium\* on Global Sustainability, Stockholm, Sweden, 16-19 May 2011

*\*The Nobel Laureate Symposium Series on Global Sustainability was initiated in 2007 at Potsdam and continued by the St James's Palace Symposium in spring 2009. This Symposium series unites Nobel Laureates of various disciplines, top-level representatives from politics and NGOs, and renowned experts on sustainability.*

## I. Mind-shift for a Great Transformation

The Earth system is complex. There are many aspects that we do not yet understand. Nevertheless, we are the first generation with the insight of the new global risks facing humanity.

We face the evidence that our progress as the dominant species has come at a very high price. Unsustainable patterns of production, consumption, and population growth are challenging the resilience of the planet to support human activity. At the same time, inequalities between and within societies remain high, leaving behind billions with unmet basic human needs and disproportionate vulnerability to global environmental change.

This situation concerns us deeply. As members of the 3rd Nobel Laureate Symposium we call upon all leaders of the 21<sup>st</sup> century to exercise a collective responsibility of planetary stewardship. This means laying the foundation for a sustainable and equitable global civilization in which the entire Earth community is secure and prosperous.

Science indicates that we are transgressing planetary boundaries that have kept civilization safe for the past 10,000 years. Evidence is growing that human pressures are starting to overwhelm the Earth's buffering capacity.

Humans are now the most significant driver of global change, propelling the planet into a new geological epoch, the *Anthropocene*. We can no longer exclude the possibility that our collective actions will trigger tipping points, risking abrupt and irreversible consequences for human communities and ecological systems.

We cannot continue on our current path. The time for procrastination is over. We cannot afford the luxury of denial. We must respond rationally, equipped with scientific evidence.

Our predicament can only be redressed by reconnecting human development and global sustainability, moving away from the false dichotomy that places them in opposition.

In an interconnected and constrained world, in which we have a symbiotic relationship with the planet, environmental sustainability is a precondition for poverty eradication, economic development, and social justice.

Our call is for fundamental transformation and innovation in all spheres and at all scales in order to stop and reverse global environmental change and move toward fair and lasting prosperity for present and future generations.

## II. Priorities for Coherent Global Action

We recommend a dual track approach:

- a) emergency solutions now, that begin to stop and reverse negative environmental trends and redress inequalities in the inadequate institutional frameworks within which we operate, and
- b) long term structural solutions that gradually change values, institutions and policy frameworks. We need to support our ability to innovate, adapt, and learn.



## **1. Reaching a more equitable world**

Unequal distribution of the benefits of economic development are at the root of poverty. Despite efforts to address poverty, more than a third of the world's population still live on less than \$2 per day. This needs our immediate attention. Environment and development must go hand in hand. We need to:

- Achieve the Millennium Development Goals, in the spirit of the Millennium Declaration, recognising that global sustainability is a precondition of success.
- Adopt a global contract between industrialized and developing countries to scale up investment in approaches that integrate poverty reduction, climate stabilization, and ecosystem stewardship.

## **2. Managing the climate - energy challenge**

We urge governments to agree on global emission reductions guided by science and embedded in ethics and justice. At the same time, the energy needs of the three billion people who lack access to reliable sources of energy need to be fulfilled. Global efforts need to:

- Keep global warming below 2°C, implying a peak in global CO<sub>2</sub> emissions no later than 2015 and recognise that even a warming of 2°C carries a very high risk of serious impacts and the need for major adaptation efforts.
- Put a sufficiently high price on carbon and deliver the G-20 commitment to phase out fossil fuel subsidies, using these funds to contribute to the several hundred billion US dollars per year needed to scale up investments in renewable energy.

## **3. Creating an efficiency revolution**

We must transform the way we use energy and materials. In practice this means massive efforts to enhance energy efficiency and resource productivity, avoiding unintended secondary consequences. The “throw away concept” must give way to systematic efforts to develop circular material flows. We must:

- Introduce strict resource efficiency standards to enable a decoupling of economic growth from resource use.
- Develop new business models, based on radically improved energy and material efficiency.

## **4. Ensuring affordable food for all**

Current food production systems are often unsustainable, inefficient and wasteful, and increasingly threatened by dwindling oil and phosphorus resources, financial speculation, and climate impacts. This is already causing widespread hunger and malnutrition today. We can no longer afford the massive loss of biodiversity and reduction in carbon sinks when ecosystems are converted into cropland. We need to:

- Foster a new agricultural revolution where more food is produced in a sustainable way on current agricultural land and within safe boundaries of water resources.
- Fund appropriate sustainable agricultural technology to deliver significant yield increases on small farms in developing countries.

## **5. Moving beyond green growth**

There are compelling reasons to rethink the conventional model of economic

development. Tinkering with the economic system that generated the global crises is not enough. Markets and entrepreneurship will be prime drivers of decision making and economic change, but must be complemented by policy frameworks that promote a new industrial metabolism and resource use. We should:

- Take account of natural capital, ecosystem services and social aspects of progress in all economic decisions and poverty reduction strategies. This requires the development of new welfare indicators that address the shortcomings of GDP as an indicator of growth.
- Reset economic incentives so that innovation is driven by wider societal interests and reaches the large proportion of the global population that is currently not benefitting from these innovations.

## **6. Reducing human pressures**

Consumerism, inefficient resource use and inappropriate technologies are the primary drivers of humanity's growing impact on the planet. However, population growth also needs attention. We must:

- Raise public awareness about the impacts of unsustainable consumption and shift away from the prevailing culture of consumerism to sustainability.
- Greatly increase access to reproductive health services, education and credit, aiming at empowering women all over the world. Such measures are important in their own right but will also reduce birth rates.

## **7. Strengthening Earth System Governance**

The multilateral system must be reformed to cope with the defining challenges of our time, namely transforming humanity's relationship with the planet and rebuilding trust between people and nations. Global governance must be strengthened to respect planetary boundaries and to support regional, national and local approaches. We should:

- Develop and strengthen institutions that can integrate the climate, biodiversity and development agendas.
- Explore new institutions that help to address the legitimate interests of future generations.

## **8. Enacting a new contract between science and society**

Filling gaps in our knowledge and deepening our understanding is necessary to find solutions to the challenges of the Anthropocene, and calls for major investments in science. A dialogue with decision-makers and the general public is also an important part of a new contract between science and society. We need to:

- Launch a major initiative on the earth system research for global sustainability, at a scale similar to those devoted to areas such as space, defence and health, to tap all sources of ingenuity across disciplines and across the globe.
- Scale up our education efforts to increase scientific literacy especially among the young.

*We are the first generation facing the evidence of global change. It therefore falls upon us to change our relationship with the planet, in order to tip the scales towards a sustainable world for future generations.*

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# Planting trees 'no magic bullet' for climate change

## Research finds benefits marginal, especially in northern climes

BY MARGARET MUNRO, POSTMEDIA NEWS JUNE 20, 2011

FONVCA Agenda Item 5.4

Planting trees may help appease travellers' guilt about pumping carbon into the atmosphere.

But new research suggests it will do little to cool the planet, especially when trees are planted in Canada and other northern countries, says climatologist Alvaro Montenegro, at St. Francis Xavier University in Nova Scotia.

"There is no magic bullet" for global warming, says Montenegro, "and trees are certainly not going to be providing it."

He assessed the impact of replanting forests on crop and marginal lands with Environment Canada researcher Vivek Arora. Their study, published Sunday in Nature Geoscience, concludes "afforestation is not a substitute for reduced greenhouse-gas emissions."

The United Nations, environmental groups and carbonoffset companies are invested heavily in the idea that planting trees will help slow climate change and global warming. International authorities have long described "afforestation" as a key climate-change mitigation strategy. But the study says the benefits of tree planting are "marginal" when it comes to stopping the planet from overheating.

Trees do suck carbon out of the air, but the study highlights that their dark leaves and needles also decrease the amount of solar radiation that gets reflected by the landscape, which has a warming effect.

Cropland -especially snowcovered cropland -has a cooling effect because it reflects a lot more solar energy than forests, the scientists say. This so-called "albedo effect" is important and needs to be incorporated into assessments of tree planting programs and projects, the researchers say. "At this point it is completely ignored," says Montenegro, "and that is wrong."

He and Arora stress that planting forests has many benefits -trees provide habitat for wildlife and prevent soil erosion. And planting forests does help reduce atmospheric levels of carbon dioxide because carbon is locked into wood as trees grow, they say, noting how this could help slow acidification of the oceans, another illeffect of rising greenhouse gas emissions. But planting trees will have only a modest effect on the global temperature, according to their study, which used a sophisticated climate modelling system developed by Environment Canada.

"The model can actually grow trees," Arora said in an interview, explaining how the sophisticated interactive model can ask and answer "interesting what-if kind of questions" about the climate's future. It can also look back in time and the results match well with past climate realities.

For the study they assessed what would happen to the global climate system over coming decades under different "afforestation" scenarios.

In the most extreme case, 100 per cent of cropland on the planet was planted with trees. This resulted in only a 0.45 degree (Celsius) reduction in global temperature by the end of the century. In a more modest scenario that grew trees on 50 per cent of existing global cropland, the temperature dropped just 0.25 degrees.

"Temperature benefits associated with more realistic global afforestation efforts, where less than 50 per cent of cropland is converted, are expected to be even smaller, indicating that afforestation is not a substitute for reduced greenhouse-gas emissions," they conclude.

Increasing greenhouse gas emissions is expected to see the average global temperature climb at least two degrees this century, with more pronounced warming in northern countries like Canada.

The study found that planting forests at high latitudes did not cool the climate, because of the way tree foliage absorbs more radiation and reduces reflection of radiation from snowcovered fields. "At high latitudes, it is sort of a zero game change," says Montenegro.

There is a small but more significant benefit in the tropics, suggesting that avoiding deforestation and continuing to plant trees in the tropics "are effective forest management strategies from a climate perspective," say he and Arora.

They say slowing climate change will require action on many fronts, and real cuts in emissions. "There is no way around it, we have to stop emitting," says Montenegro.

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## Science News

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### Urban 'Green' Spaces May Contribute to Global Warming

*ScienceDaily* (Jan. 22, 2010) — Dispelling the notion that urban "green" spaces help counteract greenhouse gas emissions, new research has found -- in Southern California at least -- that total emissions might be lower if lawns did not exist.

#### See Also:

#### Plants & Animals

- [Nature](#)
- [Soil Types](#)
- [Agriculture and Food](#)

#### Earth & Climate

- [Global Warming](#)
- [Air Quality](#)
- [Environmental Issues](#)

#### Reference

- [Automobile emissions control](#)
- [Consensus of scientists regarding global warming](#)
- [Fossil fuel](#)
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Turfgrass lawns help remove carbon dioxide from the atmosphere through photosynthesis and store it as organic carbon in soil, making them important "carbon sinks." However, greenhouse gas emissions from fertilizer production, mowing, leaf blowing and other lawn management practices are similar to or greater than the amount of carbon stored by ornamental grass in parks, a UC Irvine study shows. These emissions include nitrous oxide released from soil after fertilization. Nitrous oxide is a greenhouse gas that's 300 times more powerful than carbon dioxide, the Earth's most problematic climate warmer.

"Lawns look great -- they're nice and green and healthy, and they're photosynthesizing a lot of organic carbon. But the carbon-storing benefits of lawns can be counteracted by greenhouse gas

emissions," said Amy Townsend-Small, Earth system science postdoctoral researcher and lead author of the study, forthcoming in the journal *Geophysical Research Letters*.

The research results are important to greenhouse gas legislation being negotiated. "We need this kind of carbon accounting to help reduce global warming," Townsend-Small said. "The current trend is to count the carbon sinks and forget about the greenhouse gas emissions, but it clearly isn't enough."

Turfgrass is increasingly widespread in urban areas and covers 1.9 percent of land in the continental U.S., making it the most common irrigated crop.

In the study, Townsend-Small and colleague Claudia Czimczik



*Freshly mowed grass. Turfgrass lawns help remove carbon dioxide from the atmosphere through photosynthesis and store it as organic carbon in soil, making them important "carbon sinks." However, greenhouse gas emissions from fertilizer production, mowing, leaf blowing and other lawn management practices are four times greater than the amount of carbon stored by ornamental grass in parks. (Credit: iStockphoto/Nicholas Campbell)*

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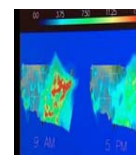
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analyzed grass in four parks near Irvine, Calif. Each park contained two types of turf: ornamental lawns (picnic areas) that are largely undisturbed, and athletic fields (soccer and baseball) that are trampled and replanted and aerated frequently.

