

**REGIONAL DISTRICT OF NANAIMO**

**COMMITTEE OF THE WHOLE  
TUESDAY, SEPTEMBER 12, 2006**

**CIRCULATED REPORT  
FOR AGENDA**

**PAGES**

***CORPORATE SERVICES***

**ADMINISTRATION**

2-12

Airport Service Bylaws.

---

**TO:** Board of Directors **DATE:** September 5, 2006

**FROM:** C. Mason **FILE:**  
Chief Administrative Officer

**SUBJECT:** Nanaimo Airport Service Establishment Bylaw No. 1505  
And Borrowing Bylaw No. 1506

---

**PURPOSE:**

To consider giving first three readings to the "Nanaimo Airport Service Establishment Bylaw No. 1505" and "Nanaimo Airport Service Borrowing Bylaw No. 1506" and proceed with the alternative approval process to obtain elector assent.

**BACKGROUND:**

The Nanaimo Airport Commission operates the Nanaimo Airport, which is located within Electoral Area A of the Regional District of Nanaimo. The Airport Commission has operated this facility as an independent entity since December of 1996, when the Federal Government divested itself of overseeing many smaller airports across Canada.

The Airport Commission's bylaws are established to provide local governments with a role in ensuring the ongoing viability of the Nanaimo Airport. Representation on the Airport Commission is comprised of appointments from the Regional District of Nanaimo, City of Nanaimo, Town of Ladysmith, Cowichan Valley Regional District and Greater Nanaimo Chamber of Commerce. It also includes three members at large chosen by the Commission. The current chair of the Airport Commission is the RDN representative.

The Airport is having its current operations challenged by the growth of trees on adjacent lands which are impeding the existing flight path. As a result, Transport Canada notified the Airport in May 2006 that it must address this issue by the year's end. In the interim, the Airport has been required to remove 1000 feet from its usable 5,000-foot runway. The trees are also delaying the installation of a satellite-based GPS navigation system to guide aircraft in poor weather conditions.

Over the last number of months, the Airport has been involved in intensive negotiations with adjacent land owners to secure the rights to enter private property and remove or top the trees to ensure a safe flight path. Of the thirty three properties originally identified with vegetation impacting the flight path, all except two properties have signed agreements with the Airport which will enable it to ensure that the vegetation can be maintained in the future. Two properties remain and negotiations are underway with the land owners to secure these rights.

In the event that the Airport is unable to successfully negotiate access to these lands, it will not be able to maintain the current flight path and the Airport will have its status downgraded. This outcome will have a significant impact to the local community and to the economy of the surrounding region.

**Local Government Assistance:**

The Regional District does not have the ability under existing local government regulations to require the removal of these trees through a land use regulatory bylaw, and the Federal Government has responded formally that it will not exercise its powers to remove the trees. An alternative available to the Regional District is to establish a function that will allow local government to participate in the delivery of airport services, including providing support and assistance to the operation of an Airport Commission. If the Regional District were to pursue this authority, it would have the power to create a function to acquire lands for airport purposes and to provide assistance to a local airport commission.

The Nanaimo Airport currently competes with Comox Valley Airport and the Victoria International Airport for passenger service. In addition, the Town of Qualicum Beach operates a small community airport that serves the Oceanside area. For the purpose of defining the boundaries for the proposed airport assistance function bylaws, the southern municipalities of Nanaimo and Lantzville, along with Electoral Areas A, B and C have been identified as participating areas for this function. These areas have been identified due to their close proximity to the Nanaimo Airport and the recognition that they participate in other functions which benefit the southern communities.

**ALTERNATIVES:**

1. That the "Nanaimo Airport Service Establishment Bylaw No. 1505" and "Nanaimo Airport Service Borrowing Bylaw No. 1506" be approved as presented; and

That the bylaws be given three readings, be forwarded to the Ministry of Community Services for approval and proceed to the Alternative Approval Process to receive elector assent across the entire service area;

2. That the "Nanaimo Airport Service Establishment Bylaw No. 1505" and "Nanaimo Airport Service Borrowing Bylaw No. 1506" be approved as amended with respect to participants and assent;
3. That the Board take no action with respect to the establishment of a service to provide assistance to the Nanaimo Airport and provide alternate direction.

**FINANCIAL IMPLICATIONS:**

**Alternative 1.** Under alternative one, if the Board gives first three readings to the establishment and borrowing bylaws, the bylaws will then be advertised in local newspapers for two consecutive weeks, and electors who are opposed to the bylaws will have thirty days following the second publication to submit their opposition using the attached Elector Response Form. For the purposes of alternative assent, the total electors within the service area is 70,372. If 10% or more of total eligible electors (7,037) oppose the function, the bylaws may only be adopted by way of referendum. As the function being proposed is intended to provide a regional benefit to the southern communities, it is recommended that assent be obtained by using the entire participating area rather than by obtaining assent from each individual jurisdiction.

