

DATE: September 11, 2020**FILE:** 5210-01**TO:** Chair and Directors
Electoral Areas Services Committee**FROM:** Russell Dyson
Chief Administrative OfficerSupported by Russell Dyson
Chief Administrative Officer**R. Dyson****RE: Water/Wastewater System Transfer to CVRD – Policy Update****Purpose**

This report presents an updated policy framework to guide the future transfer of water and wastewater systems to the Comox Valley Regional District (CVRD).

Recommendation from the Chief Administrative Officer:

THAT Comox Valley Regional District Board Policy P101 “Transfer of water or wastewater systems to regional district”, as shown in Appendix B of the staff report dated September 11, 2020, be approved.

Executive Summary

As presented in a September 2019 staff report to the Electoral Areas Services Committee (EASC), there are several non-CVRD water and wastewater service providers operating in the electoral areas of the CVRD. In response to concerns about the approval processes in place for establishing these types of utilities, an update to CVRD Board Policy 5600-00 “Transfer of water systems to regional district” was recommended as an initial step to enhance the CVRD’s influence over small utilities. The revised policy includes the following changes:

- Wastewater systems included.
- A requirement that utility systems operate in accordance with applicable standards, permits or authorizations, and that utility users are to cover necessary costs to bring the utility into compliance.
- Further details on the procedure to be followed when considering transfer of utilities to the regional district.
- Re-formatted into new CVRD board policy template and assigned number P101 under new policy numbering system.

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Background/Current Situation

In response to a request from the EASC, a report on the processes in place for the approval of non-CVRD water and wastewater utilities was presented in September 2019 ([link](#)). Included in this report was a summary of non-CVRD domestic water suppliers and wastewater treatment providers, shown in Table 1 below.

System Ownership	# of water systems (by # of connections)			# of wastewater systems
	<15	15-300	>300	
Improvement District		5	1	
Community (Strata, water society, mobile home park)	2	8	1	6
Resort / Campground	19			5
Institutional, Commercial, Industrial	42			1

This report found that regional district involvement in initial water or wastewater system approval can range from almost none to almost full control, dependent upon the regulatory bylaws and supporting policies that have been adopted by the regional district. In the CVRD, land use policies of the Regional Growth Strategy (RGS), Official Community Plan (OCP) and zoning bylaw currently provide for a minimal level of involvement in water or wastewater system approval in the electoral areas.

One opportunity to enhance CVRD influence over water or wastewater systems in the electoral areas is to update the existing CVRD Board Policy 5600-00 “Transfer of water systems to regional district” to include wastewater systems in its scope, and incorporate current best practices and the CVRD’s experiences with recent water and wastewater utility acquisitions.

Recent CVRD utility transfers have included the King Coho wastewater service and the Sandwick Waterworks District conversion. Significant challenges common to both of these transfers was accurately determining costs of required upgrades and securing grant funding to assist with upgrade costs, exacerbated by these transfers occurring in an environment of rapidly increasing construction costs. Communicating with utility users on upgrade costs and ongoing operations and maintenance costs is a related challenge.

Ongoing and potentially upcoming utility transfers include the Watutco water service in Saratoga Beach, and the Union Bay Improvement District’s water service, which is being considered as part of the in-progress Union Bay Improvement District conversion study.

Several BC regional districts have developed comprehensive policies to guide decision making when considering the acquisition of water and/or wastewater utilities from non-government entities. Staff reviewed those in place in the Thompson-Nicola ([link](#)) and Central Okanagan ([link](#)) regional districts, both of which were developed with assistance from Urban Systems. Staff also reviewed recommendations of the Cowichan Valley Regional District’s utilities governance study, one of which is to develop and implement a utility acquisition policy.