The researchers evaluated soil samples over time to ascertain carbon storage, or sequestration, and they determined nitrous oxide emissions by sampling air above the turf. Then they calculated carbon dioxide emissions resulting from fuel consumption, irrigation and fertilizer production using information about lawn upkeep from park officials and contractors.

The study showed that nitrous oxide emissions from lawns were comparable to those found in agricultural farms, which are among the largest emitters of nitrous oxide globally.

In ornamental lawns, nitrous oxide emissions from fertilization offset just 10 percent to 30 percent of carbon sequestration. But fossil fuel consumption for management, the researchers calculated, released almost as much or more carbon dioxide than the plots could take up, depending on management intensity. Athletic fields fared even worse, because -- due to soil disruption by tilling and resodding -- they didn't trap nearly as much carbon as ornamental grass but required the same emissions-producing care.

"It's unlikely for these lawns to act as net greenhouse gas sinks because too much energy is used to maintain them," Townsend-Small concluded.

Previous studies have documented lawns storing carbon, but this research was the first to compare carbon sequestration to nitrous oxide and carbon dioxide emissions from lawn grooming practices.

The UCI study was supported by the Kearney Foundation of Soil Science and the U.S. Department of Agriculture.

**Editor's Note:** *The original version of the news release, distributed Jan. 19, has been updated here to reflect the correction of a spreadsheet error in the scientific paper regarding carbon dioxide emissions during lawn maintenance.*

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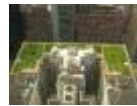
The above story is reprinted (with editorial adaptations by ScienceDaily staff) from materials provided by [University of California - Irvine](#).

#### Journal References:

1. Amy Townsend-Small, Claudia I. Czimczik. **Carbon sequestration and greenhouse gas emissions in urban turf.** *Geophysical Research Letters*, 2010; 37 (2): L02707 DOI: [10.1029/2009GL041675](#)
2. Amy Townsend-Small, Claudia I. Czimczik. **Correction to 'Carbon sequestration and greenhouse gas emissions**

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[Home](#) [News](#) 'Corrected' UC-Irvine study shows turfgrass to be positive sequester of carbon

## 'Corrected' UC-Irvine study shows turfgrass to be positive sequester of carbon

INDUSTRY NEWS

The Toro Company partners with leading researchers to further improve efficiency.

GCI STAFF  
February 22, 2010

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Scientists from the Department of Earth System Science at the University of California – Irvine recently published a paper in the journal Geophysical Research Letters on January 22, 2010 titled, “Carbon Sequestration and Greenhouse Gas Emissions in Urban Turf.” This study adds significantly to the body of knowledge documenting the carbon benefits of turfgrass.

Upon initial release, the UC-Irvine paper was carefully studied by scientists in The Toro Company’s Center for Advanced Turf Technology (CATT) and its conclusions were recognized as inconsistent with research conducted by the company. In particular, the CO2 emissions reported for fuel use by turf maintenance equipment was an order of magnitude higher than work done by Toro’s research team. Upon recalculation, Toro scientists uncovered the math error made in computing the carbon produced as CO2 during mowing. The error was missed during the peer review process prior to publication of the paper by the American Geophysical Union (AGU). Toro scientists contacted Dr. Amy Townsend-Small, the lead author on the paper, with their research and observations back in late January. Appropriate changes have since been made and sent to the AGU for correction.

“With the error corrected, turfgrass is actually found to be a net positive sequester of carbon,” said Dana Lonn, managing director of Toro’s CATT group. “In other words, properly maintained turfgrass actually traps and utilizes carbon thus removing it from the atmosphere. We credit the authors for tackling a complex and comprehensive issue. Consistent with what we have found in working with leading research institutions, this study provides a solid foundation for future work. With further improvements in technology to increase efficiency and reduce



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fuel consumption, grass can become an even greater asset.”

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The objective of the UC-Irvine study was to comprehensively examine the balance between greenhouse gas emissions incurred in turf maintenance and carbon sequestered in the soil. It also highlights the importance of optimizing the use of all resources in turf management including water, fuel, fertilizers and electricity to maximize the storage potential of plant-soil systems.

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“Toro recognizes the importance of this issue for the environment and for the industry,” Lonn added. “As the corrected UC-Irvine study points out, turf can be a net sink for atmospheric carbon and can, therefore, help reduce greenhouse gas emissions. Turfgrass can be part of the solution.”

Toro and its CATT group, as a result of talking with thousands of customers over the last decade, have furthered the development of alternative fuels and irrigation technologies to better manage resources and improve turf management practices.

On the water management front, Toro has deployed improved sprinkler nozzles that reduce water consumption by up to 30 percent and irrigation scheduling systems that utilize weather data and soil moisture sensors to assure that precisely the right amount of water is applied. In addition, the company has developed technology to quantify site conditions including soil properties, plant health, topography and sprinkler performance that will further improve the precision of irrigation.

In the area of fuel efficiency, Toro has developed a number of advanced technologies to reduce fuel consumption and carbon emissions. These advances include:

- The first company in the industry to approve B20 biodiesel fuel for most commercial and landscape contractor turf maintenance equipment.
- Equipment that utilizes propane, which contains less carbon as a fuel and emits fewer greenhouse gas pollutants.
- The development of lithium ion battery-powered walk greensmowers for the golf market.
- The development of a hybrid greensmower for the golf market.
- The development of a fuel cell powered greensmower, which demonstrates the feasibility of hydrogen as a fuel for specialty application.
- A partnership with NYSERDA and the NY State Office of Parks, Recreation and Historic Preservation to provide a fleet of three utility vehicles powered by hydrogen technology. These vehicles have been extensively tested at Niagara Falls and Bethpage State Park.

Toro recognizes the importance of this issue and would like to work with researchers to carry these studies to the next level. Toro scientists propose further study regarding the following issues:

- Evaluate sites in other parts of the country. Variations in climate, turf types and maintenance practices will change the balance of carbon sequestration and resource utilization.
- Look at machine choices and management practices to more thoroughly understand how to reduce fuel consumption.
- Measure actual inputs of water and nutrients or use the best available technology to estimate resource inputs of water and fertilization. Advanced technology should be applied to assure the minimum use of water.



· Quantify the carbon sequestration potential of turf. There are likely to be differences that are dependent upon local soil conditions, turf species, intensity of management, turf use and climate.

In summary, grass when properly maintained is beneficial to the environment as a positive sequester of carbon and, with continued improvements in management practices, can become an even greater asset.



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Add a comment:

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\* Lawn & Landscape reserves the right to edit or remove reader comments for any reason it deems appropriate.

## COMMENTS

Sort By

[Keith.Shepersky@Toro.Com](mailto:Keith.Shepersky@Toro.Com)

It makes complete sense that turf helps the environment by sequestering carbon. This article appears to say that the findings show the effect is even beyond the carbon released by the motorized equipment used to maintain the grass.

Page 1 of 1





The Corporation of the District of North Vancouver

CORPORATE POLICY MANUAL

Section:	Social and Community Services	10
Sub-Section:	Planning - Public Involvement Process	4960
Title:	FRAMEWORK FOR PUBLIC INVOLVEMENT - REFERENCE GUIDE	1

**POLICY**

In order to encourage a wide and diverse range of public involvement and ensure that those processes are timely and meaningful, municipal processes will be designed and delivered in accordance with the Framework for Public Involvement. The complete Framework for Public Involvement Manual is available in hard copy from the Clerk's Office or electronically either on the District Junction (staff only) or the Infoweb. Attachment 1 of this Policy is a Reference Guide to the Framework.

**REASON FOR POLICY**

To serve as a guide for staff in implementing public involvement processes.

**AUTHORITY TO ACT**

Delegated to Staff

**PROCEDURE**

As outlined in Attachment 1 of this Policy

Approval Date:	April 22, 1996	Approved by:	Executive Committee
1. Amendment Date:		Approved by:	
2. Amendment Date:		Approved by:	
3. Amendment Date:		Approved by:	

## REFERENCE GUIDE TO FRAMEWORK FOR PUBLIC INVOLVEMENT MANUAL

In 1996 the Council of the District of North Vancouver approved the Public Involvement Framework which sets out the policies, principles and practices for public involvement processes in the District.

The Framework is intended to be used as a tool for staff to design effective public involvement processes, consistent with the District's Governance Principles that "***we believe that open and responsive local government occurs through decision-making processes that are accessible to those wishing to participate, easily understood, timely, just and fair***" and "***we believe that local government must be accountable, efficient and effective***".

The Manual, which consists of four parts (or volumes), was developed as a guide for staff in designing and delivering municipal processes which encourage a wide and diverse range of public involvement and ensure that those processes are timely and meaningful. The various volumes can be used together or separately depending upon the reference tool required for the task that staff are working on.

The information contained in the Framework has been summarized in this guide as a quick reference tool for staff. A complete copy of the Framework is available electronically, either on the District Junction (staff only) or on the Infoweb. Copies of the full manual are available in the Clerk's Office and can be purchased for \$20.00.

### **Volume 1 Policy Framework**

Volume 1 sets out the policy framework and guiding principles and Council policies related to public involvement. It summarizes the framework under which the development and the implementation of public involvement processes within the District of North Vancouver are carried out:

#### **1.1 The Corporate Business Plan:**

The Corporate Business Plan outlines the District's Mission Statement, governance Principles, Corporate Values and Corporate Priorities. The Business Plan also includes many statements reinforcing the importance of public involvement in the way the District "does business".

#### **1.2 Council's Overall Policy on Public Involvement:**

- Expectations
- District Responsibilities
- Public Responsibilities
- Constraints

### **1.3 Guiding Principles for Public Involvement:**

The District's and other municipalities, experience with public involvement processes indicates that the following principles are key to success.

- Integrity
- Flexible
- Responsive
- Open and Informed
- Collaborative
- Fair
- Clear
- Efficient

### **1.4 Policy Statement on Community Committees of Council and Community Associations**

Citizens are more easily and effectively engaged in the process on their own turf. Citizens gather in many groups and organizations. These are a natural community infrastructure to enhance the District's public involvement processes. The District also has more formal relations with its own appointed community committees and individual community and ratepayer associations

### **1.5 Community Associations and Neighbourhood Livability:**

There are tremendous benefits to be gained by having active, involved community associations at the neighborhood level. These organizations enable residents to work together to: address local issues, create a sense of community by connecting people with each other, develop needed programs and services, and provide input into municipal decision-making from those who are affected.

In 1994, the District of North Vancouver adopted a framework for neighbourhood livability and involvement. Included in that framework was the Official Recognition of Community Associations. Those Community Associations which meet the established criteria can register with the District and will be given Official Recognition. The District has also developed a fund to assist recognized community associations in developing their memberships and increasing involvement and to support the development of new neighbourhood associations in areas where none currently exist.

## **Volume 2 Designing and Implementing**

Volume 2 is the "How to" portion of the manual which outlines the questions to ask and issues to consider when staff design public involvement processes. It lays out a framework for designing public involvement processes for those issues and decisions where there are no current common practices:

### **2.1 Public Involvement Dilemmas - A Cautionary Note**

### **2.2 Steps to Design a Public Involvement Process**

### **2.3 Details on Steps to Design a Public Involvement Process**

Step 1: Goals for Public Involvement

Step 2: Level of Public Involvement

## **Some Questions worth considering for Level, Objectives and Outcomes**

Step 3: Who Needs to Be Involved?

Step 4: Techniques Used to Involve

### **2.4 Costs and Benefits**

#### **Volume 3 Current Practices**

Volume 3 is a list of the processes that we currently have for involving the public in the myriad of decisions that are made which affect them. It outlines the District's Standard Practices for Public Involvement. However, there will always be issues that require more specifically designed public involvement processes.

For example:

- reviews of the District Official Community Plan
- development of significant District-wide policies
- exploration of issues that affect everyone, all aspects of the community, and multiple aspects of the District as a municipal corporation.

Volume 3 is intended to assist you in designing a public involvement process that fits your situation. The sections outline:

- issues that need to be considered;
- questions that must be addressed to ensure completeness and appropriateness;
- techniques that can be used.