A borrowing bylaw has been drafted which proposes to raise up to \$2.5 million to provide support and assistance to the Nanaimo Airport through the acquisition of land to maintain current operations. Based on a 20 year term, the annual cost on a \$100,000 home within the jurisdictions of Nanaimo, Lantzville, and Areas A, B, and C would be \$1.60. With the borrowing authority under Bylaw 1506 in place, staff propose using the Municipal Finance Authority's short term debt program which would require only

interest to be repaid pending a final decision on whether long term debt is required. The repayment of interest only would require a tax levy of approximately \$1.17 per \$100,000 of property value.

Borrowing would only be incurred if the Nanaimo Airport required the Regional District's assistance to acquire lands to maintain current operations. If the Regional District did acquire land for airport purposes, the Board would have the option to sell those lands (or portions of land) at a future date to recover those costs. The Regional District could then secure covenants or rights of way on the properties prior to their disposition to ensure no future tree intrusions would impact flight operations.

**Alternative 2.** The Board has the option of amending the bylaw by either: (a) changing the method of assent; or (b) by changing the participants in the function.

(a) *Assent Method.* As noted above, the function is being proposed as a sub-regional function which would include the southern communities of Nanaimo, Lantzville, Electoral Areas A, B and C. On this basis, staff are recommending that assent be obtained using the alternative approval process across the entire service area. However, the alternative is to use individual assent by area. If the Board directs using individual area assent, the risk is that if one jurisdiction turns down the function, the bylaw will not be deemed to have received the assent of electors even if the other areas support the function and the remaining areas would have to repeat the assent process.

(b) *Participants.* If an area does not wish to participate in the function, or an area not currently included wishes to join the function, and the Board subsequently amends the participating areas at this request, the bylaw will need to be updated to reflect the borrowing cost to the new participating areas. These amendments could be made prior to the Board's consideration of the bylaw at the September 26<sup>th</sup> Board meeting.

**Alternative 3.** If the Board does not take any action to establish the proposed function and the airport is unsuccessful in securing rights to the last two properties, trees will continue to intrude on the existing flight path and the airport will be unable to regain its previous status with the full utilization of the 5000 foot runway.

#### **CONCLUSIONS:**

The Nanaimo Airport has been advised by Transport Canada that it must remove airspace intrusions at both ends of its 5,000-foot runway by the end of 2006. In the interim, the Airport has been required to reduce its usable runway by 1,000 to 4,000 feet until the situation has been rectified. The Airport has been successful in securing access to all adjacent properties except two to remove tree vegetation. The Airport has requested the Regional District's assistance in the event that it is unable to successfully negotiate access to remove the trees from the final two properties. If the Nanaimo Airport cannot resolve the flight path intrusions on the last two properties, there will be serious consequences to the economic viability of the airport and the surrounding community that uses this facility.

An establishment bylaw and borrowing bylaw have been prepared for the Board's consideration which would give the Regional District the power to acquire land for airport purposes. Due to the proximity and use of the Nanaimo Airport by residents and businesses of the southern community, the service area is being recommended as the municipalities of Nanaimo and Lantzville and the Electoral Areas of A (Cedar), B (Gabriola) and C (Extension, Pleasant Valley). As the function being proposed is intended to provide a regional benefit to the southern communities, it is further recommended that assent be obtained by using the entire participating area rather than by obtaining assent from each individual jurisdiction.

**RECOMMENDATIONS:**

1. That elector assent for the participating areas be obtained by using the alternative approval process for the entire service area;
2. That the "Nanaimo Airport Service Establishment Bylaw No. 1505, 2006" be given three readings, be forwarded to the Ministry of Community Services for approval and proceed to the Alternative Approval Process to receive elector assent;
3. That the "Nanaimo Airport Service Borrowing Bylaw No. 1506, 2006" be given three readings, be forwarded to the Ministry of Community Services for approval and proceed to the Alternative Approval Process to receive elector assent;
4. That the attached Nanaimo Airport Service Elector Response Form be approved for use with Bylaws 1505 and 1506.



---

Chief Administrative Officer

Rpt re Airport Service Bylaw (Sept 2006)

**REGIONAL DISTRICT OF NANAIMO**

**BYLAW NO. 1505**

**A BYLAW TO ESTABLISH THE  
NANAIMO AIRPORT OPERATION SUPPORT SERVICE**

**WHEREAS** under section 796 of the *Local Government Act* a Regional District may operate any service the Board considers necessary or desirable for all or part of the Regional District;

**AND WHEREAS** the Board of the Regional District of Nanaimo wishes to establish a service for the purpose of providing support and assistance to the operation of an airport;

**AND WHEREAS** the approval of the Inspector of Municipalities has been obtained under Section 801 of the *Local Government Act*; and

**AND WHEREAS** the approval of the electors in the participating area has been obtained under Section 801.3 of the *Local Government Act*.