Principles common to these include reference to compliance with applicable regulations, and ensuring that all costs required to upgrade, operate and maintain the utility can be recovered from utility users in an equitable fashion. Asset management is also an important consideration, as many utilities have aging infrastructure and are lacking reserve funds necessary for sustainable service delivery. These principles have been incorporated into the draft revised policy by clarifying that utilities being transferred to the CVRD will have to meet and maintain compliance with applicable permits, authorizations and regulations, and clarifying that utility users will be responsible for

upgrade costs and ongoing operations and maintenance costs required to sustainably operate the service.

Appendix A includes a blackline copy showing the policy revisions in relation to the prior CVRD Board Policy 5600-00 “Transfer of water systems to regional district”. Appendix B is a clean copy of the revised policy P101, formatted using the new CVRD board policy template.

Policy Analysis

At the September 16, 2019 meeting of the Electoral Areas Services Committee, the following recommendation was approved:

That staff be directed to update the existing Comox Valley Regional District Board Policy “Transfer of water systems to regional district” to include wastewater systems in its scope, and to incorporate current best practices.

Options

1. Adopt revised board policy P101, as shown in Appendix B.
2. Direct staff to develop a more comprehensive policy with consultant assistance.
3. Leave the existing approved board policy 5600-00 unchanged.

As the existing board policy has not been substantially updated since adoption in 2004, and the proposed revisions reflect on CVRD’s recent experiences with utility transfers, Option 1 is recommended.

Financial Factors

Lack of financial capacity to sustainably operate small water/sewer services is typically a contributing factor to system owners seeking approval to transfer ownership and operations to a regional district. The existing CVRD Board Policy 5600-00 “Transfer of water systems to regional district” includes a requirement that all costs associated with the transfer be borne by the owners and/or users of the water system. The revised policy P101 includes further confirmation that utility users are to cover all costs required to upgrade, operate and maintain the utility to ensure sustainable service delivery and meet compliance with applicable standards, permits and authorizations.

Legal Factors

Challenges in meeting current regulatory requirements are a typical contributing factor to small water/wastewater systems seeking approval to transfer ownership and operations to a regional district. Should an acquired system continue to be out of compliance with regulatory requirements, the potential for enforcement action could create legal and financial risks for the CVRD. Revisions to the policy confirming the requirement for systems under consideration for acquisition to reach and maintain regulatory compliance will help reduce this risk in the future.

For many utility transfers to the regional district, establishment of a new regional district service is required. As such, the CVRD’s standard procedures for considering establishment of a new service ([link](#)) would be required in addition to those outlined in the utility transfer policy; this would include an elector assent process.

Where the transfer is the result of the dissolution of an improvement district, the process would be informed by the Province’s Improvement District Conversion Guide ([link](#)). In an instance where significant capital funding is required to upgrade the improvement district’s infrastructure prior to conversion to a regional district service area, elector assent would be required to authorize these expenditures.

Regional Growth Strategy Implications

The RGS includes the following policies relating to public ownership of water and sewer infrastructure:

- Policy 1D-1 – Direct the majority of new housing to areas that are or will be serviced through publicly owned water and sewer systems.
- Policy 5A-1 – The majority of growth should be focused in *Core Settlement Areas* where appropriate publicly owned water servicing systems already exist.
- Policy 5A-2 – For existing developments outside *Core Settlement Areas*, where there are demonstrated onsite health related issues, publicly owned water services should be made available.
- Policy 5D-1 – The majority of growth should be focused in *Core Settlement Areas* where appropriate sewer servicing already exists.
- Policy 5D-4 – For existing developments outside *Core Settlement Areas*, where there are demonstrated onsite health related issues, publicly owned sanitary sewer services should be made available.

The existing policy 5600-00 “Transfer of water systems to the regional district” was written and approved prior to the development and subsequent adoption of the RGS. Revisions to the new policy P101 to reference the RGS have been included for context.

Intergovernmental Factors

Utilities seeking to join the CVRD are often challenged in meeting provincial regulatory requirements. Engagement with provincial authorities during the utility transfer process and after CVRD acquisition of utilities is often required.

Interdepartmental Involvement

The Engineering Services Branch led the development of this report, with assistance from Legislative Services, Financial Services, and Planning and Development Services.