#### **Current Practices:**

- 3.1 Formal Public Meetings and Hearings**
- 3.2 Annual Business Plan Review**
- 3.3 Annual Budget Process**
- 3.4 Board of Variance Applications (Hardship Considerations)**
- 3.5 Bus Stop Locations (New, Close Down, Relocate)**
- 3.6 Child Care Facilities Business Licence Applications**
- 3.7 Council Delegations**
- 3.8 Development Variance Permits for Single-Family Housing (heights above neighbourhood zoning regulations)**
- 3.9 Land Use and Development Permit applications**
- 3.10 Local Improvements (roads, curbs, sewers, lighting, lanes, parking)**
- 3.11 Official Community Plan**
- 3.12 Neighbourhood Pub Business Licence Applications**
- 3.13 Neighbourhood Traffic Control Program**
- 3.14 Single Family Neighbourhood Zoning (regulations specific to a neighbourhood within the local Official Community Plan)**
- 3.15 Park Planning**
- 3.16 Subdivision Applications**
- 3.17 Trees on District Property**

## **Volume 4   Tool Box**

Volume 4 is a "Tool Box" of creative techniques which suggests various mechanisms and ideas that can be considered in designing and processing. Designing and leading public involvement processes requires diverse knowledge, skill, and experiences. This volume has been developed to provide some basic ideas on:

### **4.1   Looking for Resources within the District**

- 4.1.1   Communications Department
- 4.1.2   Experience in Public Involvement
- 4.1.3   Community Groups

### **4.2   Working with Task Forces and Other Groups**

- 4.2.1   Characteristics of Effective Teams
- 4.2.2   Phases of Group Development
- 4.2.3   Resolving Conflicts

### **4.3   Meetings**

- 4.3.1   Designing Meetings
- 4.3.2   Chairing Meetings
- 4.3.3   Styles of Decision-Making

### **4.4   Facilitation**

- 4.4.1   Principles of Effective Facilitation
- 4.4.2   Keeping it simple
- 4.4.3   Techniques

### **4.5   Exploring Non Traditional approaches**

- 4.5.1   Future Search
- 4.5.2   Open Space Technology

### **4.6   Using Consultants**

### **4.7   Exploring the Literature**

FONVCA Agenda Item 6.1 (b/1)



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## Special Meeting of Council to discuss Bylaw 7896

The public is invited to attend a Special Meeting of Council to consider second and third reading of Bylaw 7896, Dispensing of Cannabis, scheduled for **Tuesday, June 21, at 7:00 pm in the Council Chamber of the Municipal Hall at 355 West Queens Road**. Council will take into consideration submissions made from the public received up until the close of the Public Hearing on June 14. There will be no opportunity for public input at this meeting.

Council, by law, is not permitted to receive any further input from the public on Bylaw 7896 at this point; we ask for your help by not attempting to engage Mayor and Council in debate or discussion on the proposed Bylaw 7896.

[Click here](#) to view the notice for this Special Meeting.

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## MetroVanWatch

*Our vision: A truly socially,  
environmentally, agriculturally  
sustainable Metro Vancouver region  
with good governance. At issue: The  
Regional Growth Strategy.*

---

### Legal opinion–Use of Public Hearing to block communication

What follows is correspondence with Metro Vancouver Commissioner and CAO Johnny Carline in which he indicates that because of the Public Hearing on the RGS [Note: It was implemented voluntarily by Metro Van], elected officials were not to hear from the public on this matter. But an independent legal opinion (also posted here) says this: ***Unfortunately many Councillors’ refusal to communicate with constituents individually after a public hearing, and even before public hearings, is simply a practice of administrative convenience for their own personal benefit. They do not want to be bothered with endless phone calls and so they blame the law, but as the Court of Appeal made clear in Adler and other decisions as well, it is not the law that says that councillors can not speak to you.***

\*\*\*\*\*

**13-Jan-2011, from Jonathan Baker, Municipal Lawyer, Baker & Baker, to Randy Helten, Coordinator, CityHallWatch** [Bold text is ours for emphasis.]

Randy,

I refer to our telephone conversation in which you asked me to comment on **Mr. Carline’s reasons for withholding your communications from Metro Board Directors.**

**Mr. Carline is correct that the law is complex. He says that there is no explicit prohibition in the Local Government Act relating to communications between Board members and the public. I say, however, that there is no implicit prohibition either. Courts do not prohibit councillors from communicating with their constituents after a public hearing.** What may happen is that a bylaw may be set aside if it is challenged by citizens following communications after a hearing but it depends entirely on the circumstances. The Sechelt case involved a second meeting by council between citizens and the councillors. Where there have been private meetings (as opposed to formally constituted meetings of Council) everything depends on the nature of the communication. **I do not agree that a meeting between yourself and a board member outside of council urging them to hold a further hearing would invalidate the bylaw.**

The case that is on point is *Adler International Investments Ltd. v. Central Okanagan (Regional District)* a decision of our Court of Appeal in 2003. The Court said:

16 British Columbia courts have commented on previous occasions that it is unrealistic to expect municipal councillors to shut themselves off from new information even at a late stage in the by-law approval process. In *Lewis v. Surrey (District)* (1979), 10 M.P.L.R. 123 (B.C. S.C.), Macfarlane J. said the Legislature could not have intended that after the holding of a public hearing, each councillor is required to remain “incommunicado”

with respect to the by-law in question. (at 130.) He continued:

*... that is not to say ... that in every case where an individual alderman has received information outside of a council meeting that the whole legislative process must come to a halt, and a new public hearing be held. If that were so, the system would be so cumbersome as to be incapable of producing practical results. In this case, for instance, a new alderman was given information by the petitioner after the public hearing. Did that require that a new public hearing be held? I think not. [at 131]*

17 More recently, in *Neufeld v. Comox-Stathcona (Regional District)*, [1992] B.C.J. No. 1413 (B.C. S.C.), Hood J. dealt with a very similar situation to that at issue here. Following one public hearing at which the Ministry of the Environment had been told it was “too late” to report, the local council was told that ‘new information’ had been received which, if considered, would necessitate a second public hearing. That information was the Ministry’s report. The Court held as follows:

*While the committee may state, at the end of a public hearing, that no further information or letters will be accepted, I have no doubt that local residents and other persons interested will write to the committee and make further submissions if they believe that to do so will further their cause. While the committee may reject some, or all, of the submissions it does not follow that in the event the committee receives further information or submissions from an interested party, or from any other source, which in its opinion warrants consideration, and creates second thoughts with regard to a previous recommendation, the committee cannot consider the same, provided they act fairly in doing so and, in particular, that a fresh public hearing pursuant to s. 956 is held; and the persons affected by the new information or submissions are given a reasonable opportunity to be heard in opposition to them. [at 13; emphasis added.]*

I respectfully adopt these comments.

18 The case at bar in my view represents the converse of *Lewis v. Surrey (District)*, *supra*. Here, the “new information” concerned the opposition of a key governmental authority whose objections had to be addressed before the by-law could become law. The ALC’s objections had serious implications not only for the Adler proposal, but for the entire region. The District had no real practical alternative but to consider these objections, and therefore to hold another hearing. Whether it did so after rescinding second and third readings is a matter of form only, but since s. 890(2) of the *Act* states that a public hearing must occur before third reading, it appears they had little choice in procedural terms. In any event, as stated by the Court in *Neufeld*, *supra*:

*It is to be remembered that the rule of fairness being focused on is procedural fairness, a rule which is flexible and will vary to some degree with the circumstances, including the function of the particular tribunal ...*

**Unfortunately many Councillors’ refusal to communicate with constituents individually after a public hearing, and even before public hearings, is simply a practice of administrative convenience for their own personal benefit. They do not want to be bothered with endless phone calls and so they blame the law, but as the Court of Appeal made clear in Adler and other decisions as well, it is not the law that says that councillors can not speak to you.**

You have asked whether the bylaw could be challenged on the basis of Metro’s staff refusing to pass your

communications on to Board Members?

I doubt it. Although politicians are not prohibited from talking to constituents they are not required to meet either. The penalty for refusing to answer phone calls is at the ballot box.

There is may be one exception. You tell me that Metro is proposing to delegate zoning powers to BC Transit. I have not read the proposal they would have no power to do this since delegates can't delegate their powers. If it is true that they have done so so you could apply to set aside the regulation. I find it hard to believe however that they would try such a thing without seeking the required legislative changes.

As to the other point I would be happy to discuss your options at your convenience.

**Jonathan Baker, Municipal Lawyer, Baker & Baker**

----- Forwarded message -----

*From: Johnny Carline*

*Date: Wed, Jan 12, 2011 at 5:09 PM*

*Subject: RE: Regional Growth Strategy*

*To: Citizen YVR*

*Dear Mr Helton:*

*With regard to your e-mail of yesterday, the relevant section of the legislation to which I refer is Division 4 of the Local Government Act, (sections 890 to 894) on Public Hearings. **However, when you look at those sections you will not find a direct explicit prohibition on receiving information after public hearings.***

***It is the court interpretation of those provisions that is important.** Court decisions essentially enlarge upon or provide more detail where the legislation may not be clear. **My statement that "elected officials are not supposed to receive further information...is in legislation" was a compression of what is a fairly complex situation which, as you have expressed interest, I will try to explain.***

*Section 890 (3) is a good place to start. It states:*

*"At the public hearing all persons who believe that their interests in property is affected by the proposed by-law must be afforded a reasonable opportunity to be heard or to present written submissions respecting matters contained in the bylaw that is the subject of the public hearing."*

*This has led the Courts to say that the process requires procedural fairness. One example of that is a case brought against Pitt Meadows by the Pitt Polder Society where the courts found that failure to disclose significant documents at or before the public hearing impaired the ability of the public to exercise its rights as provided for in this section. Thus, though it is not written in statute, the interpretation expands the statute to now require the disclosure of the significant relevant documents at or before the public hearing.*

*This then spills over into what can happen after a public hearing. Obviously there is no way one can absolutely require a councillor (or in our case a director) to be incommunicado on any*

*subject. Constituents will communicate one way or another, as you have done, and it is impractical to think otherwise. Moreover, councils could not address some of the issues raised in public hearings if they did not receive advice from staff. But the principle is that all the significant information on which a council (or Board) is going to make its decision should be available to the public in advance of the public hearing so the public can exercise their rights. This is implied for example in section 894 (2), which deals with what is expected when a council delegates the conduct of a public hearing to an officer etc. Councillors who were not present for the public hearing cannot vote until and unless they have received a report of the public hearing. The implication is that the information on which they must rely is that submitted at the public hearing.*

*As an example of the courts enforcing this principle, a zoning by law passed by Sechelt to permit a fish processing plant was set aside by the court because the waste management plan was submitted after the public hearing.*

*This places local government officials in a bit of a dilemma. As noted, it is practically impossible to expect them to remain incommunicado. But, as they cannot be expected to know what the content of any communication is prior to receiving it, receiving any communication runs the risk of violating the above principles. This might, therefore, risk either disqualifying them from voting or requiring an entirely new public hearing. To avoid this every local government, as far as I am aware, prohibits further input after a public hearing (look on line for the New Westminster policy as an example). It is how they give effect to the courts' interpretation of procedural fairness as it applies to the above cited sections of the Local Government Act.*

*As you can see it is quite complex, hence my compressed and perhaps not overly precise language in my first e-mail. I hope this further explanation throws some more light on it and explains why the Board will not be receiving further delegations on this matter.*

*Again, I thank you for your interest (it is rare for me to have an interested audience on the intricacies of governance legislation) and however the process moves forward, I hope you feel you can contact me further on this kind of issue.*

*Johnny*

**From:** Citizen YVR

**Sent:** Tuesday, January 11, 2011 11:35 AM

**To:** Johnny Carline

**Cc:** Tricia Bowen

**Subject:** Re: Regional Growth Strategy

*Dear Mr Carline,*

***Further to our previous correspondence, I would like to be informed exactly which section of which piece of legislation you are referring to.***

*Secondly, would you kindly inform me whether individuals or delegations may register to speak at the Board meeting on January 14?*

*Thank you, and best wishes,  
Randy Helten*

\*\*\*\*\*

*On Fri, Jan 7, 2011 at 5:48 PM, Johnny Carline wrote:*

*Dear Mr Helton:*

***I am responding to your e-mail to the Metro Vancouver Board of Directors at the request of the Board Chair. She is rightly concerned that after the close of a public hearing elected officials are not supposed to receive further input from the public. This is in legislation and its purpose is clearly to protect the integrity of the public hearing process from 'lobbying' outside of the public hearing process.***

***As Board members will also likely and rightly feel constrained from responding, because of the public hearing rules cited above, I will respond, not on their behalf because their views may not necessarily coincide with mine, but to indicate to you that your correspondence has not been ignored.***