**NOW THEREFORE**, the Board of the Regional District of Nanaimo, in open meeting assembled, enacts as follows:

1. **Definition**

In this Bylaw:

- (a) "Airport Operation Support" means the acquisition of land, including any interest in or right to land for the use or better use of the Nanaimo Airport, including flight path approaches and lighting.
- (b) "Nanaimo Airport" means the airport located at Cassidy, British Columbia, operated by the Nanaimo Airport Commission or its successor or assign.

2. **Service**

The service established by this Bylaw is the Nanaimo Airport Operation Support Service (the "Service") for the purpose of airport operation support.

3. **Boundaries**

The boundaries of the Service Area are coterminous with the boundaries of the City of Nanaimo, the District of Lantzville and Electoral Areas "A", "B" and "C" (the "Service Area")

4. **Participating Areas**

The "Participating Areas" are the City of Nanaimo, the District of Lantzville and Electoral Areas "A", "B" and "C".

5. **Cost Recovery**

As provided in Section 803 of the *Local Government Act*, the annual cost of providing the Service shall be recovered by one or more of the following:

- (a) property value taxes imposed in accordance with Division 4.3 of Part 24 of the *Local Government Act*;
- (b) fees and charges imposed under section 363 of the *Local Government Act*;
- (c) revenues raised by other means authorized by the *Local Government Act* or another Act;
- (d) revenues received by way of agreement, enterprise, gift, grant or otherwise.

6. **Maximum Requisition**

In accordance with Section 800.1(1)(e) of the *Local Government Act*, the maximum amount that may be requisitioned for the cost of the Service is the greater of:

- (a) Two hundred and twelve thousand, six hundred and fifteen dollars (\$212,615);
- (b) The amount obtained by applying a property value tax rate of S.0199 net taxable value of land and improvements in the Service Area.

7. **Citation**

This Bylaw may be cited for all purposes as the "Nanaimo Airport Support Service Establishment Bylaw No. 1505, 2006".

Introduced and read three times this 26th day of September, 2006.

Approved by the Inspector of Municipalities this \_\_\_\_ day of \_\_\_\_\_, 2006.

Received the assent of the electors under Section 801.3 of the *Local Government Act* this \_\_\_\_ day of \_\_\_\_\_, 2006.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
MANAGER, ADMINISTRATIVE SERVICES

**REGIONAL DISTRICT OF NANAIMO**

**BYLAW NO. 1506**

**A BYLAW TO AUTHORIZE BORROWING FOR THE  
PURPOSE OF PROVIDING SUPPORT AND ASSISTANCE  
TO THE OPERATION OF AN AIRPORT**

WHEREAS the Regional District of Nanaimo has established by "Nanaimo Airport Support Service Establishment Bylaw No. 1505, 2006", a service to provide support and assistance to the operation of an airport;

AND WHEREAS the Board wishes to acquire land including any interest in or right to land for the use of the Nanaimo Airport;

AND WHEREAS the estimated cost of acquiring or otherwise obtaining land is the sum of \$2,500,000;

AND WHEREAS the financing of this capital program is to be undertaken by the Municipal Finance Authority of British Columbia pursuant to proposed agreements between the Authority and the Regional District of Nanaimo;

NOW THEREFORE, the Board of the Regional District of Nanaimo, in open meeting assembled, enacts as follows:

1. The Board is hereby empowered and authorized to acquire and carry out or cause to be carried out the following capital program:

Land acquisition	\$ 2,500,000
------------------	--------------

2. To borrow upon the credit of the Regional District a sum not exceeding a net amount of \$2,500,000.
3. To acquire all such real and personal property, rights or authorities as may be requisite or desirable for, or in connection with the foregoing capital program deemed necessary by the Board for the management of the service authorized under "Nanaimo Airport Support Service Establishment Bylaw No. 1505, 2006".
4. The maximum term for which debentures may be issued to secure the debt intended to be created by this bylaw is 20 years.

5. This bylaw may be cited for all purposes as "Nanaimo Airport Support Service Loan Authorization Bylaw No. 1506, 2006".

Introduced and read three times this 26th day of September, 2006.

Received the approval of the electors this \_\_\_\_ day of \_\_\_\_\_, 2006.

Received the approval of the Inspector of Municipalities this \_\_\_\_ day of \_\_\_\_\_, 2006.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2006.

---

CHAIRPERSON

---

MANAGER, ADMINISTRATIVE SERVICES



NANAIMO AIRPORT SERVICE  
ESTABLISHMENT BYLAW NO. 1505  
& NANAIMO AIRPORT SERVICE  
BORROWING BYLAW NO. 1506

Bylaws which propose to establish a service and authorize borrowing for the purpose of providing support and assistance to the operation of an airport.