Citizen/Public Relations

At early stages of development where private systems are sometimes proposed as a means to facilitate higher density development outside of existing service areas, public impressions of the CVRD’s ability and perceived obligation to take on responsibility for failing small water/sewer systems may not align with existing organizational capacity.

Transfer of failing small water/sewer systems to regional district operation can present challenges to system users, who may not be willing to pay the necessary costs to upgrade and operate the system to municipal standards, particularly when they may assume the CVRD already has the necessary resources in place to manage their system.

As has been experienced with the recent King Coho wastewater and Sandwick water conversions, and ongoing Watutco water utility conversion projects, significant engagement efforts with system users are required as part of any utility acquisition process.

Attachments: Appendix A – Draft revised policy 5600-00 “Transfer of water or wastewater systems to regional district”

Appendix B – Draft board policy P101 “Transfer of water or wastewater systems to regional district”

Subject: Transfer of water or wastewater systems to regional district

Category: ~~Property services (water~~Engineering ~~S~~services)

Procedure Reference: 5600-00

POLICY

THAT, further to those policies of the Comox Valley Regional Growth Strategy, Bylaw No. 120, supporting public ownership of water and sewer infrastructure, any transfer of the infrastructure, water licenses, assets, permits and financial reserves of a water improvement district, a private non-profit community water system or a private for profit water or wastewater system to the Comox Valley Regional District (CVRD), be predicated upon:

1. ~~P~~roof, via assessment by a qualified professional, that the system:
 - a. ~~to the satisfaction of the regional district, meets the regional district's applicable standards for the construction of water supply~~ or wastewater -systems as amended from time to time; ~~and;~~
 - b. ~~is operating in compliance with applicable provincial and/or federal licenses, permits, authorizations and regulations; and;~~
 - ~~b.~~ can be sustainably operated in accordance with asset management practices.
 - c.
2. ~~P~~ayment by the owners and/or users of the water or wastewater system being transferred to the regional district of the incremental cost of any required upgrades to an adjacent regional water or wastewater service area if that area is to be the source of supply for the newly created water service area ~~if the system is to be connected to that service;~~
3. ~~W~~here it cannot be demonstrated that the infrastructure under consideration for transfer meets the ~~applicable regional district's standards, as accepted by the regional district, for the construction of water supply~~ or wastewater -systems, ~~or is in compliance with applicable licenses, permits, authorizations and regulations;~~
 - a. the owners and/or users of the water improvement district, private water system or private for profit water or wastewater system shall consent at the time of establishment of the new regional district ~~water-local~~ service area ~~which that~~ incorporates within its boundaries the water improvement district, private water system or private for profit water or wastewater system to:
 - i. pay the full cost of repairing, upgrading, constructing or re-constructing the existing infrastructure used to supply water or treat wastewater to ~~regional district's applicable standards, as accepted by the regional district, for the construction of water supply~~ or wastewater systems and as amended from time to time ~~and;~~
 - ii. ~~pay the costs of repairing, upgrading, constructing or re-constructing the water~~ or wastewater infrastructure necessary to operate in compliance with applicable permits, authorizations and regulations ~~and;~~
 - iii. ~~pay the incremental cost of any required~~ upgrades to an adjacent regional water or wastewater service area if that area is to be the source of supply for the newly created ~~water~~ service area is to be connected to that service; and
 - ~~iv.~~ pay the ongoing costs required to sustainably operate the system in accordance with asset management principles.

4. Payment of applicable Capital Improvement Cost Charges (CICC²s) by the utility users if the utility will be joining an existing CVRD water or wastewater service area.

PROCEDURE

1. Transfer process initiation

The utility transfer process can be initiated upon request from utility customers and/or utility owners (including developers). Evidence of sufficient support for the transfer must be provided to the CVRD; for example through an informal petition signed by customers requesting that the CVRD investigate the feasibility of transferring the utility to the regional district. The request will be considered by the applicable CVRD committee, and a decision on whether to proceed with further investigation will be made by the CVRD Board based on committee direction.