*Let me first thank you for your input. The Board, my colleagues and I always appreciate citizens being concerned enough to offer comment, even where we may not agree with those comments. So thank you.*

*Now to substance: your e-mail raises two sets of concerns. The first is that the Board is rushing the process and not enough time has been allotted to hear the public or for the Board to consider the proposed plan. The second is a series of concerns about the implications of the plan itself.*

*The review of the existing regional growth strategy began in 2002. It reached the point of producing draft strategy papers in 2007 and since then there have been between forty and fifty meetings to which the public has been invited and have attended in large numbers. The process has involved an evolution of the strategy with iterative drafts. The last draft differed from the previous draft largely in terms of the technical aspects of implementation processes as a result of extended work with local municipal planning officials. The major policy initiatives remain largely unchanged. The public input has been exhaustively documented and made available to the Board of Directors. The Board of Directors has been kept abreast of the changes that have occurred and the final draft provides a 'black line' guide to the final changes made as a result of the public hearing process. On January 14<sup>th</sup>, the Board will have the final draft before them and they have the prerogative to determine whether they are in a position to make a decision or not. My point is that the process has made every attempt to allow the Board members to make an informed decision in a timely manner and it has certainly involved more than four days.*

*The suggestion that the public needed more time was made to the Board's Planning Committee and to the Public Hearing by Ms Elizabeth Murphy on more than one occasion. Similarly every one of the concerns raised in your position paper was raised by Ms Murphy at committee before the draft went to public hearing and again at the public hearing on more than one occasion. I am*

*not certain whether Ms Murphy is a member of your group or not, but certainly if the position paper you circulated contains the concerns you wish the Board to consider, I would respectfully suggest that Ms Murphy has more than amply made the Board aware of these concerns through the several presentations she has made to committee and at the public hearing – all of which were documented, along with staff's response, for the Board's information and consideration.*

*I do understand that not all the concerns raised in your paper, and that were made by Ms Murphy, met with the response from staff that you desired. There is disagreement on a number of these points. But that in itself is not reason to extend the process – otherwise we would reach infinite regress. On January 14<sup>th</sup> the test for the Board will be whether they believe they understand the concerns you have raised and whether they understand the responses made by staff to those concerns. The Board will have the opportunity to examine staff on the concerns raised and on staff's responses to those concerns. At that point I believe they will be in a position to decide whether they can make an informed decision and what that decision is.*

*I am sure that in other circumstances both the Chair and other directors may have wished to respond to you directly. The public hearing process prevents them from doing so. And, again, I do not assert that their views necessarily coincide with mine. But whenever a member of the public feels engaged enough to offer comment to Metro Vancouver, we all feel that they deserve a response to those comments. So, while you may or may not agree with the response I have provided, I trust you will accept that it is offered in the spirit of civic engagement to which we all subscribe.*

*Thank you once again for caring enough about this region to be engaged.*

*Your truly*

*Johnny Carline*

*Commissioner and CAO*

*Metro Vancouver.*

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## One Response to *Legal opinion–Use of Public Hearing to block communication*



**Corrie Kost** says:

May 25, 2011 at 3:53 pm

An interesting article. I just want to note that the District of North Vancouver just completed (closed) a public hearing on their Official Community Plan on May 17/2011. During the public hearing our Mayor & Council never once informed the public that we were not to speak to the already closed Regional Growth Strategy. So it seems that when public hearings collide there are no such (or at least different) constraints.

[Reply](#)

---

**MetroVanWatch**

*Theme: Twenty Ten    Blog at WordPress.com.*

**STAPLES McDANNOLD STEWART**

Barristers &amp; Solicitors

## LoGo Notebook

...a newsletter for local governments

From <http://www.courts.gov.bc.ca/jdb-txt/SC/11/04/2011BCSC0491cor1.htm>

SPRING 2011

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- Consistency Between an Official Community Plan and Zoning Bylaw
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- Allegation That Municipal Official Authorized Unlawful Use is No Defence to Zoning Bylaw Enforcement

### Consistency Between an Official Community Plan and Zoning Bylaw

On April 18, 2011, the BC Supreme Court delivered its reasons for judgment in *Residents and Ratepayers of Central Saanich Society v. Central Saanich (District)*. This decision builds on the existing case law that addresses the issue of consistency between official community plans (OCP) and zoning bylaws. Section 884(2) of the Local Government Act requires that all bylaws adopted after the OCP must be consistent with that plan.

Until recently, the leading case providing guidance on the meaning of “consistency” was the 1983 BC Supreme Court decision in *Rogers v. Saanich*. Under the test suggested in that case, a bylaw would be considered inconsistent with the OCP only where there was an “absolute and direct collision” between them.

Then, in 2009, the Yukon Territory Court of Appeal in *McLean Lake Residents' Association v. Whitehorse (City)* suggested a stricter test, namely “compatibility”.

In rejecting the “absolute and direct collision” test, the court in *McLean Lake* said:

*“...what council cannot do is authorize land-use that is incompatible with an OCP's long-term vision for that land... [Absolute and direct collision] terminology suggests that the line a municipal council cannot cross is higher than it actually is, as it implies that a council is authorized to act in a manner that is incompatible with an OCP, provided what it does is not too incompatible. This is not to suggest that a finding of incompatibility should be readily made. To the contrary, such a conclusion can only be reached after the impugned bylaw (or action) and the OCP have been subjected to careful scrutiny.”*

While the *McLean Lake* decision did not create a binding precedent on courts in B.C., there has been a growing sentiment among local government lawyers that the compatibility test put forward in that case would replace the test in *Rogers*. The lawyers could only wait until the courts revisited the issue. The wait may have ended on April 18, 2011.

In *Residents and Ratepayers of Central Saanich Society v. Central Saanich (District)*, the plaintiff Society petitioned the court to quash a zoning bylaw on the grounds that it was inconsistent with the OCP. The OCP had designated as “rural” an area in which a development was proposed. The zoning bylaw in question permitted the subdivision of a 13 hectare portion of private farmland into 57 residential lots. The primary issue was whether that development, as permitted under the bylaw, qualified as “rural”.

Despite planning staff's opinion that the zoning bylaw was inconsistent because the development could not qualify as “rural” within the meaning of that designation under the OCP, Council adopted the bylaw. As a pre-condition to adopting the bylaw, Council required the registration of a section 219 covenant.



The covenant required, among other things, the prohibition of further subdivision of two larger parcels, the establishment of park land and public pathways, a 25 year lease over 3 hectares of land for use as a public garden, a nuisance easement over the lands being subdivided permitting the farm related noises and odours from the lands that would continue to be used for farming, and that the proposed residences would be constructed to the EnerGuide Rating 80 or higher.

In determining whether the bylaw was inconsistent with the OCP, the court avoided applying the tests formulated in the *McLean Lake* and *Rogers* cases mentioned above. Instead, the court opted to defer to Council's interpretation of the OCP, provided that interpretation was reasonable:

*“Whether the development permitted by the bylaw was inconsistent with the concept of rural, as set out in the District’s Official Community Plan, is a matter of interpretation. An Official Community Plan is not drafted in the terms of a statute but rather, in terms of objectives and policies, which are necessarily much less specific than statutory terms. It is obviously not possible to promote each of the many objectives of the Official Community Plan equally in a single instance, therefore decisions applying that plan must involve the exercise of judgment in balancing various objectives in each case.*

*The Court in considering a bylaw passed by a municipal council is not dealing with an adjudicative tribunal, but a decision by elected council members, who have concluded in the exercise of their judgment, how best to accommodate the various policies and objectives they must serve. This does not empower council to misinterpret the Official Community Plan but it does suggest that the court ought not to interfere with any reasonable interpretation consistent with the OCP.”*

In coming to this conclusion, the court referred to the fact that while the zoning bylaw permitted an increase in density, that density remained significantly less than permitted in urban zones. In the court's view the bylaw and the covenant achieved a number of the objectives of the OCP, including by consolidating the land that was actually suited for farming and further restricting it from development. It was appropriate to consider the covenant and the bylaw together when examining whether the bylaw was consistent with the OCP, because the approval of the bylaw put into place the measures agreed to in the covenant. The court concluded that having considered the OCP, the staff report and the benefits conferred by the covenant, council was acting reasonably in adopting the zoning bylaw.

This decision may be subject to appeal and thus caution should be taken in relying on it extensively. Nonetheless, it acknowledges that publicly elected bodies are best placed to consider the many objectives and policies set out in the OCP and to decide whether a particular development application strikes an appropriate balance among those various policies. The decision also suggests that a council's requirement for covenants (and possibly other agreements) aimed at promoting conservation or achieving other policies in the OCP (e.g. development vs. environmental protection), may be considered in the analysis of consistency between a rezoning bylaw and OCP.

**David Pilling**

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

Citation: *Residents and Ratepayers of Central Saanich Society v. Saanich (District)*,  
2011 BCSC 491

Date: 20110418  
Docket: 11-0105  
Registry: Victoria

In the Matter of the *Judicial Review Procedure Act*, R.S.B.C. 1996, c. 241  
and the *Local Government Act*, R.S.B.C. 1996, c. 323

Between:

**Residents and Ratepayers of  
Central Saanich Society**

Petitioner

And

**Corporation of the District of Central Saanich  
and Ian Vantreight**

Respondents

Corrected Judgment: the text of this judgment was corrected on page 8 in  
paragraphs 15 and 16, where changes were made on April 18, 2011

Before: The Honourable Mr. Justice Curtis

**Reasons for Judgment**

Counsel for the Petitioner:

John W. Gailus

Counsel for the Respondent, Corporation of the District of Central Saanich:

Raymond E. Young, Q.C.

Counsel for the Respondent,  
Ian Vantreight:

L. John Alexander  
& L. Leblanc

Place and Date of Hearing:

Victoria, B.C.  
March 14-16, 2011

Place and Date of Judgment:

Victoria, B.C.  
April 18, 2011

[1] The Residents and Ratepayers of Central Saanich Society has petitioned the court to quash a bylaw passed by the District of Central Saanich which permits Mr. Vantreight to subdivide a 13 hectare portion of his farm in Central Saanich into 57 residential lots which can include secondary suites. The basis of the application is that the bylaw permitting such a development in an area of Central Saanich designated as rural in the Official Community Plan is inconsistent with the Community Plan and therefore illegal.

[2] The *Local Government Act*, R.S.B.C. 1996, c. 323 provides:

884.(2) All bylaws enacted ... after the adoption of

(a) an official community plan, ...

must be consistent with the relevant plan.

[3] The Corporation of the District of Central Saanich, which consists of a mayor and six councillors duly elected by the residents of the District provides the municipal government for the district which has a population of approximately 16,000 residents. The District has in place an Official Community Plan adopted under bylaw number 1600 in 2008. The Plan which was adopted after extensive public consultation is some 164 pages in length and includes a Land Use Plan marked as Schedule A to the Official Community Plan, which depicts the District Lands colour coded to delineate their various uses, zoning and boundaries. Lands including the land in question, designated as rural are coloured light yellow.

[4] The Central Saanich Plan begins with the following statement:

#### **1. Our Long-Term Vision**

There is nowhere else like Central Saanich. Areas of great natural beauty, rolling rural landscapes, active agriculture and defined settlement areas co-exist in harmony with one another – all within a growing metropolitan region. This uncommon pattern is valued greatly by residents of Central Saanich, one that we need to protect for future generations. At the beginning of a post-industrial century, the community recognizes that there are changes on the horizon (climate change, regional population growth, transition away from fossil fuels) which must be managed. In spite of the difficulty in predicting these changes, a strong vision for the community is crucial to provide direction to address current and future community needs.

The following philosophy and principles express the collective vision we have for Central Saanich.

#### **1.1. Fundamental Philosophy**

The fundamental philosophy of this plan is to work towards the creation of a healthy, sustainable community in which the citizens and landowners of Central Saanich can thrive while creating a responsible and harmonious relationship with the natural environment. To achieve this, the District of Central Saanich will integrate environmental, economic, and social considerations together in all decisions relating to growth and change in our community. We want to create a healthy, 'complete', socially diverse, and highly walkable community where there is a balance of jobs and housing and where there are viable alternatives to the private automobile. Central to the philosophy of this plan is to retain, protect and enhance the current rural village character of Central Saanich, its agricultural land base and environmentally sensitive areas, while allowing for modest, low-impact growth within the established Urban Settlement Area. Further, this plan explicitly acknowledges and addresses the causes and impacts of climate change by committing to the reduction of green house gas emissions in the community, and by adapting to the impacts of climate warming.