**ELECTOR RESPONSE FORM**

This form is to be used by an Elector opposed to the adoption of Nanaimo Airport Support Service Establishment Bylaw No. 1505 and Nanaimo Airport Support Service Loan Authorization Bylaw No. 1506. If more than 7,037 Electors oppose this initiative, Bylaws No. 1505 and 1506 may only be adopted by referendum. A copy of the bylaws are attached to this form.

I hereby declare the following:

- ◆ I am a Canadian citizen;
- ◆ I am an individual who is, or will be on November 14, 2006, age 18 or older;
- ◆ I have been a resident of British Columbia for at least the past six months;
- ◆ I have been a property owner/resident of property within Electoral Areas 'A', 'B' or 'C' of the Regional District of Nanaimo, the City of Nanaimo or the Town of Lantzville for at least the past 30 days;
- ◆ I am not disqualified by the *Local Government Act* or any other enactment from voting in an election or am not otherwise disqualified by law.

I, being a person entitled to be registered as an elector within Electoral Areas 'A', 'B' or 'C' of the Regional District of Nanaimo, the City of Nanaimo or the Town of Lantzville am hereby opposed to the approval of "Nanaimo Airport Service Establishment Bylaw No. 1505, 2006 and "Nanaimo Airport Service Borrowing Bylaw No. 1506, 2006".

NAME OF ELECTOR: \_\_\_\_\_  
(Please Print Full Name)

ELECTOR'S STREET ADDRESS: \_\_\_\_\_

ELECTORAL AREA/CITY/TOWN: \_\_\_\_\_

SIGNATURE OF ELECTOR: \_\_\_\_\_

**NOTE:** This elector response form must be returned to the Regional District of Nanaimo, 6300 Hammond Bay Road, Nanaimo, BC, V9T 6N2 on or before November 14, 2006. Office hours are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding statutory holidays.



Ottawa, Canada K1A 0N5

12 JUL 2006

Mr. Joe Stanhope  
Chair  
Regional District of Nanaimo  
6300 Hammond Bay Road  
Nanaimo BC V9T 6N2

R D N			
CAO	✓	GMES	
GMCS		GMR&P	
GMDS		GMRT&P	
JUL 20 2006			
CHAIR	✓	BOARD	

Dear Mr. Stanhope:

Thank you for your correspondence of May 16, 2006, regarding the status of operations at Nanaimo Airport, and, in particular, the trees infringing on the approach slope to the facility.

At the outset, I should note that the *Aeronautics Act* does not currently authorize me, as Minister of Transport, to order the removal of natural growth on lands in the vicinity of an airport if no airport zoning regulations are in effect for those lands. While Nanaimo Airport does not currently have zoning regulations, Transport Canada regional officials have informed me that there is an initiative underway by the Nanaimo Airport Commission to establish airport zoning, pursuant to section 5.81 of the Act. This section allows the Minister of Transport to enter into an agreement with a local government authority that has jurisdiction over lands in the vicinity of an airport. Such an agreement would allow authorization to regulate land uses for compatibility with the safe operation of an airport or aircraft.

I should also explain that subsection 5.4(4) of the Act provides that a zoning regulation, upon coming into force, does not apply to existing land uses or objects that do not conform to the zoning. This is consistent with provincial/territorial land use zoning practices for existing non-conforming uses. Therefore, if existing objects, such as natural growth, impact an airport's usability or plans for development, it may be advantageous for the airport operator or land use authority to negotiate removal of non-conforming natural growth prior to passing an airport zoning bylaw.

With respect to your concerns pertaining to aviation safety, allow me to assure you that regional inspectors have addressed the natural growth penetrations at Nanaimo Airport's obstacle limitation surfaces by downgrading the runway certification to meet Code 2 non-instrument standards. This action was preferred by the airport operator over the option of a 3000-foot displacement of the threshold of Runway 16.

It is important to recognize that, while the foregoing measures may impact on airport usability or the level of service, it is the airport operator's decision whether to undertake the removal of any objects that have caused mitigating safety measures to be imposed.

I understand that you have been in contact with regional departmental officials on this matter. This being the case, I would encourage you to continue that dialogue. Mr. Chris Cox, Regional Manager, Aerodromes and Air Navigation, would be the appropriate person to contact in this regard. Mr. Cox can be reached at the following address:

620-800 Burrard Street  
Vancouver BC V6Z 2J8

Telephone: (604) 666-2103  
E-mail: [cox@tc.gc.ca](mailto:cox@tc.gc.ca)

Again, thank you for writing and for providing me with your views.

Yours truly,



The Honourable Lawrence Cannon, P.C., M.P.

c.c. Ms. Jean Crowder, M.P.  
Mr. Ron Cantelon, M.L.A.  
Mr. Leonard Krog, M.L.A.  
Mr. James Lunney, M.P.