2. Utility system assessment

Should the CVRD Board support continued investigation of the transfer of the utility, the CVRD will retain a professional consultant to prepare an assessment of the utility. The cost of this assessment shall be paid by the owners and/or users of the utility. The CVRD may apply for grant funding to assist with the cost of the assessment, or provide assistance through feasibility study funds if available. A key outcome of the assessment will be a clear picture of the condition of all existing utility infrastructure assets, costs of required upgrades to the infrastructure, and costs to operate and maintain the utility in accordance with applicable standards and asset management practices. The results of the assessment will inform the development of sample capital and operating budgets and property tax/user fee rates for utility customers.

3. Consultation with customers/owners

The CVRD will engage with utility customers to share the results of the assessment and sample budget process, answer questions, and gauge level of support for utility transfer. If level of support is sufficiently high, a recommendation to proceed with public assent process will be considered by the applicable CVRD committee for endorsement by the CVRD Board.

4. Assent process

The assent of the owners and/or users of the water improvement district, private water system or private for profit water or wastewater system shall be obtained by either an alternate approval process, a petition process or a referendum and the authority for selecting the method of seeking assent shall rest solely with the regional board.

The cost of the assent process shall be recovered from the owners and/or users of the water improvement district, private water system or private for profit water or wastewater system.

5. Transfer of utility to regional district

Transfer of all capital and financial assets, land, records, permits, authorizations, and licenses to the CVRD, and establishment of statutory rights of way as required to permit CVRD access for operations and maintenance of the utility.

6. Complete required upgrades and commence CVRD operations

CVRD completes required upgrades as identified in the assessment, and commences ongoing operation and maintenance of the utility. Utility customers commence payment of utility costs to CVRD, including operations/maintenance, capital upgrades and CICC²s (if applicable).

APPROVAL HISTORY

Policy approved:	June 28, 2004
Amended:	

Policy Title: Transfer of water or wastewater systems to regional district		Policy Number: P101
Policy Category: Engineering Services		
Approval Date:	Policy Owner: Engineering Services	
Approved by: Board	File Reference: 5600-00	

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1. Proof, via assessment by a qualified professional, that the system:
 - a. to the satisfaction of the regional district, meets applicable standards for the construction of water supply or wastewater systems as amended from time to time;
 - b. is operating in compliance with applicable provincial and/or federal licenses, permits, authorizations and regulations; and
 - c. can be sustainably operated in accordance with asset management practices.
2. Payment by the owners and/or users of the water or wastewater system being transferred to the regional district of the incremental cost of any required upgrades to an adjacent regional water or wastewater service if the system is to be connected to that service.
3. Where it cannot be demonstrated that the infrastructure under consideration for transfer meets the applicable standards, as accepted by the regional district, for the construction of water supply or wastewater systems, or is in compliance with applicable licenses, permits, authorizations and regulations:
 - a. the owners and/or users of the water improvement district, private water system or private for profit water or wastewater system shall consent at the time of establishment of the new regional district local service area that incorporates within its boundaries the water improvement district, private water system or private for profit water or wastewater system to:
 - i. pay the full cost of repairing, upgrading, constructing or re-constructing the existing infrastructure used to supply water or treat wastewater to applicable standards, as accepted by the regional district, for the construction of water supply or wastewater systems and as amended from time to time;
 - ii. pay the costs of repairing, upgrading, constructing or re-constructing the water or wastewater infrastructure necessary to operate in compliance with applicable permits, authorizations and regulations;
 - iii. pay the incremental cost of any required upgrades to an adjacent regional water or wastewater service if the newly created service area is to be connected to that service; and
 - iv. pay the ongoing costs required to sustainably operate the system in accordance with asset management principles.

4. Payment of applicable Capital Improvement Cost Charges (CICC) by the utility users if the utility will be joining an existing CVRD water or wastewater service area.

REVISION HISTORY

Approval Date	Approved By	Description of Change
	Board	

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