[5] The Plan sets forth Fundamental Principles in section 1.2 which include:

#### **Support Agriculture**

The residents of Central Saanich have expressed strong support for preservation of the agricultural land base, and the farming economy which depends on it. Any future residential, commercial or industrial growth should be directed towards the established Urban Settlement Area. Agriculture is an important contributor to the local and regional economy, creating jobs, and generating revenues.

#### **Maintain Rural Character**

Rural lands and rural lifestyles are highly valued by residents of Central Saanich. The rural character of Central Saanich, defined by its large agricultural land base and its compact, mixed-use village centres, should be sustained; future growth should be focused within the established Urban Settlement Area within the municipality.

#### **Use Limited Land Supply Wisely**

Within a regional context, Central Saanich will accept a modest amount of growth that is consistent with the established settlement patterns of the municipality and that has a minimal impact on environmentally sensitive land, water and agricultural areas. More intensive land use and higher overall densities may be supported in the existing Urban Settlement area.

#### **Manage Growth Carefully**

Gradual, low-impact growth is supported provided it does not place an undue burden on the existing utility infrastructure and

community services, and does not result in substantial increases in the municipal tax rate. Infilling and intensification of existing residential areas are strongly preferred over extending new services to undeveloped areas.

[6] In section 2 of the Plan, it is stated:

The Official Community Plan (“the plan”) does two important things – it presents a long-term vision for Central Saanich and, at the same time, it sets out carefully worded policies, priorities and regulations that guide land use, community development and municipal spending decisions. Both the long-term vision and the policies provide general direction for neighbourhood-level planning and regional authorities. The term “long-term”, refers to a timeframe of up to 20 years.

The plan is an essential guide for residents, landowners, businesses, community organizations and governments that may be contemplating any changes related to land use, building and property services in Central Saanich. Once the plan is adopted by Council, all decisions made by the District of Central Saanich (“the District”) must conform with the plan. This includes decisions about zoning, subdivision, density, services and capital spending. In this way, the plan provides a high degree of predictability for residents, businesses, neighbouring municipalities and First Nations, as well as other levels of government.

The plan, however, does not commit or authorize the District to proceed with any project specified in the plan. Achieving the policies of the plan will be determined by future decisions of Council regarding priorities, funding and implementation.

[7] Section 1.3 of the Plan states the following:

The land uses desired by the community are illustrated on Schedule A, Land Use Plan as land use designations. The intended uses for each designation and the relevant section within the OCP are set out in table 1.

[8] Table 1 includes the following entries:

Agriculture	Farming and agricultural operations within the ALR.	Section 3
Rural	Unserviced, large, rural residential lots and agricultural lands not within the ALR.	Section 3

[9] In section 3, the following is set forth:

### 3.2.1. Preserving Agricultural Land

*Objective: To preserve lands with potential for agricultural production and to protect these areas from incompatible land uses.*

- Policy 1 Areas designated as Agriculture on Schedule A, Land Use Plan will be retained for agricultural uses over the long-term regardless of any changes that may be made by the Provincial Government with respect to the Agricultural Land Reserve.
- Policy 2 Applications for exclusion of lands from the Agriculture Land Reserve will not be supported by the District.
- Policy 3 Support the B.C. Agricultural Land Commission objective of retaining agricultural lands and consolidating them in large parcels to maintain their viability for agricultural use and further support consolidation of farmland.
- Policy 4 Further subdivision of agricultural lands is not supported. Amend the Land Use Bylaw to remove the distinction between A1 and A2 zones and increase minimum lot area to 20 hectares. Over 50% of the farms in Central Saanich are under 4 hectares, and while the District endeavors to protect larger lot sizes, it fully recognizes the contribution and viability of all sizes of farms in its jurisdiction.
- Policy 5 For lands situated within the ALR, the provisions of the Agricultural Land Commission Act and those of the Local Government Act must be taken into account in any land use or building application being reviewed by the District of Central Saanich.

...

### 3.3. Guiding the Future – Rural Lands

The following, goals, objectives and policies express the District’s directions for rural lands in Central Saanich. These statements address the long-term vision of the District and set out specific policies to guide decision-making.

#### 3.3.1. Rural Character

*Objective: To preserve rural lands for rural purposes rather than being considered as a reserve for future residential, commercial or industrial uses.*

- Policy 1 The areas designated as Rural on Schedule A, Land Use Plan are intended to be retained for rural residential and agricultural uses over the long-term.

- Policy 2 Support agricultural uses on rural lands where possible and discourage subdivision or development of rural lands.
- Policy 3 Support the inclusion of any agriculturally viable rural land into the ALR.
- Policy 4 Support any consolidation of rural designated parcels with agricultural parcels for the benefit of farm units and agricultural uses.

[10] In section 4 of the Plan which deals with residential growth management, the following is stated:

#### 4.2. Guiding the Future – Managing Growth

The following objectives express the District's directions for managing residential growth and the provision of housing in Central Saanich. These statements address the long-term vision of the District and are accompanied by a set of specific policies to guide decision making.

- Objective* To ensure the provision of sufficient development opportunities to accommodate gradual, low-impact growth in locations and at densities that support non-automobile modes of travel while preserving agricultural and rural uses and valued open spaces.
- Objective* To encourage settlement patterns that minimize the causes of climate change by minimizing GHG emissions from transportation and buildings.
- Policy 1 In general, residential growth should be gradual and be paced reasonably evenly over the planning period; as a guideline, an average 1% growth rate approximately equivalent to 70 new units per year, is acceptable.
- Policy 2 Residential growth should not exceed the planned capacity of the Saanich Peninsula Treatment Plant.
- Policy 3 Most new residential and mixed-use residential/commercial development should occur as infill and intensification within the Urban Settlement Area as designated on Schedule A, Land Use Plan. Uses outside of this boundary should primarily be rural, agricultural or open space.

[11] The Plan in its 164 pages includes a great many other objectives and policies. While the actions of the District Council are to be guided by and governed by the Plan, it is clear that, with the great multiplicity of objectives and policies, any decision or action of council will likely involve an exercise in judgement in balancing and accommodating the various objectives and policies in each particular instance.

[12] Mr. Vantreight is the registered owner of six parcels of land totalling 267 acres or 108 hectares in Central Saanich, which front onto Wallace Drive and Central Saanich Road. A large part of that land has been farmed by the Vantreight family for many years. Part of the land is in the Agricultural Land Reserve, but the part proposed to be subdivided is not in the reserve and there is no evidence that the land is or was farmed at any time.

[13] In or about 2007, Vantreight Farms brought forward a proposal to develop the 13 hectares in question for 31 single family homes, 92 town homes and 141 condominiums. This proposal was not received favourably and a second proposal for 89 residential units on the 13 hectares was advanced. In a memorandum dated August 10, 2009, Hope Burns, Director of Planning and Building Services for the District wrote:

It is acknowledged that the applicant has heard some of the concerns expressed by Council and the community in the past and has submitted a significantly reduced development. However, as now shown, this is still a significant development application with major land use designation implications. It first needs to be determined if this proposal, in Council's interpretation, meets the definition of Rural or whether accommodating this proposal requires establishing a new Urban Settlement Area outside of the presently serviced and identified urban areas. Any change to the Urban Settlement Area must be given careful consideration and is a lengthy process to pursue with the CRD Board.

Existing OCP policies do not support this application for a change in land use designation to urban settlement area. Staff have in the past been supportive of a clustered, smaller scale rural development that will not negatively impact the environmentally sensitive woodland area now identified in the Enkon report, nor impact the adjacent agricultural lands and operations. Staff would also not support a rural large lot subdivision development (e.g. minimum lot size of .4 ha (1 acre) as this type of "sprawl" could negatively impact the treed steeply sloping site, with blasting and site development works. However, a smaller scale truly clustered development, that includes consolidation of the agricultural properties owned by Mr. Vantreight within the immediate vicinity into a larger agricultural unit, may be an alternative way to provide for some development in compliance with the OCP.

Staff have attempted to provide a balanced analysis of the proposal as now submitted and quoted the policies of our OCP for consideration. Staff are challenged to support that this proposal as submitted meets the rural classification in our OCP. We are not convinced that the site layout of this revised proposal accurately reflects or honours the significant natural features, environmentally sensitive and contiguous landforms and vegetation found on this site. The placement of the units, notably those at the top of the knoll and those closest to the agricultural lands to the east and south are located on the more disturbed portions of the site but we question whether these then provide for a good transition or buffer from the actively farmed land. The proposed density is too great to gain the support of planning staff as a rural development.

The OCP endorses a moderate growth rate of approximately 70 units per year throughout the municipality. Housing construction in recent years has very closely matched this projection. One target of the Regional Growth Strategy is that 90% of growth should be

located within the Urban Containment Areas. Therefore the scale of the proposed 89-unit development represents more than 12 years of the growth expected within the rural and agricultural areas of Central Saanich.

[14] Ms. Burns' recommendations to Council in that memorandum was as follows:

It is recommended that Council provide direction on whether there is support for one or a combination of the following options, with regard to the requested rezoning to facilitate development of an 89-unit residential development on the western 13 ha (32 acres) of the property at 8410 Wallace Drive:

1. concur that the application as presently submitted by Mr. Vantreight for 89 units known as the Hilltop development fits within the definition of "Rural" in the District's OCP and should proceed further through the rezoning process with the creation of a new Rural zoning category;
- OR
2. acknowledge that, pursuant to the OCP rural designation, a lower density clustered development based on an existing rural estate zoning could be supported and the applicant be advised to revise the application;
- OR
3. indicate that there is no support for residential development at the proposed density of this site at this time.

[15] On August 17, 2009, the Director of Planning discussed the August 10 memorandum at a meeting of the District Council, and Mr. Mawson, a consultant hired by Mr. Vantreight made a submission arguing that the proposal met the requirements of rural and the objectives of the OCP. Council held a roundtable discussion and by a majority of four to one, passed a motion that "Council concur that the application as presently submitted by Mr. Vantreight for 89 units known as the Hilltop Development fits within the definition of "Rural" in the District OCP and should proceed further through the rezoning process with the creation of a new Rural zoning category."

[16] The 89-lot proposal, like its predecessor met concerted and reasoned opposition with the result that in March 2010, Mr. Mawson on behalf of Mr. Vantreight withdrew the 89-lot proposal and submitted a proposal for 58 single family residences. The new proposal was referred to the Advisory Planning Commission. In an April 12, 2010 memorandum to the Planning Commission, Ms. Burns wrote:

Staff find it a challenge to accept that the Rural Estate RE-5 zone, with a minimum lot area of 0.14 ha (1/3 acre), would result in what is truly a "rural" pattern and density of development.

[17] The Minutes of the meeting of the Central Saanich Advisory Planning Commission held April 21, 2010 contain the following notations:

**\*\*THE FOLLOWING MOTION WAS DEFEATED\*\***

MOVED/SECONDED

That it be recommended to Council that the Advisory Planning Commission is supportive of the requested density of the proposed development pursuant to the Rural Estate RE-5 zoning.

DEFEATED

Opposed: Five Members

**\*\*THE FOLLOWING MOTION WAS DEFEATED\*\***

MOVED/SECONDED

That it be recommended to Council that the Advisory Planning Commission supports the site layout in terms of the location and form of the proposed residential development.

DEFEATED

Opposed: Seven Members

MOVED/SECONDED

That it be recommended to Council that if this proposed development proceeds the Advisory Planning Commission would prefer to see a more innovative design including clustering with less impact to the environment as discussed previously by the Commission.

CARRIED

Opposed: Two Members

MOVED/SECONDED

That it be recommended to Council that the Advisory Planning Commission is supportive of the proposed park and open space

provided that appropriate easements/covenants are in place to allow public access to open space areas.

CARRIED

Opposed: Four Members

**\*\*THE FOLLOWING MOTION WAS DEFEATED\*\***

MOVED/SECONDED

That it be recommended to Council that if this proposed development proceeds a greater percentage of park and open space should be provided.

DEFEATED

Opposed: Five Members

MOVED/SECONDED

That it be recommended to Council that if this proposed development proceeds any dedicated park land should be left in a natural state.

CARRIED

Opposed: Three Members

MOVED/SECONDED

That it be recommended to Council that the Advisory Planning Commission is supportive of community use of the land shown as community farm land on the proposed development plans.

