

February 1, 2017

File: 16-148782 Regional District

RECEIVED

File: 410-01

FEB 06 2017

To: WEB

cc: OAKMAN, DEBRA

Mr. Bruce Jolliffe  
Chair  
Comox Valley Regional District  
600 Comox Rd.  
COURTENAY BC V9N 3P6

Dear Mr. Jolliffe:

Enclosed is a copy of correspondence sent to Ms. Debra Oakman, Chief Administrative Officer that summarizes the outcome of our investigation into a complaint concerning Comox Valley Regional District.

Yours sincerely,



Jay Chalke  
Ombudsperson  
Province of British Columbia

Enclosure

*Notice: Use of this letter or attachment as evidence against an individual or institution in a court or tribunal proceeding is prohibited by s.20(2) of the **Ombudsperson Act**.*

Ms. Debra Oakman  
Chief Administrative Officer  
Comox Valley Regional District  
600 Comox Road  
COURTENAY BC V9N 3P6

Dear Ms. Oakman:

On September 12, 2016 I wrote to you regarding a complaint concerning Comox Valley Regional District. The **Ombudsperson Act** requires that both the authority and the complainant be notified of the decision to end an investigation and the reasons for it. This letter and the copy of the closing summary are intended to fulfill that obligation.

Thank you for your cooperation in the course of this investigation.

Yours sincerely,



Rebecca Graham  
Ombudsperson Officer

Enclosure

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## Closing Summary

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**Authority:** COMOX VALLEY REGIONAL DISTRICT

**File Number:** 16-148782 /001

**Closing Date:** 01-Feb-2017

**Closing Status:** *Closed; Investigation; Ceased (discretion) (s.13); Can consider without further investigation (s.13(e)); No findings*

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A woman contacted us with a complaint about the Comox Valley Regional District ("CVRD"). The woman's complaint was with respect to the CVRD's decision to construct a new pump station known as the Comox No. 2 Pump Station. The CVRD purchased a property on Beech Street in November 2014, further to an assessment conducted by an external consulting agency to identify, analyze and rank the most favourable sites. The CVRD sent a letter to residents on December 15, 2014 notifying them that the CVRD had purchased the Beech Street property. This property was located next door to the complainant's residence. The complainant expressed concern that the CVRD did not obtain public input prior to making the decision to purchase the property, and concern that the zoning did not permit utilities. It appeared that the CVRD held an initial open house meeting, after purchasing the property. Following this open house meeting, the CVRD established an Advisory Group to provide public input on potential sites for the pump station. The woman complained that the CVRD Sewage Commission did not sufficiently consider the Advisory Group's report, as it ultimately made the decision to proceed with the Beech Street location at its March 1, 2016 meeting.

Following the March 1, 2016 meeting, the CVRD held a second open house to update the community on the status of the pump station project. However, because the CVRD had already made the decision to proceed with Beech Street as the site for the new pump station, in the complainant's view, the open house did not represent adequate consultation. The woman was also concerned that the Sewage Commission and the CVRD Board of Directors had had in camera discussions regarding the Comox No. 2 Pump Station, and raised concerns about one of the members of the Commission, who she asserted owned property next to one of the proposed sites.

We investigated whether the CVRD followed a reasonable process in selecting Beech Street as the site for the Comox No. 2 Pump Station.

In response to our investigation, the CVRD told us that it began to investigate an upgrade to the existing Courtenay pump station in August 2012. With respect to the use of in camera minutes, the CVRD confirmed that, on occasion, the CVRD Board and its Commissions had adjourned to closed sessions to consider matters related to the sewage service. It appeared that the reasons to close these meetings were listed on the open meeting agenda and that these meetings were closed in accordance with the Community Charter. It also appeared that the CVRD had in place a release of closed meeting minutes policy, and that the CVRD had since released a number of meeting minutes from the closed meetings of the Sewage Commission and Board, pursuant to that policy.

With respect to the complainant's concern about a Sewage Commission member who owned property near one of the proposed sites, the CVRD confirmed that it addressed this concern at its open house and also

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confirmed that this Commissioner had recused herself from the meeting at which this site was discussed. With respect to the zoning of the property, it appeared that the CVRD had also answered this question at its open house, noting that utility use is permitted in all zones of the CVRD and that rezoning would not be required at the site.

In response to our investigation into the complainant's concerns regarding public participation, it appeared that the CVRD held two open houses and established an Advisory Group to involve public representatives in a series of facilitated meetings to work with the CVRD toward site selection. It also appeared that the CVRD had provided project information on its website and had sent regular newsletters to provide project updates. With respect to conducting public consultation prior to acquiring the property on Beech Street, it did not appear that the CVRD was under an obligation pursuant to either the Local Government Act or Community Charter to consult with resident before purchasing the Beech Street property. Although there did not appear to be any legislative requirement for the CVRD to conduct public consultation, it appeared that the CVRD had sought an appropriate level of public participation prior to selecting Beech Street as the site for the new pump station. It also appeared that the CVRD had provided residents with key information to assist in understanding the need for a new pump station, the options for siting, and project design.

With respect to the complainant's concerns about the Advisory Group, the CVRD confirmed that the Sewage Commission did not adopt a resolution to accept the Advisory Group recommendations in full. The CVRD explained that the Advisory Group was not established to make decisions, but rather to provide advice to the Sewage Commission. In making its decision, it appeared that the Sewage Commission considered the report created by the external consulting agency and the Advisory Group, and that it was within the Sewage Commission's discretion to select the site it thought most appropriate.

Based on the above, it appeared that the CVRD followed a reasonable process in selecting Beech Street as the site for the new Comox No. 2 Pump Station. On this basis, we found that no further investigation was necessary and closed our file.