CARRIED UNANIMOUSLY

MOVED/SECONDED

That it be recommended to Council that the Advisory Planning Commission would support agricultural buffering as recommended by the Agricultural Land Commission.

CARRIED

Opposed: One Member

MOVED/SECONDED

That it be recommended to Council that the Advisory Planning Commission supports all initiatives to promote suitable trails and bicycle paths as proposed.

CARRIED UNANIMOUSLY

MOVED/SECONDED

That it be recommended to Council that the Advisory Planning Commission is supportive of the proposed consolidation of other agricultural lands owned by the applicant as shown in the application.

CARRIED

Opposed: Three Members

MOVED/SECONDED

That it be recommended to Council that the Advisory Planning Commission is supportive of the applicant's proposal to meet or exceed the Energuide 80 standards of construction and the BuiltGreen energy efficiency standards and suggests that this be included in a restrictive covenant.

CARRIED

Opposed: One Member

[18] Ms. Burns appeared before the District Planning and Development Committee May 10, 2010 and gave the advice that in her opinion the application in its current form was not consistent with the policies and objectives of the OCP, but also advised that the question of consistency with the OCP would ultimately be up to Council to decide.

[19] The Hilltop Project, as it was called, came before Council next on May 17, 2010 and various motions concerning aspects of the proposal were considered and voted on.

[20] A public hearing concerning bylaw number 1712 to amend the land use bylaw to allow the project to proceed was conducted June 14, 2010 in the presence of five of the six council members and the acting mayor.

[21] On August 3, 2010, bylaw 1712 came before Council for third reading. Ms. Burns advised that the position of District staff remained as earlier expressed – the proposed land development was not consistent with the OCP. The District Council voted four to two to give the bylaw third reading. The two Council members voting against adoption of the bylaw gave their opinions that it was not in the best interests of the community because it was inconsistent with the OCP.

[22] On December 6, 2010, Council accepted a restrictive covenant drafted to comply with conditions imposed by Council as a pre-condition to adopting the bylaw. On December 13, 2010, Council voted to give fourth reading and final adoption to bylaw 1712.

[23] As a condition of the bylaw being approved, Mr. Vantreight's six parcels of land were to be consolidated into the 13 hectares being subdivided and two large parcels, one of 71 hectares and a second of 24 hectares, the two large parcels being separated by Wallace Drive.

[24] The restrictive covenant was registered December 8, 2010. In that document, Mr. Vantreight, the land owner, agrees with the District that, in the event the lands are subdivided and the two larger parcels are created, that future subdivision of the large parcels is prohibited. It is also covenanted that the subdivided portion of the land shall provide water and sewer services paid for by the developer, public pathways would be put in place at the developer's expense, Mr. Vantreight would grant a 25-year lease on his retained lands, no less than three hectares, for use as a public garden, a nuisance easement would be granted over the subdivided lands in favour of the lands retained for farming permitting odours, noises and nuisances relating to farm and agricultural uses, and that the residences to be constructed on the subdivided lands would meet the requirement of EnerGuide Rating 80 or higher as set by Natural Resources Canada.

[25] It is clear from the foregoing that the elected Council members of the District of Central Saanich were well aware that there was an issue as to whether or not the proposed development authorized by bylaw 172 was consistent with the District OCP. They considered the issue and by majority vote adopted the bylaw.

[26] Bylaw 1712 creates a new, custom zoning limited to the specific 57-unit development proposed by Mr. Vantreight on his 13 hectare site. It states "Maximum density of 57 residential units, secondary suites." The bylaw states that the permitted uses for the RE-5 Amended zone are: "Buildings and structures accessory to residential uses including a water reservoir and sewage treatment facility, Residential Single Family Secondary Suite Home Occupation Park and linear pedestrian trails." There is no mention of average lot areas as there is in the Rural Estate (Variable Lot Size) RE-4 zoning which states: "Average Lot Area minimum of 0.7 ha". Calculating the residential density by dividing the total area rezoned by bylaw 172, which is 13 hectares (and includes park land and trails), the figure is 0.228 hectares per residential building – or if it is assumed that each single family residence has an occupied suite 0.1140 hectares per dwelling unit. Obviously the RE-5 amended zoning permits very substantially more density than the RE-4 which, as it also allows for secondary suites is 0.7 hectares per single family residence or 0.35 hectares per potential dwelling units if all have occupied secondary suites.

[27] The District of Central Saanich does historically have a zoning in its jurisdiction which allows for significantly greater clarity than RE-4, yet is shown in a land use map attached as Schedule A to its Official Community Plan as being rural. That zoning is the RE 5 zone when the Island View Subdivision was created.

[28] The RE-5 zoning permits an average lot area of 0.2 hectares but the permitted uses being "Residential Single Family Home Occupation" does not include secondary suites – thus, if the 13 hectares in question were zoned RE 5, possibly 65 single family residences could be constructed, but as they would not have secondary suites, there would not be a potential of 114 dwelling units.

[29] For comparison, the R-1 Large Lot Single Family Residential zoning, which in designated urban areas permits "Residential Single Family Home Occupation Secondary Suite" stipulates a minimum lot size of 780m<sup>2</sup>. A hectare being 10,000 m<sup>2</sup> this density would theoretically permit a density of single family residences, (allowing a similar percentage of the hectare for roads and other uses as 10 of the 13 hectares does on the land in question), of approximately 10 units per hectare or one single family residence per .10 hectares, or with suites one per .05 hectares. Accordingly, the R-1 large lot zoning in urban areas permit about twice the density provided by the RE 5 Amended Zoning allowed in bylaw 1712. Of course, parts of the urban areas are zoned for much higher density than that allowed by the large lots specified in the R-1 zone.

[30] Counsel for the petitioner Society which represents about 80 Central Saanich Residents opposed to the use permitted by



bylaw 1712 submits that the Council committed an error in law in passing a bylaw inconsistent with the Official Community Plan which must therefore be quashed. In the petitioner's submission, the bylaw conflicts with many provisions of the OCP respecting preservation of rural character, managing growth, containing urban sprawl, transportation and environmental stewardship.

[31] The Municipality of Central Saanich is a part of the Capital Regional District, which has a Regional Growth Strategy. Provincial legislation requires that each Capital Regional District member municipality prepare as a part of its Official Community Plan, a Regional Context Statement which illustrates the relationship between the OCP and the CRD's Regional Growth Strategy policy. The Regional Growth Strategy includes a plan to manage and balance growth by keeping urban settlement compact and protecting the integrity of rural communities. The District of Central Saanich's Official Community Plan make the following reference to these objectives:

### **12.3.1. Managing and Balancing Growth**

#### **Keep Urban Settlement Compact**

The OCP Schedule A Land Use Plan map designates four Residential-Settlement Areas (Brentwood Bay, Tanner Ridge, Saanichton and Lochside Drive) which serve as the District's urban containment boundaries. The Residential-Settlement Areas are consistent with the Regional Urban Containment and Servicing Policy Area (RUCSPA) indicated on Map 3 (Growth Management Concept Plan) in the Regional Growth Strategy. These areas are serviced and developed for a mixture of residential, commercial and institutional uses.

The OCP suggests that residential growth should not exceed one percent annually (approximately 70 new residential units per year), nor should residential growth exceed the capacity of the Saanich Peninsula Treatment Plan. The OCP further defines low or gradual growth in Section 1: gradual, low impact growth is supported provided it is at a rate which does not place an undue burden on the existing utility infrastructure and community services, and will not result in substantial increases in the municipal tax rate. Infilling of existing residential areas (to about 95 percent of development potential) will be required prior to extension of services for residential purposes to undeveloped areas.

In order to maintain the integrity of this urban containment area, the District is guided by a policy in the OCP which states that the major portion of residential and commercial growth shall be confined to the Urban Settlement Area. It is recognized that more intensive land use and higher overall densities may be needed in the Urban Settlement Areas to maintain the containment boundaries. The District has displayed a willingness to amend OCP and zoning regulations to allow increased densities and a wider variety of housing options. Further to this, Section 10 states that as a general principle, water and sanitary services will be only available in areas designated as Urban Settlement Area Schedule A, Land Use Plan.

Extension of water lines into rural or agricultural areas is not supported, except to address pressing public health or environmental issues, or to provide water for agricultural or fire suppression uses. Given concerns about the link between extension of sewer services into rural areas and urban development, the extension of sanitary sewer services outside the RUCSPA will only be considered in cases where public health or environmental issues associated with septic system failures cannot otherwise be resolved. Any extensions must be consistent with currently adopted Council policies for water and sewer line extension criteria.

The residential portions of Urban Settlement Areas are subject to zoning and permit guidelines that encourage modest growth, redevelopment, minor subdivisions, infill housing and multifamily housing options.

#### **Protect the Integrity of Rural Communities**

The residents of Central Saanich have expressed strong support for preserving the agricultural and rural land, which is reinforced by the OCP. Sixty-five percent of the land base in this District is part of the Agricultural Land Reserve, which is recognized on the Central Saanich Community Plan, Schedule A Land Use Plan map. The designated agricultural land is consistent with the Renewable Resource Lands Policy Area (Map 3, Growth Management Concept Plan) found in the Regional Growth Strategy.

A key objective of the OCP is to ensure the sustainability and economic viability of the District's agricultural community as an integral part of farming on the Saanich Peninsula. There are policies in place that support: drainage, stormwater management and irrigation projects that improve farm productivity; farm gate marketing; and new crops. The District does not extend urban services such as the sewer and water system into the rural or agricultural areas, except to address pressing public health or environmental issues or to provide water for agricultural or fire suppression uses, as stated above. Developable land abutting ALR land is to include a buffer strip. The District supports the Peninsula Agricultural Commission in addressing farm issues, landowner conflict and to implement the objectives of the "Agricultural Strategy for the Saanich Peninsula" (1997).

The preservation of agricultural land is demonstrated through support of the Agricultural Land Commission's objective to retain agricultural parcels of land in as large parcels as possible. In the event of any significant changes to the provincial Agricultural Land Reserve legislation, the District intends to maintain and protect those areas designated in the OCP as agricultural land. The OCP also states that the designated rural lands are for rural purposes rather than being considered as a reserve for future residential, commercial or industrial purposes (sec. 3.3.2).

The Capital Green Lands are recognized as Parks and Open Space on Schedule B map Parks and Open Space Plan. These are consistent with RGS Map 3. Section 6 of the OCP refers to the Parks and Open Space Master Plan and the CRD's Regional Green/Blue Spaces Strategies as key companion documents to the OCP in managing green space in the District. Capital Green Lands areas are protected through the zoning bylaw and the OCP states in Section 6 that there is no support for the disposal or sale of park space without full public hearing and debate in each case.

Overall, the OCP is consistent with the "Renewable Resource Land" and "Capital Green Land" policy areas designated on Map 3 and 4 appended to the RGS.

[32] Although there is no statutory requirement that municipalities' decisions be consistent with the Regional Growth Strategy, the petitioners submit that the Regional Context Statement of the District OCP clearly indicates that the OCP should be interpreted in light of the Regional Growth Strategy.

[33] In the case of *Rogers v. Saanich (District)* (1983), 146 D.L.R. (3d) 475, 22 M.P.L.R. 1 (B.C.S.C.), which was an action to quash a bylaw, Locke J., after reviewing the authority of previous cases stated at 491:

The above cases are diverse but they have a common theme: the written efforts of planners are really objectives and unless there is an absolute and direct collision such as there was in the *Cal Investments* case, [*Re Cal Investments Ltd. and Capital Regional District* (1980), 117 D.L.R. (3d) 491, [1981] 2 W.W.R. 714], they should be regarded, generally speaking, as statements of policy and not to be construed as would-be acts of Parliament.

[34] In the case of *Western ARP Services Ltd. v. Capital (Regional Dist.)* (1986), 10 B.C.L.R. (2d) 63 (C.A.), the British Columbia Court of Appeal considered the issue of what is required in order to quash a municipal bylaw for conflicting with an official settlement plan. Justice Taggart, in giving reasons for himself and Lambert J.A. held at 69:

In my opinion by-law 1211 contravenes the provisions of s. 809(7) of the Municipal Act because it is clearly in conflict with the official settlement plan ...

Esson J.A. concurred with this disposition of the case.

[35] In the case of *McLean Lake Residents Assn. v. Whitehorse (City)*, 2009 YKCA 11, three members of the British Columbia Court of Appeal sitting as the Yukon Territory Court of Appeal considered the "direct collision" test for quashing a bylaw for being inconsistent with the Official Community Plan. Section 283 of the *Municipal Act*, R.S.Y. 2002, c. 154 states:

(1) Council shall not enact any provision or carry out any development contrary to or at variance with an official community plan.

[36] Frankel J.A. in delivering the court's reasons states at paras. 29-32:

[29] Reading s. 283(1) in the context of the *Municipal Act* as a whole, I see nothing that warrants giving the expressions "contrary to" and "at variance with" any meanings other than their ordinary meanings. As mentioned, an OCP is a forward-looking planning document, setting out broad and general land-use objectives and policies. How these objectives and policies are implemented and/or met is left to municipal councils. One of the ways in which a council may act is through the exercise of its zoning powers. However, what council cannot do is authorize land-use that is incompatible with an OCP's long-term vision for that land. To determine whether council has exceeded the scope of its zoning powers requires an examination of the impugned bylaw against the background of the OCP.

[30] In giving effect to s. 283(1), it is, with respect, unhelpful to use terminology such as "absolute and direct collision". Such terminology suggests that the line a municipal council cannot cross is higher than it actually is, as it implies that a council is authorized to act in a manner that is incompatible with an OCP, provided what it does is not too incompatible. This is not to suggest that a finding of incompatibility should be readily made. To the contrary, such a conclusion can only be reached after the impugned bylaw (or action) and the OCP have been subjected to careful scrutiny.

[31] In saying that I find the "absolute and direct collision" test unhelpful, I am not saying that I disagree with the result in any of the cases in which that and similar expressions have been used. The correctness of those decisions was not in issue on this appeal, and I, accordingly, express no opinion on their merits.

[32] This brings me to the issue of whether Bylaw 2007-39 is "contrary to or at variance with" the City's OCP. More specifically, the question is whether permitting a standalone concrete plant on land that has been designated Natural Resource through the current IQx zoning is compatible with the OCP. In my opinion, it is not. However, as I will explain, I do not agree with the Residents' Association's position that both the quarrying and any related activities must take place on the same parcel of land.

[37] I find it difficult to understand exactly what distinction there may be between a bylaw which is in "absolute and direct collision" with an Official Community Plan and one which is in the words of the *Local Government Act* is not "consistent with the relevant plan". For the purposes of this application, I will consider whether or not bylaw 1712 is consistent with the Official Community Plan of the District of Central Saanich.

[38] Bylaw 1712 was passed in conjunction with a covenant concerning the Vantreight lands, and in my opinion it is appropriate when examining whether or not the bylaw was consistent with the OCP to consider the bylaw and the covenant together because the approval of the bylaw put in place the measures agreed to in the covenant.

[39] The enactment of the bylaw and its accompanying covenant clearly achieved some of the objectives of the OCP including by:

1. consolidating the land actually suited for farming and further restricting it from any development which would remove it from agricultural uses;
2. creating park land;
3. creating public trails to be paid for by the development;
4. making available 25 acres of land for a public garden on a 25-year lease;
5. requiring the developer to provide water and sewage utilities at its expense;
6. requiring the residential building to conform to Energuide standards thus contributing to protecting the environment; and
7. granting the farmland a nuisance easement over the residential lots to facilitate adjacent farming operations.

[40] None of the foregoing results can be said to be contrary to the Official Community Plan. Clearly, the nub of the objection is that 57 residential units, which all may have suites is in the petitioner's submission too dense a development to be fairly characterized as rural. I note that there is no evidence the land to be built upon is suitable for agricultural use, nor is there any evidence it has been used as crop or pasture land.

[41] Whether the development permitted by the bylaw is inconsistent with the concept of rural as set out in the District's Official Community Plan is a matter of interpretation. An Official Community Plan is not drafted in the terms of a statute but rather, in terms of objectives and policies, which are necessarily much less specific than statutory terms. It is obviously not possible to promote each of the many objectives of the Official Community Plan equally in a single instance, therefore decisions applying that plan must involve the exercise of judgement in balancing various objectives in each case.

[42] The Court in considering a bylaw passed by a municipal council is not dealing with an adjudicative decision by an administrative tribunal, but a decision by elected council members, who have concluded in the exercise of their judgement, how best to accommodate the various policies and objectives they must serve. This does not empower council to misinterpret the Official Community Plan but it does suggest that the court ought not to interfere with any reasonable interpretation consistent with the OCP.

[43] The District of Central Saanich's OCP was given third reading by Council October 20, 2008 and finally passed and adopted November 3, 2008. The 2008 Official Community Plan included the R-5 zoning which permitted a single family residence density of one house per .2 hectares in a rural area. Inferentially, the Council adopting the OCP accepted that the meaning of rural at the time of adopting the plan could include such a density. On December 13, 2010, after having considered the issue of whether the proposed residential development would fit in with the Plan's rural designations, and having obtained covenants which clearly advance a number of the objectives of the OCP, Council passed bylaw 1712. This bylaw permitted more density than R-5 and was passed as R-5 Amended, but it limited the density to significantly less than permitted in the urban zones. In my opinion, having considered the plan itself, the staff recommendations and the benefits conferred by the covenant taken with the bylaw, Council was acting reasonably in passing bylaw 1712. I am not persuaded that bylaw 1712 is inconsistent with the Official Community Plan adopted by the District of Central Saanich and I dismiss the petition to quash the bylaw.

[44] I have chosen to decide this matter on the merits of the application itself, without deciding the submissions of the respondent, Vantreight, that the petitioner cannot get the relief it seeks from the court because of the time within which and the manner in which it has brought its petition. I am of the opinion that the interests of justice are better served by a decision on the merits. Had I agreed with the respondent Vantreight's preliminary argument, the result would have been the same in any event; the petition would be dismissed.

[45] The parties may apply on the issue of costs should that be necessary.

"V.R. Curtis J."

**\* d) Municipal Governance Articles**

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**FINANCING URBAN GROWTH – FEES, CHARGES, EXACTIONS – EXEMPTIONS?**

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# District government settles pricey suit against citizen blogger

FONVCA Agenda Item 6.1 (e)

BY IAN MULGREW, VANCOUVER SUN JUNE 30, 2011



Sun columnist Ian Mulgrew

Photograph by: Staff, PNG

The tiny Vancouver Island Union Bay Improvement District has settled a defamation suit against a gadfly citizen, paying her \$15,000 and admitting it should not have launched the bully-boy litigation that ran up a sixfigure legal bill.

In a blatant attempt to curtail free speech, district trustees hired a Vancouver lawyer who ignored the well-known B.C. Supreme Court authority in starting the action in November against the blogger's stinging criticisms.

But some of the trustees have since been turfed, new lawyers hired and a deal struck this week after the district's 650 or so landowners rebelled at shouldering the exorbitant legal costs.

"On the advice of our lawyers, the [precedent-setting] Dixon v Powell River case indicates that [Union Bay] likely did not have the right to bring a suit in defamation against one of its ratepayers and [it] determined to withdraw its claim," said Carol Molstad, newly chosen chairwoman.

"The community also gave the trustees clear direction at its annual general meeting to extricate itself from this action and 'stop the bleeding.' This applies a strong tourniquet."

Located just south of Courtenay in the Comox Valley, the community's median after-tax income in the 2006 census was \$21,392.

This dispute revolved around political cartoons posted on the Internet and strident disapproval of the cosy relationship between the district administration and the developer behind a huge real-estate deal.

The satirist and acerbic blogger -a 60-year-old retiree who had her water cut off during the ordeal -Mary Reynolds was pleased with the result.

"I'm grateful to the new board of trustees for recognizing they didn't have the authority to bring this lawsuit, and rectifying the situation," she said.

B.C. Supreme Court Justice Nicole Garson in the celebrated 2009 Dixon decision ruled that the City of Powell River had no legal right to sue or even threaten citizens with defamation lawsuits for making nasty comments about their government.

"It is antithetical to the notion of freedom of speech and a citizen's right to criticize his or her government concerning its governing functions that such criticism should be chilled by the threat of a suit in defamation," Justice Garson wrote.

Her ruling was a strong message intended to halt a trend by municipalities attempting to quash dissent by filing so-called SLAPP suits, strategic lawsuits against public participation.

Provincial municipalities were emboldened in 2004 after Victoria passed the Community Charter legislation giving civic governments "natural person powers."

Almost immediately, Powell River sued three citizens.

John Dixon, then secretary of the B.C. Civil Liberties Association and a Powell River resident, thought it an abuse of power and sought a Supreme Court declaration that municipalities had no authority to sue or threaten to sue for defamation.

Although cities had sued successfully in the past, Justice Garson noted that those cases were decided before the 1982 adoption of the Constitution and Charter of Rights and Freedoms. She cited two Ontario judgments supporting her stance.

"Governments are accountable to the people through the ballot box, and not to judges or juries in courts of law," proclaimed one. "When a government is criticized, its recourse is in the public domain, not the courts. Litigation is a form of force and the government must not silence its critics by force."

Yet in this case, Vancouver lawyer Michael Galambos proceeded regardless and ran up quite a bill -"in excess of \$90,000 ... up to the end of April," Molstad said.

A decade ago, Galambos was one of the province's top-billing contract federal prosecutors. But he went through an ugly bankruptcy in 2004 and later fell afoul of the B.C. Law Society, which suspended him for a month in 2007 for misleading a judge. He did not return my calls.

In this case, the eight individuals listed on the suit -one present trustee, five past trustees and two staff -now must spend their own nickel rather than the taxpayer's dime if they want to continue.

Reynolds has offered to let bygones be bygones if they reimburse the district for its legal fees.

"That would cost them about \$16,000 each," said her lawyer Jason Gratl, who estimated the district's final legal bill at around \$128,000.

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FONVCA Agenda Item 6.2 (a)



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Rendering of Seylynn Village.JPG

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## The Economics of Recycling

by **Floy Lilley**

by Floy Lilley

Recently by Floy Lilley: *Global Warming Scandals; Plus Extortion for 'Dignity'*



*Waste paper and plastic have always been poor stepsisters to cardboard and cans in the recycling arena. Times are so tough today that all four go begging. Extra efforts are needed to make them marketable, with no guarantees that there will be buyers.*

Leigh Jacobson's enthusiasm about recycling flies in the face of her task. When the markets crashed last year, Auburn University's waste disposal needs fell on hard times. The company out of Atlanta that had been taking co-mingled trash for *no* charge said, "No longer."

No, this was no Georgia-Alabama feud. Simple economics prevailed. China's demand slumped. The entire market for recycled materials dropped nearly to zero. When the market disappears, companies can no longer provide dumpsters, take waste at no charge, and carry that waste to a transfer center in Opelika, saving the University \$20 per ton for landfill fees.

So, six months ago Leigh Jacobson and others representing the City of Auburn, Opelika and Lee County secured an annual Alabama Recycling Grant for \$120,139. AU got \$40,829 of that. The funds have come from an imposed extra \$1 per ton on the landfill dumping fees in the state.

Sixty buildings have gotten new bins, labels, signs and posters. Single collections of paper/cardboard and plastic bottles/metal cans are underway. Residential areas have been the first to come on line with the project.

But, everything collected in these new bins still needs to be separated if the enterprise hopes to get paid for having collected it. Look out our windows. Across Magnolia, located on the east side of Donahue is Leigh's workspace. Peek into the parking lot at the bins. Watch people manually setting paper aside from cardboard and cans aside from bottles. It is a small staff with a big goal.

Bundled cardboard fetched \$17.50 per ton in September. Steel and aluminum cans generally get ten cents a pound. Plastic bottles earn one penny per pound. A great deal of human labor is going into this recycling project with a price tag of its own. Leigh optimistically thinks this can work.

Economically, the University should stop *these* recycling efforts and let the waste be hauled to the landfill. Those landfills can always be mined when there are actual markets for such materials.

The company that holds the University's contract for hauling waste away is Waste Management. They do not recycle. They own their own landfill in Salem. The charge for dumping waste there ("tipping") is \$21.75 per ton. AU does already landfill a large quantity of waste. They should landfill all of it.

Ten years ago, when open dumps were closed in the state, private companies began filling that need. Waste Management is today the largest landfill operator in the U.S., with 281 landfills.

Now, if they're the largest with just 281 landfills, does that sound like enough landfills in the whole country to you?

Is it?

Isn't that one of the three things everybody knows when we talk trash? 1) We know we're running out of landfill space, 2) we know we're saving resources by recycling and protecting the environment by doing so, and 3) we know no one would recycle if they weren't forced to.

Let's look at these three things we think we know. Are they real or are they rubbish?

### 1) Are we running out of landfill space?

Two events created the perfect garbage storm in the late 1980s. One barge and one bureaucrat created this one over-hyped myth. The garbage barge was the *Mobro 4000*. The bureaucrat was J. Winston Porter. *Mobro 4000* gained infamous celebrity status by spending two months and 6,000 miles seeming to scour the Atlantic coastline and the Gulf of Mexico looking for a home for its load, as if no landfills existed. The physical availability of landfill space was not the issue, but you would not have guessed that from the hysteria the media whipped up.

J. Winston Porter became a star that season at the Environmental Protection Agency (EPA) by writing *Agenda for Action*, in which Porter proclaimed that *recycling is absolutely vital because America is running out of landfill space*.

What Porter thought he knew simply was not so. The EPA had noticed that the *number* of landfills was dropping. They failed to notice that the size of landfills was getting much bigger much faster. Total landfill *capacity* was actually rising. The EPA also underestimated the prospects for creating additional capacity. Obviously, and as usual, the real *landfill* problem is not a landfill problem at all but a political problem. "Fears about the effects of landfills on the local environment have led to the rise of the not-in-my-back-yard (NIMBY) syndrome, which has made permitting facilities difficult. Actual landfill capacity is not running out."

Today, 1654 landfills in 48 states take care of 54% of all the solid waste in the country. One-third of them are privately owned. The largest landfill, in Las Vegas, received 3.8 M tons during 2007 at fees within the national range of \$24 to \$70 per ton. Landfills are no longer a threat to the environment or public health. State-of-the-art landfills,



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with redundant clay and plastic liners and leachate collection systems, have now replaced all of our previously unsafe dumps.

More and more landfills are producing pipeline quality natural gas. Waste Management plans to turn 60 of their waste sites into energy facilities by 2012. The new plants will capture methane gas from decomposing landfill waste, generating more than 700 megawatts of electricity, enough to power 700,000 homes. The end use of most landfills is parkland.

Holding all of America's garbage for the next one hundred years would require a space 255 feet high or deep and only 10 miles on a side. Landfills welcome the business. Forty percent of what we *recycle* ends up there anyway. We are not running out of landfill space.

## 2) Are we saving resources and protecting the environment by recycling?

What are the costs in energy and material resources to recycling as opposed to landfill disposal which we've just looked at? Which method of handling solid waste uses the least amount of resources as valued by the market?

As government budgets tighten and the cost of being "green" rubs against the reality of rising taxes, recycling coordinators like Leigh Jacobson increasingly will be under fire to justify their programs as cost-effective alternatives to waste disposal methods such as landfilling.

I don't think she will be able to do it. But it should be easier for Leigh at the University than it will be for her counterpart in the City of Auburn, or in any city that funds curbside recycling like San Francisco or Seattle. Curbside recycling is substantially more costly — that is, it uses far more resources — than a program in which disposal is combined with a voluntary drop off/buy-back option. Overall, curbside recycling costs run between 35 percent and 55 percent higher than other *recycling* methods because it uses huge amounts of capital and labor per pound of material recycled. Recycling itself uses *three times more resources* than does landfilling.

The largest U.S. organization dedicated to recycling just found out how difficult this chosen path can be. The final death knell for the National Recycling Coalition (NRC) appeared to ring earlier this year when the organization announced it would be filing for Chapter 7 bankruptcy. The NRC ceased operations and terminated all staff members at the close of business on Sept. 4, shortly after an attempt to merge with Keep America Beautiful failed. NRC is now trying to avoid bankruptcy by reorganization. Even though they are a half million dollars in debt, NRC may legally continue to exist *if* they can raise funds, negotiate with their creditors and develop a business plan. What seems to be their business plan? They are counting on the Kerry-Boxer Bill on clean energy to include recycling language. In other words, they are counting on being bailed out and subsidized. The market knows this is a losing proposition, so these players are trying to get taxpayers to fund their enterprises.

The Solid Waste Association of North America found in the six communities involved in a particular study, *all but one* of the curbside recycling programs, and *all* the composting operations and waste-to-energy incinerators, increased the cost of waste disposal. Indeed, the price for recycling often tends to soar far higher than the combined costs of manufacturing of raw materials from virgin sources and dumping rubbish into landfills.

To recycle waste is to use twice the energy and to create twice the pollution from factories, trucks and byproducts.

Recycled newspapers must be de-inked, often with chemicals, creating sludge. Even if the sludge is harmless, it too must be disposed of. Second, recycling more newspapers will not necessarily preserve trees, because many trees are grown specifically to be made into paper. The amount of new growth that occurs each year in forests exceeds by a factor of twenty the amount of wood and paper that is consumed by the world each year. Wherever private property rights to forests are well-defined and enforced, forests are either stable or growing.

Glass is made from silica dioxide — that's common beach sand — the most abundant mineral in the crust of the earth. Plastic is derived from petroleum by-products after fuel is harvested from the raw material. Recycling paper, glass or plastic is usually not justified compared to the virgin prices of these materials.

The best way to measure the *scarcity* of natural resources such as trees, sand or oil is to use the market prices of those resources. If the price of a resource is going up over time, and it's not just inflation pushing those prices higher, the resource *is* getting scarcer. If the price is going down, it *is* becoming more plentiful. Indeed, since 1845, the average price of raw materials has fallen roughly 80 percent after adjusting for inflation.

This paradox of our *having more by using more* is explained by the use of the most important resource — man's mind. Human ingenuity makes natural resources increasingly available through prices, innovation, and substitution.

Bureaucrats, however, appear to occupy a place at the far and opposite end from human ingenuity. Their interferences in markets do damage. Just two examples will illustrate what I mean by that. One is about a light that has a dark side. The other example requires that you either clean your plate or become a composter.

Our Congress in 2007 *banned* incandescent bulbs. Not exactly a market action. The phase-out of incandescent light is to begin with the 100-watt bulb in 2012 and end in 2014 with the 40-watt. By 2020, bulbs *must* be 70 percent more efficient than they are today. While a standard 100-watt bulb cost \$1.24, the spiral compact fluorescent light (CFL) 100-watt sold for \$4.97. Advocates argue, however, the CFL lasts longer and uses less energy. The packaging claims that after six years I will have saved \$74 in energy.

Thereby, in the year 2007 alone, under this edict, some 397 million compact fluorescent light (CFL) bulbs were placed into the market. Their debut is counted as a success. However, the recycling of spent household CFLs has been an abject failure.

Already? That was 2007. Today is 2009. Doesn't this suggest that several of those bulbs didn't last any six years? Despite CFL disposal bans in states like Maine, despite continuing statewide education efforts and a free CFL recycling program there, households throw the used bulbs into the trash that ends up in the landfills.

What's the problem with that? Landfills, as we've learned, have the space and the appetite for our waste. Well, the problem is the potential public and environmental health effects of the collective release of the small amount of mercury in each discarded CFL. For example, using the mean amount of 5 milligrams per CFL, the

total amount of mercury contained in the 2007 shipments of CFLs alone is 4,376 pounds.

There is no mention on GE's packaging of the bulb's mercury component or any special precautions you must take when this bulb breaks.

Notice that "mercury free" is already a selling point to the producers of new LED technology Accent bulbs. *Accent* meaning you can't actually get enough light from them to read by. But, you can tell the packager has obviously experienced how ugly the CFL-produced light is because the buyer is assured a *warm white light*, which is something you do not get with a CFL.

In June of this year, Maine adopted the nation's first law that requires CFL bulb manufacturers to share the costs and responsibility for recycling mercury-containing CFLs through a producer-financed collection and recycling program, which must include an education component. This mandate will drive the CFL's cost even higher. Additional specialized equipment will have to be created for handling light bulbs that will be seen to be hazardous waste. How can any savings ever result from such a boondoggle?

Then, bringing new depth and meaning to the word boondoggle, San Francisco's newest mandatory recycling ordinance took effect last month. All residences, all restaurants and all commercial buildings *must* participate in the city's recycling and composting programs. A recent study had unearthed the fact that 36 percent of the city's landfilled waste is compostable. That happens to be the ingredient that makes the landfill valuable as an energy source.

Collecting your food scraps, plant trimmings, soiled paper, and other compostables is considered necessary by San Franciscans *to fight global warming*. Residents get both a green cart and a green report titled, *Stop Trashing the Planet*. Residents face \$100 fines if they fail to separate their food scraps from their papers or cans. Businesses face fines of \$500. Really bad actors could be fined \$1000. The stated goal is to get to *zero* waste, meaning no garbage at all going into landfills, by the year 2020.

Obviously, San Francisco believes we have run out of landfill space. Obviously they do not have the vision to see the energy plants that landfills can become when waste is actually put there.

In light of these facts, how can San Franciscans and others think recycling conserves resources?

First, many states and local communities subsidize recycling programs, either out of tax receipts or out of fees collected for trash disposal. That's the case with AU's recycling grant. Thus the bookkeeping costs reported for such programs are far less than their true resource costs to society. Also, observers sometimes errantly compare relatively high-cost twice a *week* garbage pickup with relatively low-cost once or twice a *month* recycling pickups, which makes recycling appear more attractive.

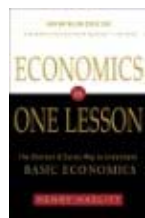
Why do these same people think that recycling is protecting the environment by not polluting?

Recycling *is* a manufacturing process, and therefore it too has environmental impact. The U.S. Office of Technology Assessment says that it is "usually *not clear* whether

secondary manufacturing such as recycling produces *less pollution* per ton of material processed than primary manufacturing processes."

*Increased* pollution by recycling is particularly apparent in the cases of curbside recycling. Los Angeles has estimated that its fleet of trucks is twice as large as it otherwise would be — 800 versus 400 trucks. This means more iron ore and coal mining, more steel and rubber manufacturing, more petroleum extracted and refined for fuel — and of course all that extra air pollution in the Los Angeles basin as the 400 added trucks cruise the curbs.

Manufacturing paper, glass, and plastic from recycled materials uses appreciably more energy and water and produces as much or more air pollution as manufacturing from raw materials. Resources are not saved and the environment is not protected.



[Economics in One Lesson](#)

Henry Hazlitt

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### 3) Do people only recycle when they are forced to?

If all we knew about recycling was what we hear from environmental groups, recycling would seem to be the philosophy that *everything is worth saving* except your own time and your own money. Costs of recycling are so hidden. If we add in the weekly costs of sorting out items, it would make more sense to place everything in landfills.

But, *private* recycling is the world's second, if not the world's first, oldest profession. Recyclers were just called *scavengers*. Everything of value has always been recycled. You will automatically know that something is of value when someone offers to buy it from you, or you see people picking through your waste or diving into dumpsters.

Aluminum packaging has never been more than one small percent of solid waste, because metals have value. *Ragpickers* may not be in season now picking out cloth from waste, but cardboard, wood and metals have always been in some demand.

Scrapyards recycle iron and steel because making steel from virgin iron and coal is more expensive. Members of the *Institute of Scrap Recycling Industries* recycle 60 million tons of ferrous metals, 7 million tons of nonferrous metals, and 30 million tons of waste paper, glass, and plastic each year — an amount that dwarfs that of *all* government (city, county, and state) recycling programs.

Recycling is a long-practiced, productive, indeed essential, element of the market system. Informed *voluntary* recycling conserves resources and raises our wealth, enabling us to achieve valued ends that would otherwise be impossible. So, yes, people do recycle even when they are not forced to do so.

However, *forcing people* to recycle routinely makes society worse off. Mandated recycling exists mainly because there is plenty of money to be made by upselling products as "green" or "recycled" to get Municipal and Federal grants.

Henry Hazlitt and Ludwig von Mises speak to our recycling topic.



[Human Action, The Scholar's Edition](#)

Ludwig von Mises

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In *Economics in One Lesson*, Hazlitt teaches us that mandatory recycling considers only short-term benefits to a few groups — politicians, public relation consultants, environmental organizations, and waste-handling corporations — instead of looking at the longer-term effects of the policy for all groups. The negative consequence will be the squandering of human resources.

In conclusion, Mises also teaches us what to expect. Mises, in his great work, *Human Action*, does not tell us that recycling is a bad belief. He shows by example that mandatory recycling is an inappropriate *means* of caring about the environment. Waste is inescapable. Austrian economics leaves it to every person to decide whether your belief (what you think you know even if it isn't so) is *more important* than the avoidance of the inevitable consequences of forced recycling policies: wasted natural resources and wasted human resources.

November 24, 2009

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